

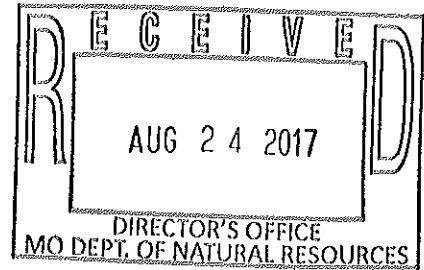


MISSOURI FARM BUREAU FEDERATION

P.O. Box 658, 701 South Country Club Drive, Jefferson City, MO 65102 / (573) 893-1400

August 24, 2017

Ms. Carol S. Comer
Director, Missouri Department of Natural Resources
P. O. Box 176
Jefferson City, MO 65102



Dear Director Comer:

On behalf of Missouri Farm Bureau, thank you for soliciting public input regarding the pending Rock Island Trail proposal. Enclosed for the record are copies of two related comment letters, one to the former department director and one submitted within recent weeks to the Surface Transportation Board's Regulatory Reform Task Force. Also enclosed are several news stories reporting on townhall meetings held in 2015 and 2016.

Missouri Farm Bureau opposes the conversion of the Rock Island rail corridor to a recreational trail. Policy adopted by our members representing county Farm Bureaus statewide at our annual meeting reads as follows:

We favor keeping the old Rock Island Line from Owensville to Kansas City as a railroad, because railroads are vital to agriculture and the economy of rural communities and are a far better choice than the tax burden of building and maintaining a trail. We oppose any effort to create a recreational trail. If efforts to stop the conversion of the rail corridor to a recreational trail fail, then we oppose state or federal taxpayer funding for conversion and maintenance of such a trail.

The department's public comment period is the first readily available opportunity for local landowners to provide input for the record since the proposal's inception. During a meeting we scheduled in conjunction with our annual meeting in December 2014, former State Parks Director Bill Bryan told local county Farm Bureau leaders the department planned to hold public meetings at locations along the corridor. Yet the department has held no such meetings. In early 2015 we participated with Ameren and department officials in meetings hosted by local legislators and county Farm Bureau leaders in Westphalia and Stover. In early 2016 local legislators hosted similar meetings in Owensville, Freeburg and Eldon.

Local landowners who attended these meetings were overwhelmingly opposed to the proposal. Having been neither notified nor consulted by parties to the transaction, they were left to file claims in federal court for compensation under the takings clause of the US Constitution. The concerns expressed by those quoted in the enclosed news stories reflect the views of many:

Privacy

"We don't care if it's worth \$10,000 more because of the trail...We just want you guys to understand that our land, our privacy will be interrupted. It might only be 10 people, but it's still 10 people." *Freeburg meeting*

"...we never intended to be a tourist town...(many) don't want the world walking through their backyards." *KOMU interview*

"It's why I drive the extra miles to get to work, because I love the privacy..." *KRCG interview*

"Those that propose the trail have nothing to lose. Those with land along the trail, those are the folks that have everything to lose." *Westphalia meeting*

Security

"Make sure private property markers are everywhere, because these people seem to forget the landowners have lost something, too." *Owensville meeting*

"We all know what's going to happen as it's being developed. We'll have ATVs going up and down...We're just opening up a lot of problems for landowners." *Freeburg meeting*

Biosecurity

"Will state parks commit to honoring quarantines, as the railroad did, in the event of an outbreak of a livestock disease?" *Stover meeting*

Livestock Fencing

"It's nice of (DNR) to pay for supplies, but that's going to be one more expense for the landowner." *Westphalia meeting*

"Missouri law says the railroad is responsible for putting up fence to keep our cattle on our land...They're supposed to build, maintain and be liable for cattle. You're going to put a trail in now, and probably provide us materials, but probably not maintain it and probably not accept liability...We also have major flood issues, so we're responsible for keeping those fences up when everything gets flooded to keep cattle off the trail?"

Freeburg meeting

"If I build this fence now, will DNR reimburse me?...We're talking three or four years, and I can't have an open corridor." *Freeburg meeting*

Cost of Construction and Maintenance

"Hopefully our politicians realize that if there's a single cent of tax dollars going towards this, the whole state needs to know. They don't like the thought of tax dollars having to be used for something for that." *Westphalia meeting*

"I can't see where it's ever going to pay the taxpayers back." *Westphalia meeting*

"The cost of this thing is going to be 150 times what the Katy Trail was once you develop these culverts." *KRCG interview*

"The cost of this project will not be an economic benefit to counties along the tracks. There's no way we can sell enough Gatorade to pay for this playground for just a few people...Let's spend money on (schools, roads and bridges)...The wasteful spending must stop." *Stover meeting*

“As commissioner, if I was going to build a bridge, the first thing I would want to get is a cost estimate. I really think we need to stop our wasteful spending in Jefferson City.”
Stover meeting

“We can’t fix (roads and bridges) but we’re suggesting we can put a trail across this Rock Island railroad bridge.” *Eldon meeting*

Hunting

“We spent over \$25,000 (on) our property. We got our stand set up along this trail corridor. We’re going to lose all that.” *Westphalia meeting*

Liability

“Nothing is going to keep these people from walking off the trail. If we put up a barbed-wire fence, and someone trips over it, will they sue us for hurting them because we still own it? Liability is a big issue.” *Freeburg meeting*

“Trespassing, property rights, emergency services—those are all things we just don’t have answers to.” *KOMU interview*

Inflated Economic Benefit

“The Rock Island has many more Mokanes than Hermanns or Rocheports.” *Westphalia meeting*

On several occasions, former State Parks Director Bill Bryan acknowledged the economic impact of the proposed Rock Island trail would not be nearly that of the Katy Trail. He cited projections for user trips on the Rock Island trail at a fraction of those estimated on the Katy.

We question the accuracy of economic impact estimates presented in the “Katy Trail Impact Report.” For example, based on approximately 1500 “visitor impressions,” an estimated 400,000 “annual visitors” are reported. In other words, the estimated annual total was calculated based on survey responses representing only 0.4% of the estimated total.

Furthermore, the following projections point to the likelihood most Katy Trail visitors are making minimal expenditures for lodging and other goods and services typically associated with tourism:

- Roughly 60% visit at least 2-3 times per month except during winter;
- 27% of all visitors surveyed spent the night near the Katy Trail; and
- Local visitors spend on average \$56.59 of which \$39.05 is spent on “sporting goods”—equipment purchases attributed to the Katy Trail but likely purchased for use multiple times at multiple venues.

In addition, such economic projections take into account neither offsetting adverse economic impacts, such as restricted access to public and private property used for hunting, farming and other commercial activity, nor increased costs to counties and communities for road maintenance, public safety and other services.

On August 15th the *St. Louis Post-Dispatch* reported the department's decision to keep four state parks newly created last year closed to the public indefinitely while seeking to address a \$200 million park maintenance backlog. The department has acknowledged higher costs for building, maintaining and operating this proposed trail compared to the Katy Trail due not only to price inflation over time, but extra costs attributed to rough terrain, distance from state park base operations, prevalence of livestock production requiring proper fencing and extensive infrastructure improvements. Department officials have indicated they anticipate a combination of private and public funding to be available for construction, yet the department has not provided cost estimates for construction or ongoing maintenance and operation. Citing transportation and education as higher budget priorities for which state funding remains lacking, several legislators have publicly expressed their opposition to state funding for this proposed trail. We concur with their position.

We appreciate the opportunity to comment and urge the department to fully consider the views of affected landowners before taking further action. If the proposed trail becomes a reality, the department or trail sponsor should make every effort to address landowners' concerns, including providing compensation for property damage and restricted use during construction as well as proper fencing at a level commensurate with actual costs of labor and materials.

Sincerely,



Blake Hurst
President

cc: Mr. Ben Ellis, Division Director, Missouri State Parks
Mr. David Kelly, Deputy Division Director, Missouri State Parks
Mr. Mike Sutherland, Deputy Division Director, Missouri State Parks

Enclosures:

Letter to Director Sara Parker Pauley (March 6, 2015)

Letter to Surface Transportation Board's Regulatory Reform Task Force (July 21, 2017)

"Rock Island Trail project discussion draws quite a crowd to Westphalia," *Unterrified Democrat* (January 28, 2015)

"Landowners call bike trail process unfair," *KRCG News* (February 5, 2015)

"Rock Island forum airs landowner concerns," *The Advertiser* (March 19, 2015)

"Legislators pledge state transparency, accountability on trail project," *Gasconade County Republican* (January 27, 2016)

"Landowners can't stop Rock Island Trail through legal means; now it's all about 'just compensation,'" *Unterrified Democrat* (February 17, 2016)

"Officials answer questions about proposed trail," *The Advertiser* (March 3, 2016)

"Reaction to Rock Island Trail development on separate tracks," *KOMU News* (April 25, 2017)



MISSOURI FARM BUREAU FEDERATION

P.O. Box 658, 701 South Country Club Drive, Jefferson City, MO 65102 / (573) 893-1400

March 6, 2015

Ms. Sara Parker Pauley, Director
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

Dear Director Pauley:

As you know, the Surface Transportation Board recently announced its decision clearing the way for Ameren to negotiate with the Missouri Department of Natural Resources and/or other parties on the proposed conversion of the Rock Island rail line between Windsor and Beaufort to a recreational trail.

As you and I have discussed, Missouri Farm Bureau opposes this conversion based on the following policy adopted by members representing county Farm Bureaus statewide at our annual meeting:
We favor keeping the old Rock Island Line from Owensville to Kansas City as a railroad, because railroads are vital to agriculture and the economy of rural communities and are a far better choice than the tax burden of building and maintaining a trail. We oppose any effort to create a recreational trail. If efforts to stop the conversion of the rail corridor to a recreational trail fail, then we oppose state or federal taxpayer funding for conversion and maintenance of such a trail.

As it appears likely that the conversion will proceed, we are committed to assisting landowners whose farms and ranches will be adversely affected. Toward this end, we urge the department to conduct public meetings at locations along the rail corridor as soon as possible. In comments submitted in December, we urged the Surface Transportation Board to conduct public hearings at locations along the rail corridor "for the purpose of promoting transparency by providing an opportunity for those most directly affected to learn firsthand about this proceeding and have their views heard by representatives of the government agency that is conducting this proceeding."

