

LAW OFFICE
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THOMAS F. McFARLAND

May 11, 2016

240645

By UPS overnight mail

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

ENTERED
Office of Proceedings
May 12, 2016
Part of
Public Record

Re: Finance Docket No. 36034, *Sunflower Rails-Trails Conservancy, Inc.* -- *Petition For Declaratory Order -- Sale of Railbanked Right-of-Way*

Dear Ms. Brown:

Enclosed please find an original and 10 copies of Petition For Declaratory Order, for filing with the Board in the above referenced matter.

Also enclosed is check #1046 in the amount of \$1,400 for the filing fee.

Very truly yours,

FEE RECEIVED
May 12, 2016
SURFACE
TRANSPORTATION BOARD

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

TMcF:mg:enc:1627\ltrSTB3

cc: Mr. Clark Coan, *by e-mail to clarkcoan@yahoo.com*
Mr. Larry Ross, *by e-mail to larryross7133@yahoo.com*

FILED
May 12, 2016
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD



SUNFLOWER RAILS-TRAILS)
CONSERVANCY, INC. -- PETITION FOR) FINANCE DOCKET
DECLARATORY ORDER -- SALE OF) NO. 36034
RAILBANKED RIGHT-OF-WAY)

PETITION FOR DECLARATORY ORDER

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

Petitioner

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 Petitioner

Date Filed: May 12, 2016

BEFORE THE
SURFACE TRANSPORTATION BOARD

SUNFLOWER RAILS-TRAILS)
CONSERVANCY, INC. -- PETITION FOR) FINANCE DOCKET
DECLARATORY ORDER -- SALE OF) NO. _____
RAILBANKED RIGHT-OF-WAY)

PETITION FOR DECLARATORY ORDER

Pursuant to 5 U.S.C. § 554(e) and 49 C.F.R. § 1011.7(a)(2)(vi) SUNFLOWER RAILS-TRAILS, CONSERVANCY, INC. (SRT) hereby petitions for a Board order declaring that sale by Neosho County, Kansas (the County) of three parcels of railbanked right-of-way near Chanute, KS violated the railbanking-trail use statute, i.e., 16 U.S.C. § 1247(d), and the Board's regulations that implement that statute, i.e., 49 C.F.R. § 1152.29(a), *et seq.*

BACKGROUND

On June 19, 1997, the Board issued a decision and notice of interim trail use (NITU) in Docket No. AB-471 (Sub-No. 1X), *South Kansas and Oklahoma Railroad, Inc. -- Aband. Exempt. -- in Neosho and Wilson Counties, KS*, in which American Trails Association, Inc. (ATA) was authorized to negotiate with South Kansas and Oklahoma Railroad, Inc. (SKOL) for railbanking and interim trail use of a 19-mile right-of-way (ROW) between Chanute and Fredonia, KS.^{1/} On March 30, 1998, ATA notified the Board that it reached agreement with SKOL for railbanking and interim trail use of that ROW.

^{1/} A map of the Chanute-Fredonia rail line is attached to this Petition as Appendix A. SKOL acquired that line from Atchison, Topeka & Santa Fe Railway Company who owned and operated that line for many years.

Thereafter, while the Chanute-Fredonia ROW continued to be subject to railbanking and interim trail use, Neosho County, Kansas (the County) levied taxes on that ROW. Those taxes were levied unlawfully because the ROW was held pursuant to a railroad easement rather than in fee, and Article II of the Kansas Constitution provides that ROW easements are not subject to ad valorem taxes. ATA neither paid nor contested those taxes.

As here pertinent, three ROW parcels in the Chanute-Fredonia ROW located near Chanute were sold by the County in 2004 to third parties for back taxes.^{2/} Copies of the Sheriff's Deeds for those sales are attached to this Petition as Appendix B.

The County did not seek nor obtain revocation by the Board of ATA's railbanking and interim trail use of the ROW before selling the 3 ROWs. Consequently, railbanking and interim trail use of those 3 ROWs continued in effect notwithstanding the County's sale.

