



Sunflower Rail-Trails Conservancy, Inc.
PO Box 44-2043
Lawrence, Kansas 66044
785-842-3458

ENTERED
Office of Proceedings
June 4, 2019
Part of
Public Record

June 4, 2019

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: STB Docket No. AB-853 (Sub-No. 1X) Kansas and Oklahoma
Railroad, Inc. --Abandonment Exemption--in Hodgeman,
Comanche, Kiowa and Pratt Counties, KS

Dear Ms. Brown:

Please accept these comments in response to Marc L. Elster's "Petition to Reopen/Reconsider" filed May 29, 2019, claiming that railbanking was not consummated between the Kansas and Oklahoma Railroad, Inc. and Sunflower Rail-Trails Conservancy, Inc. because a copy of the Interim Trail Use Agreement (Donative Line Contract) cannot be located. Tom McFarland, the attorney who railbanked this line has previously stated the following:

In my opinion, the absence of a Line Donation Contract does not defeat the donation. It is the presence or absence of a Donative Quitclaim Deed that determines whether the right-of-way was successfully donated to the Trail Group. The Donative Quitclaim Deed should be in the Records of Deeds' office in the County in which the right-of-way is

located. If you find that recorded deed, in my opinion, that would be conclusive evidence of a successful donation to the Trail Group.

So, attached please find a copy of the Donative Quitclaim Deed recorded in the Register of Deeds' office in Kiowa County, Kansas. Furthermore, attached is a copy of the Donative Bill of Sale and Assignment which clearly mentions the July 15, 2008, Line Donation Contract which further evidences that the line was successfully railbanked prior to the negotiating period which ended on August 2, 2008.

The STB has ruled repeatedly that there is no deadline for completion of a trail on a federally railbanked right-of-way (See *Central Kansas Railway, LLC - Abandonment Exemption - In Marion and McPherson Counties, KS, Docket No. AB-406 (Sub-No. 6X), STB served Dec. 18, 1998*). It should be noted, however, that SRTC just received approval of a federal National Recreational Trail Program pass-through grant which will be used to build a one-mile section of the Short Grass Prairie Trail from Coldwater to Coldwater Lake. This will serve as a demonstration project. Once it is a success, it is expected that demand will grow to complete additional sections of the trail. Construction is scheduled to begin this summer.

If you have any questions, feel free to contact me at 785-842-3458 or clarkcoan@yahoo.com.

Respectfully submitted,

Clark H. Coan

Clark H. Coan
Corporate Secretary

cc: Richard Stein, SRTC President
Tom McFarland, attorney at law
Karl Morell, attorney for K&O Railroad, WATCO Companies
Marc L. Elster, Petitioner

QUITCLAIM DEED

Book: D86 Page: 4099

THIS DEED, made this 15th day of June, 2011, between Kansas and Oklahoma Railroad, as first party, and Sunflower Rails-Trails Conservancy, as second party.

WITNESSETH: That party of the first part does by these presents convey and quitclaim, unto second party, its successors and assigns, all the estate, right, title, interest and claim which first party has in and to the following described real estate situated in Pratt County, Kiowa County, and Comanche County, State of Kansas; to wit:

The real estate and improvements that constitute that portion of that certain line of railroad designated in the records of the Kansas and Oklahoma Railroad in Pratt County, Kansas, Kiowa County, Kansas, and Comanche County, Kansas more particularly described as follows:

Legal Description:

Commencing at a point along the centerline of the main track of the Kansas and Oklahoma Railroad in a westerly direction of the East boundary line of Section 21, Township 29 South, Range 14 West of the sixth principal meridian in Pratt County, Kansas.

Thence in a generally westerly direction through Sections 20 and 19, Township 29 South, Range 14 West of the sixth principal meridian, through the community of Coats, KS.

Thence in a generally westerly direction through Sections 24, 23, 22, 21, 20, 19 and 30, Township 29 South, Range 15 West of the sixth principal meridian, through the communities of Springvale and Croft, and to the Pratt County/Kiowa County line.

Thence in a generally southwesterly direction through Sections 24, 25, 36 and 35, Township 29 South, Range 16 West of the sixth principal meridian.

Thence in a generally southwesterly direction through Sections 2, 3, 10, 9, 8, 17, 18 and 19, Township 30 South, Range 16 West of the sixth principal meridian, through the community of Belvidere, Kansas.

