

LAW OFFICE
THOMAS F. MCFARLAND, P.C.
208 SOUTH LASALLE STREET - SUITE 1666
CHICAGO, ILLINOIS 60604-1228
TELEPHONE (312) 236-0204
mcfarland@aol.com

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ENTERED
Office of Proceedings
October 2, 2019
Part of
Public Record

THOMAS F. MCFARLAND

October 2, 2019

By e-filing

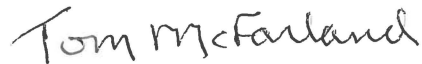
Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

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

Dear Ms. Brown:

Hereby transmitted is a Response To Board Decision Served September 13, 2019 for
filing with the Board in the above referenced matter.

Very truly yours,



Thomas F. McFarland
*Attorney for Sunflower Rails-Trails
Conservancy, Inc.*

TMcF:kl:1870 \efSTB1

cc: All parties of record

BEFORE THE
SURFACE TRANSPORTATION BOARD

KANSAS & OKLAHOMA RAILROAD,)
INC. -- ABANDONMENT EXEMPTION) DOCKET NO. AB-853
-- IN HODGEMAN, COMANCHE,) (SUB-NO. 1X)
KIOWA, AND PRATT COUNTIES, KS)

**RESPONSE TO BOARD DECISION
SERVED SEPTEMBER 13, 2019**

SUNFLOWER RAILS-TRAILS
CONSERVANCY, INC.
P.O. Box 44-2043
Lawrence, KS 66044

Replicant

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1228
(312) 236-0204
mcfarland@aol.com

Attorney for Replicant

DUE DATE: October 3, 2019

BEFORE THE
SURFACE TRANSPORTATION BOARD

KANSAS & OKLAHOMA RAILROAD,	)	
INC. -- ABANDONMENT EXEMPTION	)	DOCKET NO. AB-853
-- IN HODGEMAN, COMANCHE,	)	(SUB-NO. 1X)
KIOWA, AND PRATT COUNTIES, KS	)	

**RESPONSE TO BOARD DECISION
SERVED SEPTEMBER 13, 2019**

SUNFLOWER RAILS-TRAILS CONSERVANCY, INC. (SRT) hereby responds to the requests for information in the Board's decision issued on September 13, 2019.

THE REQUEST FOR INFORMATION

At page 3 of that decision, the Board directed the parties "to submit the following information, in a verified statement and with supporting documentation: (1) any and all information regarding the status of the right-of-way (which includes both the 10.7-mile segment and the 46.8-mile segment); and (2) any and all evidence that indicates that an interim trail/railbanking use agreement was reached for any portion of the two line segments (including, but not limited to, any actual interim trail use/railbanking agreement(s) and property tax information.")

VERIFICATION

Attached to this Response as Appendix 1 is a notarized verification of Mr. Clark Coan, Secretary of SRT, attesting to the truth of the facts asserted in this Response.

RESPONSES

1. Status of the Rights-of-Way (ROWs)

A. Hanston-Jetmore ROW (10.7-Mile Segment)

SRT is providing information regarding the status of the Hanston-Jetmore ROW, but SRT notes that the Landowner, Mr. Marc Elster (Elster), has not asserted standing sufficient to challenge the Board's determinations as applied to that ROW in his Petition to Reopen the Board's decision served December 29, 2008. Elster resides in Belvidere, KS, which is located along the Coats-Protection ROW (46.8-Mile Segment). The Hanston-Jetmore ROW is located many miles away from Coats-Protection ROW. Elster has not alleged a legitimate interest in the status of the Hanston-Jetmore ROW.

The Hanston-Jetmore ROW has not yet been developed into an active recreational trail. However, as to railroad ROWs that have been railbanked in accordance with the National Trails System Act (NTSA), 16 U.S.C. § 1247(d), there is no time deadline after acquisition for a railbanking entity to formally develop the ROW into an active trail. *Central Kansas Ry. -- Abandonment Exemption -- in Marion and McPherson Counties, KS*, 1998 WL 884726 at 4 (Docket No. AB-406 [Sub-No. 6], decision served December 18, 1998).

