

241141

BEFORE THE  
SURFACE TRANSPORTATION BOARD

ENTERED  
Office of Proceedings  
July 20, 2016  
Part of  
Public Record

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

RESPONSE TO PETITION FOR DECLARATORY JUDGMENT

Respondent:

Neosho County Commissioners  
PO Box 138  
Erie, KS 66773

Attorney for Respondent:

Ross Albertini  
Attorney at Law  
1000 5<sup>th</sup> Street  
St. Paul, KS 66771  
(620) 423-1743  
Fax (620) 421-7089  
ross\_albertini@hotmail.com

Date filed: July 20, 2016

BEFORE THE  
SURFACE TRANSPORTATION BOARD

SUNFLOWER RAILS-TRAILS )	
CONSERVANCY, INC. – PETITION FOR )	FINANCE DOCKET
DECLARATORY ORDER – SALE OF )	NO. 36034
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RESPONSE TO PETITION FOR DECLARATORY JUDGMENT

Comes now, Ross Albertini, on behalf of Neosho County, for its response to and request that the Surface Transportation Board deny the Sunflower Rails-Trails Conservancy, Inc.’s Petition for Declaratory Order setting aside the sale of three parcels by Neosho County.

STATEMENT OF FACTS

1. The property in the Petition for Declaratory Judgment was transferred to the American Trails Association, Inc. from the South Kansas and Oklahoma Railroad, Inc. as a result of the Board’s decision in Docket No. AB-471 issued on June 19, 1997. In 2004 American Trails Association, Inc. was a valid Kansas corporation. It withdrew from Kansas in 2010. (exhibit A)
2. That on Mach 26, 2004 the Board of County Commissioners of Neosho County, Kansas filed a Petition in Neosho County District Court, Case No. 2004 cv 28, for the purpose of foreclosing on properties delinquent in paying property taxes, including the three tracts of ROW subject to this action. (See exhibit B)

3. Named in said lawsuit as defendants were American Trails Association, Inc., South Kansas & Oklahoma Railroad, Inc., and A&K Railroad Materials, Inc. (exhibit B)
4. All three Defendants were properly served summons via their resident agents. (exhibit C)
5. All three Defendants failed to file an answer with regards to Counts 12, 13, and 14. On September 13, 2004 the Court found the Defendants were properly served and judgment was entered against them regarding these tracts. (exhibit D)
6. The properties were sold at a sheriff's sale on October 22, 2004. (exhibit E)
7. The three tracts sold for an amount in excess of the judgment amount. On December 27, 2004 Neosho County District Court issued an order for the District Court Clerk to pay the excess in the amount of \$4,956.10 to American Trails, Inc. American Trails, Inc. cashed the check shortly thereafter. (exhibit F)
8. On January 24, 2008 the Board authorized Sunflower Recreational Trails, Inc., to negotiate with South Kansas and Oklahoma Railroad, Inc. for railbanking. An agreement was reached in 2009. (Petitioner's Petition, page 3)
9. Sunflower Recreational Trails, Inc. has not filed a bond at any time with the Neosho County Clerk as required by Kansas Statute Annotated 58-3212. (exhibit G)

## ARGUMENTS

The Board of County Commissioners of Neosho County, Kansas respectfully asks the Board to deny Petitioner's request for a declaratory order indicating the tax sale held in 2004 violated the Railbanking-Trail Act. The ultimate issue that needs to be decided is who is entitled to possession of the ROW. This issue will need to be decided in either Federal District Court or Kansas District Court in an action between the Petitioner and the owners of the ROW. There is no legal basis the County can find contained in either 16 U.S.C. §1247(d) or 49 C.F.R. §1152.29, et seq. for this decision to be under the jurisdiction of Board.

Both private entities that have been approved for interim trail use for the ROW in question, the American Trails Association, Inc. and Petitioner, have done nothing to enforce their rights under the Trails Act for approximately twelve years. Pursuant to 49 C.F.R. §1152.29 both parties were required to submit a Statement of Willingness to Assume Financial Responsibility at the time of application. In that statement, both parties indicated they would "assume full responsibility for management of, for any legal liability arising out of the transfer or use, and for the payment of any and all taxes that may be levied....." The County assumes that implicit in this statement of assuming "full responsibility for management" is protecting the possessory interest of the ROW entitled under the Act. Yet neither party made any attempt to "manage" the tax sale issue until 12 years after the original tax sale in 2004. American Trails Association, Inc. failed to file an answer in that lawsuit even though it was properly served summons of the lawsuit in 2004. Petitioner has had an agreement with South Kansas and Oklahoma Railroad, Inc. for railbanking since 2009. It is now 2016. With one party taking no "management"

action at all and the other waiting approximately seven years to seek this declaratory order, it is clear both parties have failed to meet the “management” obligations each one assumed pursuant to the Act and as a result should not be entitled to the requested declaratory order.

The Petitioner argues in its Petition that “The County had the opportunity to seek Board revocation of railbanking and interim trail use of the 3 ROWs at American Trails Association, Inc.’s alleged failure to pay property taxes, but failed to do so.” (Page 6 of Petition). However, the same argument can be applied American Trails Association, Inc., which was the private entity in possession of the ROW at the time. American Trails Association, Inc. had the opportunity to defend its interest in the three ROW’s in the tax sale proceedings, but failed to do so. American Trails Association, Inc. was properly served notice of the lawsuit and failed to file an answer. Petitioner cannot argue that American Trails Association, Inc. was not aware of the proceedings based on the fact American Trails Association, Inc. cashed a check it the amount of \$4,956.10 for excess sale proceeds after the sheriff’s sale. The act of accepting the proceeds essentially is American Trails Association, Inc. acquiescing in the County’s foreclosure of its tax lien on the property. American Trails Association, Inc. could have filed an answer at the beginning of the lawsuit and defended its interest using the same rational Petitioner asserts in its Petition, but failed to do so. American Trails Association, Inc. could have refused to accept the proceeds and asked the Neosho County District Court to set aside the sale back in 2004/2005, but failed to do so. Now, the Petitioner, whom was not a party to any of the tax sale proceedings comes along and files its Petition twelve years after the fact. It should be noted that even the Petitioner waited seven years after is its

application for interim trail use was approved by this Board and five years after its deed was filed in 2011, to file this action. It should further be noted that Petitioner is not meeting the financial obligations as indicated in its Statement of Willingness to Assume Financial Responsibility with regards to the requirements of Kansas Statute Annotated §58-3212. K.S.A. §58-3212 requires non-governmental entities whom are responsible for recreational trails to annually file with the county clerk in the county the trail will be located in, a bond or proof of an escrow account conditioned on the responsible party's performance in maintaining the trail, i.e. weed control, trash, maintenance, etc. Pursuant to said statute, "The bond or proof of an escrow account shall be filed at the time of transfer of the deed to the responsible party and annually thereafter." The property was deeded to Petitioner in 2011 and Petitioner has still not fulfilled this requirement even though approximately five years has passed.

#### CONCLUSION

The County requests the Board deny the Petitioner's request for a declaration the County's sale of the subject ROW constituted an abandonment inconsistent and disruptive of railbanking and interim trail use in violation of 16. U.S.C. §1247(d). In 2004, the then holder of the interim trail rights, American Trails Association, Inc., acquiesced to the County's sale by failing to file an answer in the lawsuit and by cashing the excess proceeds check shortly thereafter. American Trails Association, Inc. could have easily raised the same issues in 2004 as the Petitioner does now, but didn't. Further, once Petitioner received the interim trail rights in 2009, it waited an additional seven years before taking action on this issue. Petitioner should not be "rewarded" with the declaratory order after waiting so long to live up to the obligations it told this very Board

it would do in the Statement of Willingness to Assume Financial Responsibility back in 2009. Whether the Board approves or denies the petition, this issue is ultimately be decided between the owners of the ROW and the Petitioner in either Federal Court or Kansas District Court, rendering the requested order mute.

I, Ross Albertini, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this pleading.

Executed on July 18, 2016.

Respectfully submitted,

Board of Neosho County Commissioners  
PO Box 138  
Erie, KS 66773



Ross Albertini #18258  
Attorney for Neosho County Commissioners  
1000 5<sup>th</sup> Street  
St. Paul, KS 66771  
(620) 421-7030  
[ross\\_albertini@hotmail.com](mailto:ross_albertini@hotmail.com)

Date files: July 18, 2016

#### CERTIFICATE OF SERVICE

I hereby certify that the foregoing document, Response to Petition, was served on July 20, 2016 by first class, U.S. Mail on Thomas F. McFarland, attorney for Sunflower Rails-Trails Conservancy, Inc., at 208 South LaSalle Street – Ste. 1666, Chicago, IL 60604-1228



Ross Albertini #18258

Exhibit A

# Office of the Kansas Secretary of State

## Business Entity Amendment to Withdraw From Kansas

Electronic File Stamp Information:

Filed

- Date: 05/03/2010
- Time: 12:26

1. Business Entity Name: AMERICAN TRAILS ASSOCIATION, INC.
2. Business Entity I.D. Number: 7438518
3. Original Date of Formation: 10/23/1991
4. State of Formation: NV
5. Statement: The corporation surrenders its authority to transact business in the state of Kansas and withdraws therefrom.
6. Service of process may be forwarded to the entity at the following address:  
1505 S. Redwood Rd. , Salt Lake City, UT 84104

"I declare under penalty of perjury pursuant to the laws of the state of Kansas that the foregoing is true and correct."

Executed on the 03 of May , 2010.

Michael Van Wagenen  
Authorized Officer



I, Chris Biggs, Secretary of State of Kansas, do hereby certify that this is the true and correct copy of the original document filed electronically on 03 of May , 2010.

Chris Biggs

To validate the authenticity of this electronically certified document please visit, <https://www.accesskansas.org/ssrv-dissolutions/validation.do>. Enter the following authentication code: 4239

KANSAS SECRETARY OF STATE  
NON-CERTIFIED WEB COPY  
6/30/2016 10:23:40 AM

Exhibit B

Ross L. Albertini  
HINES & AHLQUIST, P.A.  
P.O. Box 108  
Erie, Kansas 66733  
(620) 244-3227

FILED

MAR 26 A 8:35

CLERK OF DISTRICT COURT  
NEOSHO COUNTY, KANSAS

IN THE DISTRICT COURT OF NEOSHO COUNTY, KANSAS

The Board of County Commissioners  
Of Neosho County, Kansas,

Plaintiff,

Vs.