The National Trails Act, the federal law that authorizes the federal government's taking of easements granted by landowners to the railroad, requires neither public hearings nor direct notification of landowners on whose property the easements lie. The department, Ameren, and trail advocates had been collaborating on this transaction for months before we became aware of it. Moreover, many if not most of the approximately 1000 landowners along the rail corridor learned of it even later, only because they were contacted by attorneys interested in representing landowners filing claims for compensation due from the federal government for its taking of the easements.

Unfortunately for landowners, the National Trails Act sets up nothing short of an end run around state laws protecting property rights. Missouri Farm Bureau policy calls for repealing or amending the law as follows:
If not repealed altogether, we believe that the National Trails System Act should be amended as follows:

- 1. Allow only those abandoned railroad rights-of-way which have a realistic probability of being used again someday for a railroad be approved for interim use as recreational trails;*
- 2. Require the state or other trail sponsor which receives certification for interim trail use of an abandoned railroad be held responsible for fencing, taxes, maintenance of the right-of-way, and other such costs which were required of the railroad and also be responsible for compensating the owners of the right-of-way for use of the property easement;*

3. *Require railroads to notify individual affected landowners in advance of proposed abandonment;*
4. *Require railroads to disclose to individual affected landowners the legal status of its occupancy of their tract of property;*
5. *Provide for automatic compensation to landowners whose property is taken as a result of railbanking;*
6. *Require a public comment period prior to certification or notification for interim trail use;*
7. *Require that the Surface Transportation Board evaluate and report specific findings regarding the suitability of the corridor for interim trail use prior to certification or notification for interim trail use, including safety, health, security, privacy, biosecurity and food security and the economic interests of adjacent landowners; and*
8. *Require approval by the local governing bodies in affected communities and counties as a condition for eligibility before railbanking can be authorized.*

The department actively sought the Surface Transportation Board's approval for this rail conversion and is on record as a willing trail sponsor. However, the department can and should make every effort to address the concerns of Missouri landowners whose use of their land will be disrupted by construction activities and/or by the presence of the trail for the duration of its existence.

Consequently, in addition to holding public meetings, we urge the department to set aside funding for reimbursing landowners for property damage and disruption to their use of their land, including fencing costs at a level commensurate with the actual costs of labor and materials necessary to install adequate fencing for livestock.

Finally, we oppose the use of taxpayer dollars for the trail, including federal transportation funding. The department has not yet disclosed cost estimates for construction and maintenance. Yet the department has acknowledged that this trail will be far more costly and difficult to build than the Katy Trail. "Tens of millions" for construction has been suggested by some interested parties.

In 2011 the need for more than \$200 million in improvements and repairs at Missouri state parks was cited by advocates ("State parks are in a pinch," Ted Mathys and Susan Flader). This year Governor Jay Nixon has proposed \$49 million from bond proceeds to repair and renovate state parks. Federal transportation funding was \$71 million less in each of fiscal years 2012, 2013 and 2014 than in 2011, and the Missouri Department of Transportation projects a shortfall of \$160 million annually for the next five years in the level of funding needed just to keep Missouri's roads and bridges in their present condition.

Building and maintaining the Rock Island trail will require a sustained spending commitment rivaling many of the state's most critical public infrastructure projects. If the state cannot afford to maintain our existing roads and bridges and our existing parks and trails, at the very least this project should be thoroughly vetted in a public, transparent manner. Ultimately, we believe that if the trail is to be built, it should be done with private rather than public funding.

Thank you for your consideration. If we can be of assistance or provide additional information, please do not hesitate to contact me.

Sincerely,



Blake Hurst
President



MISSOURI FARM BUREAU FEDERATION

P.O. Box 658, 701 South Country Club Drive, Jefferson City, MO 65102 / (573) 893-1400

July 21, 2017

Regulatory Reform Task Force
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

RE: Docket No. EP 738

The following comments are submitted on behalf of Missouri Farm Bureau, the state's largest general farm membership organization. We appreciate the opportunity to provide input to the Surface Transportation Board's (STB) Regulatory Reform Task Force.

When conversion of a rail corridor into a recreational use trail is proposed, we believe landowners whose property adjoins the rail corridor and/or is encumbered by an easement for the corridor should be provided notice and opportunity to present their views locally as part of the administrative record. Under the current process, the very landowners who would be most directly and adversely affected are neither notified nor provided adequate opportunity to express their views for the public record.

We urge the Task Force to recommend the following procedural changes:

- Public notice by the STB via local news outlets regarding railroad Notices of Exemption with explicit reference to the potential conversion of the rail corridor pending approval of a Notice of Interim Trail Use (NITU);
- A substantial public comment period and at least one locally held public hearing prior to certification or notification for interim trail use; and
- Consultation required by the STB as a condition for exemption in the absence of a response by government agencies that are subject to notification by exemption applicants.

A case in point is the pending conversion of 144.3 miles of rail corridor across central Missouri by Missouri Central Railroad Company (MCRR) (Docket No. AB 1068 Sub-No.3X). As participants to this proceeding, we requested actions outlined in the following paragraph (emphasis added) from our initial comment letter:

*In short, the scope of the potential impact of this proposed rail line abandonment and anticipated conversion to interim trail use relative to the environment, human health, economic interests, and public safety remains largely unknown. We urge the Surface Transportation Board to ensure that the **matters identified in the Environmental Assessment on which information is lacking be addressed** before the exemption becomes effective and interim trail use is authorized. Furthermore, we urge the Surface Transportation Board to conduct **public hearings at locations along the rail corridor for the purpose of promoting transparency** by providing an opportunity for those most directly affected to learn firsthand about this proceeding and have their views heard by representatives of the government agency that is conducting this proceeding. We respectfully suggest that the need for information by both the Board and local citizens warrants granting a **stay to allow time for further review and comment** by all concerned. Finally, if a stay is not granted, we request that **neither a Public Use Condition nor Interim Trail Use Condition be issued until the matters referenced previously are addressed.***

Public Comment

In its Final Environmental Assessment (EA), the STB's Office of Environmental Analysis (OEA) stated that the only comment letters received during the 15-day comment period were the two we filed. Given the circumstances, this is not surprising. Until hearing from attorneys seeking to represent those eligible to file compensation claims for property takings, many of the nearly 1000 landowners along the rail corridor were unaware of the proposal. Furthermore, the short timeframe (15 days) coinciding with the holiday season (December 12-January 2) was not conducive to public participation.

Despite lack of input noted by the OEA from the US Army Corps of Engineers (USACE), US Environmental Protection Agency (USEPA), US Department of Agriculture's Natural Resource Conservation Service (NRCS), and US Fish and Wildlife Service (USFWS), MCRR contended the EA included "recommended conditions to address all relevant environmental issues associated with the abandonment." Furthermore, MCRR stated "... all the concerns raised by MFBF are without merit or justification to hold a hearing or delay these proceedings." We respectfully disagree.

The OEA's final recommendations required MCRR to consult with USACE, USEPA, DNR, and USFWS prior to commencement of salvage activities. Our concerns included the impact of salvage activities on farmland, among which was the creation of new access points. The OEA followed up with MCRR in this regard and noted MCRR's response in the final EA. While we greatly appreciated the OEA's attention to this concern, additional potential impacts to farmland remained unaddressed. Consequently, we believe NRCS should have been included among the agencies with which consultation was required.

Public Hearing

In its January 6, 2015 decision adopting the OEA's recommendations, the STB stated its intent to address our requests for public hearings and a stay at a later date.

On February 12 we filed comments regarding a potential operator whose bid to acquire the section of railway proposed for abandonment had only then come to our attention. We also reiterated our request for public hearings.

On February 25 the STB issued a NITU and denied our requests for public hearings and a stay. In its decision the STB noted public hearings on proposed abandonments or trail use and public use requests are not required by the Board's regulations and have been held "only occasionally." The STB concluded public hearings were "not necessary."

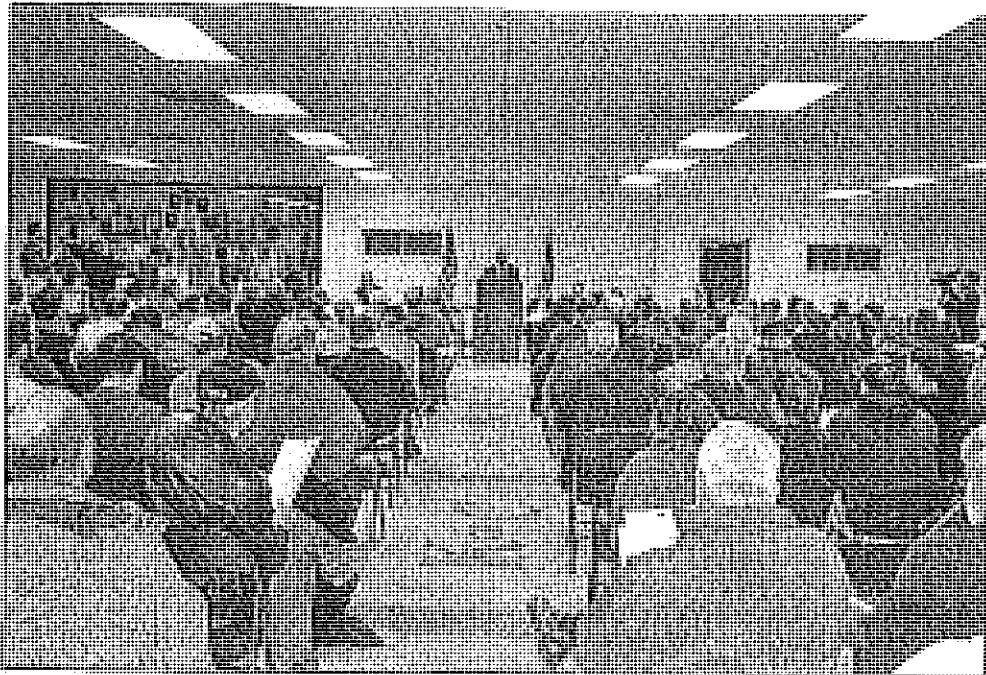
As a grassroots organization, we believe landowners whose daily lives stand to be significantly disrupted by a proposed trail should be provided adequate opportunity to be heard by the STB as the government body with decisionmaking authority. Since October 2014 when MCRR formally initiated the proceeding cited, no such opportunity has been provided.

