



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

WILLIAM L. WEBSTER
ATTORNEY GENERAL

P. O. Box 899
(314) 751-3321

September 30, 1987

Norita R. McGee
Secretary
Interstate Commerce Commission
12th and Constitution Ave., N.W.
Washington, D.C. 20423

Re: Docket No. AB-102 (Sub-No. 13), Missouri-Kansas-
Texas Railroad Company

Dear Ms. McGee:

On April 27, 1987, the Interstate Commerce Commission issued its decision and Certificate of Interim Trail Use or abandonment in the above-styled matter. By the terms of that decision and certificate, the Missouri Department of Natural Resources was given 180 days in which to reach an agreement with the Missouri-Kansas-Texas Railroad Company for interim trail use/rail banking. Such agreement was in fact reached between the Missouri Department of Natural Resources and the Missouri-Kansas-Texas Railroad Company, on June 25, 1987. A copy of this agreement is enclosed. Please let me know should you need any further information. Thank you.

Sincerely,

WILLIAM L. WEBSTER
Attorney General

A handwritten signature in cursive script, appearing to read "Robert M. Lindholm".

ROBERT M. LINDHOLM
Assistant Attorney General

RL:pah
cc: Ron Kucera
Enclosure

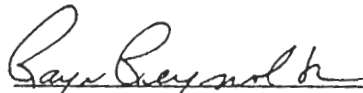
AFFIDAVIT

STATE OF TEXAS §

COUNTY OF DALLAS §


Before me on this 3rd day of July, 1987, appeared the undersigned, and having been first duly sworn, on oath deposes and says:

"My name is Raye Reynolds, I am Vice President - Property Management for the Missouri-Kansas-Texas Railroad Company. I hereby certify that the Agreement attached hereto referred to hereby, incorporated herein, and for all purposes made a part hereof, is a true and correct copy of the original Interim Trail Use Agreement between the Missouri-Kansas-Texas Railroad Company and the Missouri Department of Natural Resources, and that it correctly sets forth the agreement between the parties thereto."



Raye Reynolds

Subscribed and sworn to before me this 3rd day of July, 1987, in witness whereof, my hand and seal are hereunto affixed.



Notary Public in and for Dallas
County, Texas

My Commission Expires:

June 25, 1988

INTERIM TRAIL USE AGREEMENT

Agreement and Contract for Trail use pursuant to Section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) between the MISSOURI DEPARTMENT OF NATURAL RESOURCES (hereinafter MDNR), and the MISSOURI-KANSAS-TEXAS RAILROAD COMPANY (hereinafter MKT).

MDNR and MKT hereby agree to the transfer of the interest of MKT in the property described below to MDNR, for interim trail use, at the price and upon the terms and conditions set forth herein:

1. MKT agrees to accept as full and valid consideration for the above referenced transfer, and MDNR agrees to approve the payment of, the sum of TWO HUNDRED THOUSAND AND NO/100 (\$200,000.00) DOLLARS for all interests of MKT in the property described in paragraph 5 below (hereinafter referred to as the "premises").
2. Contingent upon the issuance of a Certification of Interim Trail Use (CITU) by the Interstate Commerce Commission to MKT in ICC proceeding Docket No. AB-102 (Sub-No. 13), MKT shall convey or cause to be conveyed the premises to MDNR or its designee by quitclaim deed. The grantee in said deed shall be MDNR or its designee as stated in writing by MDNR. A sample deed is attached hereto as Exhibit "A". The sample deed shall be deemed approved unless disapproved in writing by MDNR within thirty (30) days from the execution of this Agreement. In the event of such disapproval MKT shall within thirty (30) days thereof execute and deliver to MDNR a quitclaim deed revised to address MDNR's objections. MDNR shall have the right to have the real property surveyed by a registered surveyor at the expense of MDNR by serving written notice to MKT of its intent to survey the real property within ten (10) days of the date of execution of this Agreement.

