

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35982

JACKSON COUNTY, MO.—ACQUISITION AND OPERATION EXEMPTION—UNION
PACIFIC RAILROAD COMPANY

Decided: August 19, 2019

In 2016, Jackson County, Mo. (the County), received authority through the Board's class exemption process at 49 C.F.R. § 1150.31 to acquire from Union Pacific Railroad Company (UP) and operate approximately 17.7 miles of rail line in Jackson County (the Line). On October 22, 2018, certain landowners¹ jointly filed a petition asking the Board to revoke the exemption, claiming that the County's purpose for acquiring the Line was only to build a recreational trail and circumvent the Board's procedures implementing the National Trails System Act, 16 U.S.C. § 1247(d).

In a decision served on July 31, 2019, the Board revoked the County's acquisition and operation exemption. The Board explained that by removing track and placing its trail directly on the rail bed, where the track previously was, the County's actions are "no longer consistent with the acquisition exemption it invoked to acquire the Line." Jackson Cty., Mo.—Acquis. & Operation Exemption—Union Pac. R.R., FD 35982, slip op. at 6 (STB served July 31, 2019).

On August 12, 2019, the Landowners filed a "Motion for Adverse Abandonment and Injunctive and Declaratory Relief," in which they claim that the County is violating the Board's July 31 decision by continuing construction on the trail. In their filing, the Landowners request a "finding of adverse abandonment" and an injunction to stop further construction of the trail. (Landowners Mot. 2, 6.)

Jackson County is directed to reply to the Landowners' injunction request by August 23, 2019. Jackson County may reply to the remainder of the filing by September 3, 2019. See 49 C.F.R. § 1104.13(a). This decision will also be served on UP, and it may file a reply should it so choose.

¹ The landowners are: Deborah S. Groh; DJJHS Enterprises, LLC; JHB & MEB Enterprises, LLC; David W. Wells; Dawn R. Wells; Current Properties Investments, LLC; and Nephrite Fund I, LLC (collectively, the Landowners).

It is ordered:

1. Jackson County's reply to the injunction request is due by August 23, 2019.
2. This decision will be served on UP.
3. This decision is effective on its service date.

By the Board, Allison C. Davis, Director, Office of Proceedings.