

R #20277



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Date: 10/8/2019

To: Jackson County Legislature as a Whole

CC: Frank White, County Executive; Caleb Clifford, Chief of Staff; Edwin Stole, Chief Financial Officer; Bryan Covinsky, County Counselor; Michele Newman, Director Parks + Rec

From: Matt Davis, Rock Island Program Manager

Subject: Resolution 20277, Addendum to Legal Services Agreement

On July 30, 2019, the Surface Transportation Board (STB) revoked Jackson County's 2016 Notice of Exemption, revoking Jackson County's authority to acquire and operate a railroad. The STB ruling did not affect Jackson County's ownership of the underlying 17.7 mile Corridor property. Prior to this occurrence, Jackson County had begun pre-abandonment activities, namely an Environmental Review in preparation for railbanking and interim trail use. After the July 30th revocation, outside counsel advised that our forthcoming Exemption to Abandon, and subsequent Notice of Interim Trail Use, would have to occur as a joint filing with the Union Pacific, whose rights Jackson County had previously acquired.

On Friday, October 4th, Jackson County and Union Pacific Railroad filed a Joint Petition for Exemption to Abandon the Rock Island Railroad Corridor. If the Exemption is granted, the County and Union Pacific intend to file a Notice of Interim Trail Use. This action would accomplish many parallel goals: it allows the County to continue the Rock Island Trail project as planned, it removes the obligation to provide rail service should a customer make a reasonable request for service, and it keeps the Rock Island Railroad in the national freight network without triggering reversionary property rights (if any).

These actions require significant work from outside counsel who specialize in railroad law and are closely acquainted with the Surface Transportation Board. While the abandonment and interim trail use actions were expected, the revocation of our Notice of Exemption was not. This has required more legal work this year than was anticipated.