B. Coats-Protection ROW (46.8-Mile Segment)

The Coats-Protection ROW has not yet been formally developed as a recreational trail. However, SRT has recently received approval of a federal National Recreational Trail Program pass-through grant which will be used to build a one-mile segment of the Short Grass Prairie Trail between Coldwater, KS and Coldwater Lake, KS, which is located on the Coats-Protection ROW. Construction is scheduled to commence by the end of 2019.

2. Evidence That A Railbanking-Trail Use Agreement Was Reached On A Timely Basis

A. Hanston-Jetmore ROW (10.7 Mile Segment)

Attached to this Response as Appendix 2 is a copy of a Quitclaim Deed dated June 15, 2011 whereby Kansas & Oklahoma Railroad, Inc. (K&O) conveyed the Hanston-Jetmore ROW to SRT. That conveyance was made pursuant to a Line Donation Contract between K&O and SRT that was entered into within a 180-day negotiation period under a Notice of Interim Trail Use (NITU) and abandonment in the docket here under consideration served February 4, 2008. Despite diligent effort, SRT has been unable to locate that Line Donation Contract, nor the Bill of Sale and Assignment that were issued along with the Quitclaim Deed to implement that Contract.

As noted previously, the Landowner in this matter does not have standing to challenge Board determinations regarding the Hanston-Jetmore ROW. The Landowner's real estate is located at Belvidere, KS adjacent to the Coats-Protection ROW, not the Hanston-Jetmore ROW. The Landowner has not established any legitimate interest in the Hanston-Jetmore ROW. In the absence of such an interest, the Board should not disturb the status quo as to that ROW.

B. Coats-Protection ROW (46.8-Mile Segment)

(i) Attached to this Response as Appendix 3 is a copy of a Line Donation Contract between SRT and K&O whereby K&O agreed to convey the Coats-Protection ROW to SRT for railbanking and interim recreational trail use under the NTSA. The Contract was entered into on July 15, 2008, which is within the 180-day negotiating period provided for in the Board's NITU of the Coats-Protection ROW issued on February 4, 2008 in the docket here under

consideration, i.e., *Kansas & Oklahoma Railroad, Inc. -- Abandonment Exemption -- in Hodgeman, Comanche, Kiowa, and Pratt Counties, KS*, 2008 WL 298880 (Docket No. AB-853 [Sub-No. 1X]), decision served February 4, 2008.

The Board was not notified of that Contract because there was no requirement of such notification of the Board at that time. That Contract was prepared by undersigned counsel for SRT with the agreement of counsel for K&O. Although signed copies of that Contract cannot be located eleven years after preparation of the Contract, that Contract nevertheless provides evidence that a railbanking/trail use Agreement for the Coats-Protection ROW was entered into by SRT and K&O on a timely basis.

(ii) Attached to this Response as Appendix 4 is a signed copy of a Donative Bill of Sale whereby K&O conveyed the track materials in the Coats-Protection ROW to SRT. That Bill of Sale refers to the Line Donation Contract dated as of July 15, 2008, which is Appendix 3 of this Response. The Bill of Sale provides additional evidence in support of a determination that a railbanking/trail use agreement for the Coats-Protection ROW was entered into by K&O and SRT on a timely basis.

(iii) Attached to this Response as Appendix 5 is a signed copy of an assignment whereby K&O assigned third-party agreements to SRT. That Assignment refers to the Line Donation Contract dated as of July 15, 2008, which is Appendix 3 of this Response. The Assignment provides additional evidence in support of a determination that a railbanking/trail use agreement for the Coats-Protection ROW was entered into by K&O and SRT on a timely basis.

(iv) Attached to this Response as Appendix 6 is a copy of a signed Quitclaim Deed by which K&O conveyed the Coats-Protection ROW to SRT. Appendix 6 confirms that K&O conveyed that ROW to SRT in furtherance of the Line Donation Contract which is Appendix 3 attached to this Response. That Deed provides additional evidence that K&O and SRT entered into a railbanking/trail use agreement as to the Coats-Protection ROW on a timely basis.

