

NEBRASKA TRAIL SETTLEMENTS

NOTICE OF CLASS ACTION DECERTIFICATION AND OPPORTUNITY TO PURSUE INDIVIDUAL FINANCIAL RECOVERY

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY

TO: All persons in the Class described below who have not previously opted out of this class action litigation.

PURPOSE OF THIS NOTICE

This Court approved notice is being sent to you to let you know about a recent Court Order in this Class Action lawsuit which affects your legal rights as a potential member of the Class. The Court previously ruled that the United States is liable, in some circumstances, for a taking of private property rights in certain railroad rights-of-way in the State of Nebraska that is compensable under the Fifth Amendment of the U.S. Constitution. The Court has recently determined that the class action should be decertified, effective on January 16, 2018. The Court has also determined that you must decide whether you wish to pursue a financial recovery as an individual plaintiff in the action.

If you decide to individually join the action, you must do so promptly. If you fail to act, your claim will be dismissed from the pending case and you will receive no financial compensation in the case.

More information on participation is provided, below, in the section titled “Your Choices and Deadlines.”

ABOUT THE LAWSUIT

On November 5, 1999, Plaintiff William Schneider filed an amended class action complaint in this Court seeking just compensation from the United States government for landowners adjoining 15 railroad right-of-ways in the State of Nebraska, listed on the attached Exhibit A. Plaintiff alleged that the United States effectuated a taking of landowners’ private property by authorizing recreational use on these former railroad rights-of-way pursuant to the National Trails System Act, 16 U.S.C. §§ 1241-1251 (“Trails Act”).

Previously, the Court ruled that the case should be maintained as a class action for the limited purpose of resolving common issues regarding the United States’ potential liability for a compensable taking under the Fifth Amendment. The class was defined as follows:

All persons who own an interest in land constituting a railroad corridor in the State of Nebraska, and which is now occupied or controlled for trail use pursuant to the National Trails System Act, and who have been damaged in the amount of

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\$10,000 or less by being deprived of their rights to possession, control, and enjoyment of their land as a result of a Trail Use Order, or who waive claims exceeding \$10,000. This class is certified for the limited purpose of determining whether and under what circumstances an unconstitutional taking occurred. This class excludes railroad companies and their successors in interest; persons who have filed, intervened, or choose to intervene or opt into separate lawsuits against the United States for compensation in the same interests in land.

Subsequently, the Court held that the United States was liable, in some circumstances, for a taking that is compensable under the Fifth Amendment. The Court explained that “the imposition of a new easement, a ‘linear park,’ via the Rails-to-Trails Act, results in a compensable taking from class members who own land adjacent to the rights-of-way held by easement, regardless of whether the railroads abandoned those rights-of-way.” The appropriate measure of damages for such plaintiffs would be “all damages which their property has sustained by the new use . . . if any, over and above the damages caused by the [previously] authorized use.” Damages are capped at \$10,000 per claim. The Court further ruled that the government would not be liable for a taking as to class members whose land adjacent to a trail was acquired by the railroad in fee simple.

DECERTIFICATION OF THE CLASS AND HOW YOUR LEGAL RIGHTS ARE AFFECTED BY THE DECERTIFICATION

The Court has issued an Order decertifying the class action, effective as of January 16, 2018. All persons or entities who were members of the above-described Class who may possess claims against the United States will no longer be parties to this suit as of January 16, 2018 **unless they take action now to confirm that they wish to pursue their claims as individual plaintiffs in the action.**

You have been identified as someone who may have owned land along one of the 15 railroad right-of-ways at issue in this lawsuit on or about the dates identified in Exhibit A, meaning that you may be eligible to join the lawsuit. However, in order to continue to participate in this case, you must take action.

You are hereby notified that **your interests will no longer be represented in this lawsuit unless you take action.** If you believe you have a valid claim and wish for that claim to be included in this lawsuit, you must take action to individually join the lawsuit. Attached is a Joinder form that you can return to the attorneys who have been representing your interest and the interest of the class indicating your desire to individually pursue your claim. Your form must be postmarked on or before January 11, 2018.

YOUR CHOICES AND DEADLINES

Now that the class action is being decertified, you may pursue your claim by individually joining the instant lawsuit. If you choose to individually pursue your claim against the United States,

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you should be aware that the claim may be subject to prior rulings by the Court, or to defenses such as the expiration of the statute of limitations.