In a Board decision in Docket No. AB-471 (Sub-No. 1X), *supra*, served November 13, 2007, the Board granted ATA's request to vacate its railbanking and interim trail use of the Chanute-Fredonia ROW.

In an NITU served January 24, 2008 in Docket No. AB-471 (Sub-No. 1X), *supra*, the Board authorized Sunflower Recreational Trails, Inc. to negotiate with SKOL for railbanking and interim trail use of the Chanute-Fredonia ROW.^{3/} SKOL had not consummated abandonment of the rail line. An agreement between SKOL and SRT for railbanking and interim trail use was reached in 2009. The Chanute-Fredonia ROW was conveyed by SKOL to SRT for railbanking

^{2/} The three parcels are referred to the 3 ROWs.

^{3/} Sunflower Recreational Trails, Inc. changed its name to Sunflower Rails-Trails, Inc. in 2010.

and interim trail use by quitclaim deed on April 22, 2011 (Deed recorded in the office of the Neosho County Recorder of Deeds in Book 449, Page 362).

Real estate taxes have not been levied by Neosho County on any parcels in the Chanute-Fredonia ROW at any time during more than five years that SRT has been in possession of that ROW.

On a number of occasions before filing this Petition, SRT requested that the County void sales of the 3 ROWs, and convey them to SRT because their sale to third persons violated the railbanking-trail use statute and the Board's implementing regulations. The County refused to do so. This Petition seeks a declaration that the County's sale of the 3 ROWs violated the statute and regulations.

ARGUMENT

It appears that the County's sale of the 3 ROWs for back taxes violated the Kansas Constitution because the 3 ROWs are easement property, not subject to ad valorem taxation. However, even if that sale were assumed to be valid, it is clear that Kansas law in that respect is federally preempted by the railbanking-trail use statute, 16 U.S.C. § 1247(d), commonly known as the Trails Act, and the Board's regulations that implement that provision. *See Railroad Abandonments - Use of Rights-of-Way as Trails*, 2 I.C.C.2d 591, 600 (1986). In particular, the Trails Act provides as follows (16 U.S.C. § 1247(d)):

. . . If a . . . qualified private organization is prepared to assume full responsibility for management of such rights of way and for any legal liability arising out of such transfer or use, and for the payment of any and all taxes that may be levied or assessed against such rights of way, then the Board . . . shall not permit abandonment or discontinuance inconsistent or disruptive of such (railbanking and interim trail) use.

It follows from the Board's issuance of an NITU, that ATA complied with all requirements of the Trails Act. Thus, the NITU reflects that ATA:

- (1) is a "qualified private organization";
- (2) assumed full responsibility for management of the ROWs;
- (3) assumed full responsibility for any legal liability arising out of such management;
and
- (4) assumed full responsibility for payment of any and all taxes levied or assessed against the Chanute-Fredonia ROW.

That being the case, the Board was statutorily required by the Trails Act to prevent an abandonment that would be inconsistent or disruptive of use of the 3 ROWs for railbanking and as an interim trail.

Sale of the 3 ROWs to third parties for nonrail use unquestionably constituted an abandonment within the meaning of the Trails Act that was wholly inconsistent and disruptive of use of the 3 ROWs for railbanking and as an interim trail. Cf. *City of Jersey City -- Petition for Declaratory Order*, 2007 WL 2270850 at *7 (F.D. No. 34818, decision served Aug. 9, 2007), *reconsid. denied, Id.*, 2007 WL 4429517 at *6. Thus, if there were to be a demand for reinstatement of rail freight transportation over the Chanute-Fredonia ROW in the future, the inability to operate over the 3 ROWs as a result of their sale would frustrate the Trails Act, which requires that railbanking and interim trail use be "subject to restoration or reconstruction for railroad purposes" 16 U.S.C. § 1247(d). See *Birt v. STB*, 90 F.3d 580, 583 (D.C. Cir. 1996); and *Georgia Great Southern - Abandon. & Discontin. of Service, GA*, 6 S.T.B. 902, 906 (2003).