NO PAYMENT OF PROPERTY TAXES

SRT did not pay property taxes on the ROWs under consideration because railbanked rail line easements are not taxed according to rulings by the Kansas Court of Tax Appeals.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, for the reasons stated, the Board should find:

(1) that Kansas & Oklahoma Railroad, Inc. and Sunflower Rails-Trails Conservancy, Inc. entered into an agreement for railbanking and interim recreational trail use under the National Trails System Act, 16 U.S.C. § 1247(d), (NTSA) on a timely basis, of a right-of-way between Coats and Protection, KS, and that such agreement continues to be in effect at present; and

(2) (a) that Mr. Marc Elster does not have legitimate standing to seek a determination from the Board as to whether a right-of-way between Hanston and Jetmore, KS is covered by a valid agreement for railbanking and interim recreational trail use under NTSA; and/or

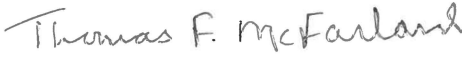
(b) that Kansas & Oklahoma Railroad, Inc. and Sunflower Rails-Trails Conservancy, Inc. entered into an agreement for railbanking and interim recreational trail use under NTSA, on a timely basis, of a right-of-way between Hanston and Jetmore, KS,

and that such an agreement continues to be in effect at present.

Respectfully submitted,

SUNFLOWER RAILS-TRAILS
CONSERVANCY, INC.
P.O.Box 44-2043
Lawrence, KS 66044

Replicant


THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1228
(312) 236-0204
mcfarland@aol.com

Attorney for Replicant

DUE DATE: October 3, 2019

VERIFICATION

STATE OF KANSAS)
) SS:
COUNTY OF DOUGLAS)

CLARK COAN, being duly sworn, states that he is an authorized representative of
SUNFLOWER RAILS-TO-TRAILS CONSERVANCY, INC. (SRTC); that he has read the
foregoing; and that all allegations of fact contained in the foregoing are true and correct.

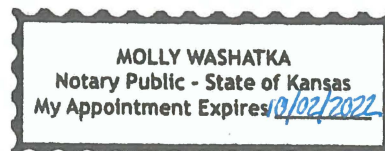


CLARK COAN

SUBSCRIBED AND SWORN to
before me this 17TH day
of September, 2019.


Notary Public

My Commission Expires: 10/02/2022



INDEXED

Appendix 2

QUITCLAIM DEED

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 Hodgeman County, 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 Hodgeman 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 southwesterly direction of the north boundary line of Section 27, Township 22 South, Range 22 West of the sixth principal meridian in Hodgeman County, Kansas.

Thence in a generally southwesterly direction through sections 28, 33, 32, and 31, Township 22 South, Range 22 West of the sixth principal meridian, through the community of Hanston, Kansas.

Thence in a generally westerly direction through Sections 36, 35, and 34, Township 22 South, Range 23 West of the sixth principal meridian.

Thence in a generally westerly direction through Sections 3, 4, 5, and 6, Township 23 South, Range 23 West of the sixth principal meridian, to a point being the intersection of the original centerline of the main track of the Jetmore Subdivision with the west line of the Southwest quarter of Section 6, Township 23 South, Range 23 West, This point being at Milepost 46+2483.5 feet, in the city of Jetmore, Hodgeman County, Kansas.

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



Entered in Transfer Record in my office

this 7 day of October A.D. 20 11

Alexis Wilson, County Clerk



STATE OF KANSAS, HODGEMAN COUNTY, SS
PAULA LONNBERG, REGISTER OF DEEDS

Book: D56 Page: 16

Pages Recorded: 2

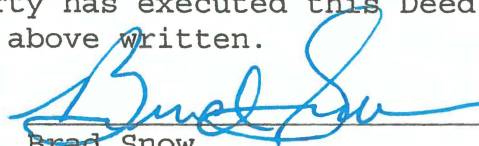
Recording Fee: \$12.00

Paula Lonny

Date Recorded: 10/7/2011 4:05:06 PM

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.

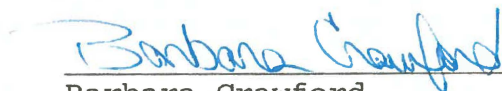


Brad Snow
Director of Real Estate
Kansas and Oklahoma Railroad

STATE OF KANSAS, CRAWFORD COUNTY, ss:

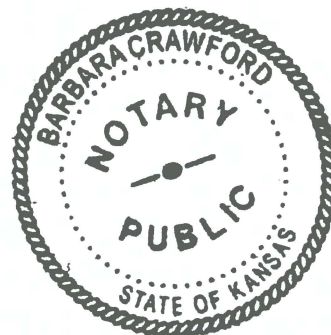
BE IT REMEMBERED, that on this 15th day of June, 2011 before me, the undersigned, a Notary Public in and for the State of Kansas, came, Brad Snow, Director of Real Estate who is personally known to me to be the same person who executed the foregoing Deed, and duly acknowledged the execution of the same.