Case No. 2004CV28

Ira E. Barber; Ann Hummer Barber; Carol Barber Bloxham;  
Ronald M. Sallee; George McCormack; Sheila K. Trahan;  
Daisy P. Stipp; Timothy L. Stipp; Crystal Babcock; Kenneth Babcock;  
Joseph R. Gormley, Jr.; Allie M. Gormley; James L. Rowan;  
Kathy Denise Morris; Tom L. Morris; Beneficial Mortgage Co. of  
Kansas, Inc.; The Pacesetter Corporation; Thomas J. Craft;  
Marie E. Craft; Cathy L. Wilmot; Richard D. Hazelrigg;  
Lorie A. Hazelrigg; Regina Hazelrigg; American Trails Association, Inc.;  
South Kansas & Oklahoma Railroad, Inc.; A&K Railroad Materials, Inc.;  
Trustee of the Earl Moore and Mary Lois Moore Living Trust;  
Eugene F. Rice; Janet L. Rice; Jim L. Mitchell; Nita Mitchell;  
Rex O. Saunders; Lorene V. Saunders; Estate of Gary Zanovich;  
John R. Zanovich; Jill S. Anderson, a/k/a Jill S. Zanovich; James Zanovich;  
Kevin Thouvenell; Donna J. Thouvenell; Donald L. Colhouer;  
Richard D. Stowell; Shelly D. Cotton; James R. Cotton, Jr.;  
Community National Bank; State of Kansas; and Neosho County Commissioners,  
And the unknown heirs, executors, administrators, devisees, trustees, creditors and assigns of any  
deceased defendants; the unknown spouses of any defendants; the unknown officers, successors,  
trustees, creditors and assigns of any defendants that are existing, dissolved or dormant  
corporations; the unknown executors, administrators, devisees, trustees, creditors, successors and  
assigns of any defendants that are or were partners or in partnership; the unknown guardians,  
conservators and trustees of any defendants that are minors or are under any legal disability; and  
the unknown heirs, executors, administrators, devisees, trustees, creditors and assigns of any  
person alleged to be deceased.

Defendants,

**PETITION**

The Plaintiff for its cause of action against the Defendants, states:

1. Neosho County, Kansas, is a duly and legally organized and existing county in the State of Kansas, and that Vernon Shultz, Ronald Clements, and Donnie Yarnell are the duly elected, qualified and acting commissioners of said county.

2. On September 13, 2002, the aforesaid commissioners of the Board of County Commissioners of Neosho County, Kansas, made their resolutions and order directing this action in accordance with the provisions of K.S.A. 79-2801, a copy of said resolution and order being attached hereto and incorporated herein by this reference.
3. On November 26, 2003, the aforesaid commissioners of the Board of County Commissioners of Neosho County, Kansas, contracted with the firm of HINES & AHLQUIST, P.A. for legal representation for all purposes incident to a tax foreclosure action and tax sale.
4. All the real property, hereinafter mentioned, was duly assessed for valuation in Neosho County and taxes levied upon each tract, lot, piece or parcel thereof, in the year or years preceding the date of the sales hereinafter mentioned. Taxes so levied and assessed on all of said real property for said year or years were not paid, as required by law, on or before the 20<sup>th</sup> day of June of the year following the year in which said taxes were due; the County Treasurer of Neosho County did, between the 1<sup>st</sup> and 10<sup>th</sup> days of July of the years indicated and including **1997, 1998, 1999, 2000, 2001, and 2002**, make a list of all the real estate, tracts, lots, parcels or pieces of real estate subject to sale, describing said real estate as the same was described on the tax roll with an accompanying notice stating that so much of each tract, parcel, piece or lot described in said list as might be necessary for that purpose would, on the first Tuesday of September, next following, be sold by said County Treasurer at public auction at his office for taxes and charges thereon. Said list of real property together with said notice was duly published in the official county newspaper once each week for three consecutive weeks prior to the week of the day of said sale and a copy of said list and tax notice was posted in a conspicuous place in the office of the County Treasurer. Thereafter, and on the day designated in said notices of sale, to-wit: The first Tuesday of September of each of the following years **1997, 1998, 1999, 2000, 2001, and 2002**, each and all of the above mentioned tracts, parcels, pieces or lots were bid in by the County Treasurer of Neosho County in the name of Neosho County on the dates respectively indicated for the amount of the delinquent taxes and legal charges due thereon. Each and all of the above mentioned tracts, parcels, pieces

or lots have remained unredeemed on the first day of September of the third year after such sale or any extension thereof.

5. Attached hereto and made a part hereof by this reference is a schedule containing a description of each parcel, lot, tract or piece of real property, the same being numbered as **Counts 1 through 23** inclusive, upon and against which Neosho County has or claims to have lien by reason of unpaid taxes as set out herein; that the above mentioned schedule contains a statement of the amount of taxes, interest penalty chargeable to each of said tracts, the name of the owner, pretended owner, supposed owner, and parties having or claiming to have some interest therein or thereto, showing respectively the amount of the taxes, interest, penalties and other lawful charges chargeable to each of said tracts, the same having been calculated to November 13, 2003; all of said tracts being situated in Neosho County, Kansas.

WHEREFORE, the Plaintiff prays that the Court determine the amount of taxes, interest, penalties and charges chargeable to each of the above described tracts as set out in the attached unit with the names of the owner or owners, or party or parties having an interest therein and that each defendant be required to appear and to establish his claim, estate, title or interest in or to said real property and that the Court adjudge and decree that the amount so found due is due and constitutes a first and prior lien upon each of the above described lots and that the real estate described in each of said tracts be sold at public sale for the satisfaction of such lien, the cost of this action, including the cost of preparation and conduct of this suit, and that from and after said sale and the confirmation thereof, and that the defendants and each of them and all persons claiming or pretending to claim by, through or under them, or either or any of them be forever barred and foreclosed of any and all claim, estate, title or interest in or lien upon said real property or any part thereof, and be forever barred, foreclosed and enjoined from setting out or asserting any interest or claim therein or thereto and that the Plaintiff be granted such additional relief in the premises as may be proper.

HINES & AHLQUIST, P.A.  
P.O. Box 108, Erie, Kansas 66733

By   
\_\_\_\_\_  
Ross L. Albertini, #18258  
Attorneys for Plaintiff

**COUNT ONE**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00005

2. The legal description and address of the real estate is:

Lots Seven (7) and Eight (8), Block Three (3), in Truitt's First Addition to the City of Chanute, Neosho County, Kansas.

221 N. Lafayette, Chanute, Kansas 66720

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998 (Weed removal)

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$75.00	\$54.06	\$129.06
<b>TOTAL</b>	<b>\$75.00</b>	<b>\$54.06</b>	<b>\$129.06</b>

5. The names of the record owners are:

Ira E. Barber  
Ann Hummer Barber  
Carol Barber Bloxham

6. The names of parties claiming an interest are:

None

**COUNT TWO**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00007

2. The legal description and address of the real estate is:

A tract beginning at a point 70 feet South of the Northeast corner of the West Half (W/2) of the Southeast Quarter (SE/4) of Section Twenty-one (21), Township Twenty-seven (27); Range Eighteen (18); West 20 feet; South 20 feet; East 20 feet; North 20 feet to the point of beginning, Neosho County, Kansas.

00000 K-39 Hwy., Chanute, Kansas 66720.

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1997, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1997	\$3.18	\$18.01	\$21.19
2002	\$ .57	\$16.04	\$16.61
<b>TOTAL</b>	<b>\$3.75</b>	<b>\$34.05</b>	<b>\$37.80</b>

5. The name of the record owner is:

Ronald M. Sallee

6. The names of parties claiming an interest are:

None

### **COUNT THREE**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 0008
2. The legal description and address of the real estate is:

The North Thirty-five (35) feet of Lot Four (4), Block One (1), Carpenter's Addition to the City of Chanute, Neosho County, Kansas.

416 N. Evergreen Ave., Chanute, Kansas 66720.

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:  
1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$ 381.58	\$225.69	\$ 607.27
1999	\$ 463.66	\$214.93	\$ 678.59
2000	\$ 308.51	\$118.21	\$ 426.73
2001	\$ 356.14	\$ 89.10	\$ 445.24
2002	\$ 284.30	\$ 32.88	\$ 317.18
<b>TOTAL</b>	<b>\$1,794.20</b>	<b>\$680.81</b>	<b>\$2,475.01</b>

5. The names of the record owners are:

George McCormack  
Sheila K. Trahan

6. The names of parties claiming an interest are:

None

#### **COUNT FOUR**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00009

2. The legal description and address of the real estate is:

Lots Two (2) and Three (3), less the East Sixty (60) feet thereof and also less the West Ten (10) feet thereof, in Block Six (6), New Chicago, now included in and forming a part of the City of Chanute, Neosho County, Kansas.

318 N. Lincoln Ave., Chanute, Kansas 66720.

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$ 87.24	\$ 60.27	\$147.51
1999	\$ 85.12	\$ 49.59	\$134.71
2000	\$ 86.96	\$ 40.28	\$127.24
2001	\$101.48	\$ 32.27	\$133.75
2002	\$108.70	\$ 22.45	\$131.15
<b>TOTAL</b>	<b>\$469.50</b>	<b>\$204.86</b>	<b>\$674.36</b>

5. The names of the record owners are:

Daisy P. Stipp  
Timothy L. Stipp  
Crystal Babcock  
Kenneth Babcock

6. The names of parties claiming an interest are:

None

#### **COUNT FIVE**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00012
2. The legal description and address of the real estate is:

Commencing at a point on the West line of Benedict's First Addition to the City of Chanute, Neosho County, Kansas, said point being 295 1/3 feet North of the center of the Section line running East and West between Sections Twenty (20) and Twenty-nine (29), in Township Twenty-seven (27), Range Eighteen (18), running thence North along said West line of Benedict's First Addition 292½ feet; running thence West on a line parallel with the center Section line above referred to 142 feet; running thence South on a line parallel with West line of Benedict's First Addition 292½ feet; running thence East parallel with said Section line 142 feet to place of beginning, being a tract of land 142 by 292½ feet in the East Half (E/2) of the Southwest Quarter (SW/4) of Section Twenty (20), Township Twenty-seven (27) South, Range Eighteen (18), East of the 6<sup>th</sup> P.M., Neosho County, Kansas, containing One (1) acre, more or less.

00000 W. 6<sup>th</sup>, Chanute, KS. 66720

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:  
1998, 2000, 2001, 2002 (Paving)

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$ 548.10	\$ 294.20	\$ 842.30
2000	\$ 548.10	\$ 169.16	\$ 717.26
2001	\$ 548.10	\$ 103.90	\$ 652.00
2002	\$ 548.10	\$ 48.55	\$ 596.65
<b>TOTAL</b>	<b>\$2,192.40</b>	<b>\$615.81</b>	<b>\$2,808.21</b>

5. The names of the record owners are:

Joseph R. Gormley, Jr.  
Allie M. Gormley

6. The names of parties claiming an interest are:

Neosho County, Kansas

**COUNT SIX**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00013

2. The legal description and address of the real estate is:

The East halves of Lots Twelve (12), Thirteen (13), Fourteen (14), and Fifteen (15), Block Thirty-two (32), New Chicago, now included in and forming a part of the City of Chanute, Neosho County, Kansas.