Thence in a generally southerly direction through Sections 24, 25 and 36, Township 30 South, Range 17 West of the sixth principal meridian, to the Kiowa County/Comanche County line.

Thence in a generally southwesterly direction through Sections 2, 3, 10, 9, 16, 17, 20 and 19, Township 31 South, Range 17 West of the sixth principal meridian, through the community of Wilmore, Kansas.

Thence in generally westerly and southwesterly directions through Sections 24, 23, 26, 27, 34 and 33, Township 31 South, Range 18 West of the sixth principal meridian.

Thence in a generally southwesterly direction through Sections 4, 5, 8 and 7, Township 32 South, Range 18 West of the sixth principal meridian, through the community of Coldwater, Kansas.

Thence in a generally southwesterly direction through Sections 12, 13, 14, 15, 22, 21, 20, 29 and 30, Township 32 South, Range 19 West of the sixth principal meridian.

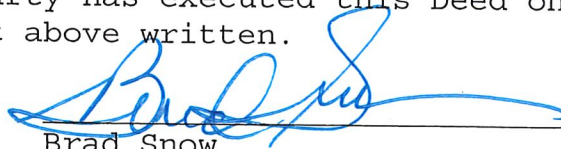
Thence in a generally southwesterly direction through Sections 25, 36, 35 and 34, Township 32 South, Range 20 West of the sixth principal meridian.

Thence in a generally westerly direction through Sections 3 and 4, Township 33 South, Range 20 West of the sixth principal meridian, to a point along the original centerline of the main track of the Kansas and Oklahoma Railroad, this point being at Milepost 136+0000 feet, in the city of Protection, Comanche County, Kansas.

Pursuant to K.S.A. 79-1437 a real estate validation questionnaire is not required due to Exception #4.

TO HAVE AND TO HOLD THE SAME, Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, forever.

In Witness Whereof, first party has executed this Deed on the 15th day of June, 2011 first above written.



Brad Snow
Director of Real Estate
Kansas and Oklahoma Railroad

STATE OF KANSAS, CRAWFORD COUNTY, ss:

BE IT REMEMBERED, that on this 15th day of June, 2011 before me, the undersigned, a Notary Public in and for the State

of Kansas, came, Broad Snow, Director of Real Estate who is personally known to me to be the same person who executed the foregoing Deed, and duly acknowledged the execution of the same.

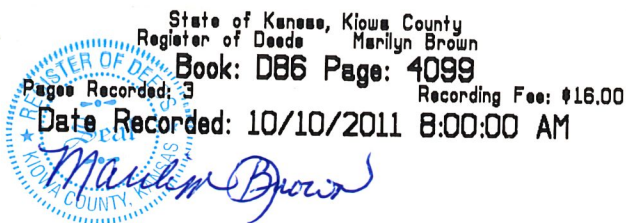
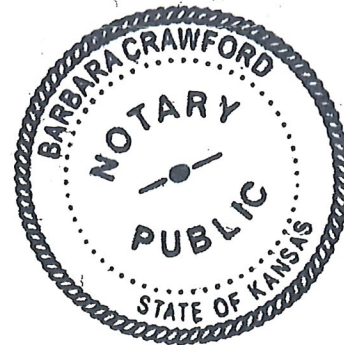
IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.

Barbara Crawford

Barbara Crawford

Notary Public

My appointment expires: 7-5-2015



State of Kansas, Kiowa County, S.S.
Entered in Transfer Record in my office
this 10th day of

October A.D., 20 11

Carmen Renfrow
County Clerk

By K. Suzanne Letas

DONATIVE BILL OF SALE

KANSAS AND OKLAHOMA RAILROAD, INC., a Kansas corporation (K&O) (Donor) does hereby donate, transfer, and deliver unto SUNFLOWER RECREATIONAL TRAILS, INC. (SRT) (Donee), its successors and assigns, the following described property, to wit:

All of the bridges, culverts and structures and buildings located on Donor's right-of-way between Milepost No. 589.2 at Coats and Milepost No. 636.0 at Protection, a distance of approximately 46.8 miles in Comanche, Kiowa, and Pratt Counties, Kansas.

This Bill of Sale is subject to:

1. All of the terms and conditions contained in that certain Line Donation Contract between K&O and Donee dated as of July 15, 2008.
2. The terms and conditions contained in the Decision served by the Surface Transportation Board on February 4, 2008, in Docket No. AB-853 (Sub-No. 1X) and Section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d).