In closing, we urge the Task Force to advance our recommendations or comparable measures to improve transparency in the process in a manner that (a) makes information more readily available to landowners along the rail corridor, and (b) provides adequate opportunity for their views to be entered into the administrative record. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Blake Hurst". The signature is written in a cursive, flowing style.

Blake Hurst
President



UNTERRIFFED DEMOCRAT
 4/28/15

About 250 people turned out Thursday at Westphalia to hear the pros and cons of turning the Rock Island Rail Line into the Rock Island Trail. Most in attendance were against the trail, which if approved, would not be a reality for several years.

Rock Island Trail project discussion draws quite a crowd to Westphalia

By NEAL A. JOHNSON
Unterrified Democrat
 Editor

About 250 people gathered Thursday at the Westphalia Knights of

Columbus Hall to learn more about the proposition to convert the 144-mile stretch of unused railroad, from Beaufort in Franklin County to Windsor in Henry County, into a walking and cycling

trail.

State Rep. Tom Hurst, 62nd District, of Meta, set up the meeting with fellow Rep. David Wood, 58th District, of Eldon, in an effort to allow the various agencies involved in the project an opportunity to dispel rumors.

"Much of this line goes through our districts," said Hurst. "We realize we can and can't control a lot of things, but we want you to know we're there for you."

Hurst added that if approved, there would not be any construction for five or six years, and the process will not happen overnight.

"This isn't something where they're going to show up with a cutting tool if you've got a fence across the rail, and cut it and tell you you're stuck with it," said Hurst.

The goal of this meeting was to start a conversation

see **TRAIL**
 page 10



Rodney Luebbering of Meta, an opponent of the trail since it was first introduced, asks questions of the panel at Thursday's meeting.

early about what can and can't happen as the process with the Surface Transportation Board continues.

Hurst acknowledged that Ameren Missouri, of St. Louis, which owns the line through its subsidiary company, Missouri Central Railroad, is not required by any law or regulation to publicize what is to be done with the rail.

Yet Ameren was on hand to outline the process it is using to "railbank" the unused line.

Robert Neff, president of Missouri Central Railroad, and VP of Ameren's coal supply and transportation division, said the company bought the railroad in 1999 because it thought it would benefit the Labadie Power Station, more than forty miles west of St. Louis, which provides 35% of the power for Ameren's system. Neff noted that having an alternate route into the plant helped keep electrical costs down.

The railroad is operational until it reaches Beaufort, and will remain so for the foreseeable future, Neff said, but from that point to the west, the rail line is no longer used.

Railbanking is a term defined in the National Trails System Act as a voluntary agreement between a railroad company and a trail agency to use an out-of-service rail corridor as a trail until some railroad might need the corridor for rail service.

Because a railbanked corridor is not considered abandoned, it can be sold, leased or donated to a trail manager without reverting to adjacent landowners.

While the line is railbanked, it can be used as a trail, with the idea that it can be reactivated for use at any time.

Neff told the group that the western end of the line was railbanked five years ago, from Pleasant Hill to Windgate, a five-mile stretch to get a feel for how the process worked. The line was transferred to Missouri Parks in 2012 and a trail is currently under development.

Section two of the trail is from Windgate to Windsor, a distance of 42 miles. Neff said authority to abandon was granted just last month, and he anticipates a use agreement will be finalized next month.

The process has begun for Section three, a 144-mile stretch, and it is anticipated authority to abandon will be granted in May of 2016.

Neff said it will take about three years to clear this section of the line and make it ready for trail development.

"Ameren looks forward to having a trail developed on this section," said Neff. "We think that would be the best use of the land, with the economic developments the trail brings, the welfare of the communities along the line and for the general welfare of the state."

The federal Surface Transportation Board (STB) would first have to approve the project, and transfer the property from the Missouri Central Railroad Company to the Missouri Department of Natural Resources.

But before that transfer occurs, Missouri Farm Bureau Director of Regulatory Affairs Leslie Holloway said Farm Bureau is seeking changes to the public notification aspect of the federal trails law. Holloway likened the process to that of the eminent domain law, which gives landowners an opportunity to negotiate with whatever entity is attempting to obtain an easement. "We think that should be part of the process with this trail and others like it," said Holloway.

With 1,000 landowners along the trail, a lot of people will be directly affected by this development, Holloway noted.

Holloway said that under federal law, the easements granted to Ameren for railroad use may be applied to use as a trail. Under state law, the easement would revert back to the original landowner, and if a trails

organization wanted to come in and develop a trail, that agency would have to negotiate with landowners for a new easement.

"That would obviously be a longer process and perhaps a more difficult process," said Holloway, noting that state law protects property rights.

Farm Bureau has filed comments with the STB in this proceeding, in opposition to the development of a trail, as well as asking for public hearings. The STB has held such hearings in the past, Holloway noted, but it's not typically part of the process. Farm Bureau also has asked the STB to stay any further decisions until additional information can be provided.

Holloway said that according to an STB report, there are agencies that have not provided information on historical and environmental assessments.

According to Holloway, the STB has indicated it does not want the salvage operation to move forward until additional information is obtained, but has not replied to the requests made by Farm Bureau.

This provides landowners some time to voice concerns, Holloway added, noting the trail advocacy group, Missouri Rock Island Trail (MORIT), objects to holding public hearings and the notifications that Farm Bureau is seeking.

Landowner concerns, from trash to trespassing, will need to be addressed, along with traffic along the proposed trail. Security issues are also prevalent among landowners, and since a good many people farm livestock along the proposed trail, Holloway said there is much concern about moving cattle, particularly to lands on both sides of the trail. Hunting is another particularly important aspect.

Holloway said the estimate is that a quarter of the traffic using the Katy Trail will use this one. "The economic impact doesn't appear to anything like you would expect of the Katy Trail," Holloway added.

An economic impact study conducted on the Katy Trail and alluded to by supporters of the new trail indicates the creation of 367,000 new jobs, but Holloway pointed out that figure includes part-time and seasonal jobs.

"That's a key aspect when we're talking about the number of jobs that will be created with this new trail," said Holloway.

Another factor in the study was the number of visitors, which Holloway said was based on surveys over 1,500 visits or half a percent of the 400,000 total estimated to use the Katy Trail annually.

"It's kind of hard to believe they could actually estimate 400,000 based on some survey that only involved half a percent of 400,000," said Holloway. "That makes you wonder how the actual spending and other economic impact numbers are actually calculated."

Holloway went on to say that for communities along the Katy Trail that have a bed and breakfast or winery, there is certainly some economic growth, but otherwise there has been little change.

Paying for the construction is perhaps the biggest challenge, particularly with three tunnels, 18 bridges and two major rivers to cross.

"I haven't seen any cost estimate on building this corridor into a trail," said Holloway, noting the Rails to Trails Conservancy (RTC) was quoted as saying there was an eight-figure offer involved. "So apparently there is some funding there, but what about the state? How much money would the state be required to put up for construction and maintenance?"

Holloway said it is very clear there isn't enough money in the state coffers for roads and bridges, with MoDOT scaling back its coverage. The Missouri Parks Association has likewise struggled with funding issues, she said.

According to Holloway, the MPA two years ago listed some \$204 million in needs

across the state. The governor proposed \$49 million in proceeds from a bonding proposal be allotted to Missouri Parks, but legislative approval is still needed.

And even if that money is earmarked for parks, Holloway said it wouldn't come close to meeting the needs of the MPA.

"And what is this going to add to that?" Holloway asked.

Missouri Parks Association Director Bill Bryau said part of his organization's mission is to build trails, so when someone asks him to do it, he's on board to at least talk about it.

Now, the process will involve hearing from people both for and against the project.

If the trail is built, Bryan said he wants to ensure a private-public partnership exists to the fullest possible extent.

Bryan said he agrees with the notion that people should be compensated for property taken by the federal government, and if this process goes forward, Missouri Parks will be as forthcoming as possible with information on how to receive that compensation.

Litigation regarding property rights of those impacted by the Katy Trail set precedent that should make any proceedings today go a lot faster than the original took 15 years ago.

Without railbanking, Bryan said, there will never be another train on the Rock Island Line.

As for the economic impact study commissioned a few years ago, Bryan said it was done using the best model available from the National Parks Service, and is applicable to the proposed trail.

"If there's a better way to look at the economic impact, we're eager to do that because we believe that the evidence is ample that communities along the Katy Trail have benefitted from the presence of the trail," said Bryan. "I don't think that can be seriously disputed by anybody."

Bryan acknowledged that the Katy Trail is anchored on the eastern side by St. Louis, and there are a lot more people near the trail who use it regularly.

"There will be some differences in the economic benefits experienced along the Rock Island Trail, but it's still without a doubt going to be a benefit to the communities along the trail," Bryan added.

On the Katy Trail, there are 1,276 crossings, which are predominantly agriculturally-based (row crop), and Bryan acknowledged there are differences with the proposed Rock Island Trail (livestock), and Bryan said he understands that.

"When we built the Katy Trail, we honored each and every one of those crossings, and I don't see why we would do anything different here," said Bryan. "We don't want to start a relationship with our neighbors on the wrong foot."

A fencing policy is in effect for all 87 parks in the state system, which states that if there is a need to fence private property from adjoining state property, the MPA will provide the materials and the landowner will install the fence.

"We take our responsibility to be good neighbors very seriously," said Bryan, noting the MPA was founded in April of 1917, on the cusp of World War I, and has been funded through a sales tax for 30 years.

Missouri state parks are also partly funded through a one-tenth of one percent sales tax voters first approved in 1984, and renewed three times since, most recently in 2006.

Keith Laughlin, president of the Rails to Trails Conservancy, said the group's mission is to partner with local communities to transform inactive rail corridors into multi-purpose trails.