510 E. 1<sup>st</sup> St., Chanute, Kansas 66720

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$217.64	\$126.47	\$ 344.11

1999	\$225.08	\$104.80	\$ 329.88
2000	\$235.38	\$ 81.78	\$ 317.16
2001	\$117.56	\$ 34.85	\$ 152.41
2002	\$119.06	\$ 23.07	\$ 142.13
<b>TOTAL</b>	<b>\$914.72</b>	<b>\$370.97</b>	<b>\$1,285.69</b>

5. The name of the record owner is:

James L. Rowan

6. The names of parties claiming an interest are:

State of Kansas

**COUNT SEVEN**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00014

2. The legal description and address of the real estate is:

The East Seventy (70) feet of Lot Two (2), Block Three (3), Wimer's Addition to the City of Chanute, Neosho County, Kansas.

507 S. Lincoln Ave., Chanute, KS. 66720

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$ 282.70	\$159.49	\$442.19
1999	\$ 251.98	\$115.42	\$367.40
2000	\$ 267.74	\$ 90.82	\$358.56
2001	\$ 283.02	\$ 61.38	\$344.40
2002	\$ 304.52	\$ 34.09	\$ 338.61
<b>TOTAL</b>	<b>\$1,389.96</b>	<b>\$461.20</b>	<b>\$1,851.16</b>

5. The names of the record owners are:

Kathy Denise Morris

6. The names of parties claiming an interest are:

Beneficial Mortgage Co. of Kansas, Inc.  
The Pacesetter Corporation  
Tom L. Morris

**COUNT EIGHT**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00015

2. The legal description and address of the real estate is:

Lot One (1), Block One (1), Ward Haynes Addition to the City of Chanute, Neosho County, Kansas.

902 N. Lafayette Ave., Chanute, KS. 66720

3. The year the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 is:

1998

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$43.44	\$38.05	\$81.49
<b>TOTAL</b>	<b>\$43.44</b>	<b>\$38.05</b>	<b>\$81.49</b>

5. The names of the record owners are:

Thomas J. Craft  
Marie E. Craft

6. The names of parties claiming an interest are:

None

**COUNT NINE**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00019

2. The legal description and address of the real estate is:

Lot Five (5), Block Twenty-three (23), Jones' Sixth Addition to the City of Chanute, Neosho County, Kansas.

218 W. 4<sup>th</sup> St., Chanute, KS. 66720

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998, 1999, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$410.28	\$224.23	\$ 634.51
1999	\$413.88	\$179.28	\$ 593.16
2001	\$ 86.92	\$ 29.95	\$ 116.87
2002	\$ 88.18	\$ 21.24	\$ 109.42
<b>TOTAL</b>	<b>\$999.26</b>	<b>\$454.70</b>	<b>\$1,453.96</b>

5. The name of the record owner is:

Cathy L. Wilmot

6. The names of parties claiming an interest are:

None

**COUNT TEN**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00023

2. The legal description and address of the real estate is:

Lot Five (5), Block Nine (9), Roth's Addition to the City of Chanute, Neosho County, Kansas.

720 S. Ashby Ave., Chanute, KS. 66720

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$ 445.43	\$242.02	\$ 687.36
1999	\$ 462.10	\$198.31	\$ 660.41
2000	\$ 509.72	\$158.43	\$ 668.15
2001	\$ 557.22	\$105.36	\$ 662.58
2002	\$ 567.22	\$ 49.68	\$ 616.90
<b>TOTAL</b>	<b>\$2,541.60</b>	<b>\$753.80</b>	<b>\$3,295.40</b>

5. The names of the record owners are:

Richard D. Hazelrigg  
Lorie A. Hazelrigg  
Regina Hazelrigg

6. The names of parties claiming an interest are:

Community National Bank

### COUNT ELEVEN

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00027
2. The legal description and address of the real estate is:

All of the railroad right-of-way of the former A.T.& S.F. Railroad located in the Northeast Quarter of Section 35, Township 27, Range 17, generally described as follows: A strip 100 feet wide with the centerline of said strip beginning approximately 750 feet South of the Northeast corner of the Northeast Quarter ; thence in a southwesterly

direction to a point on the West line of the Northeast Quarter approximately 1730 feet South of the Northwest corner of the Northeast Quarter, all in Neosho County, Kansas.

19855 Brown Rd., Chanute, KS. 66720

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$ 18.96	\$ 25.62	\$ 44.58
1999	\$ 29.30	\$ 27.56	\$ 56.86
2000	\$ 29.74	\$ 24.31	\$ 54.05
2001	\$ 32.24	\$ 21.20	\$ 53.62
2002	\$ 32.92	\$ 17.95	\$ 50.87
<b>TOTAL</b>	<b>\$143.34</b>	<b>\$116.64</b>	<b>\$259.98</b>

5. The name of the record owner is:

American Trails Association, Inc.

6. The names of parties claiming an interest are:

A&K Railroad Materials, Inc.

### **COUNT TWELVE**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00028

2. The legal description and address of the real estate is:

All of the railroad right-of-way of the former A.T.& S.F. Railroad located in the Northwest Quarter 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; thence in a southwesterly direction to the Southwest corner of the Northwest Quarter, all in Neosho County, Kansas.

19020 Anderson Rd., Chanute, KS. 66720

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:  
1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<i>Year</i>	<i>Taxes and Charges</i>	<i>Interest and Penalties</i>	<i>Total</i>
1998	\$ 20.68	\$ 26.50	\$ 47.18
1999	\$ 32.10	\$ 28.67	\$ 60.77
2000	\$ 32.60	\$ 25.11	\$ 57.71
2001	\$ 35.52	\$ 21.69	\$ 57.21
2002	\$ 36.06	\$ 18.14	\$ 54.20
<b>TOTAL</b>	<b>\$156.96</b>	<b>\$120.11</b>	<b>\$277.07</b>

5. The name of the record owner is:

American Trails Association, Inc.

6. The names of parties claiming an interest are:

A&K Railroad Materials, Inc.

### **COUNT THIRTEEN**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00029

2. The legal description and address of the real estate is:

All of the railroad right-of-way of the former A.T.& S.F. Railroad located in the Northwest Quarter 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; thence going in a southwesterly direction to a point on the West line of the Northwest Quarter approximately 750 feet South of the Northwest corner of the Northwest Quarter, all in Neosho County, Kansas.

2485 200<sup>th</sup> Road, Chanute, KS. 66720

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$ 18.96	\$ 25.62	\$ 44.58
1999	\$ 29.30	\$ 27.56	\$ 56.86
2000	\$ 29.74	\$ 24.31	\$ 54.05
2001	\$ 32.42	\$ 21.20	\$ 53.62
2002	\$ 32.92	\$ 17.95	\$ 50.87
<b>TOTAL</b>	<b>\$143.34</b>	<b>\$116.64</b>	<b>\$259.98</b>

5. The name of the record owner is:

American Trails Association, Inc.

6. The names of parties claiming an interest are:

A&K Railroad Materials, Inc.

#### **COUNT FOURTEEN**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00031

2. The legal description and address of the real estate is:

The West Half (W/2) of the Southwest Quarter (SW/4) of Section Twenty-seven (27), Township Twenty-seven (27) South, Range Eighteen (18) East of the 6<sup>th</sup> P.M., Neosho County, Kansas, LESS railroad right-of-way and less the East 150 feet thereof.

6015 205<sup>th</sup> Rd., Chanute, KS. 66720

3. The year the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$183.81	\$101.87	\$285.68
<b>TOTAL</b>	<b>\$183.81</b>	<b>\$101.87</b>	<b>\$285.68</b>

5. The name of the record owner is:  
 Trustee of the Earl Moore and Mary Lois Moore Living Trust

6. The names of parties claiming an interest are:  
 None

**COUNT FIFTEEN**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00037
2. The legal description and address of the real estate is:

The Southeast Quarter (SE/4) of the Southeast Quarter (SE/4) and a tract of land located in the Northeast Quarter (NE/4) of the Southeast Quarter (SE/4) of Section Fifteen (15), Township Twenty-nine (29) South, Range Nineteen (19) East of the 6<sup>th</sup> P.M., described as follows: Beginning at the Southeast corner of the Northeast Quarter (NE/4) of the Southeast Quarter (SE/4); thence West on the quarter-quarter section line 357 feet; thence North 88 feet; thence East 357 feet to the section line; thence South 88 feet to the place of beginning.

10255 Meade Rd., Erie, Kansas 66733

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:  
 1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$ 330.54	\$183.78	\$ 514.32
1999	\$ 331.92	\$146.96	\$ 478.88
2000	\$ 359.26	\$116.40	\$ 475.66
2001	\$ 420.06	\$ 83.36	\$ 503.42
2002	\$ 443.96	\$ 42.38	\$ 486.34
<b>TOTAL</b>	<b>\$1,885.74</b>	<b>\$572.88</b>	<b>\$2,458.62</b>

5. The names of the record owners are:

Eugene F. Rice  
 Janet L. Rice

6. The names of parties claiming an interest are:

Jim L. Mitchell  
Nita Mitchell

**COUNT SIXTEEN**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00040
2. The legal description and address of the real estate is:

Lots Four (4), Five (5), Six (6), and Seven (7), Block Two (2) and the West one-half of Third Street, vacated, and the South one-half of the vacated alley on the North side of the property, in the original town of Morehead, Neosho County, Kansas.

1800 10<sup>th</sup> Rd., Thayer, Kansas 66776

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:
- 1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$124.14	\$ 79.01	\$203.15
1999	\$ 5.49	\$ 18.26	\$ 23.75
2000	\$ 5.66	\$ 17.72	\$ 23.38
2001	\$ 6.13	\$ 17.11	\$ 23.24
2002	\$ 6.64	\$ 16.54	\$ 23.18
<b>TOTAL</b>	<b>\$148.06</b>	<b>\$148.64</b>	<b>\$296.70</b>

5. The names of the record owners are:

Rex O. Saunders  
Lorene V. Saunders

6. The names of parties claiming an interest are:

None

**COUNT SEVENTEEN**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00042
2. The legal description and address of the real estate is:

A tract beginning 1090 feet West and South of the Northeast corner of the Southwest Quarter (SW/4); thence South 645 feet, West 45 feet, along the railroad right-of-way to the South line of 14<sup>th</sup> Street East to the place of beginning, all in Section Twenty-nine (29), Township Twenty-seven (27), Range Eighteen (18), Neosho County, Kansas.