The County had the opportunity to seek Board revocation of railbanking and interim trail use of the 3 ROWs based on ATA's alleged failure to pay property taxes, but failed to do so.

Thus, in *Idaho Northern et al. - Abandonment and Discon, Exemption*, 3 S.T.B. 50 (1998), the Board said (at 58):

Taxes. Local governments often have a right to collect taxes from those who build trails. If a state or local government could demonstrate that a trail manager had not or was not likely to meet its obligation to pay taxes, we would find that the financial conditions for interim trail use had not been met. We would then require that this deficiency be remedied, or that the trail condition be involuntarily revoked. No taxing authority has made any such claim here, however.

Had the County sought such involuntarily revocation of trail use, ATA undoubtedly would have successfully defended on the ground, explained previously, that the taxes were unlawful under Kansas law. In any event, in the absence of a request by the County that the Board revoke railbanking and interim trail use, there is no legal basis for a determination that such use was not in effect when the County sold the 3 ROWs. It follows that the County's sale of those 3 ROWs constituted an abandonment inconsistent and disruptive of railbanking and interim trail use in violation of the Trails Act. The Board is requested to so declare.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, the Board should declare that sale by Neosho County, Kansas to third persons for nonrail use, of three railbanked parcels of right-of-way being used as part of an interim trail between Chanute and Fredonia, Kansas, constituted an abandonment inconsistent and disruptive of railbanking and interim trail use in violation of 16 U.S.C. §1247(d).