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



Barbara Crawford
Notary Public

My appointment expires: 7-5-2015



LINE DONATION CONTRACT

THIS AGREEMENT is made and entered into as of the 15th day of July, 2008, by and between KANSAS AND OKLAHOMA RAILROAD, INC. ("K&O") (Donor) and SUNFLOWER RECREATIONAL TRAILS, INC. ("SRT") (Donee).

RECITALS:

Subject to the Decision served by the Surface Transportation Board ("STB") on February 4, 2008, in Docket No. AB-853 (Sub-No. 1X), (the "STB Decision"), K&O wishes to donate to the Donee that portion of its 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, including all remaining bridges, culverts, ballast, ties, structures and buildings located thereon (hereinafter collectively the "Property").

This Agreement is made to cover the donation of the Property to the Donee.

AGREEMENT:

NOW, THEREFORE, IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Section 1. DATE OF CLOSING.

The transaction described herein shall be consummated on a date mutually agreeable to the parties, but not later than December 31, 2009 (hereinafter "Closing").

Section 2. CONVEYANCE.

A. The Property shall be quitclaimed to the Donee by K&O without warranty of title or for quiet enjoyment, and subject to the STB Decision and The National Trails System Act, 16 U.S.C. §1247(d) (the "Trails Act"), as further described in Section 4 below, and subject also to all conditions restrictions, reservations, easements and encumbrances, whether recorded or otherwise applicable to the Property.

B. Notwithstanding the foregoing, K&O shall cooperate with and assist the Donee to effect Closing of this transaction and shall furnish to the Donee the records, prints, archival information or other evidence that K&O may have bearing upon the use of or title to the Property.

Section 3. DOCUMENTS TO BE DELIVERED AT CLOSING.

At Closing, K&O shall deliver the following documents to the Donee:

- (i) a Quitclaim Deed in the form of Exhibit A, hereto attached and hereby made a part hereof, that transfers the Property to the Donee,
- (ii) a Bill of Sale in the form of Exhibit B, hereto attached and hereby made a part hereof, that transfers the remaining bridges, culverts, ballast, ties, structures and buildings to the Donee, and
- (iii) an Assignment in the form of Exhibit C, hereto attached and hereby made a part hereof, that assigns and transfers to the Donee all of K&O's right, title and interest in and to the agreements referred to in Exhibit D, hereto attached and hereby made a part hereof.

Section 4. COMPLIANCE WITH TRAILS ACT.

A. This Agreement and the documents described in Section 3 above are made in accordance with and subject to the Trails Act and the rules of the STB. After Closing, the Donee shall assume full responsibility for management of the Property and for any legal liability arising out of such transfer or use, and for payment of any and all taxes that may be levied or assessed against the Property. Donee acknowledges that any interim trail use by Donee or its assigns shall be subject to the possibility of future

restoration of rail service pursuant to Federal law. Donee further agrees to take all steps necessary at no expense to Donor to comply with any and all state and federal requirements relating to such interim trail use and/or restoration. In the event reactivation of rail service upon the Property is necessary, Donee agrees to transfer the Property back to K&O, free and clear of any encumbrances or liens not in effect prior to the date of this Agreement, by executing a Quitclaim Deed in recordable form. In the event of reactivation of rail service, Donee shall be entitled to receive the reasonable value of any improvements which it constructed on the Property. Nothing in this Agreement shall confer any obligation upon Donor to reactivate rail service over the Property.

B. As a condition of this transaction, Donee agrees that, except for parking lots for the trail to be constructed, all authorized public use of the Property, shall be solely by non-motorized means and shall be in compliance with the Trails Act. It is agreed and understood that the use of the Property by Donee shall not impair future restoration of rail service pursuant to the Trails Act.

Section 5. LIABILITY AND INSURANCE; STANDARD AGREEMENTS.