When RTC began in 1986, there were approximately 450 miles of trails, and today there are more than 21,000 miles of trails in use in the United States.

In that year, Gov. John Ashcroft filed the first railbanking application in the

Trail. Since then, Laughlin said, the 239-mile trail has received iconic status as America's longest rail trail.

The Rock Island corridor hasn't seen rail traffic in 30 years, and Laughlin believes that a trail will benefit every community along the way.

"Many of these communities owe their existence to the coming of the railroad," said Laughlin, adding that when rail service was discontinued, many of those communities were impacted. "We now have the opportunity to brighten the future of those communities in two ways."

The first, he said, is that railbanking the corridor preserves it for some future day when rail service is once again economically feasible. Secondly, a trail in the meantime will attract bicycle and pedestrian tourism, thereby boosting the economies of communities along the corridor.

"You will see, in no time, like we've seen on the Katy Trail, businesses sprouting in communities to meet the demands of people that have money to spend," said Laughlin.

Most people at the meeting were not convinced of the prosperity promised with the development of the trail, and several times during an hour long question-and-answer period, the subject of how it would be paid for came up.

Rodney Luebbering, a landowner near Meta, asked Bryan how DNR is going to pay for the trail, and the latter replied he didn't know.

"Fortunately we've got three years to figure that out," said Bryan.

In addition to the sales tax collected by MPA, Bryan said there is an "earning" fund, which is revenues generated by various admissions, donations and settlement funds, which includes money from Tom Sauk Reservoir lawsuit, though Bryan noted those dollars will not be used in this project.

Turning to Neff of Ameren, Luebbering asked if railbanking for this trail was done in exchange for a tax credit, which Luebbering called a payment for the land.

Neff replied that it was early in the process to discuss the economic structure but acknowledged it would be considered a payment in that sense.

Finally, Luebbering asked Laughlin, who testified before Congress in 2002 that trail costs to taxpayers was \$2.5 billion, how much federal taxpayers have put toward trails.

Laughlin said that since 1991, he estimates a total of \$8 billion has been spent to create 21,000 miles of trail across the country.

Luebbering also noted that the economic impact study on the Katy Trail did not compare how the trail affected Mokane as opposed to Hermann or Rocheport. "The Rock Island has many more Mokanes than Hermanns or Rocheports," he said, adding he finds it odd that there are no businesses on the trail in Jefferson City, considering the support such ventures have received elsewhere.

Alan Reinkemeyer, a resident of St. Thomas, bought several hundred acres of land around St. Elizabeth to create a weekend hunting retreat.

"We spent over \$25,000 (on) our property. We got our stand set up along this rail corridor," Reinkemeyer said. "We're going to lose all that."

Additionally, Reinkemeyer said the entire rail corridor is an ecosystem unto itself, and includes the Indiana Gray Bat, an endangered species.

A former Missouri Department of Conservation employee and an employee

of DNR, Reinkemeyer said this is a very difficult situation for him. While he supports the department, he also wants to preserve the habitat, and said he is concerned about the impact the development of a trail will have.

Chris Brundick of Argyle said many people will be impacted, some very much so, as the trail will go through their yards, and challenged any member of the panel to allow that in their own yard.

"Those that propose the trail have nothing to lose," said Brundick. "Those with land along the trail, those are the folks that have everything to lose. I hope you remember that."

One of the people with property abutting the proposed trail is Scott Reichel, also of Argyle. He said that while Bryan's offer to pay for fencing material is nice, a contract with the Rock Island Line shows that company was to maintain the fences along the line but Reichel said he has yet to see that.

"It's nice of you to pay for supplies, but that's going to be one more expense for the landowner," said Reichel. "Hopefully our politicians realize that if there's a single cent of tax dollars going towards this, the whole state needs to know. They don't like the thought of tax dollars having to be used for something for that. I mean, a bicycle trail in Argyle? I don't see it paving the streets in Argyle, because we've got potholes, folks."

Those potholes are filled in by volunteers, Reichel added, because tax dollars are spent on big projects like Hwy. 50 and Hwy. 63, not to mention businesses.

"When's it going to stop? I mean, are we trying to break the Guinness Book of World Records for trails in Missouri?" he asked. "Isn't enough enough?"

Maries County Presiding Commissioner Ray Schwartze told the panel that caution with taxpayer dollars is a must. He added that a trail could conceivably be built from Beaufort to Belle, but from Belle to Eldon, such an undertaking would be one of the most expensive projects the state has ever seen using taxpayer money.

"I can't see where it's ever going to pay the taxpayers back," Schwartze said.

The Department of Natural Resources plans to schedule more public forums for Missouri residents as the discussion on the Rock Island Trail continues.

KRCG News

Landowners call bike trail process unfair

by Garrett Bergquist

Thu, 05 Feb 2015 03:35:39 GMT —

For Scott Reichel, the planned Rock Island Trail hits too close to home. Literally.

Reichel has measured the distance from the trail's site to the house that has anchored his family's farm since 1888. Cyclists will pass 137 feet from his front porch.

"It's why I drive the extra miles to get to work, because I love the privacy, which, small interest groups are taking that away from us," he said.

The Rock Island Trail will follow the bed currently occupied by the abandoned Missouri Central Railroad, currently owned by Ameren Missouri. Under the National Trails Act, neither Ameren nor the Missouri Department of Natural Resources need to tell anyone before construction begins. Landowners like Reichel and Rodney Luebbering first heard about the project through word-of-mouth.

"That seems to be the way the whole process is designed to work, is keep everybody as uninformed as possible for as long as we can," Luebbering said.

Rail trails like the Rock Island Trail are nothing new in Missouri. The Katy Trail was the nation's first rail trail when it opened in 1990 along the bed formerly occupied by the Missouri-Kansas-Texas railroad. Under a process known as railbanking, railroad companies ask the government to impose two new easements on railroad land, one for a public-access recreational trail and a second for possible reactivation as a railroad. A 2012 DNR report said visitors added \$8.2 million to local economies in towns along the Katy Trail.

Supporters say the Rock Island Trail could have a similar impact on the towns along its route. Eldon resident Mac McNally rides the Katy Trail regularly and said it would be handy to have a bike trail closer to home. More importantly, McNally said the trail would bring riders from outside the area into places like downtown Eldon.

"The best dollar that is spent in the community is a dollar that comes from outside the community," he said.

But landowners like Reichel are skeptical of such claims. Reichel said a better use of the trail would be to recommission the rail line and use it for sightseeing trains. He said small towns along the route would get a bigger bang for their buck out of such trains. Other landowners such as Luebbering point out the Rock Island Trail route has many more tunnels, culverts and bridges than the Katy Trail does, which means a higher construction cost.

"The cost of this thing is going to be 150 times what the Katy Trail was once you develop these culverts," Luebbering said.

Officials have not yet released a cost estimate but say some public funding will be used.

The Missouri Central Railroad first filed its abandonment paperwork on Oct. 28, 2014. On Dec. 17, the Missouri Farm Bureau sent the Surface Transportation Board a letter asking the corridor be kept as a railroad. In a reply sent on Dec. 22, the board said the Farm Bureau's concerns "are without merit or justification to hold a hearing or delay these proceedings."

Meghan Largent, an attorney for the Arent Fox law firm, said landowners have no real way to block the trail as long as Ameren and the DNR are willing to negotiate trail use. The U.S. Supreme Court has already upheld the mechanisms of the National Trails Act and the Surface Transportation Board, which controls the rail-to-trail process, has ruled that it will grant rail trail permits as long as the railroads and state land-use agencies agree. Largent said the only thing landowners can do is sue to get compensated for their land. About 200 of the roughly 1,200 landowners along the trail's route have signed up for a federal lawsuit so far.

The Surface Transportation Board has not yet approved the Rock Island Trail. Once it does, Largent said landowners will have six years to file a compensation claim.

Rock Island forum airs landowner concerns

A public hearing was held Thursday evening, March 12 at the Stover Community Center to discuss the concerns citizens of the region have about the Rock Island Line rail-to-trail project.

The Surface Transportation Board decided Thursday, Feb. 26 to allow the Missouri Central Railroad Company, MCRR, a subsidiary of Ameren Missouri, to proceed with abandoning a 144-mile section of its Rock Island railroad across central Missouri from Windsor to Beaufort, and to negotiate with the Missouri Department of Natural Resources to convert the rail corridor into a recreational trail.

The hearing was organized by the Missouri Farm Bureau Federation. Approximately 100 people from communities along the trail attended.

Before the meeting Farm Bureau representatives distributed a letter from the federation's president, Blake Hurst, to Sara Parker Pauley, MDNR director, explaining the reasons the Farm Bureau opposes converting the rail line to a trail.

Farm Bureau

Leslie Holloway, director of regulatory affairs for the Missouri Farm Bureau Federation, said the purpose of the gathering was to inform citizens along the rail corridor about the trail project and to allow citizens' concerns to be heard.

Holloway said the Farm Bureau's policy position on the project says:

- It favors keeping the railroad intact as something vital to agriculture.

- Such an expensive project, including repairs to three tunnels and 39 bridges, would be an irresponsible use of taxpayer funding at a time when the state can scarcely afford to maintain its schools, roads, bridges and existing parks.

- The rail abandonment process so far has lacked transparency as landowners were slow to be informed of the situation and their rights, rulings were made without consulting them and cost estimates for the plan

- Landowners are concerned how the rail salvage, the construction of the trail and its existence will impact them, such as privacy issues, noise, trash, disruption of access to their land and its resources, property damage, safety, labor and materials to build and maintain fences, and compensation for seizure of their property.

Lawsuit update

Attorney Meghan Largent of the Arent Fox law firm in St. Louis, representing more than 240 landowners who are suing the federal government in a related case, said the class-action lawsuit is based on the fact much of the property along the rail line is not owned by the railroad, but was an easement covenanted to revert to the landowners when rail traffic ended.

Largent said her case argues the federal government should compensate landowners for the property not returned to them in violation of Missouri law on account of the National Rails to Trails Act. This is the federal law allowing the owner of a rail corridor to turn it over to a trail sponsor such as MDNR, who may convert it to interim trail use provided the corridor is kept intact in case it is ever reactivated as a railroad.