A true copy of the survey shall be delivered to MKT at the time of its completion. The description of the real property as set forth in the MDNR survey, if performed, shall be conclusive upon the parties and shall be incorporated by reference and included as a description of the premises to be conveyed (subject to the exclusions contained in Paragraph 6) in final deed documents in lieu of the description contained in Paragraph 6 below. In the absence of notice by MDNR to MKT of its intent to survey the real property, the description of the premises, as set forth in Paragraph 6 of this document, subject to the exclusions contained therein shall be utilized in the final deeds as the description of the premises to be conveyed by MKT to MDNR.

3. This agreement and any conveyance pursuant thereto shall not include rails, ties, wires, signals and other track materials, except ties located upon a bridge or trestle which is subject to this agreement, and mile post markers. Provided, however, that MKT agrees to remove all rails and ties, except ties located upon a bridge or trestle, from the premises within eighteen (18) months from the date of execution of this Agreement except for any portion of the premises which may be used by the St. Charles and Augusta Railroad Company, its successors or assigns, for railroad operations. MKT does not warrant that the property, real or otherwise, conveyed pursuant to this Agreement is suitable for the purposes contemplated herein or any other particular purpose or use. Provided, however, that MKT agrees to conduct salvage operations in a manner which will not adversely affect MDNR's use of the premises as a rail-banked interim trail and that ballast and fill material will not be removed from the property during salvage operations. A copy of this Agreement shall be provided by MKT to any independent contractor conducting salvage operations upon the premises.

4. The parties agree that the time of closing as to the Boonville, North Jefferson and Sedalia depots, and that portion of the premises which is located between Mile Post 141.0 at Jefferson City and Mile Post 179.0 at Rocheport, Missouri, shall be five (5) days following MKT's notice to MDNR that all rail and ties have been removed from such portion of the premises but no later than August 20, 1987, unless postponed as set forth below. As to those portions of the premises to be conveyed pursuant to this paragraph, MDNR reserves the right to inspect the premises prior to the date of closing to ascertain MKT's compliance with the provisions of this contract. MKT agrees to notify MDNR upon completion of salvage operations that the premises is subject to such inspection. MDNR shall be so notified not less than five (5) days prior to the date of closing. In the event that MDNR determines upon inspection that MKT has failed to comply with the provisions of this agreement, MDNR shall notify MKT in writing of the basis for such failure. MKT shall endeavor to correct any such deficiencies which in its opinion are subject to this Agreement, within fifteen (15) days of notice from MDNR indicating MKT's failure to comply with this Agreement. MDNR shall thereafter re-inspect the property within five (5) days of notice from MKT that such deficiencies have been corrected. In the event that MDNR determines that such inspection and re-inspection is necessary, the date of closing shall be postponed if necessary, but shall not be later than ten (10) days following MDNR's re-inspection and determination that the previously noted failures to comply with this Agreement have been corrected. A partial payment in the amount of ONE-HUNDRED EIGHTY THOUSAND (\$180,000.00) DOLLARS shall be made to MKT upon this closing at which time a quitclaim deed, in form for recordation, conveying those portions of the premises which are the subject of this paragraph, shall be delivered to MDNR.

5. The parties agree that closing as to all other portions of the premises as described in paragraph six and not previously conveyed pursuant to paragraph four shall occur not later than eighteen (18) months from the date of execution of this Agreement. MDNR reserves the right to inspect the premises prior to closing as to those portions of the premises conveyed pursuant to this paragraph. MKT agrees to notify MDNR upon completion of salvage operations on any continuous segment located within a single county, that the property is subject to inspection. MDNR shall thereafter inspect the portion of the premises described in such notice within forty-five (45) days. In the event that MDNR determines upon inspection that MKT has failed to comply with the provisions of this Agreement, MDNR shall notify MKT in writing of the basis for such failure. MKT shall endeavor to correct any such deficiencies which in its opinion are subject to this Agreement within thirty (30) days of receipt of MDNR's notice indicating a failure to comply with this Agreement. MDNR shall re-inspect the property within twenty (20) days of notice from MKT that the deficiencies have been corrected. An executed quitclaim deed, in form for recordation, conveying the portion of the premises previously inspected by MDNR, shall be delivered to MDNR within ten (10) days of MDNR's notice to MKT that the inspection or re-inspection has been completed and that MDNR is requesting delivery of the deed conveying the portion of the premises upon which the inspection has been completed. Upon conveyance to MDNR of all portions of the premises which are subject to this Agreement, MDNR shall cause to be delivered to MKT the sum of TWENTY THOUSAND (\$20,000.00) DOLLARS as final payment for the premises. In the event that all deeds shall not have been delivered by the expiration of eighteen (18) months from the

