

line between milepost 312.65 and milepost 313.38, at Wichita, KS.

K&O will acquire, by assignment from CKR, incidental overhead trackage rights in the State of Kansas over:

(1) BNSF's Hutchinson Subdivision rail line between milepost 218.3 and milepost 213 + 4333 feet, at Hutchinson, including BNSF's Hutchinson "Way" Yard Track Nos. 144, 259, 304, 260, 261, 221, 174, 172, 171, 241, 220, 169, and 168;

(2) BNSF's rail line between milepost 56.6 and milepost 60.2, at Abilene;

(3) BNSF's rail line between milepost 184.3 and milepost 190.0, at Newton;

(4) UP's rail line between milepost 487.1, at Newton, and milepost 518, at McPherson, including the segment of track extending about 116 feet in a southerly direction from milepost 487.1, and including UP's Siding Track No. 6, at Hesston, and Siding Track No. 1, at Moundridge;

(5) UP's rail line between milepost 164.05, at Abilene, and milepost 184.56, at Salina;

(6) UP's rail line between milepost 246.46 and milepost 243.56, at Hutchinson; and

(7) UP's rail line between milepost 182.0 and milepost 187.2, at Salina.

Because the projected revenues of the rail lines to be operated will exceed \$5 million, K&O certified to the Board, on April 2, 2001, that the required notice of its rail line acquisition was posted at the workplace of the employees on the affected lines on April 2, 2001.

According to K&O's certification, it served a copy of the notice on the national office of the United Transportation Union, the only labor union with employees on the affected lines. See 49 CFR 1150.32(e). The transaction was scheduled to be consummated on or shortly after June 1, 2001.

The transaction is related to two concurrently filed verified notices on exemption: STB Finance Docket No. 34042, *Watco Companies, Inc.—Continuance in Control Exemption—Kansas & Oklahoma Railroad, Inc.*, wherein Watco Companies, Inc. seeks to continue in control of K&O upon K&O's becoming a Class III rail carrier; and STB Finance Docket No. 34047, *Kansas & Oklahoma Railroad, Inc.—Trackage Rights Exemption—Central Kansas Railway, L.L.C.*, wherein K&O seeks to acquire temporary overhead trackage rights over CKR's 16-mile rail line in the State of Kansas.

In the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed

at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34030 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423—0001. In addition, a copy of each pleading must be served on Karl Morell, Esq., Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at [www.stb.dot.gov](http://www.stb.dot.gov).

Decided: June 5, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34047]

#### **Kansas & Oklahoma Railroad, Inc.— Trackage Rights Exemption—Central Kansas Railway, L.L.C.**

Central Kansas Railway, L.L.C. (CKR), has agreed to grant to Kansas & Oklahoma Railroad, Inc. (K&O) temporary overhead trackage rights over the trackage of CKR located between CKR milepost 19.5, near Garden Plain, KS, and CKR milepost 3.5, at Wichita, KS, a distance of 16 miles (trackage rights line).<sup>1</sup>

The transaction was scheduled to be consummated on or shortly after June 1, 2001.<sup>2</sup>

This transaction is related to two concurrently filed verified notices of exemption: STB Finance Docket No. 34030, *Kansas & Oklahoma Railroad, Inc.—Acquisition Exemption—Central Kansas Railway, L.L.C.*, wherein K&O seeks to acquire most of the rail lines

<sup>1</sup> The trackage rights line was authorized for abandonment by the Board in *Central Kansas Railway, L.L.C.—Abandonment Exemption—in Sedgewick County, KS*, STB Docket No. AB-406 (Sub-No. 14X) (STB served Apr. 10, 2001). As noted in STB Docket No. AB-406 (Sub-No. 14X), the abandonment of the trackage rights line was subject to the condition that CKR could not consummate abandonment until it certified to the Board that its relocation project near Kingman, KS, had been completed and that any necessary rehabilitation and maintenance had been performed on its rail line between Wichita and Kingman via Conway Springs, KS.

<sup>2</sup> K&O indicates that it will shortly file a petition for exemption to permit temporary trackage rights operations and thus to limit the term of the trackage rights.

owned or leased and operated by CKR in the States of Kansas and Colorado;<sup>3</sup> and STB Finance Docket No. 34042, *Watco Companies, Inc.—Continuance in Control Exemption—Kansas & Oklahoma Railroad, Inc.*, wherein Watco Companies, Inc. seeks to continue in control of K&O upon K&O's becoming a Class III rail carrier.

The trackage rights will allow K&O to move traffic to and from Wichita until the relocation and rehabilitation projects have been completed.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34047, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423—0001. In addition, one copy of each pleading must be served on Karl Morell, Esq., Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

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Decided: June 5, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

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<sup>3</sup> In addition to the lines being acquired by K&O in the STB Finance Docket No. 34030 proceeding, K&O will also assume from CKR the ongoing work on the relocation project near Kingman and the rehabilitation of the rail line between Wichita and Kingman via Conway Springs. However, K&O will not acquire the trackage rights line.