

**RESOLUTION Number 2022-8**

**A Resolution of Kiowa County, Kansas  
Board of County Commissioners**

**Adopting**

**The Rails to Trails Program for Local Governments  
by the Kansas Natural Resource Coalition**

**WHEREAS**, Kiowa County, a political subdivision of the State of Kansas having specific authority under State law to perform oversight of rail-trail activities;

**WHEREAS**, Kiowa County has an interest in ensuring that the public health, safety, tax and welfare of the public and landholders is maintained within its jurisdiction;

**WHEREAS**, On April 30, 2020 the Surface Transportation Board, in Docket No. AB 853 (Sub-No. 1X) served a DECISION finding that no notice of consummation of abandonment was timely filed for interim trail use or rail banking for the subject line of railroad, therefore the Line remains an active line of railroad subject to Board jurisdiction:

*Here, if the Line was never properly railbanked, the NITUs expired on August 2, 2008, and June 27, 2009. As there were no other barriers to consummation, any notice of consummation would have been due by October 1, 2008 and August 26, 2009, respectively. No notices of consummation were timely filed; therefore, absent a valid interim trail use/rail banking agreement, the Line remains an active line of railroad subject to Board jurisdiction;*

**WHEREAS**, The April 29, 2020 DECISION further states that once the abandonment authority expires, the railroad must begin a new abandonment proceeding if it wishes to abandon the line;

**WHEREAS**, The Kansas & Oklahoma Railroad (K&O) or its successor or Sunflower Rail-Trails Conservancy has an ongoing responsibility to meet the financial and maintenance obligations for the active line of railroad subject to Board jurisdiction's right-of-way;

**WHEREAS**, The history of the Surface Transportation Board Docket No. AB 853 (Sub-No. 1X) indicates that the Sunflower Rail-Trails Conservancy may have an interest in requesting a notice of intent for trail use (NITU) of the subject right-of-way should the railroad initiate a new abandonment proceeding for the active line of railroad subject to Board jurisdiction;

**WHEREAS**, The Kiowa Board of County Commissioners have reviewed the program entitled *Rails to Trails Program for Local Government - Background, Recommended Policies and Procedures* prepared by the Kansas Natural Resource Coalition, and finds that program satisfies local government oversight authorities and responsibilities for administering the mandates and provisions of 16 U.S.C. 1247(d), 49 C.F.R. 1152.29, and K.S.A. 58-3211 et seq.; and,

**WHEREAS**, State law authorizes Kiowa County to enact reasonable ordinances for signage, access, invasive weed control, fencing, litter control, liability insurance, bonding, and other

health, safety, and maintenance controls to ensure protections for adjacent landowners, citizens, and the general public;


**NOW THEREFORE BE IT RESOLVED** that the Kiowa Board of County Commissioners adopts the *Rails to Trails Program for Local Government* as Kiowa County policy until further action by this board.

SIGNED AND DATED THIS 29 DAY OF April, 2022

BOARD OF COUNTY COMMISSIONERS:

COMANCHE COUNTY, KANSAS

  
John Bertram, Commissioner

  
Bert Lowrey, Commissioner

  
Dave White, Commissioner

  
ATTEST: Kristie Cooper, County Clerk