date of execution of this agreement, then at MDNR's option, either:

- a. MKT shall pay the Conservation Foundation of Missouri Charitable Trust an amount determined by multiplying the acquisition price set forth in paragraph 1 hereof by a fraction of which the numerator is the number of linear miles of the premises contained in the segment or segments not conveyed, and the denominator is 197.67; and MKT's obligations under this paragraph 5 shall be deemed fulfilled; or
 - b. MKT shall pay to the Conservation Foundation of Missouri Charitable Trust an amount equal to the entire acquisition price as set forth in paragraph 1 hereof, and MDNR shall reconvey the premises by quitclaim deed to MKT, and this agreement shall cease and terminate, and become null and void; or
 - c. MDNR may seek conveyance of the remaining segments by means of a suit for specific performance, and MKT agrees, in that event, to pay all court costs and reasonable attorney's fees in connection with such suit, by whichever party or parties incurred, if MDNR succeeds in obtaining a final judgment requiring specific performance.
6. The property to be conveyed by MKT to MDNR consists of all of MKT's right, title, and interest in and to the following described real property and premises, situated in the counties of St. Charles, Warren, Montgomery, Callaway, Boone, Howard, Cooper and Pettis, State of Missouri, and as more generally set-forth in exhibit "B" attached hereto and made a part hereof, save and except those certain exceptions and exclusions set-forth in this paragraph six and any other properties conveyed prior to the date of execution of this agreement, to wit:

A strip of land of varying widths consisting of fee simple and right-of-way interests constituting a continuous corridor beginning at MKT St. Louis Subdivision Main Line Chaining Station 1421+38 (Mile Post 26.92) and extending in a generally westerly direction through the counties of St. Charles, Warren, Montgomery, Callaway, Boone, Howard, Cooper and Pettis to MKT Sedalia Subdivision Main Line Chaining Station 11858+30 (Mile Post 224.59), a distance of one hundred ninety-seven and sixty-seven hundredths (197.67) miles, more or less, together with all rights-of-way, station grounds and other real property associated therewith, not excluded and excepted herein, and all improvements and fixtures located thereon, including the Boonville, Sedalia and North Jefferson depot buildings; all bridges and trestles including ties located thereupon, except the Boonville lift bridge, as hereinafter provided; and all mile post markers, culverts, ballast and similar structures and improvements, but not including rails and ties, wires, signals and other track materials except ties located upon bridges or trestles. The premises is more particularly described as follows:

St. Charles County, Missouri

Commencing at Chaining Station 1421.38, said point being the beginning of MKT ownership of the Main Line track diverging from the Main Line track of the Burlington Northern Railroad, in U.S. Survey 174, Township 48 North, Range 6 East of the 5th Principal Meridian, thence southwesterly, through Township 47 North, Range 6 East; Township 47 North, Range 5 East; Township 46 North, Range 5 East; Township 46 North, Range 4 East; Township 46

North, Range 3 East; Township 45 North, Range 3 East; Township 45 North, Range 2 East; Township 44 North, Range 2 East; Township 44 North, Range 1 East; to the west line of St. Charles County.