Largent brought large-format maps showing the path of the Rock Island Line through Morgan and neighboring counties, with areas known owned by the railroad highlighted. She said she is not surprised the railroad's owner did not know how much of the corridor it was railroad property rather than an easement, since the legal documents creating the corridor are more than a century old and vaguely worded, while successive owners of the rail corridor were interested only in the right-of-way.

Ameren

Warren Wood, vice president of external affairs and communications for Ameren Missouri, related Ameren's role in the Rock Island Line. The power company bought the railroad's property and

rights-of-way in 1999, he said, as a business investment that did not work out. It decided the best use of the loss would be to allow MDNR to convert it into a trail.

Wood said the next step, now that the STB has permitted abandonment to begin, is to review the Rock Island Line's impact on the environment, historical preservation, archeology etc. The revenue from the steel rail salvage would be offset by the cost to remove the wooden ties which, Wood said, would make it an overall loss for Ameren.

Calling the trail an opportunity for tourism, entertainment and economic development, Wood said, "We want this to be a success for the communities it goes through, or there's really no point in doing it."

State parks

Bill Bryan of the Missouri State Parks Division discussed Missouri's record as a national leader in the extent and quality of its park system. With the Katy Trail it is already recognized to have the best trail system in the country. He admitted the development of the Rock Island Trail will be a lengthy and costly process.

"The federal government can't make us do this," said Bryan. "We have to evaluate if this is good for Missouri. We think it will be, but the engineers still have to look at it."

He said the costs will be significant, but MDNR continues to study what the costs will be.

Recognizing the farming along the Rock Island Line is different from that along the Katy Trail and that landowners will have concerns his department did not face when building the earlier trail, Bryan said, "I am confident we will be able to find solutions."

Bryan gave assurances MDNR would provide fencing materials and would consider if its resources allow it to provide labor to erect fencing.

"The Katy Trail has been good for its communities," Bryan said, citing annual traffic of 300,000 to 400,000 users

benefit study showing that every \$1 invested in the trail has returned \$18 to Missouri's economy, including \$8.2 million in revenue to the towns along the Katy Trail.

"A lot of businesses are there or are doing better because of the Katy Trail," he said, adding that even if the Rock Island Trail isn't exactly the same, its impact will be significant.

David Wood

Missouri District 58 Rep. David Wood asked, "How will we pay for it? Lots of state budget areas are coming up short. We have to prioritize the budget."

While he disagreed with the trail as a statewide project, Wood spoke approvingly of communities like Eldon and Versailles developing the trail as a safe route to school or a safe bicycle route to connect Mennonites and others to local businesses. Many crossings through these cities will have to be moved in the interest of safety, Wood said.

MORIT

Bruce Sassmann of Missouri Rock Island Trail Inc., a non-profit consortium, said MORIT supports the development of a first-class linear park. "We are looking for a spark of economic opportunity," he said. "I hope all the towns can reinvent themselves. I think they will be successful."

Questions and answers

During the question and answer period, Bryan said MDNR cannot take responsibility for trespassers walking off the park to vandalize private property. He said the trail will have no-trespassing signs.

A landowner said he looks at the trail as human encroachment into the tranquility of his private ecosystem. He said he did not understand how taxpayers can be asked to spend money on this when there are so many other urgent needs.

Another participant complained about the lack of transparency in the process, suggesting the motive was to keep the project quiet to derive

Warren Wood responded to the implication that Ameren planned the abandonment in order to gain a tax benefit. Wood said the write-off for the donation is much less than the original cost.

One concerned citizen raised the issue of biosecurity: Will state parks commit to honoring quarantines, as the railroad did, in the event of an outbreak of a livestock disease?

Given the number of poultry and cattle facilities along the line, Bryan said MDNR will consult biosecurity experts and the Department of Agriculture to find the answers.

Another participant asked about the easement for a fiber optic line that ran along one side of the rail line. Largent said she is aware of, but not involved in, a class action lawsuit regarding this fiber optic line, and while she believes the settlement will be paid soon she advised interested parties to visit the Missouri settlement website in the case.

A skeptical citizen noted the age of most attending the meeting and asked how many older people will use the trail. A show of hands indicated a majority thought they would use it. One 67-year-old woman said she rode the whole Katy Trail last year.

A man who said he owns land along .6 mile of the trail said he supports the trail because it may be the best means to preserve the corridor for future rail traffic.

A landowner asked about the right to hunt on land crossed by the trail. Bryan said it is permitted to carry a lawful firearm on state parks property, including concealed carry. He also said the parks will consider widening parts of the trail to allow Mennonite buggy traffic, making nearby highways safer for all.

Bryan also said if converting the whole rail line to a trail proves too costly, the parks would consider converting separate sections of it.

In answer to one landowner who challenged people supporting the project to come and build his fence, another participant stood up and said, "I'll be there with five other people if you support it!"

Responding to concerns about the traffic on the trail, one man distributed several pages of figures on a cyclist tourism program along the Katy Trail. He also talked about the average income of people who travel from outside the state to use the trail and described a hotel 100 miles from Jefferson City that caters to people planning to cycle to the capitol in one day.

To the question whether other state parks will suffer due to the cost of building and maintaining the Rock Island Trail, Bryan said he worries about this but is faced with the competing demands to maintain the existing parks and to provide new experiences. He added the state legislature is appropriating money to maintain and repair park infrastructure.

Schad's closing remarks

Morgan County Farm Bureau Vice President Dwayne Schad delivered closing remarks summing up the views of landowners opposed to the project.

"The cost of this project will not be an economic benefit to counties along the tracks," he said. "There's no way we can sell enough Gatorade to pay for this playground for just a few people."

Schad said he did not look forward to having a recreational trail in his front yard, bringing tourist traffic to land he purchased to enjoy privacy and country life.

Besides major issues like fencing, cattle, and trespassers, the costs would include millions to rebuild a series of bridges that are structurally unsound.

"This isn't a done deal," said Schad. "Talk with your congressman. Talk with your legislators. Talk with your county commissioners and tell them to fight it."

Reminding citizens of the funding needs of schools, roads and bridges he concluded, "Let's spend money on that. The wasteful spending must stop. It's wrong for us to do this."

Comments to the press

Morgan County Presiding Commissioner James Bryant commented after the meeting, "I can understand both sides. But for me, I have a hard time wrapping my head around taking on such a massive project and never, ever knowing what the cost is going to be."

"As commissioner," Bryant said, "if I was going to build a bridge, the first thing I would want to get is a cost estimate. I really think we need to stop our wasteful spending in Jefferson City."

David Wood, in a separate comment, said he thinks the trail conversion will happen, though probably in sections. "It's a business decision at this point," he said. "It makes sense for Ameren to go through with this, and it makes sense for the DNR to accept it. The appropriation of money is a long ways away."

Sassmann and other representatives of MORIT said they have decided to hold their next series of board meetings in towns along the rail-trail corridor. Sassmann said the board decided at its Thursday, March 5 meeting in Jefferson City to hold its next meeting in June in Stover.

The exact date and location of that meeting are to be determined, Sassmann said, but it will be open to local people who support the project.

"We want people to represent a broad spectrum of the communities along the Rock Island Trail," Sassmann said.

Interested Stover resident Mark Stevens, attending his second Rock Island Trail meeting, seemed optimistic that the plans would go forward.

"Everything they brought up can be worked on," said Stevens.

Legislators pledge state transparency, accountability on trail project

Posted: Wednesday, January 27, 2016 11:22 am

More than 100 concerned citizens and landowners attended a Rock Island Trail town hall meeting at the Owensville Veterans of Foreign Wars Post 6133 Jan. 20, hosted by State Rep. Tom Hurst and Sen. Mike Kehoe, to discuss aspects of the proposed hiking and biking trail.

The Missouri Rock Island Trail would span from Windsor to Beaufort and would run through nearby towns such as Belle, Bland, Owensville and Gerald. A 47-mile stretch from Pleasant Hill to Windsor is already in the works.

Kehoe began the meeting, the first of a series of three to be hosted by the senator and representatives including Hurst, R-Meta, and David Wood, R-Versailles, by informing the crowd that the trail is not a state project and is currently not receiving state funding.

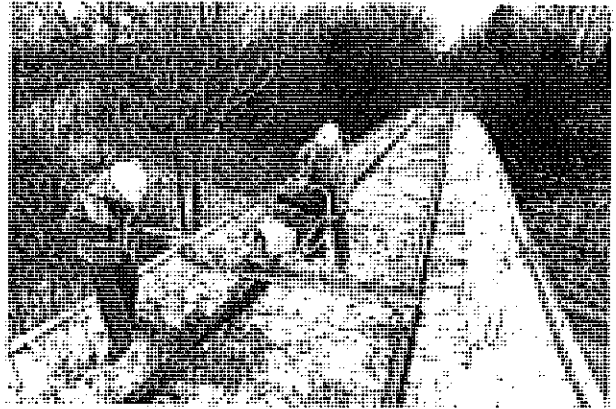
“As a Senator and Representatives, we are here to ease your minds and answer any questions you may have,” Kehoe said. “I’m like you, I think the money we have can be spent on other things. However, there is no state money currently allocated to the trail. No Amendment 7 (transportation tax) funds were assigned to the trail, no tax increase, none from state parks.”

Kehoe said there are federal grants and private funds available, such as those that were used for the Katy Trail, so there is no need to use tax dollars for a trail.

Hurst added that the trail groups and the state are not trying to do anything that the people don’t understand.

“We are here for transparency and accountability,” Hurst said. “We are not here to interfere with the process of the trail or Ameren Missouri’s business.”

Ameren Vice President Warren Wood attended the meeting to answer any questions directed toward Ameren or the progress of the railroad tracks being removed.



Clearing the brush

An A&K Salvage crew out of Texas was clearing brush and removing bolts from rail connection plates last week on the old Rock Island rail line east of Gerald. The crew is shown removing bolts from a connection plate on the bridge over Old U.S. 50.

“Currently the salvage company is under a vegetation regulation due to some bats so they are just trimming and cutting brush,” Wood said.