3. The year the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:  
1998 (Paving)

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$1,984.30	\$1,052.95	\$3,037.25
<b>TOTAL</b>	<b>\$1,984.30</b>	<b>\$1,052.95</b>	<b>\$3,037.25</b>

5. The names of the record owners are:  
South Kansas and Oklahoma Railroad, Inc.
6. The names of parties claiming an interest are:  
A&K Railroad Materials, Inc.

**COUNT EIGHTEEN**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00043
2. The legal description and address of the real estate is:

**Mineral Rights Only** in a tract beginning at the Northeast corner of Section Fifteen (15), Township Twenty-eight (28) South, Range Eighteen (18) East, then East along Section line for 778 feet, then South at a 90 degree angle for 560 feet, then West 778 feet to West

boundary of Northeast Quarter, then North 560 feet along West boundary of Quarter to point of beginning, Neosho County, Kansas.

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$ 1.85	\$16.98	\$18.83
1999	\$ 1.92	\$16.79	\$18.71
2000	\$ 1.98	\$16.61	\$18.59
2001	\$ 2.15	\$16.40	\$18.55
2002	\$ 2.19	\$16.18	\$18.37
<b>TOTAL</b>	<b>\$10.09</b>	<b>\$82.96</b>	<b>\$93.05</b>

5. The name of the record owner is:

Estate of Gary Zanovich

6. The names of parties claiming an interest are:

John R. Zanovich  
Jill S. Anderson a/k/a Jill S. Zanovich  
James Zanovich

### COUNT NINETEEN

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00044

2. The legal description and address of the real estate is:

**1/32 Interest Mineral Rights Only** in the Northeast Quarter (NW/4) of Section Twelve (12), Township Twenty-seven (27), Range Eighteen (18), Neosho County, Kansas.

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$ .98	\$16.52	\$17.50
1999	\$1.02	\$16.42	\$17.44
2000	\$1.04	\$16.30	\$17.34
2001	\$1.15	\$16.21	\$17.36
2002	\$1.16	\$16.09	\$17.25
<b>TOTAL</b>	<b>\$5.35</b>	<b>\$81.54</b>	<b>\$86.89</b>

5. The name of the record owner is:

Estate of Gary Zanovich

6. The names of parties claiming an interest are:

John R. Zanovich  
Jill S. Anderson a/k/a Jill S. Zanovich  
James Zanovich

### COUNT TWENTY

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00050

2. The legal description and address of the real estate is:

Lot Twenty (20), Block four (4), Fairview Addition to the City of Chanute, Neosho County, Kansas.

811 N. Garfield, Chanute, Kansas 66720

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998, 1999, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$128.80	\$ 81.38	\$210.18
1999	\$ 66.95	\$ 39.91	\$106.86
2002	\$117.12	\$ 22.95	\$140.07
<b>TOTAL</b>	<b>\$312.87</b>	<b>\$144.24</b>	<b>\$457.11</b>

5. The name of the record owner is:

Kevin Thouvenell

6. The names of parties claiming an interest are:

Donna Jean Thouvenell

**COUNT TWENTY-ONE**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00051

2. The legal description and address of the real estate is:

The North 75 feet of Lot Twenty-three (23), Block Twelve (12), Park Place Addition to the City of Chanute.

1102 S. Garfield Ave., Chanute, Kansas 66720

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$ 247.50	\$141.61	\$ 389.11
1999	\$ 280.52	\$126.68	\$ 407.20
2000	\$ 286.56	\$ 96.07	\$ 382.63
2001	\$ 326.54	\$ 68.36	\$ 394.90
2002	\$ 331.26	\$ 35.67	\$ 366.93
<b>TOTAL</b>	<b>\$1,472.38</b>	<b>\$468.39</b>	<b>\$1,940.77</b>

5. The name of the record owner is:

Donald L. Colhouer

6. The names of parties claiming an interest are:

None

**COUNT TWENTY-TWO**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00053

2. The legal description and address of the real estate is:

A tract of land lying the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) of Section Thirty-three (33), Township Thirty (30), Range Nineteen (19) East, described as follows: Beginning at a point 180 feet East of Section corner common to Sections 28, 29, 32 and 33, Township Thirty (30), Range Nineteen (19); thence South parallel to Section line 90.4 feet; thence East 75 feet; thence North 90.4 feet; thence West 75 feet to place of beginning, Neosho County, Kansas, less road.

1988 Kiowa Rd., Parsons, Kansas 67357

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:

1998, 1999, 2000, 2001, 2002

4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$157.58	\$ 95.98	\$ 253.56
1999	\$158.90	\$ 78.69	\$ 237.59
2000	\$176.80	\$ 65.40	\$ 242.20
2001	\$185.22	\$ 45.70	\$ 230.92
2002	\$195.40	\$ 27.60	\$ 223.00
<b>TOTAL</b>	<b>\$873.90</b>	<b>\$313.37</b>	<b>\$1,187.27</b>

5. The name of the record owner is:

Richard D. Stowell

6. The names of parties claiming an interest are:

None

**COUNT TWENTY-THREE**

COMES NOW the said Plaintiff and for its first cause of action herein, makes all of the material allegations contained in its previous causes of action a part of this, its first cause of action, as though fully rewritten at length herein, and further alleges and states:

1. The Tract No. is: 00054
2. The legal description and address of the real estate is:

The North halves of Lots One (1) and Two (2), Block Four (4), Works' Addition to the City of Thayer, Neosho County, Kansas.

419 N. Osage St., Thayer, Kansas 66776

3. The years the property was sold for delinquent taxes pursuant to K.S.A. 79-2302 are:  
  
1998, 1999, 2000, 2001, 2002
4. The amount of taxes, etc. is:

<u>Year</u>	<u>Taxes and Charges</u>	<u>Interest and Penalties</u>	<u>Total</u>
1998	\$ 324.40	\$180.65	\$ 505.05
1999	\$ 389.72	\$169.77	\$ 559.49
2000	\$ 434.92	\$137.54	\$ 572.46
2001	\$ 453.34	\$ 88.70	\$ 542.04
2002	\$ 481.34	\$ 44.58	\$ 525.92
<b>TOTAL</b>	<b>\$2,083.72</b>	<b>\$621.24</b>	<b>\$2,704.96</b>

5. The names of the record owners are:  
  
Shelly D. Cotton  
James R. Cotton, Jr.
6. The names of parties claiming an interest are:  
  
None

## Exhibit C

DISTRICT COURT OF NEOSHO COUNTY, KANSAS

The Board of County Commissioners of Neosho County, Kansas

FILED FOR COURT USE ONLY

2004 APR 13 P 3:45

CLERK OF DISTRICT COURT NEOSHO COUNTY, KANSAS

BY [Signature] CASE NO. 2004 CV 28

Plaintiff/Petitioner

Vs. American Trails Association, Inc. C/o The Corporation Co., Inc., Resident Agent 515 S. Kansas Ave. Topeka, Kansas 66603 Defendant/Respondent and Address for service of process

- A. X Ch. 60 In-State B. Ch. 60 Out-State C. Ch. 60 By-Mail E. Ch. 61 Out-State

S U M M O N S

To the above-named Respondent/Defendant: American Trails Association, Inc.

You are hereby notified that an action has been commenced against you in this Court. You are required to file your Answer to the Petition with the Court and to serve a copy upon Petitioner's/Plaintiff's attorney: Ross L. Albertini HINES & AHLQUIST, P.A., 301 S. Main, P.O. Box 108, Erie, Kansas 66733,

- X.A. Within 20 days after service of Summons upon you. B. Within 30 days after service of Summons upon you. C. Within 30 days after the return of registered or certified mail receipt signed or refused by you. D. Prior to the Court's hearing set for ...m., on the ... day of ... 200..., or you must be present at that time. E. Within 30 days after service of Summons upon you or appear at ...m. on the ... day of ..., 200... F. Within 30 days after the return of registered or certified mail receipt signed or refused by you, or appear at ...m. on the ... day of ... 200...

If you fail to do so, judgment by default will be taken against you for the relief demanded in the Petition. Any related claim which you may have against Petitioner must be stated as a counterclaim in your Answer, or you will thereafter be barred from making such claim in any other action.

CLERK OF THE DISTRICT COURT

DATED: 4-5-04

BY: Anjan Walter Tu



RETURN OF SERVICE OF SUMMONS

I hereby certify under oath/penalty of perjury under the laws of Kansas that I served this Summons and Petition and attachments on American Trails Assn Inc (give name). by delivering a copy to said Defendant/Respondent personally. by leaving a copy at said Defendant's/Respondent's usual place of residence with a person of suitable age and discretion residing therein. by delivering a copy to the legally appointed or authorized agent of Defendant/Respondent. by leaving a copy at Defendant's/Respondent's usual place of residence, and on mailing notice of such service to Defendant/Respondent by first class mail.

cert mail 040704 Date Served - Place of Service

[Signature] Process Server - Law Officer

**Certified Article Number**

7160 3901 9848 0419 2394

**SENDERS RECORD**

7160 3901 9848 0419 2394

**TO:** American Trails Association, Inc.  
c/o The Corporation Company, Inc.  
515 S. Kansas Ave.  
Topeka, KS 66603

**SENDER:** 04CV28

**REFERENCE:**

PS Form 3800, June 2000

RETURN RECEIPT SERVICE	Postage	.37
	Certified Fee	2.80
	Return Receipt Fee	1.25
	Restricted Delivery	0.00
	<b>Total Postage &amp; Fees</b>	<b>4.42</b>

US Postal Service

**Receipt for  
Certified Mail**

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE



PS Form 3811, July 2001

Domestic Return Receipt

04CV28

2. Article Number



7160 3901 9848 0419 2394

**COMPLETE THIS SECTION ON DELIVERY**

Received by (Please Print Clearly)

B Date of Delivery

C. Signature

*B. Parks*

D. Is delivery address different from item 1?  YES, enter delivery address below:

Agent  
 Addressee  
 Yes  
 No

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

American Trails Association, Inc.  
c/o The Corporation Company, Inc.  
515 S. Kansas Ave.  
Topeka, KS 66603

DISTRICT COURT OF NEOSHO COUNTY, KANSAS

The Board of County Commissioners of Neosho County, Kansas

FILED

FOR COURT USE ONLY

Plaintiff/Petitioner
Vs.
South Kansas & Oklahoma Railroad, Inc.
C/o Richard Webb, Resident Agent
1230 S. Walnut
Coffeyville, Kansas 67337
Defendant/Respondent and Address for service of process

- A. X Ch. 60 In-State
B. Ch. 60 Out-State
C. Ch. 60 By-Mail
E. Ch. 61 Out-State

2004 APR 13 P 3:46
CLERK OF DISTRICT COURT
NEOSHO COUNTY, KANSAS
BY [Signature]
CASE NO. 2004 CV 28

SUMMONS

To the above-named Respondent/Defendant: South Kansas & Oklahoma Railroad, Inc.