Warren County, Missouri

Commencing at the intersection of MKT's St. Louis Subdivision Main Line track and the east boundary line of Warren County, thence northwesterly, through Township 44, Range 1 West of the 5th Principal Meridian; Township 45 North, Range 1 West; Township 45 North, Range 2 West; Township 45 North, Range 3 West; Township 46 North, Range 3 West; Township 46 North, Range 4 West; to the west line of Warren County.

Montgomery County, Missouri

Commencing at the intersection of MKT's St. Louis Subdivision Main Line track and the east boundary line of Montgomery County, thence westerly, through Township 46 North, Range 5 West of the 5th Principal Meridian; Township 46 North, Range 6 West; to the west line of Montgomery County.

Callaway County, Missouri

Commencing at the intersection of MKT's St. Louis Subdivision Main Line track and the east boundary line of Callaway County, thence southwesterly, through Township 46 North, Range 7 West of the 5th Principal Meridian; Township 46 North, Range 8 West; Township 45 North, Range 8 West; Township 45 North, Range 9 West; Township 44 North, Range 9 West; Township 44 North, Range 10 West; Township 44 North, Range 11 West; thence northwesterly through Township 45 North, Range 11 West; to the west line of Callaway County.

Boone County, Missouri

Commencing at the intersection of MKT's St. Louis Subdivision Main Line track and the east boundary line of Boone County, thence northwesterly, through Township 45 North, Range 12 West of the 5th Principal Meridian;

Township 45 North, Range 13 West, Township 46 North, Range 13 West;
Township 47 North, Range 13 West; Township 47 North, Range 14 West;
Township 48 North, Range 14 West; Township 48 North, Range 15 West; to the
west line of Boone County.

Howard County, Missouri

Commencing at the intersection of MKT's St. Louis Subdivision Main Line
track and the east boundary line of Howard County, thence westerly,
through Township 48 North, Range 15 West of the 5th Principal Meridian;
Township 49 North, Range 15 West; Township 49 North, Range 16 West; thence
southerly, through Township 48 North, Range 16 West; to the south line of
Howard County.

Cooper County, Missouri

Commencing at the intersection of MKT's Sedalia Subdivision Main Line
track and the north boundary line of Cooper County, thence southwesterly,
through Township 49 North, Range 17 West of the 5th Principal Meridian;
Township 48 North, Range 17 West; Township 48 North, Range 18 West;
Township 47 North, Range 18 West; Township 47 North, Range 19 West;
Township 46 North, Range 19 West; to the west line of Cooper County.

Pettis County, Missouri

Commencing at the intersection of MKT's Sedalia Subdivision Main Line
track and the east boundary line of Pettis County, thence southwesterly,
through Township 46 North, Range 20 West of the 5th Principal Meridian;
Township 46 North, Range 21 West; to MKT Chaining Station 11858+30 in the
SE 1/4 of the NW 1/4 of Section 36, Township 46 North, Range 21 West.

Also: All of MKT's interest in that certain 47,610 square foot, more or
less, tract of land at the corner of Thompson Avenue and U.S. Highway No.

50, (Third Street), in the City of Sedalia, Missouri, including MKT's former passenger depot building located thereon, all as shown in yellow on a print of MKT's Drawing No. 31,007, dated November 27, 1982, Engineering Department, Denison, Texas, marked Exhibit "C", attached hereto and by this reference made a part hereof.

Excepting and Excluding

Excepting and excluding from the said conveyance all of MKT's interest in the following described parcels of land and/or structures:

St. Charles County, Missouri

A tract or parcel of land at Black Walnut, Missouri, approximately one-hundred (100) feet by one thousand two hundred thirty (1,230) feet, containing 2.82 acres, more or less, lying outside a line parallel to and fifty (50) feet north of the centerline of MKT's St. Louis Subdivision Main Line track, and west of the centerline of a County Road which crosses said Main Line track at approximately Mile Post 29.90.

Howard County, Missouri

All tracts or parcels of land in the City of New Franklin, Missouri, lying outside a line parallel to and fifty (50) feet distant in either direction from the centerline of MKT's St. Louis or Sedalia Subdivision Main Line track.