Due to the complicated nature of the case, it would be advisable for you to consult with an attorney. You may contact the attorneys who have been representing your interests and the interests of the Class at the address, phone or email noted below. You may also contact a different attorney of your choosing. You must take action promptly so as to ensure that your claims do not expire due to the running of that statute of limitations.

Your choices are summarized below:

YOUR CHOICES	EXPLANATION AND ACTION REQUIRED
Pursue Your Claim and a Financial Recovery by Joining In This Lawsuit	If you wish to pursue a claim in this lawsuit, you must fill out the enclosed form (Joinder Form) and return it to Plaintiffs' counsel, postmarked by January 11, 2018. There is no cost to you to join the lawsuit as a plaintiff and you will not be asked to compensate the attorneys for their work.
File your own lawsuit	If you wish to bring a claim against the United States separately from this case, you should confer with your own attorney.
Do nothing	If you take no action, your claims will no longer be included in this lawsuit and you will not be entitled to receive any compensation that might be awarded in this lawsuit.

COUNSEL INFORMATION

Any questions with regard to this Notice should be directed to the attorneys that previously represented the Class at the law firm of Zelle, LLP:

DANIEL J. MILLEA
Zelle LLP
500 Washington Avenue South
Suite 4000
Minneapolis, MN 55415
1-800 899-5291
dbowen@zelle.com

ADDITIONAL INFORMATION AND INQUIRIES

The parties have created a website with more information regarding the lawsuit. The website is: www.NebraskaTrailSettlements.com. The website includes information on key filings in the case, including the court's order certifying the class, the prior liability ruling, and the

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decertification order. The website also includes maps of the subject corridors and further information on contacting counsel.

You may also examine all of the court documents regarding this case in the Office of the Clerk, the United States District Court for the District of Nebraska, located at 100 Centennial Mall North, Lincoln, Nebraska, 68508, during regular business hours of 8:00 a.m. to 4:30 p.m., Monday through Friday. PLEASE DO NOT CALL OR WRITE TO THE CLERK OF THE COURT; ANY INQUIRIES SHOULD BE DIRECTED TO COUNSEL LISTED ABOVE.

EXHIBIT A
TABLE OF TRAILS AND DATE OF OWNERSHIP

	LOCATION OF AUTHORIZED TRAILS	DATE OF OWNERSHIP
1	Douglas County (formerly, Union Pacific Railroad)	July 8, 1991
2	Otoe and Nemaha Counties (formerly, Burlington Northern Railroad)	October 23, 1991
3	Douglas County from Summit Street to Summit Street to Dodge Street in Omaha (formerly, Chicago and North Western Transportation Company)	January 29, 1992
4	Dawes and Sioux Counties from Crawford to Fort Robinson (formerly, Chicago and North Western Transportation Company)	May 20, 1993
5	Saunders and Butler Counties from Valparaiso to Brainard (formerly, Union Pacific Railroad)	September 17, 1993
6	Sarpy County from Papillion to Sarpy County (formerly, Union Pacific Railroad)	April 29, 1994
7	Madison, Antelope, Holt, Rock, Brown, Cherry, Sheridan and Dawes Counties from Chadron to Norfolk (formerly, Chicago and Northwestern Transportation Company)	June 2, 1994
8	Buffalo County near Kearney (formerly, Burlington Northern Railroad Company)	June 16, 1994
9	Saline County from DeWitt to Tobias (formerly, Burlington Northern Railroad Company)	May 20, 1996
10	Thayer County from approximately Bruning to Hebron (formerly, Burlington Northern Railroad Company)	May 22, 1996
11	Clay, Fillmore, Nuckolls and Webster Counties from Shickley to Blue Hill (formerly, Burlington Northern Railroad Company)	June 6, 1996
12	Douglas County near Omaha (formerly, Missouri Pacific Railroad Company)	October 2, 1996
13	Lancaster County from 10th Street to 33rd Street in Lincoln (formerly, Union Pacific Railroad Company)	September 24, 1997
14	Fillmore, Jefferson, Saline and Thayer Counties from Geneva to Shickley (formerly, Fillmore Western Railway Company)	August 4, 1998
15	Lancaster and Gage Counties from Jamaica to the Kansas border (formerly, Union Pacific Railroad Company)	December 17, 1999