You are hereby notified that an action has been commenced against you in this Court. You are required to file your Answer to the Petition with the Court and to serve a copy upon Petitioner's/Plaintiff's attorney: Ross L. Albertini HINES & AHLQUIST, P.A., 301 S. Main, P.O. Box 108, Erie, Kansas 66733,

- X A. Within 20 days after service of Summons upon you.
B. Within 30 days after service of Summons upon you.
C. Within 30 days after the return of registered or certified mail receipt signed or refused by you.
D. Prior to the Court's hearing set for \_\_\_\_, \_\_.m., on the \_\_\_\_ day of \_\_\_\_ 200\_\_, or you must be present at that time.
E. Within 30 days after service of Summons upon you or appear at \_\_\_\_, \_\_.m. on the \_\_\_\_ day of \_\_\_\_, 200\_\_.
F. Within 30 days after the return of registered or certified mail receipt signed or refused by you, or appear at \_\_\_\_, \_\_.m. on the \_\_\_\_ day of \_\_\_\_ 200\_\_.

If you fail to do so, judgment by default will be taken against you for the relief demanded in the Petition. Any related claim which you may have against Petitioner must be stated as a counterclaim in your Answer, or you will thereafter be barred from making such claim in any other action.

CLERK OF THE DISTRICT COURT

DATED: 4-5-04

BY: [Signature]



RETURN OF SERVICE OF SUMMONS

I hereby certify under oath/penalty of perjury under the laws of Kansas that I served this Summons and Petition and attachments on South KS & OK Railroad (give name).
by delivering a copy to said Defendant/Respondent personally.
by leaving a copy at said Defendant's/Respondent's usual place of residence with a person of suitable age and discretion residing therein.
by delivering a copy to the legally appointed or authorized agent of Defendant/Respondent:
by leaving a copy at Defendant's/Respondent's usual place of residence, and on mailing notice of such service to Defendant/Respondent by first class mail.

Per to mail 040804
Date Served - Place of Service

[Signature]
Process Server - Law Officer

**Certified Article Number**

**7160 3901 9848 0419 2431**

**SENDERS RECORD**

**7160 3901 9848 0419 2431**

**TO:** South Kansas & Oklahoma Railroad, Inc.  
c/o Richard Webb, Resident Agent  
1230 S. Walnut  
Coffeyville, KS 67337

**SENDER:** 04CV28

**REFERENCE:**

PS Form 3800, June 2000

RETURN RECEIPT SERVICE	Postage	37
	Certified Fee	2.80
	Return Receipt Fee	1.25
	Restricted Delivery	0.00
	<b>Total Postage &amp; Fees</b>	<b>4.42</b>

US Postal Service  
**Receipt for Certified Mail**

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE



PS Form 3811, July 2001

Domestic Return Receipt

04CV28

2. Article Number



**7160 3901 9848 0419 2431**

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:  
South Kansas & Oklahoma Railroad,  
Inc.  
c/o Richard Webb, Resident Agent  
1230 S. Walnut  
Coffeyville, KS 67337

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly)

E. Date of Delivery

C. Signature

X

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes  
 No

Agent  
 Addressee

*Charles Huskey* 4-8-04  
*Richard Webb*

DISTRICT COURT OF NEOSHO COUNTY, KANSAS

The Board of County Commissioners of Neosho County, Kansas

FILED FOR COURT USE ONLY

2004 APR 13 P 3:45

CLERK OF DISTRICT COURT NEOSHO COUNTY, KANSAS

CASE NO. 2004 CV 28

Plaintiff/Petitioner
Vs.
A&K Railroad Materials, Inc.
C/o Phil Poce, Resident Agent
2131 S. 74th St.
Kansas City, Kansas 66106
Defendant/Respondent and Address for service of process

- A. X Ch. 60 In-State
B. Ch. 60 Out-State
C. Ch. 60 By-Mail
E. Ch. 61 Out-State

SUMMONS

To the above-named Respondent/Defendant: A&K Railroad Materials, Inc.

You are hereby notified that an action has been commenced against you in this Court. You are required to file your Answer to the Petition with the Court and to serve a copy upon Petitioner's/Plaintiff's attorney: Ross L. Albertini HINES & AHLQUIST, P.A., 301 S. Main, P.O. Box 108, Erie, Kansas 66733,

- X A. Within 20 days after service of Summons upon you.
B. Within 30 days after service of Summons upon you.
C. Within 30 days after the return of registered or certified mail receipt signed or refused by you.
D. Prior to the Court's hearing set for ..., m., on the ... day of ... 200..., or you must be present at that time.
E. Within 30 days after service of Summons upon you or appear at ..., m. on the ... day of ..., 200...
F. Within 30 days after the return of registered or certified mail receipt signed or refused by you, or appear at ..., m. on the ... day of ... 200...

If you fail to do so, judgment by default will be taken against you for the relief demanded in the Petition. Any related claim which you may have against Petitioner must be stated as a counterclaim in your Answer, or you will thereafter be barred from making such claim in any other action.

CLERK OF THE DISTRICT COURT

DATED: 4-5-04

BY: Angie Walters Tull



RETURN OF SERVICE OF SUMMONS

I hereby certify under oath/penalty of perjury under the laws of Kansas that I served this Summons and Petition and attachments on A&K Railroad (give name).

- by delivering a copy to said Defendant/Respondent personally.
by leaving a copy at said Defendant's/Respondent's usual place of residence with a person of suitable age and discretion residing therein.
by delivering a copy to the legally appointed or authorized agent of Defendant/Respondent:
by leaving a copy at Defendant's/Respondent's usual place of residence, and on mailing notice of such service to Defendant/Respondent by first class mail.

040704 Certified mail
Date Served - Place of Service

Jim Keath CB
Process Server - Law Officer

**Certified Article Number**

**7160 3901 9848 0419 2400**

**SENDER'S RECORD**

**7160 3901 9848 0419 2400**

**TO:** A & K Railroad Materials, Inc.  
c/o Phil Poce, Resident Agent  
2131 S. 74th St.  
Kansas City, KS 66106

**SENDER:** 04CV28

**REFERENCE:**

PS Form 3811, July 2001

Domestic Return Receipt

2. Article Number



**7160 3901 9848 0419 2400**

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

A & K Railroad Materials, Inc.  
c/o Phil Poce, Resident Agent  
2131 S. 74th St.  
Kansas City, KS 66106

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) *Katrina Ann Sims* B. Date of Delivery *4.7.04*

C. Signature *Katrina Ann Sims*  Agent  Addressee

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

PS Form 3800, June 2000

RETURN RECEIPT SERVICE	Postage	.37
	Certified Fee	2.80
	Return Receipt Fee	1.25
	Restricted Delivery	0.00
	Total Postage & Fees	4.42



US Postal Service

**Receipt for Certified Mail**

No Insurance Coverage Provided  
Do Not Use for International Mail

04CV28

Exhibit D

FILED

HINES & AHLQUIST, P.A.  
P.O. Box 108  
Erie, Kansas 66733  
(620) 244-3227

2004 SEP 13 A 9:35

CLERK OF DISTRICT COURT  
NEOSHO COUNTY, KANSAS

IN THE DISTRICT COURT OF NEOSHO COUNTY, KANSAS

The Board of County Commissioners  
Of Neosho County, Kansas,

Plaintiff,

Vs.

Case No. 2004 CV 28

Ira E. Barber; Ann Hummer Barber; Carol Barber Bloxham;  
Ronald M. Sallee; George McCormack; Sheila K. Trahan;  
Daisy P. Stipp; Timothy L. Stipp; Crystal Babcock; Kenneth Babcock;  
Joseph R. Gormley, Jr.; Allie M. Gormley; James L. Rowan;  
Kathy Denise Morris; Tom L. Morris; Beneficial Mortgage Co. of  
Kansas, Inc.; The Pacesetter Corporation; Thomas J. Craft;  
Marie E. Craft; Cathy L. Wilmot; Richard D. Hazelrigg;  
Lorie A. Hazelrigg; Regina Hazelrigg; American Trails Association, Inc.;  
South Kansas & Oklahoma Railroad, Inc.; A&K Railroad Materials, Inc.;  
Trustee of the Earl Moore and Mary Lois Moore Living Trust;  
Eugene F. Rice; Janet L. Rice; Jim L. Mitchell; Nita Mitchell;  
Rex O. Saunders; Lorene V. Saunders; Estate of Gary Zanovich;  
John R. Zanovich; Jill S. Anderson, a/k/a Jill S. Zanovich; James Zanovich;  
Kevin Thouvenell; Donna J. Thouvenell; Melissa Thouvenell;  
Donald L. Colhouer; Richard D. Stowell; Shelly D. Cotton;  
James R. Cotton, Jr.; Community National Bank; State of Kansas; and  
Neosho County Commissioners, Defendants,

**JOURNAL ENTRY**

On this \_\_\_\_ day of August, 2004, this matter comes regularly on for trial. The Plaintiff appears by Ross L. Albertini, Neosho County Attorney. The Defendants who may be entitled to relief and protection under the provisions of the Soldiers' and Sailors' Civil Relief Act as amended and all such Defendants as may be minors or otherwise under some disability and any and all unknown heirs executors administrators devisees, trustees and assigns of any of the Defendants herein and also the unknown officers successors trustees and assigns of said corporations and companies named herein as may be dissolved or not in legal existence appear by their attorney Timothy Clover of Chanute, Kansas heretofore appointed by the Court as attorney and Guardian *Ad Litem* for all of such persons. All of the other Defendants named herein are in default of pleading and appearance.

The Court having examined the files and pleadings in this action, and the various summons issued by the Clerk of the District Court and the returns thereon by the officers serving the same, finds that the Defendants so served were properly notified of the pendency of this action by personal service of summons that the time allowed in said summons to answer or plead to the petition of the plaintiff has expired and that all of said Defendants are in default.

The Court thereupon examines the affidavit filed herein by the Plaintiff for the purpose of obtaining service by publication upon certain Defendants not personally served with summons and a copy of the publication notice published pursuant to said affidavit and the affidavit of the publisher to which said copy is attached. The Court finds that before the affidavit for publication service was filed a due and diligent search was conducted of the following sources in order to ascertain the residences of all Defendants whose addresses were unknown: **Telephone Directory, County Appraisers' Records, Automobile Registration Records, Registered Voters Records, Internet Search, and County Treasurer's Records.**

The Court being well and duly advised in the premises finds that all the Defendants named in said affidavit for publication service and in said publication notice were duly and regularly summoned by publication service of summons, that the publication service of summons had against said Defendants is, in all respects, regular and proper and is hereby expressly approved. The Court further finds that the time allowed in said publication notice of suit to answer or otherwise plead to the petition of the plaintiff has passed and that all of said Defendants so summoned are in default.