Respectfully submitted,

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

Petitioner

Thomas F. McFarland

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

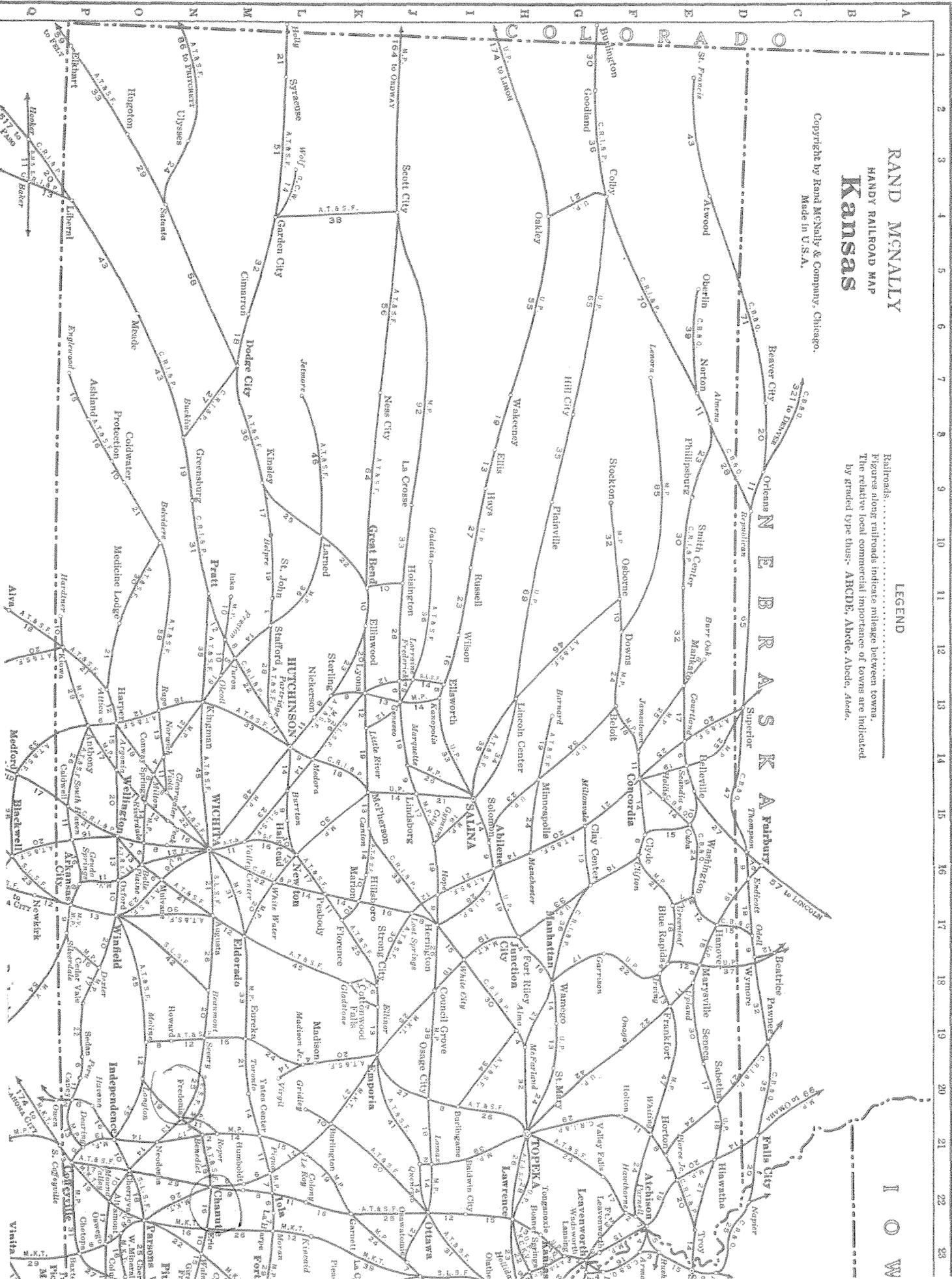
Attorney for Petitioner

Date Filed: May 12, 2016

RAND McNALLY HANDY RAILROAD MAP Kansas

Copyright by Rand McNally & Company, Chicago.
Made in U.S.A.

LEGEND
Railroads:
Figures along railroads indicate mileage between towns.
The relative local commercial importance of towns are indicated by graded type thus: ABCDE, Abcde, Abcde, Abcde.



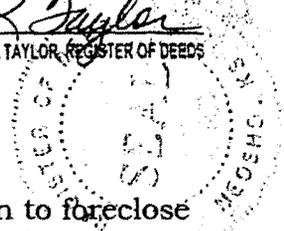
I O W

APPENDIX B

Entered in Transfer Record
in my office, this 29TH
day of NOVEMBER AD, 2004

Wayne B. Gibson, Jr.
Neosho County Clerk CS

04-3389
STATE OF KANSAS, NEOSHO COUNTY, SS
ENTERED AND FILED IN VOL. 342 PAGE 352-354
Nov. 29-2004 AT 8:05 O'CLOCK AM
Glenda K Taylor
\$16.00 GLENDA K. TAYLOR, REGISTER OF DEEDS



SHERIFF'S DEED

KNOW ALL MEN THESE PRESENTS, THAT a certain action to foreclose tax liens on certain real property in the County of Neosho, State of Kansas, has heretofore been filed in the District Court of Neosho County, Kansas, and is titled: *The Board of Neosho County Commissioners of Neosho County, Kansas Vs. Ira E. Barber, et al., Case No. 2004 CV 28*, and

Judgment was thereafter rendered by said Court in the above-entitled action on September 13, 2004.

In compliance with, and pursuant to this judgment, the Clerk of the District Court of Neosho County, Kansas, issued an order to the Sheriff of Neosho County, Kansas, to advertise and sell tracts of land, lots, or pieces of real estate described below, all according to law.