Howard and Cooper Counties, Missouri

MKT's Boonville lift bridge, being MKT's Bridge No. 191.1 across the Missouri River at Boonville, Missouri. MKT agrees that said bridge shall be kept available for transportation purposes in accordance with ICC decision ex parte No. 274 (Sub.-No. 13) and that MDNR upon execution of waivers of liability acceptable to MKT may utilize the bridge for trail purposes; provided, however, that MKT reserves the right to modify the bridge structure as may be required to improve rail transportation, so long as MDNR's right to utilize the premises for interim trail use is not adversely affected thereby.

7. MKT agrees to assign to MDNR, as of the date of delivery of deed or deeds, all leases, license and other agreements, hereinafter agreements, executed by MKT and third parties for the use of the premises. The income derived from agreements bearing annual, semi-annual, quarterly, or monthly rental shall be prorated as between MDNR and MKT based upon the ratio of the portion of the current rental period remaining pursuant to the agreement as of the date of delivery of the deed or deeds over total length of current rental period times the income collected for the current rental period.
8. This agreement and any subsequent conveyance are made pursuant to Section 8(d) of the National Trails System Act 16 U.S.C. 1247(d). MKT agrees to defend, indemnify and to hold MDNR harmless from any claim, injury or damage arising from any contamination or pollution of the premises resulting from the application, inadvertent or otherwise, of man-made substances which constitute a danger to public health or the environment. With respect to those portions of the premises for which possession has been delivered to MDNR, MDNR agrees to operate, assume legal liability for the use of, manage, maintain and control the premises in accordance with the laws of the State of Missouri and Provisions of the National Trails System Act and Regulations promulgated pursuant thereto.
9. In the event the Interstate Commerce Commission determines that reactivation of rail service upon the premises is necessary for the public convenience and necessity, the MDNR agrees to transfer said premises to the acquiring entity in accordance with any lawfully applicable Interstate Commerce Commission decision. Provided, however, that should MKT, pursuant to order of the Interstate Commerce Commission, desire to purchase the premises MKT agrees to pay the greater of fair market value of the premises at the time of such lawfully entered Interstate Commerce Commission decision or the sum

of TWO HUNDRED THOUSAND AND NO/100 (\$200,000.00) DOLLARS plus all capital improvements and maintenance costs expended by the MDNR during the term of its possession pursuant to the National Trails System Act. The MDNR agrees to grant first right of refusal to purchase the premises to MKT.

10. MDNR agrees to use its best efforts to defend any litigation contesting the right of the parties hereto to effectuate this Agreement; however, if by final order of a court of competent jurisdiction, within the time limits set forth below, MDNR is prevented or obstructed from utilizing the premises for trail and rail banking purposes, MDNR may request and MKT agrees to refund the sum of TWO HUNDRED THOUSAND AND NO/100 (\$200,000.00) DOLLARS to the Conservation Federation of Missouri Charitable Trust upon receipt of a quitclaim deed from MDNR reconveying the premises to MKT. Provided however, the provisions of this paragraph shall remain in effect only until seven (7) years from date of execution of this Agreement.
11. Except as otherwise provided in paragraph 10 above, the parties agree that if MDNR is unable to utilize the premises, or a portion thereof, for trail purposes within five (5) years from the date of execution of this Agreement, MDNR may request and MKT agrees to refund the sum of TWO HUNDRED THOUSAND AND NO/100 (\$200,000.00) DOLLARS to the Conservation Foundation of Missouri Charitable Trust upon receipt of quitclaim deed from MDNR reconveying the premises to MKT.
12. Any judgment against MKT which may appear of record as a lien against said premises, or a portion thereof, as of the date of MDNR's receipt of the deed for same, shall be settled and satisfied by MKT, if and when it is judicially determined to be finally valid. MKT agrees to defend, hold harmless and indemnify MDNR for all loss arising out of MKT's failure to have said judgment so settled and satisfied.