The Court further finds that service of summons and the notification of the pendency of this action upon all Defendants is in all respects regular, proper and according to laws and is hereby expressly approved and the jurisdiction of the Court has attached to all of said Defendants.

The Court further finds that the affidavit of the Plaintiff filed herein concerning persons within the military service of the United States of America or otherwise, who may be parties Defendant, complies with the requirements of the Soldiers' and Sailors' Federal Relief Act of 1940, as amended, of the United States Code.

The Court further finds that since the filing of this action, certain tracts and parcels contained in the petition filed by the Plaintiff have been lawfully redeemed, that the persons redeeming the same have paid their portion of the costs of this action as provided by law, and all

taxes, penalties and interest accrued to the date of said redemption, and that the tracts so redeemed are numbered and described on the schedule attached to the Plaintiff's petition filed herein as follows:

**Count One: Lots 7 and 8, Block 3, in Truitt's First Addition to the City of Chanute, Neosho County, Kansas. – 221 N. Lafayette, Chanute, Kansas 66720**

**Count Ten: Lot 5, Block 9, Roth's Addition to the City of Chanute, Neosho County, Kansas. – 720 S. Ashby Ave., Chanute, KS. 66720**

**Count Fourteen: The W/2 of the SW/4 of Section 27, Township 27 South, Range 18 East of the 6<sup>th</sup> P.M., Neosho County, Kansas, LESS railroad right-of-way and less the East 150 feet thereof. – 6015 205<sup>th</sup> Rd., Chanute, Kansas 66720**

**Count Fifteen: The SE/4 of the SE/4 and a tract of land located in the NE/4 of the SE/4 of Section 15, Township 29 South, Range 19 East of the 6<sup>th</sup> P.M., described as follows: Beginning at the SE corner of the NE/4 of the SE/4; thence West on the 1/4-1/4 section line 357'; thence North 88'; thence East 357' to the section line; thence South 88' to the place of beginning, Neosho County, Kansas – 10255 Meade Rd., Erie, KS 66733**

**County Twenty: Lot 20, Block 4, Fairview Addition to the City of Chanute, Neosho County, Kansas. – 811 N. Garfield, Chanute, KS 66720**

**Count Twenty-one: The North 75 feet of Lot 23, Block 12, Park Place Addition to the City of Chanute, Neosho County, Kansas. – 1102 S. Garfield Ave., Chanute, KS. 66720**

**Count Twenty-two: A tract of land lying in the NW/4 of the NW/4 of Section 33, Township 30, Range 19 East, described as follows: Beginning at a point 180 feet East of section corner common to Sections 28, 29, 32 and 33, Township 30, Range 19; thence South parallel to section line 90.4 feet; thence East 75 feet; thence North 90.4 feet; thence West 75 feet to place of beginning, Neosho County, Kansas, less road. – 1988 Kiowa Rd., Parsons, Kansas 67357**

and that this action should be dismissed as to the said tracts and to the following named Defendants: Donald L. Colhouer, Richard D. Stowell, Trustee of Earl Moore and Mary Lois Moore Living Trust, Richard D. Hazelrigg, Lorie A. Hazelrigg, Regina Hazelrigg, Community National Bank, Ira E. Barber, Ann Hummer Barber, Carol Barber Bloxham, Eugene F. Rice, Janet L. Rice, Jim L. Mitchell, Nita Mitchell, Kevin Thouvenell, Donna Jean Thouvenell, and Melissa Thouvenell.

The Court further finds that upon Plaintiff's oral motion, Count 17, with the named Defendants South Kansas and Oklahoma Railroad, Inc. and A&K Railroad Materials, Inc., shall be dismissed with ~~out~~ prejudice.

The Court further finds that it is not necessary that a bond be furnished to the Plaintiff to indemnify any of said Defendants if in the military service or otherwise against loss or damage that they or any of them may suffer by reason of any judgment should such judgment be hereafter set aside in whole or in part.

Thereupon, the matter proceeds to trial to the Court and the Court having considered the file and pleadings in this action and the evidence offered at said trial and being well and duly advised in the premises, finds generally in favor of the Plaintiff and against all of the Defendants and specifically finds that the allegations of the Plaintiff's petition are true and that it is entitled to the relief for which it prayed.

Thereupon, the Court further finds that the Plaintiff, County of Neosho is a duly organized County in the State of Kansas, created, organized and existing under and by virtue of the laws of the State of Kansas; that the taxes were duly assessed on the real estate herein described, that such taxes were not paid when due as provided by law; that after due and proper notice said real estate was sold to said county for such taxes; that each and all of the lots and tracts described in the petition under causes of action which have not been dismissed or redeemed remain unredeemed, and the certificate of sale untransferred for a period of three (3) years after said sales; that each and all of said tracts, pieces and parcels of real estate are subject to foreclosure of the tax lien of the Plaintiff herein and that Plaintiff is entitled to the relief demanded in its petition.

The Court further finds that the tax lien of the Plaintiff herein is a first and prior lien and superior to the rights and claims of any other Defendants herein; that the Plaintiff is entitled to judgment foreclosing its tax liens, and judgment *in rem* against said Defendants for the amount of taxes, interest, penalties, and costs of this action as hereinafter set forth.

Whereupon, the State orally moves the Court for the inclusion of additional unpaid taxes, charges, interest and penalties for the years 1997, 1998, 1999, 2000, 2001, 2002, and 2003, as set forth and included as herein described are hereby included in the State's demand for judgment, and shall constitute a prior lien superior to the rights and claims of the Defendants herein; the Court further finds that the sums have been legally assessed and charges to each tract set out in the Plaintiff's petition and as herein described in each separate cause of action and that the amount should be reduced to judgment, together with the costs and expenses of these

proceedings, to be included in said judgment and should be declared a first and prior lien on the individual tract described in each cause of action.

The Court further finds that there have been legally assessed and charged on the respective pieces, parcels and tracts of land hereinafter mentioned, the amount of taxes interest penalties and charges following each particular piece, parcel or tract of land; that the Plaintiff has a first and prior lien upon each of said pieces, parcels or tracts of land for the amount of the said taxes, interest, penalties and charges set out and computed to July 1, 2004, and any taxes, interest, penalties, and charges that may accrue thereafter; that the Plaintiff has a first and prior lien upon each piece, parcel or tract of land for the amount of the said taxes, interest, penalties and charges set out for each of said piece, parcel or tract of land together with interest on said amount at the rate of six per cent (6%) per annum from August \_\_\_\_, 2004; that the Defendants whose names are shown following each particular piece, parcel or tract of land, their unknown heirs, executors, administrators, devisees, trustees, officers, successors and assigns are or claim to have, some interest in said particular piece, parcel or tract of land, to-wit:

<b>Count No.</b>	<b>Description of Property and People Having an Interest Therein</b>	<b>Total Taxes, Interest &amp; Penalties Due as of November 13, 2003</b>
02	A tract beginning at a point 70' South of the NE corner of the W/2 of the SE/4 of Section 21, Township 27, Range 18; West 20'; South 20'; East 20'; North 20' to the point of beginning, Neosho County, Kansas. – 00000 K-39 Hwy., Chanute, KS. 66720  Ronald M. Sallee	\$ 38.63
03	The North 35' of Lot 4, Block 1, Carpenter's Addition to the City of Chanute, Neosho County, Kansas. – 416 N. Evergreen Ave., Chanute, KS. 66720  George McCormack Sheila K. Trahan	\$2,877.25
04	Lots 2 and 3, less the East 60' thereof and also less the West 10' thereof, in Block 6, New Chicago, now included in and forming	

a part of the City of Chanute, Neosho County,  
Kansas. – 318 N. Lincoln Ave., Chanute,  
KS. 66720

Daisy P. Stipp  
Timothy L. Stipp  
Crystal Babcock  
Kenneth Babcock \$ 799.10

05 Commencing at a point on the West line of  
Benedict's First Addition to the City of Chanute,  
Neosho County, Kansas, said point being 295 1/3'  
North of the center of the section line running East  
and West between Sections 20 and 29, in Township  
27, Range 18, running thence North along said West  
line of Benedict's First Addition 292 1/2'; running  
thence West on a line parallel with the center section  
line above referred to 142'; running thence South on a  
line parallel with the West line of Benedict's First  
Addition 292 1/2'; running thence East parallel with said  
section line 142' to place of beginning, being a tract of  
land 142 by 292 1/2' in the E/2 of the SW/4 of Section 20,  
Township 27 South, Range 18, East of the 6<sup>th</sup> P.M.,  
Neosho County, Kansas, containing 1 acre, more or  
less. – 00000 W. 6<sup>th</sup>, Chanute, KS. 66720

Joseph R. Gormley, Jr.  
Allie M. Gormley \$4,530.17

06 The East halves of Lots 12, 13, 14, and 15, Block 32,  
New Chicago, now included in and forming a part of  
the City of Chanute, Neosho County, Kansas. – 510 E.  
1<sup>st</sup> St., Chanute, KS. 66720

James L. Rowan  
State of Kansas \$1,464.88

07 The East 70' of Lot 2, Block 3, Wimer's Addition to the  
City of Chanute, Neosho County, Kansas. – 507 S.  
Lincoln Ave., Chanute, KS. 66720

Kathy Denise Morris  
Beneficial Mortgage Co. of Kansas, Inc.  
The Pacesetter Corporation  
Tom L. Morris \$2,637.27



corner of the NW/4, all in Neosho County, Kansas. –  
2485 200<sup>th</sup> Road, Chanute, KS. 66720

American Trails Association, Inc.  
A&K Railroad Materials, Inc. \$ 302.35

- 16 Lots 4, 5, 6, and 7, Block 2 and the West one-half  
of Third Street, vacated, and the South one-half of  
the vacated alley on the North side of the property,  
in the original town of Morehead, Neosho County,  
Kansas. – 1800 10<sup>th</sup> Rd., Thayer, KS. 66776

Rex O. Saunders  
Lorene V. Saunders \$ 311.63

- 18 **Mineral Rights Only** in a tract beginning at  
the NE corner of Section 15, Township 28  
South, Range 18 East, then East along Section  
line for 778', then South a 90 degree angle for  
560', then West 778' to West boundary of NE/4,  
then North 560' along West boundary of Quarter  
to point of beginning, Neosho County, Kansas.