The Neosho County Sheriff gave notice of this sale by advertisement and publication notice of sale in the Chanute Tribune, a newspaper printed in Neosho County, Kansas for fifty-two (52) weeks prior to the first publication notice, all according to the law. The Neosho County Sheriff, Jim Keath, thereafter sold to **David B. Ely and/or Tonya R. Ely**, for the highest and best bid obtainable on October 22, 2004, the following described real property for \$3,200.00:

DESCRIPTION: *All of the railroad right-of-way of the former AT&SF Railroad located in the Northwest Quarter (NW/4) of Section 36, Township 27, Range 17, generally described as follows: A strip of land 100 feet wide with the centerline of said strip beginning in the Northeast corner of the Northwest Quarter (NW/4); thence going in a southwesterly direction to a point on the West line of the Northwest Quarter (NW/4) approximately 750 feet South of the Northwest corner of the Northwest Quarter (NW/4), all in Neosho County, Kansas.*

THEREAFTER, on the 17th day of November, 2004, the Order of Sale and the proceedings of sale were returned to the Neosho County District Court and after examination of the proceedings, and finding that the sale was made in all respects in conformity with the law applicable, the District Court of Neosho County confirmed the sale, and the proceedings made thereto, on the 17th day of November, 2004.

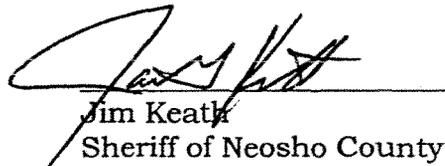
THEREAFTER, and according to law, the Sheriff of Neosho County was ordered to execute this good and sufficient deed to the purchaser, **David B. Ely and/or Tonya R. Ely**.

I, Jim Keath, Sheriff of Neosho County, Kansas therefore do hereby give, grant, sell and convey to **David B. Ely and/or Tonya R. Ely**, their heirs and assigns, forever, the following described real estate located in Neosho County, Kansas, together with all and singular tenements, hereditaments and appurtenances thereto or in any way appertaining:

DESCRIPTION: *All of the railroad right-of-way of the former AT&SF Railroad located in the Northwest Quarter (NW/4) of Section 36, Township 27, Range 17, generally described as follows: A strip of land 100 feet wide with the centerline of said strip beginning in the Northeast corner of the Northwest Quarter (NW/4); thence going in a southwesterly direction to a point on the West line of the Northwest Quarter (NW/4) approximately 750 feet South of the Northwest corner of the Northwest Quarter (NW/4), all in Neosho County, Kansas.*

TO HAVE AND TO HOLD THE SAME UNTO THE SAID **David B. Ely and/or Tonya R. Ely**, their heirs and assigns forever.

IN WITNESS WHEREOF, I, Jim Keath, Sheriff of Neosho County, State of Kansas, have hereunto set my hand this 23rd day of November, 2004.



Jim Keath
Sheriff of Neosho County
State of Kansas

ACKNOWLEDGEMENT:

STATE OF KANSAS, NEOSHO COUNTY, SS:

BE IT REMEMBERED, that on this 23 day of November, 2004, before me, Connie Stegman, the Clerk of the District Court within and for Neosho County, State of Kansas, came Jim Keath, Sheriff of Neosho County, in the State of Kansas, who is personally known to me to be the same person who executed the within and foregoing instrument of writing as grantor, and such person duly acknowledged to me that the same was his voluntary act and deed, and that he duly executed the same for the purpose therein expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal; the day and year last above written.

Connie Stegman
Connie Stegman
Clerk of the District Court
Neosho County, Kansas



Pursuant to K.S.A. 79-1437e, A Real Estate Sales Validation Questionnaire Is Not Required Due to Exception No. 10.

Subject Property: 067057360000003030

QuickRef ID : 6296

[Click here to locate on Map](#)

Owner Name : ELY DAVID B & TONYA R

No property photo available

Location : 2485 200TH RD, Chanute, KS 66720.

Legal Desc : S36 , T27 , R017 , ACRES 6.4 , STRIP 100' WIDE THRU N2 NW4 TH C/L OF STRIP BEG NE/C NW4 SWLY TO PT ON W LI NW4 APPROX 750'S NW/C NW4 KNOWN AS AT&SF RR R/W.