13. MKT represents that the premises is presently subject to a mortgage or other similar encumbrance and agrees to furnish MDNR with releases within a reasonable time subsequent to execution of this Agreement by both parties, which establish that the property is no longer subject to any encumbrance or mortgage. MKT agrees to defend, indemnify and hold harmless MDNR for all losses arising as a result of MKT's failure to provide such releases or to satisfy and settle any mortgage or other similar encumbrance. MKT shall be responsible for real estate taxes which have accrued as of the date of MDNR's receipt of the deed for the segment upon which such tax is due.
14. MKT agrees to provide MDNR with all original documents, maps, records, deeds and linen drawings which are pertinent to the premises and which MKT deems to be available and unnecessary for retention by MKT. MDNR agrees to retain any such items in a manner so as to protect and preserve their condition or to return them to MKT. MDNR agrees to assume any expense associated with the transfer of such items.
15. All notices shall be served in writing and shall be deemed to have been sufficiently served by either party if sent by registered or certified mail with proper postage prepaid addressed to the other party at the address shown herein.
16. This offer when accepted shall constitute the entire agreement between the parties for the sale and transfer of the property herein described and each and every provision contained herein shall thereafter be binding upon and inure to the benefit of MDNR and MKT, their agents, successors in interest and assigns.

The foregoing agreement is executed by the Missouri Department of Natural Resources this 25 day of June, 1987.

MISSOURI DEPARTMENT OF NATURAL RESOURCES

WITNESS

Kenneth Johnson
1009 Sunset Road
Address Columbia, MO.

BY Frederick T. Sumner
Title Director

The foregoing agreement is executed by Missouri-Kansas-Texas Railroad Company this 25 day of June, 1987.

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

~~ATTEST~~ WITNESS

R. C. Fucini
Rt 4 Box 21
Columbia, Missouri 65201
Address

BY Ray Reynolds
Vice-President

QUITCLAIM DEED

EXHIBIT "A"

STATE OF TEXAS §
COUNTY OF DALLAS §

KNOW ALL MEN BY THESE PRESENTS:

That MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, hereinafter called "GRANTOR", for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) in hand paid by _____ hereinafter called "GRANTEE", the receipt of which is hereby acknowledged, has granted, sold and QUITCLAIMED, and by these presents does grant, sell and QUITCLAIM, unto the said GRANTEE the following described real property situated in the County of _____, State of _____, to wit:

See Exhibit "A", attached hereto and made a part hereof.

TO HAVE AND TO HOLD the above described property and premises unto the said GRANTEE and its assigns forever so that neither GRANTOR nor its successors, legal representatives or assigns shall at any time hereafter have, claim, or demand any right or title to the aforesaid property, premises or appurtenances or any part thereof.

GRANTEE is thoroughly familiar with GRANTOR's right, title and interest in the property described herein; and GRANTOR makes no representations or warranties of any kind or character whatsoever concerning its right, title and interest in and to the property described herein.

GRANTEE accepts this Deed subject to the rights of parties in possession including, but not limited to, encroachments, easements, licenses, encumbrances, agreements, restrictions and ordinances affecting the property herein described. GRANTOR and GRANTEE agree that each and every provision of this deed is subject to the terms and conditions of the

EXHIBIT "A"

agreement for Interim Trail use entered between the parties, which is attached hereto and incorporated by reference as exhibit one and the Provision of the National Trails System Act. It is also agreed that in the event a conflict exists between the provisions of this deed and exhibit one the provision of exhibit one shall prevail.

EXECUTED THIS _____ DAY OF _____, A.D. 1987.

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

By: _____
Vice President

ATTEST:

Secretary

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned, a Notary Public in and for said State, on this day personally appeared, Raye Reynolds, Vice President of the Missouri-Kansas-Texas Railroad Company, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Missouri-Kansas-Texas Railroad Company, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of _____, 1987.

Notary Public in and for the State of Texas

My commission expires _____