Missouri State Parks Director Bill Bryan and his staff also attended the meeting to alleviate some of the questions landowners were unsure about.

“We want to get along with our neighbors and we need to hear from you,” Bryan said. “One of the questions I hear the most is ‘when is this going to happen?’ Not over night.”

If the project goes through, Missouri State Parks would act as a trail head by maintaining and patrolling the trail. Part of the responsibility as a trail head is also to provide fencing to landowners who want it.

“There have been many questions about fencing materials and who will build the fences,” Bryan said. “If you really want the park guys to build your fence, we will talk about it and we will work on it.”

Owensville landowner Charles Skornia asked if the availability of fencing was limited to those landowners who own livestock. Missouri State Parks Options and Planning Coordinator Clint Barnett, who has been working with landowners to discuss fencing option, answered the question.

“Our first concentration will be on the those will livestock, then those who want a fence,” Barnett said.

State parks would also be responsible to assign people to pick up trash along the trail. If someone is hurt on the trail, state parks would be liable and if a trail user trespasses on private property, state laws apply. Many landowners along the Katy Trail post private property signs.

Gregg Wehmeier asked what landowners could do if they didn’t want to “sell” their land to the government. Arent Fox LLP attorney Meghan Largent, who has hosted several meetings with area landowners to encourage them to join in a lawsuit to receive compensation for the taking of their land, answered the question.

“It doesn’t matter if the landowner wants to sell. The federal government has nullified Missouri law, no matter what the underwrite property right was,” Largent said. “You are entitled to compensation for the taking of your land.”

Arent Fox is representing an estimated 400 landowners in the Rock Island Trail case from Beaufort to Windsor. Jyne Glosemeyer from Marthasville attended the meeting with her husband and encouraged all landowners to file and receive compensation for the taking of their land.

“My husband and I fought the Katy trail because of the way the federal government took the land, not because of the trail,” Glosemeyer said. “Make sure private property markers are everywhere, because these people seem to forget the landowners have lost something too.”

Lolle Boettcher of Owensville asked Bryan if any priority would be given to sections of the trail that children could utilize to walk to school.

“We would work with any community that has that as a priority,” Bryan said.

Richard Huse of Belle addressed Wood about the removal of the tracks in Belle.

“The city of Belle has a grant to be used to build a trail after the ties are pulled up,” Huse said.

“Can Belle be made a priority?”

“We will have to meet with A&K Salvage to see what their time line is and how we can meet the grant’s time line,” Wood said.

Bryan added that state parks is working to extend the grant the maximum amount of time. Another landowner asked how the state of Missouri would be compensated for the loss of property taxes.

“State parks would pay property taxes for five years, and after that it is estimated that the trail would make more from sales taxes than property taxes,” Bryan said.

As the meeting concluded, Bryan shared an economic study state parks hired a company to facilitate. Due to different types of demographics between the Katy Trail and the Rock Island, Bryan said the study is not completely comparable, but still usable.

“In 2012, the Katy Trail brought \$8.25 million in to communities along the trail,” Bryan said.

“This is going to be the one place people all over the world can visit and go 200 miles in one direction and then 200 miles in another and it be 180 degrees different.”

During the Hartsburg Pumpkin Festival this year, visitors from the Katy Trail attending the event numbered more than 25,000. Bryan said many residents that previously swore against the trail said their grandkids had never sold so many pumpkins.

Who are these people that are going to use the trail?

“Many people on the Katy Trail take their vacations to do the whole trail,” Bryan said. “The eat and sleep in towns along the way.”

Bryan said as for the comparability of the economic study, it depends on what communities do with their trails.

“We can bring the trail to your community, but how many Gatorades and antiques you sell is up to you,” Bryan said.

Greg Harris, executive director of Missouri Rock Island Trail, Inc. (MORIT), addressed the crowd about the trail group’s approach.

“The culmination of the trail is a lot of effort and we know there are lots of people along the tracks that are not thrilled with the idea of a trail,” said Harris. “Owensville has RR Donnelley along the tracks and they support us, but if they didn’t, they would be wondering what changes they could expect.”

Harris said anyone who has questions is always welcome to contact MORIT by emailing moritdirector@gmail.com or visiting RockIslandTrail.org.

The remaining two town-hall style meetings will be held from 6:30 to 7:30 p.m. Thursday, Feb. 11 at the Freeburg American Legion, 310 South Highway 63, and Thursday, Feb. 25 at Eldon High School, 110 South Pine Street.

2/17/16 UD

Landowners can't stop Rock Island Trail through legal means; now it's all about 'just compensation'

By NEAL A. JOHNSON
Unterrified Democrat Editor

"We're not here to take your property," Missouri Rep. Tom Hurst said on behalf of House colleague Rep. David Woods and Sen. Mike Kehoe Thursday night at a Freeburg town hall meeting that drew more than 100 people. "We're here to protect your rights."

Unfortunately, the Rock Island Trail is in fact taking property along 144 miles of the line between Beaufort and Windsor. Locally, this includes the roadbed through the communities of Belle, Freeburg, Argyle and Meta.

Officially, the process began in February of last year, when the Ameren-owned Missouri Central Railroad (MCRR) railbanked the Rock Island Line.

Attorney Meghan Largent of Arent Fox, a law firm representing some 450 landowners along the rail line, told the group there is no legal option to stop this conversion from taking place.

After the Trails Act was passed in 1983, a couple in Vermont challenged the taking of their land along a railroad, and the case went to the U.S. Supreme Court. The plaintiffs argued it was unconstitutional under Vermont law, which clearly states that land goes back to the original owner if a railroad line is abandoned.

"The Supreme Court sided with the United States because it has the power of eminent domain," said Largent. "And that's what this is. The government can at any time take your property for a public purpose. But the court reminded that the Fifth Amendment states

'nor shall private property be taken for a public purpose without just compensation.'"

The Vermont couple had only one option, which was to get as much for their land as possible, and Largent said that has been the way cases such as this have been handled since.

"You are owed compensation for the Missouri property rights that were taken from you," she said. "The government never liked this, and refused to recognize that the Supreme Court had spoken, and so their new recourse is to pay you as little as possible. That's where we come in."

Fox said her job is to represent landowners against the United States government.

"It's important to note who is not in this room," she said. "The federal government is not here. They are the ones that owe you, the landowners whose property is being taken for this trail. They're not going to answer your questions, and I will tell you, when it comes time to pay you, they will give you the least amount of money possible. They will argue that land in Missouri isn't worth anything; they will argue that crossings don't need to be paid. They will be expert farmers in Missouri by the time this case is over, as far as they're concerned."

LANDOWNER RIGHTS

Under the Trail Act, landowners have very few rights to their own property under the easements signed over to the railroad.

Most of the trail, some 70%, was granted to the railroad via easements around 1910, which means most of the trail is owned by adjoining



This is an example of damage to the tree-line after the railbed was cleared, which landowners like Rodney Luebbering of Meta say is unacceptable.

landowners.

However, railroad easements are exclusive, and are not like those for driveways or utility lines.

"What that means is that the railroad's easement encompasses about 99.9% of the rights on that land, including the right to exclude the owner," said Largent. "That's why they can build a fence and keep you out. You have no more right to that property than the general public even though you technically own it. It's a very difficult concept to understand."

Before the Trails Act, the railroad could only transfer the line to another railroad company for use as a railroad. Now, they can transfer it for use as a trail.

"The state (DNR) will step into the shoes of the

railroad for purposes of ownership," said Largent. "But what they will own is this very broad, exhaustive easement that includes the right to exclude you, the landowner, from the property. So you own it, but you don't have a whole lot of rights to it. In fact, you barely have any."

CALCULATING VALUE

Largent said this is a one-time payment, and the way it's calculated is by using a "before-and-after" value of the land.

In the "before" portion, the land is appraised as it was in February of 2015, when it was taken, as if the landowner got it back.

That is compared to the land's worth with a trail upon

see **COMPENSATION**
page 14

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it, or a future railroad.

"The whole point of this law is to preserve these corridors for future railroad use," said Largent.

The difference in value between those two hypothetical scenarios is what landowners will be paid.

Largent said there are those in the federal government that will argue the land is worth more with a recreational trail, but two such attempts were defeated by Arent Fox in lawsuits.

"The fact of the matter is that you have just the square-foot dirt value of the property, and in many cases, it creates severance damages," said Largent.

A classic example is having the family farm split in two by the trail.

"Most of our clients in this case would rather have their property back than a dime from the government," said Largent.

Payments to landowners are made from a federal fund, which each year is budgeted to settle liability incurred by the United States.

"The lawsuit the landowners are bringing will not hurt the trail," said Largent. "The money paid to the landowners is completely unconnected to the trail. So whether you like or don't like the trail, this lawsuit will not affect it."

Rep. Hurst said the federal government wanted a 10-foot easement along the rail. "Had DNR allowed that, all your lawsuits would have gone away," he said. "There's things about DNR we like and some we don't, but they didn't throw you under the bus, and I wanted you to know that."

Missouri Parks Director Bill Bryan clarified that in a discussion about structures along the rail line, the department has stated it will do whatever the landowner wants done.

"If the landowner wants the shed moved, then that's what the landowner is going to pay for," said Bryan. "If they want the shed to remain where it is, and it's encroaching on the corridor, we'll work with that. It's a choice that the landowner

United States: SALVAGE OPERATIONS

Missouri Central Railroad began the salvage and clearing process during winter of 2015, and estimates it will take about two and a half years.

The current section of rail is being cleared of vegetation but crews face limitations because of the Indiana Gray bat and Long-Eared bats, both classified as endangered species.

What happens to the natural habitat once vegetation is cleared?

Bryan said part of the railbanking process is to conduct studies on migratory and endangered species, but there has been no study of the existing ecosystem.

One of the agreements for this section includes removing the ties, which was not part of the agreement in the western section, from Windsor to Pleasant Hill.

On the eastern portion, work has progressed to mile-marker 92 at Owensville, while coming from the west, crews are at mile-marker 107 near Belle.

SURVEYING ISSUES

At Thursday's meeting, Bryan noted that DNR does not have the authority to survey the line.