The legal description displayed above is not adequate for use in legal documents

Owner Information

Owner :

Mailing Address :

ELY DAVID B & TONYA R

19720 BROWN RD CHANUTE, KS 66720

Property Details

Property Type :

Property Status :

Taxing Unit :

Neighborhood Code :

Agricultural Use

Active

045 USD 413

107.R

Market Land Details

Actual Width :

Eff Width :

Eff Depth :

Acres :

Square Feet :

No Permit Details found.

Value Details

Current Final Value (Agricultural) :	Year :	2014
	Land :	\$230
	Building :	\$0
	Total :	\$230

Deed Book/Page

Book / Page List and Misc Legal Description Info :

Book/Page 0342/0352 0211/0555 0211/0553

No Sale Details found. (Please log in to view this data.)

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Print Close



Entered in Transfer Record
in my office, this 29TH
day of NOVEMBER, A.D. 2004
Wayne B. Gibson, Jr.
Neosho County Clerk CS

04-3390

STATE OF KANSAS, NEOSHO COUNTY, SS
ENTERED AND FILED IN VOL 342 PAGE 355-357
Nov. 29-2004 AT 8:06 O'CLOCK AM
Glenda K Taylor
\$16.00
GLENDA K. TAYLOR, REGISTER OF DEEDS

SHERIFF'S DEED

KNOW ALL MEN THESE PRESENTS, THAT a certain action to foreclose tax liens on certain real property in the County of Neosho, State of Kansas, has heretofore been filed in the District Court of Neosho County, Kansas, and is titled: *The Board of Neosho County Commissioners of Neosho County, Kansas Vs. Ira E. Barber, et al., Case No. 2004 CV 28*, and

Judgment was thereafter rendered by said Court in the above-entitled action on September 13, 2004.

In compliance with, and pursuant to this judgment, the Clerk of the District Court of Neosho County, Kansas, issued an order to the Sheriff of Neosho County, Kansas, to advertise and sell tracts of land, lots, or pieces of real estate described below, all according to law.

The Neosho County Sheriff gave notice of this sale by advertisement and publication notice of sale in the Chanute Tribune, a newspaper printed in Neosho County, Kansas for fifty-two (52) weeks prior to the first publication notice, all according to the law. The Neosho County Sheriff, Jim Keath, thereafter sold to **Donald O. Friederich, Jr. and/or Cheryl A. Friederich**, for the highest and best bid obtainable on October 22, 2004, the following described real property for \$3,000.00:

DESCRIPTION: *All of the railroad right-of-way of the former AT&SF Railroad located in the Northeast Quarter (NE/4) of Section 35, Township 27, Range 17, generally described as follows: A strip of land 100 feet wide with the centerline of said strip beginning approximately 750 feet South of the Northeast corner of the Northeast Quarter (NE/4); thence going in a southwesterly direction to a point on the West line of the Northeast Quarter (NE/4) approximately 1730 feet South of the Northwest corner of the Northeast Quarter (NE/4), all in Neosho County, Kansas.*

THEREAFTER, on the 17th day of November, 2004, the Order of Sale and the proceedings of sale were returned to the Neosho County District Court and after examination of the proceedings, and finding that the sale was made in all respects in conformity with the law applicable, the District Court of Neosho County confirmed the sale, and the proceedings made thereto, on the 17th day of November, 2004.

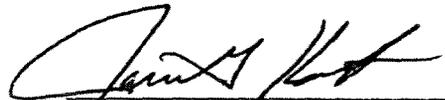
THEREAFTER, and according to law, the Sheriff of Neosho County was ordered to execute this good and sufficient deed to the purchaser, **Donald O. Friederich, Jr. and/or Cheryl A. Friederich**.