Estate of Gary Zanovich  
John R. Zanovich  
Jill S. Anderson a/k/a Jill S. Zanovich  
James Zanovich \$ 94.90

- 19 **1/32 Interest Mineral Rights Only** in the  
NE/4 of Section 12, Township 27, Range 18,  
Neosho County, Kansas.

Estate of Gary Zanovich  
John R. Zanovich  
Jill S. Anderson a/k/a Jill S. Zanovich  
James Zanovich \$ 88.43

- 23 The North halves of Lots 1 and 2, Block 4,  
Work's Addition to the City of Thayer,  
Neosho County, Kansas. – 419 N. Osage St.,  
Thayer, KS. 66776

Shelly D. Cotton  
James R. Cotton, Jr. \$3,302.99

The Court further finds that the amount of taxes, interest, penalties and charges set out above computed to July 1, 2004, are correct and proper.

The Court further finds that any and all claims, estates, titles, liens or interest and each and all of said Defendants are subordinate, junior and inferior to the lien of the Plaintiff as hereinbefore set for, that the Plaintiff is entitled to a judgment for the amount of taxes, interest, penalties and charges as hereinbefore stated.

The Court further finds that for purposes of redemption between this date and the day of sale that costs should be assessed against each of the aforesaid pieces, parcels or tracts of land in the amount of \$300.00 for each such piece, parcel or tract.

The Court further finds that upon the sale of any and all of the real estate involved herein, the proceeds from the purchase price shall be applied as hereinafter set forth in the Judgment and Decree of this Court.

IT IS THEREFORE BY THE COURT CONSIDERED, ORDERED, ADJUDGED AND DECREED that the Plaintiff, The Board of County Commissioners of Neosho County, Kansas, have judgment for the foreclosure of its tax liens against each piece, parcel or tract above set out in the sum specified; subject however, to valid covenants running with the land and to valid easements of record or in use. If said property be not redeemed by the payment in full of all liens thereon aforesaid with costs apportioned thereto, within fifteen days an order of sale shall issue from the Office of the Clerk of the District Court to the Sheriff of Neosho County, Kansas, commanding him to cause said property to be advertised and sold according to law; that the proceeds derived from said sale shall be applied:

**AS TO COUNT TWO THROUGH COUNT NINE; COUNT ELEVEN THROUGH THIRTEEN; COUNT SIXTEEN THROUGH NINETEEN; and COUNT TWENTY-THREE:**

First, to the payment of the costs of this action, apportioned as provided by law;

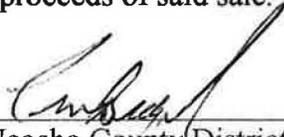
Second, to the payment of the lien of the Plaintiff on said property;

Third, the balance, if any, to be paid to the ascertained or party entitled thereto, upon due proof that said persons are, in law, entitled to such excess.

Fourth, the balance, if any, to be paid to the ascertained or party entitled thereto, upon due proof that said persons are, in law, entitled to such excess.

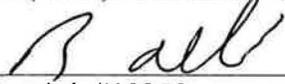
IT IS FURTHER BY THE COURT CONSIDERED, ORDERED, ADJUDGED AND DECREED, that from and following the day of said sale, the Defendants and all persons claiming or to hereafter claim, by, through, from or under them, or any or either of them, shall be forever barred, cut off and foreclosed of and from ever hereafter asserting any right, title, claim, interest, lien or equity of redemption in or to any of the aforesaid property, or any part thereof, all as provided by law in that the grantee in any Sheriff's Deed issued pursuant to this action, shall have all necessary writs of assistance or other process to put him or them in possession of said property.

IT IS FURTHER BY THE COURT CONSIDERED, ORDERED, ADJUDGED AND DECREED, that Timothy Clover, as attorney and Guardian *Ad Litem* heretofore appointed by the Court be and he is hereby allowed the sum of \$125.00 to be charged as costs against all of the above-described property and to be paid from the proceeds of said sale.

  
\_\_\_\_\_  
Neosho County District Court Judge

APPROVED:

HINES & AHLQUIST, P.A.  
P.O. Box 108, Erie, Kansas 66733

By:   
\_\_\_\_\_  
Ross L. Albertini, #18258  
Attorney for Plaintiffs

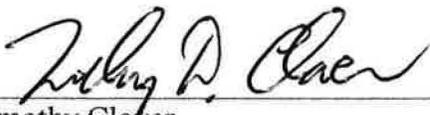
  
\_\_\_\_\_  
Timothy Clover  
Guardian *Ad Litem* and Military Counsel  
8 South Evergreen, Chanute, Kansas 66720

Exhibit E



**TRACT 4** Lots 2 and 3, less the East 60 feet thereof and also less the West 10 feet thereof, in Block 6, New Chicago, now included in and forming a part of the City of Chanute, Neosho County, KS.

**CITY OF CHANUTE** **\$6,100.00**

**TRACT 5** Commencing at a point on the West line of Benedict's 1<sup>st</sup> Addition to the City of Chanute, Neosho County, KS., said point being 295 1/3 feet North of the center of the section line running East and West between Sections 20 and 29, in Township 27, Range 18, running thence North along said West line of Benedict's 1<sup>st</sup> Addition 292½ feet; running thence West on a line parallel with the center section line above referred to 142 feet; running thence South on a line parallel with the West line of Benedict's 1<sup>st</sup> Addition 292½ feet; running thence East parallel with said section line 142 feet to point of beginning, being a tract of land 142 x 292½ feet in the East Half of the SW/4 of Section 20, Township 27 South, Range 18, East of the 6<sup>th</sup> P.M., Neosho County, KS. Containing 1 acre, more or less.

**REMOVED FROM SALE DUE TO INCORRECT LEGAL DESCRIPTION**

**TRACT 6** The East halves of Lots 12, 13, 14, and 15, Block 32, New Chicago, now included in and forming a part of the City of Chanute, Neosho County, KS.

**FREDDIE W. MARKHAM** **\$1,050.00**

**TRACT 7** The East 70 feet of Lot 2, Block 3, Wimer's Addition to the City of Chanute, Neosho County, KS.

**WAYNE HESTER, JR. and/or**  
**RITA HESTER and/or WAYNE HESTER** **\$8,600.00**

**TRACT 8** Lot 1, Block 1, Ward Haynes Addition to the City of Chanute, Neosho County, KS.

**JEFFREY W. PACKARD** **\$1,000.00**

**TRACT 11** All of the Railroad right-of-way of the former AT&SF Railroad located in the NE/4 of Section 35, Township 27, Range 17, generally described as follows: A strip 100 feet wide with the centerline of said strip beginning approximately 750 feet South of the NE corner of the NE/4; thence in a southwesterly direction to a point on the West line of the NE/4

approximately 1730 feet South of the NW corner of the NE/4, all in Neosho County, KS.

**DONALD O. FRIEDERICH, JR. and/or  
CHERYL A. FRIEDERICH** **\$3,000.00**

**TRACT 12** All of the Railroad right-of-way of the former AT&SF Railroad located in the 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 NE corner of the NW/4; thence in a southwesterly direction to the SW corner of the NW/4, all in Neosho County, KS.

**GLENN W. WRESTLER, SR. and/or  
LORA LEE WRESTLER** **\$ 500.00**

**TRACT 13** All of the Railroad right-of-way of the former AT&SF Railroad located in the 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 NE corner of the NW/4; thence going in a southwesterly direction to a point on the West line of the NW/4 approximately 750 feet South of the NW corner of the NW/4, all in Neosho County, KS.

**DAVID B. ELY and/or TONYA R. ELY** **\$3,200.00**

**TRACT 16** Lots 4, 5, 6 and 7, Block 2, and the West Half of 3<sup>rd</sup> St., vacated, and the South Half of the vacated alley on the North side of the property, in the original town of Morehead, Neosho County, KS.

**WILLIAM BRAD FOUGHT and/or  
GINA MARIE FOUGHT** **\$1,850.00**

**TRACT 18** *Mineral Interests Only* in a tract beginning at the N/W corner of the NE/4 of Section 15; thence East 778 feet; thence South 560 feet; thence West 778 feet; thence North 560 feet to the point of beginning, all in Section 15, Township 28, Range 18, Neosho County, Kansas. Containing 10 acres, more or less.

**[CORRECTED LEGAL DESCRIPTION]**

**DAN ROECKER and/or SANDY ROECKER** **\$ 60.00**

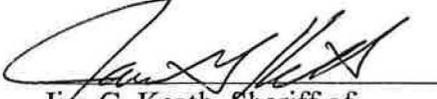
**TRACT 19** *1/32 Interest Mineral Rights Only* in the NE/4 of Section 12, Township 7, Range 18, Neosho County, KS.

**LESTER F. YOUNG and  
SHARON K. YOUNG**

**\$ 10.00**

I HEREBY CERTIFY that the purchasers above-named were the highest and best bidders therefore.

GIVEN UNDER MY HAND, at my office in the City of Erie, Neosho County, Kansas, this 15<sup>th</sup> day of November, 2004.

  
Jim G. Keath, Sheriff of  
Neosho County, Kansas

Pursuant to K.S.A. 79-2804.

Exhibit F

FILED

HINES & AHLQUIST, P.A.  
P.O. Box 108  
Erie, Kansas 66733  
(620) 244-3227

2004 DEC 27 A 10:11

CLERK OF DISTRICT COURT  
NEOSHO COUNTY, KANSAS

**IN THE DISTRICT COURT OF NEOSHO COUNTY, KANSAS**

The Board of County Commissioners  
Of Neosho County, Kansas,

Plaintiff,

Vs.

Case No. 2004 CV 28

Ira E. Barber, *et al.*,

Defendants,

**ORDER TO DISTRIBUTE FUNDS**

NOW, on this 27<sup>th</sup> day of December, 2004, the above-entitled matter comes on for hearing on the motion of the Plaintiff for an order to distribute funds as a result of redemption and sale of property in this matter and that from said funds certain items should be allowed as court costs and paid.

The Court, after being duly advised in the premises, finds that the Plaintiff's motion should be granted and orders the Clerk of the District Court of Neosho County, Kansas, to pay out the following sums of money:

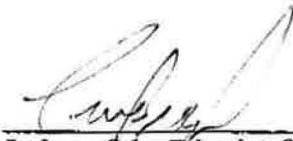
Refund to Neosho County Treasurer for the Benefit of Neosho County General Funds	\$5,812.00
Neosho County Treasurer to be applied to Delinquent taxes	\$8,060.21
Daisy P. Stipp & Timothy L. Stipp, Crystal Babcock, Kenneth Babcock C/o Timothy Stipp 110 Ronda Ln., Apt. 404, Chanute, KS 66720	\$4,973.41
Kathy Denise Morris Kathy Morris-Felter, 315 S. Valley, Eureka, KS 67045	\$5,588.05
Thomas J. Craft, Marie E. Craft Marie Craft-Hunt, 33855 S. 4430 <sup>th</sup> Rd., Vinita, OK 74301	\$552.93
American Trails Association, Inc. 1505 S. Redwood Rd., Salt Lake City, UT 84104	\$4,956.10

**FAXED** Recd. unsigned

Rex O. Saunders, Lorene V. Saunders  
C/o Delores Variano, 2225 Woodene, Kansas City, KS 66106

\$1,219.30

IT IS SO ORDERED.