K&O, BY THIS INSTRUMENT, MAKES NO WARRANTY OF ANY KIND WHATSOEVER AS TO QUALITY, MERCHANTABILITY, OR SALABILITY; IT BEING UNDERSTOOD THAT DONEE IS ACQUIRING SAID BRIDGES, CULVERTS, STRUCTURES AND BUILDINGS IN A "WHERE IS" AND "AS IS" CONDITION.

IN WITNESS WHEREOF, K&O has duly executed this Bill of Sale as of the 11th day of December, 2009.

Attest:

Barbara Crawford

KANSAS AND OKLAHOMA
RAILROAD, INC.

By:

[Signature]

Title:

VP Real Estate

ASSIGNMENT

KANSAS AND OKLAHOMA RAILROAD, INC., a Kansas corporation ("Assignor"), for valuable consideration and effective as of the date hereof, hereby assigns, transfers, and sets over unto SUNFLOWER RECREATIONAL TRAILS, INC., ("Assignee") all of the Assignor's right, title, and interest in, to and under all of the leases, licenses, and similar agreements between Assignor and third parties ("Third Party Agreements") as related to the Assignor's right-of-way between Milepost No. 589.2 at Coats and Milepost No. 636.0 at Protection, a distance of 46.8 miles in Comanche, Kiowa, and Pratt Counties, Kansas.

Assignor hereby agrees that within 30 days of the date hereof, Assignor will transfer all of such Third Party Agreements to Assignee c/o Mr. Larry Ross, Sunflower Recreational Trails, Inc., P.O. Box 44-2043, Lawrence, Kansas 66604.

This Assignment is subject to the terms and conditions of the Line Donation Contract between Assignor and Assignee dated as of July 15, 2008, including, without limitation, the terms therein setting forth that the transfer of Third Party Agreements to Assignee is made pursuant to Section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d).

Dated as of December 14, 2009.

Attest:

Barbara Crawford

SOUTH KANSAS AND OKLAHOMA
RAILROAD, INC.

By:

[Signature]

Title:

VP Real Estate

IN WITNESS WHEREOF, the Grantor has caused this Deed to be duly executed
as of the 14 day of December, 2009.

Attest:

KANSAS AND OKLAHOMA
RAILROAD, INC.

Bonbra Crawford

By:

[Signature]

Title:

VP Real Estate

AP
53-15

KANSAS SECRETARY OF STATE

**Domestic For-Profit Corporation
Certificate of Amendment**

CONTACT: Kansas Secretary of State, Ron Thornburgh

Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594

(785) 296-4564
kssos@kssos.org
www.kssos.org

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FILE#: 1610690 FILED BY KS SOS



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INSTRUCTIONS: All information must be completed or this document will not be accepted for filing.
Please read instructions before completing.

**1. Business entity ID
number:**

This is not the Federal Employer
ID Number (FEIN)

161-069-0

**2. Name of the
corporation:**

Name must match the name on
record with the Secretary of State

Sunflower Recreational Trails, Inc.

3. The articles of incorporation are amended as follows:

The name of the corporation shall be:

Sunflower Rail-Trails Conservancy, Inc.

4. The amendment was duly adopted in accordance with the provisions of K.S.A. 17-2709(a) or 17-6602.

5. Future effective date:

A future effective date must be
within 90 days of filing date

☒ Upon filing

(Aug. 17, 2010)

☐ Future effective date

Month

Day

Year

6. I declare under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct and that I have remitted the required fee.

X Larry Ross

Signature of authorized officer

May 2, 2010

Date (month, day, year)

Larry Ross, President

Name of signer (printed or typed)



Instructions:

- ☒ 1. Submit this form with the \$35 filing fee.

I hereby certify this to be a true and
correct copy of the original on file.
Certified on this date: Aug 17, 2010

Chris Biggs, Secretary of State

STAY UP-TO-DATE ON YOUR ORGANIZATION'S STATUS, ANNUAL REPORT DUE DATE AND CONTACT ADDRESSES BY GOING TO
WWW.KSSOS.ORG. UNDER QUICK LINKS, SELECT SEARCH BUSINESS ENTITY INFORMATION.

NOTICE: There is a \$25 service fee for all checks returned by your financial institution.
All information must be completed or this document will not be accepted for filing.