I, Jim Keath, Sheriff of Neosho County, Kansas therefore do hereby give, grant, sell and convey to **Donald O. Friederich, Jr. and/or Cheryl A. Friederich**, their heirs and assigns, forever, the following described real estate located in Neosho County, Kansas, together with all and singular tenements, hereditaments and appurtenances thereto or in any way appertaining:

DESCRIPTION: *All of the railroad right-of-way of the former AT&SF Railroad located in the Northeast Quarter (NE/4) of Section 35, Township 27, Range 17, generally described as follows: A strip of land 100 feet wide with the centerline of said strip beginning approximately 750 feet South of the Northeast corner of the Northeast Quarter (NE/4); thence going in a southwesterly direction to a point on the West line of the Northeast Quarter (NE/4) approximately 1730 feet South of the Northwest corner of the Northeast Quarter (NE/4), all in Neosho County, Kansas.*

TO HAVE AND TO HOLD THE SAME UNTO THE SAID **Donald O. Friederich, Jr. and/or Cheryl A. Friederich**, their heirs and assigns forever.

IN WITNESS WHEREOF, I, Jim Keath, Sheriff of Neosho County, State of Kansas, have hereunto set my hand this 23rd day of November, 2004.



Jim Keath
Sheriff of Neosho County
State of Kansas

ACKNOWLEDGEMENT:

STATE OF KANSAS, NEOSHO COUNTY, SS:

BE IT REMEMBERED, that on this 23 day of November, 2004, before me, Connie Stegman, the Clerk of the District Court within and for Neosho County, State of Kansas, came Jim Keath, Sheriff of Neosho County, in the State of Kansas, who is personally known to me to be the same person who executed the within and foregoing instrument of writing as grantor, and such person duly acknowledged to me that the same was his voluntary act and deed, and that he duly executed the same for the purpose therein expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal; the day and year last above written.


Connie Stegman
Clerk of the District Court
Neosho County, Kansas



Pursuant to K.S.A. 79-1437e, A Real Estate Sales Validation Questionnaire Is Not Required Due to Exception No. 10.

Subject Property: 0670573500000001010

QuickRef ID : 6278

[Click here to locate on Map](#)

Owner Name : FRIEDERICH DONALD & CHERYL

No property photo available

Location : 19855 BROWN RD, Chanute, KS 66720.

Legal Desc : S35 , T27 , R017 , ACRES 6.4 , STRIP 100' W NE4 TH C/L STRIP APPROX 750' S NE/C NE4 SWLY TO PT W LI NE4 APPROX 1730'S NW/C NE4 FORMERLY AT&SF RR R/W

The legal description displayed above is not adequate for use in legal documents

Owner Information

Owner :

Mailing Address :

FRIEDERICH DONALD & CHERYL

19895 BROWN RD CHANUTE, KS 66720

Property Details

Property Type :

Property Status :

Taxing Unit :

Neighborhood Code :

Agricultural Use

Active

045 USD 413

107.R

Market Land Details

Actual Width :

Eff Width :

Eff Depth :

Acres :

Square Feet :

No Permit Details found.

Value Details

Current Final Value (Agricultural) :	Year :	2014
	Land :	\$230
	Building :	\$0
	Total :	\$230

Deed Book/Page

Book / Page List and Misc Legal Description Info :

Book/Page 0342/0355 0211/0555

No Sale Details found. (Please log in to view this data.)

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Print Close



Entered in Transfer Record
in my office, this 29TH
day of NOVEMBER AD. 2004

Wayne B. Hilson, Jr.
Neosho County Clerk CB

04-3391

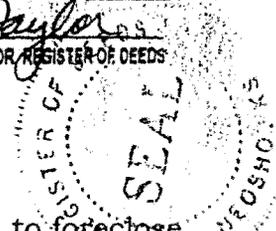
STATE OF KANSAS, NEOSHO COUNTY, SS

ENTERED AND FILED IN VOL 342 PAGE 358-360

Nov 29-2004 AT 8:07 O'CLOCK AM

Glenda K Taylor
GLENDA K. TAYLOR, REGISTER OF DEEDS

\$16.00



SHERIFF'S DEED

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In compliance with, and pursuant to this judgment, the Clerk of the District Court of Neosho County, Kansas, issued an order to the Sheriff of Neosho County, Kansas, to advertise and sell tracts of land, lots, or pieces of real estate described below, all according to law.