"Bill said they haven't had the right for surveyors to look anything over," said Scotty Reichel of rural Argyle. "Well, who were the two people that came down to our farm? My dad came out and asked who they were. They were taking pictures and doing a study of a bridge. They didn't have permission or an easement to come down there. That's the kind of stuff going on that you don't want to talk about, that the papers don't want to write about, and people don't want to read about. You can sit here and tell me government studies all day long, but you ain't blowing no smoke up my ass."

"We're here tonight to tell you where the project is at," said Sen. Kehoe. "Whether you want to believe the information is up to you, I'm not going to try to sugarcoat anything. There's a lot of information, and misin-

formation about this project, and while the state is not involved at this point, a lot of people have been asking us about it. I've had people stop me in the Capitol and say, 'They're taking rails off, do I need to move my cattle tomorrow and are there going to be bikes on it this weekend?' People think that summer's coming and this thing will be done, but this is a multi-year proposal."

Bryan said the department learned it was a mistake not to have surveyed the section west of Windsor because a lot of the easements are connected to the rails, but clarified it was not DNR that is conducting surveys.

Warren Wood said A&K is surveying the railroad bed as a subcontractor for Ameren and providing that information to DNR.

FENCING ISSUES

"It's jacked up the way our government and entities pick and choose what they want to use," said Reichel, noting the easement allows access through private property but also requires the railroad to build and maintain fences. "On my family farm, since the Rock Island Line shut down, I haven't seen anyone maintaining fences or gates."

Clint Barnett, a DNR landowner relations specialist, told the group that he is more than willing to bend where possible as a show of good faith to resolve challenges with fencing.

"At the end of the day, we want the same thing: fences that do their job," said Barnett.

He added that in a lot of cases, farmers want to construct their own fences the way they've always built them, and the Parks Department doesn't have the manpower to build them at any rate.

"I think you guys are kind of missing the point a little bit," said Rodney Luebbering of Meta. "Missouri law says the railroad is responsible for putting up fences to keep your cattle in and out of the easement. They're supposed to build, maintain and be liable for cattle. You're going to put a trail in now, and probably provide us materials, but probably not main-

knows there's a lot of crap that's going to come up with building these fences. And now you're telling me you don't have guys to build fences."

Barnett said that in the current situation, building 47.5 miles of fences in a year is not practical.

"I don't see that happening," said Barnett. "If we operate the same way were operating out there on the western section, we would provide materials, landowners would put them in, and if you insist that we put it in, we'll try to work with you as best we can."

"We don't have any more time than you have," said Luebbering. "We also have major flood issues, so we're responsible for keeping those fences up when everything gets flooded to keep cattle off the trail?"

"As it sits right now, yes," Barnett replied.

"So the state of Missouri is going to put that extra liability on us, to keep cattle off our land because you don't have the manpower to do it?" Luebbering said.

There was no direct answer but as for the legal requirements, Bryan said he was not sure what the law says, and Barnett said there are two potential legislative issues, one federal railroad law and a Missouri fencing statute.

"That's something we would have to look into," said Barnett.

"It sounds like our legislators need to solidify the law," said Luebbering.

"I will tell you this," said Barnett. "We're doing all we can to be good neighbors and we understand that there are plenty of folks that don't like it. In places where we can help it, we will."

Luebbering noted there are several areas the salvage crew hasn't touched simply because they can't get to it. One bridge near his property is a prime example, and Luebbering asked if he would be required to give another easement to allow access so the bridge could be repaired.

"If you're going to force an easement over my prop-

erty to build that bridge, then I will have to have another discussion with Meghan for when I file this lawsuit, which is protocol to get my assets covered."

Bryan told Luebbering the department would not proceed with forced easements. "We're not talking about that," he said. "I think you have to look at each landowner's situation and figure it out. I don't have the answer."

TRANSFER OF THE LINE

The corridor is being donated to DNR at no cost to the agency.

Largent said the property will transfer from Ameren to DNR once the two agencies execute their agreement, which will be done no later than Dec. 31, 2017, provided the State Parks Department proceeds with its plan.

Funding is a large part of the evaluative process, but Bryan said that is a political issue.

"It has to be funded by the General Assembly, so if there is enough public concern about it that the General Assembly says not to do it, we're not going to be able to do it," said Bryan. "That's the bottom line."

If funding is available, Bryan said the trail will likely be built.

Kehoe added that in all fairness, he has just three years left in his tenure as a senator, and this trail process will take longer than that to be completed.

"While I'm there, I won't," said Kehoe of approving general revenue dollars for this project. "But the reality is that I believe they can move forward with building a trail without state taxpayer dollars. They'll find grants, and somebody that gives them this and somebody that gives them that. I don't want you walking out of here thinking that as long as you elect somebody who never gives Parks a dime to do this, this will never happen."

Largent added that even if the state walks away from the project, the federal and other groups could come in and make a deal with Ameren to purchase the property for use as a trail. She said that group could well be from out of state.

group could well be from out of state. The National Trails Conservancy announced on its website that it had made an eight-figure offer to purchase the line, a minimum of \$10 million.

As for what Ameren is getting out of the deal, Wood said there was a purchase price in 1999; there is some value in the steel being salvaged, though some of that is being used to have the ties removed, and there is a tax credit.

"But you do all the math on this, it's a loss," said Wood. "We were donating this even though there was an offer. We always knew this was the best opportunity to give this to DNR as the best state organization to run it, as opposed to some outside entity. If the Surface Transportation Board (STB) is going to keep this corridor, we prefer it to be in state hands with DNR than some other organization."

Ameren could have simply abandoned the line, but Largent said the STB's function is to preserve the rail corridor.

"So rather than see it go away, they will do whatever they can to keep it in place," said Largent. "They like the Trails Act because it keeps corridors in the national infrastructure."

TRAILS TO RAIL CONVERSION

It is conceivable that a trail corridor can later be used for transportation other than railroad.

"How far from railroad that runs would probably depend on the state," said Largent, adding that every state agreed that moving from steam locomotion to diesel power was okay, even if the deed read "steam locomotive."

Called "shifting public use," Largent added this is why trolley cars moving from steel to rubber wheels was acceptable as well.

"It depends on how far in the future we're talking and how much like a railroad it is," said Largent. "It would probably wind up in the courts."

Largent reiterated that the point of the law was to preserve transportation infrastructure corridors across the

nation, and using them as trails in the interim was deemed a good application.

INTERIM PROBLEMS

Reichel noted that from Owensville to the east is mainly highway frontage, and the area in Rep. Hurst's district, while scenic, is full of agricultural landowners who object to the proposal.

"I doubt you're going to find one person along there that's going to support it," he said. "It's being shoved down our throats. We all know what's going to happen as it's being developed. We'll have ATVs going up and down. That's one thing. We're just opening up a lot of problems for landowners."

"You got it de-vegetated, you got the ties picked up and have a nice clean bed, and I can see a mile down the trail," said another resident. "What's to keep people from coming down the trail?"

"It's done happened," said Joe Stumpe of Meta, explaining he has land that is split by the trail, with his homestead right beside it. "It's already started. They cleaned this up and these people came through with their brush hogs."

Stumpe said he has no water on the north side of the tracks, which means his cattle have to move back and forth. Stumpe said he added electric fence to keep the cattle in place.

"These people came through with their hogs, opened the gates up, drove through and did their thing," said Stumpe. "I asked them to shut the gate when they left and guess what? When they left the gate was open."

Warren Wood said there is supposed to be a "notice requirement" when subcontractors enter the area, and said he would follow up with the contractor.

Having said that, Wood added that once a vendor enters the easement, there is no requirement that fencing be restored or gates closed.

Argyle Mayor Chris Brundick noted that an excavator was unloaded on his property on Rt. 15 and moved down the road to enter the easement.

"They never asked me once," Brundick said.

Stumpe said the same disregard was present when fiber optic was placed along

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disregard was present when fiber optic was placed along the line. They dug gates open, they got out into the middle of my fields and spun around, my well-house was left open in the middle of winter, and the pipes froze," he said, adding he lost cattle because he didn't know the contractor was coming through, and the gates were left open. "Who's responsible? It's not my responsibility to sit there with a gun and police these people. Once the trail is open, it will be a thoroughfare from Argyle to Meta. I can see once we get this trail, and you're going to have people there, but what's going to happen between now and then? It's a big problem. Who's going to regulate that?"

"I don't know," said Bryan. "That's a good question. We're going to figure that out, but I'll tell you they're going to do that whether there's a trail there or not."

Luebbering noted that the cleared trail opens up into MFA's property in Meta. "Is MFA responsible? Ameren still owns it," said Luebbering, who sits on the MFA co-op board. "Are we supposed to put up a fence, is Ameren? Is parks supposed to put it up? Should we just put up big rocks to keep people out? People are watching that, I promise you, so we need these answers now, today."

Sen. Kehoe said he didn't know the answer to security issues, but he and fellow legislators will talk to Ameren, and moving forward, expects that company to address the problem of entering private property with its contractors.

Stumpe said he needs fencing one way or another. "If I build this fence now, will DNR reimburse me? Or am I just screwing myself putting up fence to keep my cattle off?" he added. "We're talking three or four years, and I can't have an open corridor."

Kehoe said he would get the answer as quick as he could.

LEGISLATIVE EVALUATION

From a legislative standpoint, this is a difficult issue.

"The big thing I hear

from people is they don't want their tax dollars funding trails, broken down bridges and rattlesnake tunnels," said Kehoe, noting many people are unaware that the tunnel at Freeburg actually goes beneath the town. "There's some real challenges to this trail. This is the most divisive issue I've seen since I've been in office. This thing is an unbelievable emotional trigger."

The major split comes between people in towns that believe the trail will benefit the local economy, and landowners along the line that are losing farmland.

"As a farmer, I get it," said Kehoe, noting he doesn't have land at stake in this deal. "I'm a first-generation farmer that bought land 32 years ago, and I know something like this wouldn't be much fun."

"We don't want you to think we're doing something behind your back," said Hurst, who owns land along the rail. "People ask me if I'm for this, and I see both sides. There are things we control and things we don't, so let's work with the things we can control."