A. Donee assumes the risk of and agrees to indemnify and hold K&O harmless, and to defend K&O against and from any claims, costs, liabilities, expenses (including without limitation court costs and attorneys' fees), or demands of whatsoever nature or source arising or resulting from (i) any contamination or Environmental Problems, latent or obvious, discovered or undiscovered, in the Property to be transferred hereunder, (ii) any personal injury to or death of persons whomsoever (including without limitation employees, agents or contractors of Donee, K&O, or any

third party), or (iii) any property damage or destruction of whatsoever nature (including without limitation property of K&O, or Donee, or property in its or their care, custody, or control and third party property), where such contamination, Environmental Problems, injury, death or damage arose out of acts, omissions or events occurring after Closing.

B. K&O assumes the risk of and agrees to indemnify and hold Donee harmless, and to defend Donee against and from any claims, costs, liabilities, expenses (including without limitation court costs and attorney fees), or demands of whatsoever nature or source arising or resulting from (i) any contamination or Environmental Problems, latent or obvious, discovered or undiscovered, in the Property to be transferred hereunder, (ii) any personal injury to or death of persons whomsoever (including without limitation employees, agents or contractors of K&O, Donee or any third party) or (iii) any property damage or destruction of whatsoever nature (including without limitation property of K&O or Donee, or property in its or their care, custody or control, and third party property) where such contamination, Environmental Problems, injury, death or damage arises out of acts, omissions or events occurring before Closing; provided, however, Donee has the burden of proving that such contamination, Environmental Problems, injury, death or damage arise out or acts, omissions or events occurred before Closing.

C. "Environmental Problems" means any cause or action under the federal Comprehensive Environmental Response Compensation and Liability Act of 1980 (as amended) and any cause or action arising from similar federal, state or local legislation or other rules of law, and private causes of action of whatsoever nature which arise from environmental damage, contamination, toxic wastes or similar causes.

D. If K&O's indemnification of Donee for such contamination or Environmental Problems becomes effective, K&O has the right to assume sole control of and/or implement any order, demand, plan or request, or defend against any cause of action of whatever nature using legal and technical counsel of its choosing.

E. Donee shall, at its own sole cost and expense, procure the following kinds of insurance and promptly pay when due all premiums for that insurance. If Donee shall fail or refuse to do so, K&O shall have the right to obtain such insurance at reasonable expense and Donee shall promptly reimburse K&O for that expense. The following insurance shall be kept in force during the life of this Agreement:

Comprehensive Liability insurance providing bodily injury, including death, personal injury and property damage coverage with a combined single limit of at least \$2,000,000 each occurrence or claim and a general aggregate limit of at least \$2,000,000. This insurance shall contain Contractual Liability covering the indemnity provisions contained in this Agreement except uninsurable environmental liability, and shall name K&O as an additional insured with respect to all insurable liabilities arising out of Donee's obligation to K&O in the Agreement. If coverage is purchased on a "claims made" basis it shall provide for at least a three (3) year extended reporting or discovery period, which shall be invoked should insurance covering the time period of this Agreement be canceled unless replaced with policy containing the same Retro Anniversary date to the policy being replaced.

F. Donee hereby agrees to cause its insurance carriers to waive any right to subrogation, as respects the above insurance policy(ies), against K&O as to payments made to or on behalf of employees of Donee or its agents and for loss of its owned or leased property or property under its care, custody and control while on or near K&O's right-of-way or other real property. Donee's insurance shall be primary with respect to any insurance carried by K&O.

G. Donee WARRANTS that this agreement has been thoroughly reviewed

with its insurance agent(s)/broker(s) and the agent(s)/broker(s) has been instructed to procure the available insurance coverage required herein and name K&O as additional insured with respect to all insurable liabilities arising out of Donee's obligation to K&O.

H. Donee shall furnish to K&O certificate(s) of insurance evidencing to K&O the required coverage and endorsement(s) and upon request a certified duplicate original of any of those policies. The insurance company(ies) issuing such policy(ies) shall endeavor to notify K&O in writing of any material alteration including any change in the retroactive date in any "claims made" policies or substantial reduction of aggregate limits, if such limits apply, or cancellation thereof at least thirty (30) days prior thereto.