The Neosho County Sheriff gave notice of this sale by advertisement and publication notice of sale in the Chanute Tribune, a newspaper printed in Neosho County, Kansas for fifty-two (52) weeks prior to the first publication notice, all according to the law. The Neosho County Sheriff, Jim Keath, thereafter sold to **Glenn W. Wrestler, Sr. and/or Lora Lee Wrestler**, for the highest and best bid obtainable on October 22, 2004, the following described real property for \$500.00:

DESCRIPTION: *All of the railroad right-of-way of the former AT&SF Railroad located in the Northwest Quarter (NW/4) of Section 35, Township 27, Range 17, generally described as follows: A strip of land 100 feet wide with the centerline of said strip beginning approximately 1730 feet South of the Northeast corner of the Northwest Quarter (NW/4); thence going in a southwesterly direction to the Southwest corner of the Northwest Quarter (NW/4), all in Neosho County, Kansas.*

THEREAFTER, on the 17th day of November, 2004, the Order of Sale and the proceedings of sale were returned to the Neosho County District Court and after examination of the proceedings, and finding that the sale was made in all respects in conformity with the law applicable, the District Court of Neosho County confirmed the sale, and the proceedings made thereto, on the 17th day of November, 2004.

THEREAFTER, and according to law, the Sheriff of Neosho County was ordered to execute this good and sufficient deed to the purchaser, **Glenn W. Wrestler, Sr. and/or Lora Lee Wrestler**.

I, Jim Keath, Sheriff of Neosho County, Kansas therefore do hereby give, grant, sell and convey to **Glenn W. Wrestler, Sr. and/or Lora Lee Wrestler**, their heirs and assigns, forever, the following described real estate located in Neosho County, Kansas, together with all and singular tenements, hereditaments and appurtenances thereto or in any way appertaining:

DESCRIPTION: *All of the railroad right-of-way of the former AT&SF Railroad located in the Northwest Quarter (NW/4) of Section 35, Township 27, Range 17, generally described as follows: A strip of land 100 feet wide with the centerline of said strip beginning approximately 1730 feet South of the Northeast corner of the Northwest Quarter (NW/4); thence going in a southwesterly direction to the Southwest corner of the Northwest Quarter (NW/4), all in Neosho County, Kansas.*

TO HAVE AND TO HOLD THE SAME UNTO THE SAID **Glenn W. Wrestler, Sr. and/or Lora Lee Wrestler**, their heirs and assigns forever.

IN WITNESS WHEREOF, I, Jim Keath, Sheriff of Neosho County, State of Kansas, have hereunto set my hand this 23rd day of November, 2004.



Jim Keath
Sheriff of Neosho County
State of Kansas

ACKNOWLEDGEMENT:

STATE OF KANSAS, NEOSHO COUNTY, SS:

BE IT REMEMBERED, that on this 23 day of November, 2004, before me, Connie Stegman, the Clerk of the District Court within and for Neosho County, State of Kansas, came Jim Keath, Sheriff of Neosho County, in the State of Kansas, who is personally known to me to be the same person who executed the within and foregoing instrument of writing as grantor, and such person duly acknowledged to me that the same was his voluntary act and deed, and that he duly executed the same for the purpose therein expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal; the day and year last above written.

Connie Stegman
Connie Stegman
Clerk of the District Court
Neosho County, Kansas



Pursuant to K.S.A. 79-1437e, A Real Estate Sales Validation Questionnaire Is Not Required Due to Exception No. 10.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document, Petition for Declaratory Order, was served on May 11, 2016, by first-class, U.S. mail on Ross Albertini, attorney for Neosho County, Kansas, 1000 Fifth Street, St. Paul, KS 66771, and on Mr. Nicholas Galemore, Chairman, Neosho County Commissioners, P.O. Box 138, Erie, KS 66773.



Thomas F. McFarland