  
\_\_\_\_\_  
Judge of the District Court

SUBMITTED AND APPROVED:

By:   
\_\_\_\_\_  
Ross L. Albertini, #18258  
Neosho County Attorney

Date: 7/1/2016

Neosho County District Court (Chanute)

User: WALTERSA

Page 1 of 1

Check Register

Bank: Emprise Bank - Account: 78000670

Check range: From 3620 to 3620

All Check Types

Sorted by Check Number

Check Number	Date	Payee	Amount	Status	Cleared
3620	12/28/2004	American Trails Association Inc	4956.10	Cleared	02/28/2005
Address 1505 S Redwood Rd					
City Salt Lake City		State UT	Zip 84104		
Description Civil judgment disbursement, case number 2004-CV-000028					
Entered by FROEHLICHJ on 12/28/2004 Last changed by HODGESA					

Number checks: 1

Total

4956.10

Certificate of Clerk of the District Court, The above is a true and correct copy of the original instrument filed on the \_\_\_\_\_ day of \_\_\_\_\_ and recorded in the court of the 31<sup>st</sup> Judicial District Neosho County, Kansas, Dated this \_\_\_\_\_ day of July 2016.

Angie Walters



Exhibit G

## Ross Albertini

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**From:** Randal Neely <randalneelyclerk@neoshocounty.kscoxmail.com>  
**Sent:** Wednesday, July 20, 2016 1:10 PM  
**To:** Ross Albertini  
**Subject:** FW: Sunflower Rail-Trails Convergancy

**From:** Randal Neely [mailto:randalneelyclerk@neoshocounty.kscoxmail.com]  
**Sent:** Wednesday, July 20, 2016 12:59 PM  
**To:** 'ralbertini@parsons.com' <ralbertini@parsons.com>; 'rossalbertini@hotmail.com' <rossalbertini@hotmail.com>  
**Subject:** Sunflower Rail-Trails Convergancy

Mr. Ross Albertini,

First of all we apologize for the delay in getting back to you on the subject of Sunflower Rail-Trail and the question you had for us here in the Neosho County Clerk's office.

I cannot find in my files, communication (s), from Sunflower Conservatory in connection with KSA 58-3212 (b) and/or (c), which would be a document or filing sent to the Neosho County Clerk's office containing a bond, nor proof of an escrow account in a Kansas financial institution, payable to Neosho County.

I have been Neosho County Clerk since August 1<sup>st</sup>, 2007, and have no knowledge of an instrument of communication regarding the KSA statute mentioned above.

Randal Neely  
Neosho County Clerk  
Kansas Master County Clerk

100 S. Main  
Erie Kansas 66733

620-244-3811

## K.S.A. § 58-3212

This document is current through the 2016 Regular Session

LexisNexis® Kansas Annotated Statutes > Chapter 58. Personal and Real Property > Article 32. Land and Water Recreational Areas > Recreational Trails

### **58-3212. Duties of responsible party.**

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- (a) The responsible party, at all times after transfer of the deed to the responsible party, shall:
- (1) Perform the duties imposed by K.S.A. 2-1314 and amendments thereto along the recreational trail;
  - (2) provide for the safety, use and accessibility of existing easements, utility facilities and access licenses along the recreational trail;
  - (3) provide for trail-user education and signs regarding trespassing laws and safety along the recreational trail;
  - (4) provide for litter control and the enforcement of laws prohibiting littering along the recreational trail, including but not limited to trail-user education and signs about laws prohibiting littering and the provision of trash receptacles and the cleanup of trash and litter;
  - (5) develop and maintain the recreational trail in a condition that does not create a fire hazard;
  - (6) designate the recreational trail for nonmotorized vehicle use with exceptions only for motorized wheelchairs and maintenance, law enforcement and emergency vehicles;
  - (7) prohibit hunting or trapping on or from the recreational trail;
  - (8) provide for law enforcement along the recreational trail;
  - (9) grant easements to adjacent property owners to permit such owners to cross the recreational trail in a reasonable manner consistent with the use of the adjacent property and with K.S.A. 66-301 through 66-303, and amendments thereto;
  - (10) (A) maintain any existing fencing between the trail and adjacent property; (B) maintain any future fencing installed between the trail and adjacent property; (C) install between the trail and adjacent property fencing corresponding in class to that maintained on the remaining sides of such adjacent property; and (D) on request of an adjacent property owner, pay one-half the cost of installing fencing between the trail and such property owner's adjacent property with a fence of the class requested by such property owner, if not all remaining sides of such property are fenced; and
  - (11) (A) maintain the trail; (B) maintain all bridges, culverts, roadway intersections and crossings on the trail, essential to the reasonable and prudent operation of the trail or needed for drainage, flood control or the use of easements for crossing the trail between adjacent properties, or cause maintenance thereof by other parties that have assumed contractual responsibility therefor; and (C) install and maintain any warranted traffic signs on the trail.
- (b) If the responsible party is not a governmental entity, the responsible party shall file with the county clerk of each county where a portion of the recreational trail is or will be located a bond or proof of an escrow account in a Kansas financial institution, as defined by K.S.A. 16-117 and amendments thereto, payable to the county.

The bond or proof of an escrow account shall be filed at the time of transfer of the deed to the responsible party and annually thereafter.

The bond or escrow account shall be conditioned on the responsible party's performance, and shall be in an amount agreed upon between the responsible party and the county commission as sufficient to fully cover the annual costs, of:

- (1) Weed control along the trail, as required by subsection (a)(1);
- (2) litter control along the trail, as required by subsection (a)(4);

## K.S.A. § 58-3212

- (3) maintenance of the trail in a condition that does not create a fire hazard, as required by subsection (a)(5);
- (4) installation and maintenance of fencing between the trail and adjacent property within the county, as required by subsection (a)(10); and
- (5) installation and maintenance of signs along the trail, as required by subsections (a)(3), (a)(4) and (a)(11)(C).

If separate bonds are submitted to or escrow accounts established for the various counties through which the trail transverse, the annual costs listed above shall be only for that portion of the trail located within the particular county that is the holder of the bond or beneficiary of the escrow.

A responsible party may submit a single bond or escrow account with multiple counties respectively as coobligees or cobeneficiaries, but in that event the annual costs used in computation of the bond amount shall be for the entire trail length.

- (c) If the responsible party is not a governmental entity, the responsible party shall file with the county clerk of each county where a portion of the recreational trail is or will be located, proof of liability insurance in an amount agreed upon between the responsible party and the county commission as sufficient.

Such proof shall be filed at the time of transfer of the deed to the responsible party and annually thereafter.

- (d) The provisions of this section shall apply to all recreational trails, regardless of when approval to enter into negotiations for interim trail use is or was received from the appropriate federal agency.
- (e) The provisions of this section may be modified or supplemented by any city governing body for recreational trails within the corporate limits of such city in the manner provided by K.S.A. 12-137 et seq. and amendments thereto.

If a city governing body adopts requirements in addition to those provided by this section, the city shall pay all costs of compliance with such additional requirements.

## History

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*L. 1996, ch. 223, § 2; July 1.*

### Annotations

## LexisNexis® Notes

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## Case Notes

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### Notes to Unpublished Decisions

#### Constitutional Law: Supremacy Clause: Federal Preemption

#### Transportation Law: Rail Transportation: Rails to Trails

#### Constitutional Law: Supremacy Clause: Federal Preemption

1. *Unpublished decision:* Kansas Recreational Trails Act, Kan. Stat. Ann. § 58-3211 et seq. requirement that a bond be available to assure fulfillment of a trail operator's duties was related to the legitimate regulation of the use of the rail-trails and was an appropriate exercise of the state's authority to control safety, land use, and zoning related to rail-trails, an authority that was not expressly or impliedly preempted by the National Trails System Act, 16 U.S.C.S. § 1241 et seq. Miami County Bd. of Comm'rs v. Kanza Rail-Trails Conservancy, Inc., 292 Kan. 285, 255 P.3d 1186, 2011 Kan. LEXIS 219 (Kan. 2011).

**Transportation Law: Rail Transportation: Rails to Trails**

2. *Unpublished decision*: Kansas Recreational Trails Act, Kan. Stat. Ann. § 58-3211 et seq. requirement that a bond be available to assure fulfillment of a trail operator's duties was related to the legitimate regulation of the use of the rail-trails and was an appropriate exercise of the state's authority to control safety, land use, and zoning related to rail-trails, an authority that was not expressly or impliedly preempted by the National Trails System Act, 16 U.S.C.S. § 1241 et seq. Miami County Bd. of Comm'rs v. Kanza Rail-Trails Conservancy, Inc., 292 Kan. 285, 255 P.3d 1186, 2011 Kan. LEXIS 219 (Kan. 2011).

**Opinion Notes**

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**LexisNexis ® Notes****OPINIONS OF ATTORNEY GENERAL**

1. Personal and Real Property—Recreational Trails—Duties of Responsible Party, ATTORNEY GENERAL OPINION No. 98-6, 1998 Kan. AG LEXIS 6.
2. Personal and Real Property—Land and Water Recreational Areas; Recreational Trails—Duties of Responsible Party, ATTORNEY GENERAL OPINION No. 98-9, 1998 Kan. AG LEXIS 9.
3. Personal and Real Property—Land and Water Recreational Areas—Recreational Trails; Duties of Responsible Party; Authority of County, Attorney General Opinion No. 2006-27, 2006 Kan. AG LEXIS 27.

**Research References & Practice Aids**

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**Hierarchy Notes:**

K.S.A. Ch. 58, Art. 32

K.S.A. Ch. 58, Art. 32, [Undesignated]

**State Notes**

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**CASE ANNOTATIONS**

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1. The act does not impose unique burden on interstate entities to benefit local competitors. Board of Miami County Comm'rs v. Kanza Rail-Trails Conservancy, Inc., 292 K. 285, 255 P.3d 1186 (2011).

**Opinion Notes**

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**Attorney General's Opinions:**

Recreational trails; requirements on responsible party; adjacent property owner, rights and remedies; annexation. 98-6.

Recreational trails; requirements on responsible party; fencing; authority of county. 98-9.

LexisNexis® Kansas Annotated Statutes  
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