I. The insurance policy(ies) shall be written by a reputable insurance company or companies acceptable to K&O, or with a current Best's insurance Guide Rating of B and Class VI or better. Such insurance company shall be authorized to transact business in the State of Kansas.

J. Insurance coverage provided in the amounts set forth herein shall not be construed to relieve Donee of liability in excess of such coverage, nor shall it preclude K&O from taking such other action as is available to it under any other provision of this Agreement or otherwise in law.

Section 6. MISCELLANEOUS PROVISIONS.

A. Amendment. No modification, addition or amendments to this Agreement and of the exhibits shall be effective unless and until such modification, addition or amendment is in writing and signed by the parties.

B. Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of each party. Any assignments of this Agreement, in whole or in part, shall only be effective with the prior written consent of K&O.

C. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Kansas.

D. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

E. Survival of Representations and Warranties. All representations and warranties made in this Agreement shall survive Closing.

F. Notices. Any and all notices or other communications required or permitted by this Agreement or by law shall be deemed duly served when personally delivered to the party to whom they are directed, or in lieu of such personal service, when the notices are deposited in the United States Mail, Certified Return Receipt Requested, addressed to the party at the party's last known address. Any notice to K&O shall be sent to the Attention of Mr. Brad Snow, Kansas and Oklahoma Railroad, Inc., 315 W. 3d Street, Pittsburg, KS 66762. Any notice to Donee shall be sent to Mr.

Larry Ross, Sunflower Recreational Trails, Inc., P.O. Box 3863, Topeka, KS 66604-6863.

G. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable under present or future laws, then, in that event, it is the intention of the parties hereto that the remainder of the Agreement shall not be affected thereby and shall be valid and shall be enforced to the fullest extent permitted by law, provided that the primary purposes of this Agreement are not frustrated.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in counterpart originals on the date first herein written.

Attest:

KANSAS AND OKLAHOMA RAILROAD, INC.

By: _____

By: _____

Title: _____

Attest:

SUNFLOWER RECREATIONAL
TRAILS, INC.

By: _____

By: _____

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

Appendix 5

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:

Bonnie 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:

Bonnie Crawford

KANSAS AND OKLAHOMA
RAILROAD, INC.

By:

[Signature]

Title:

VP Real Estate

QUITCLAIM DEED

Book: DB6 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.

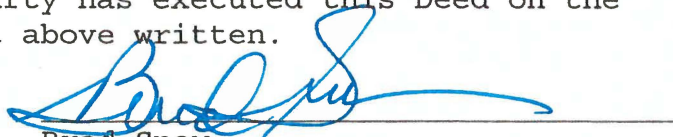
Thence in a generally southwesterly direction through Sections 25, 36, 35 and 34, Township 32 South, Range 20 West of the sixth principal meridian.

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

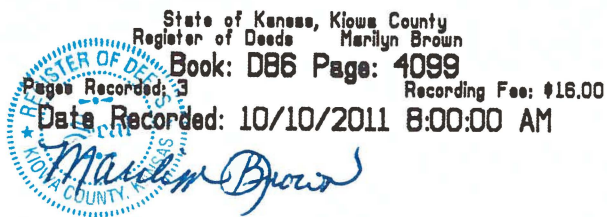
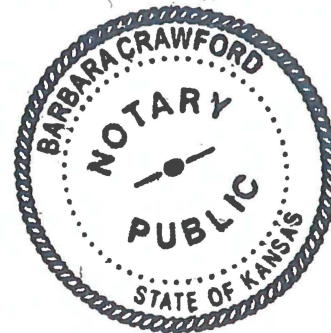
of Kansas, came, Broad Snow, Director of Risk Etc. who is personally known to me to be the same person who executed the foregoing Deed, and duly acknowledged the execution of the same.

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., 2011

Carmen Rentrrow
County Clerk

By K. Suzanne Letus

CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2019, I served the foregoing document, Response To Board Decision Served September 13, 2019, on the following parties of record, by e-mail.

Karl Morell
Karl Morell & Associates
440 1st Street, N.W., Suite 440
Washington, DC 20001
karlm@karlmorell.com

Marc Elster
2030 E. 25th Place
Lawrence, KS 66046
marcelster@yahoo.com



Thomas F. McFarland