Rep. Woods said the people of Eldon are very excited about the trail, while rural citizens are opposed to it. There are two overpasses in his district that are in need of major repair, which will require a lot of funding.

"We have no money to do that with," said Woods. "We need to fix our roads and our bridges, and correct our transportation issues long before we talk about spending money on trails."

Kehoe said he has nothing against developing and maintaining state parks but added this is about budget priorities.

"We realize there are issues we'll have to address in this process," Woods added. "It's not a quick process, but we'll make it as fair as possible, and work with those who need help."

Kehoe said he's not trying to paint a rosy picture and he's learning new things about landowner rights all the time through this process. "Unfortunately, they have the upper hand on us," said Kehoe of the federal government.

said Kehoe of the federal government.

PAYING FOR THE TRAIL

DNR oversees the Parks Department, which receives about 75% of its budget from the one-tenth-of-one percent Parks, Soils and Water sales tax, which is split evenly between the Parks Department and the Soil and Water Conservation Department. Bryan said the tax comes out to about \$7 per person per year to fund parks.

The remaining 25% of funding comes from a variety of sources, including fundraising efforts, campground and state park fees, as well as federal grants and private donations such as the money donated by Edward Jones toward the completion of the Katy Trail.

Sen. Kehoe explained that the Missouri General Assembly has no control over the soil and water sales tax since it was approved by voters and can be used in whatever manner suits DNR. Donations may likewise be used.

However, if additional funding is requested by DNR to complete the trail, that is something Kehoe will not support.

"My position, and the parks people probably don't like this - I'm a proponent of transportation and infrastructure, and as long as our bridges are collapsing and our roads are falling apart, I cannot support tax dollars going to a bike or ped trail until we fix those things," said Kehoe.

Some general revenue was appropriated for the development of the 47.5-mile stretch between Windsor and Pleasant Hill, along with settlement funds from the Tom Sauk Reservoir disaster.

In addition to rebuilding the reservoir and Johnson Shut-Ins State Park, Ameren agreed to help develop the trail.

Kehoe said he has nothing against developing and maintaining state parks but added this is about budget priorities.

"The priority for me right now is fixing things that school buses and ambulances drive across versus bikes and people," said Kehoe, adding that when he served on the appropriations

committee last year he scrutinized every budget to ensure there was no funding for this project.

Kehoe noted that about a third of the budget is appropriated by the General Assembly. The remainder includes funds specifically earmarked for a specific purpose. Legislators have no control over these funds.

"DNR still comes to us and tells us how much they collected from the Soil and Water Tax, and how they intend to use it, but because that piece of the funding was approved by voters, we can't redirect it," said Kehoe.

The Katy Trail was developed with the support of both public and private funding. It is expected that this model would be necessary to develop a similar trail on the Rock Island line.

FUNDING CONCERNS

Brundick said DNR is stretched pretty thin as it is, and asked how new costs for this project can be justified.

"I know you won't say this," Brundick said to Bryan. "But how can you justify taking on more expense?"

Even with private donations, taxpayers are going to see an expense to build the trail, Brundick added, noting that three of four parks within the Katy Trail have had a decline in visitors, one a drop of 23%.

"You're adding to a parks system that's barely funded now," he said. "If they're using it less, we still have to have X amount of dollars to maintain it. It's great to want everything. Hell, I want a lot of things, but at some point you have to pay for it."

Brundick asked what the maintenance budget was for all state parks because the Rock Island Trail will require maintenance in perpetuity. He noted that a 2008 economic benefit study showed it cost \$5,000 per mile to maintain the Katy Trail.

Bryan said the 2008 study is "probably pretty comparable" but he did not know the exact figures.

"Well, I can't say that anything I bought in 2008 costs the same today," Brundick said.

"Our biggest expense is labor and we're not paying our folks any more than we were in 2008," Bryan replied.

"Our biggest expense is labor and we're not paying our folks any more than we were in 2008," Bryan replied. "So our expense in material will be a little more but I don't know what it is as I'm standing here in front of you."

Later in the meeting, Bryan said the average cost last year was approximately \$4,500 per mile.

"Regardless of how many private dollars come into this, someone is taking away from something," said Brundick. "How can you guarantee the tax will be around? I certainly will not support it. I will do everything in my power to make sure people know about this tax, and let's pray to God it's not voted into perpetuity like one Conservation has, because at least now there's some accountability and the taxpayers can say no."

The 10-year tax will be on the ballot this fall for renewal.

"We've had a state park system for 99 years, and one thing you can see is that it's always expanded, in part because of the public's demand," said Bryan. "The public wants new parks, or new amenities at existing parks. They're always going to want to fish at Bennett Springs, but they also want new places to go, so there's always a tension between new and maintaining. That's something we deal with on a daily basis."

Bryan added that the tax is a good partnership between agriculture and state parks, and he hopes it will be renewed this fall by voters.

"It's funded a lot of progress on both fronts," Bryan said, noting there are 88 parks over approximately 150,000 acres across the state.

TRESPASSING/ LIABILITY

If the trail is developed, residents voiced concerns about keeping people off their property.

Bryan said there are occasional problems on the Katy Trail with unauthorized vehicles driving down the path.

"ATVs are very uncommon," he said. "Once or twice a year someone will drive down the Katy Trail, and they're either drunk or running from police."

"That's a good thing to look forward to," said Reichel.

Bryan added that when the Missouri River floods, the Katy Trail has been used as a bypass for transportation.

"It's been an added boost for those communities when the roads are closed," said Bryan.

Since the Katy Trail opened, Bryan said there have been 300 tickets written and only seven people have been arrested. "When you consider there are about 400,000 people out there every year, that's pretty good," he said, noting there are four park rangers patrolling the trail in addition to maintenance employees.

In the event there are trespassers on the Rock Island

Trail, Bryan said that depending on what they're doing, calling 911 is the first option. However, there will be a contact person for the trail, and ranger information will be available.

Rangers are typically dispatched by the Missouri State Highway Patrol, so calling 911 will start the process.

Fines collected for infractions will go to the county, Bryan added.

In the western portion, Barnett said some landowners have erected barriers to restrict access to private property.

"Our position there is we are not coming in and demanding all of it be removed," he said, adding that temporary removal during construction has not been a problem.

"We don't care if it's worth \$10,000 more because of the trail," said Ann Berhorst,

who with her husband, Ralph, owns land on the Freeburg side of the Maries River. "We just want you guys to understand that our land, our privacy will be interrupted. It might only be 10 people, but it's still 10 people, and out of those, we're going to have one who is going to do something to our property. You can't tell me it ain't going to happen. Nothing is going to keep these people from walking off the trail. If we put up a barbed-wire fence, and someone trips over it, will they sue us for hurting them because we still own it? Liability is a big issue."

Bryan said that his understanding is that landowner liability does not change with the trail. "You have the same responsibility for people on your property whether there's a trail or not," he said. "As soon as they walk off that trail, they become trespassers, and you have very minimal liability under Missouri law in most instances."

Bryan added that his department prosecutes a lot of trespassers in the state park system, and said DNR would post "private property" signs along the trail to help curb trespassing.

BUSINESS OWNERS ON THE LINE

"You have business owners like Roy Plassmeyer in Freeburg and the MFA in Meta," said Reichel. "When they put their businesses in, they built them planning for their business to prosper and grow with the railroad. They have to spend money every year on easements, and where's that money going to go? Are they going to have to keep writing checks to Ameren? It doesn't make sense."

Wood said that Ameren will not own the rail much longer, "so there won't be any payments to us once we're no longer owner."

"Well I hope not," said Reichel.

Bryan said DNR will not receive any fees currently paid to Ameren. "On the Katy Trail, there are 1,276 crossings and we grandfathered all of them," he said. "We didn't charge any fees."

If a new crossing is desired, fees will be assessed.

STATE PARKS DECISION

PENDING

Bryan told the crowd the Parks Department is in a "pre-decisional state," and is required to finalize its decision by Dec. 31, 2017, to the Surface Transportation Board.

"We build campgrounds, trails and parks, so do we think there should be a trail? Yes, that's what we do," said Bryan. "But we also have to figure out how to pay for it, work with our neighbors, resolve issues and solve challenges. It's not going to happen overnight. We have time to hear from everyone and find solutions that will work or at least that everyone can live with."

While these factors will eventually help the department decide whether to proceed with the trail, Bryan reiterated that building the Rock Island Trail is the intention.

Officials answer questions about proposed trail

Approximately 200 persons showed up last Thursday evening in Eldon to learn about and discuss the planned Rock Island Trail.

The forum, hosted by State Senator Mike Kehoe and State Representative David Wood, included information from State Parks Director Bill Bryan and Ameren Missouri Vice President of Communications Warren Wood.

The hour-and-a-half meeting also included a question and answer time with a number of questions and concerns raised.

The state's role

State Parks Director Bill Bryan explained that at present the state has no role in the Rock Island Trail with the exception of a stretch on the western end of the state.

He said the state was currently working on a 47-1/2 mile stretch of trail between Windsor and Pleasant Hill that will be complete by this time next year, but added that a lot of salvage (of rail and ties) needs to take place along the remainder of the Rock Island corridor.

That project was authorized in 2006.

As a result, he estimated the earliest the federal Surface Transportation Board would

turn the remaining 144-mile corridor (Windsor to Beaufort) over to the state would be December 2017.

It is important to note that the primary source of funding for Missouri's 88 state parks comes from a 1/10 of a cent parks, soils and water sales tax.

According to the state website, this accounts for three-fourths of the cost of operating the state's park system, with the remainder coming from revenues generated in state parks and some federal funds.

The tax was first approved by voters in 1984 and has been re-approved three times since, in 1988, 1996 and 2006. Voters will decide whether or not to continue with the tax for another 10 years this November.

"We have 88 state parks around Missouri and all of them have neighbors and we want to have good relations with our neighbors," said Bryan about the need to work through concerns by those owning property along the corridor.

"We've had a state parks system in Missouri for 99 years this April and we have a pretty good track record of being a good neighbor," Bryan said.

"What's important is how you respond and how you solve problems when they arise and



Information on the trail – State Senator Mike Kehoe (left) and State Rep. David Wood hosted an informational to hall meeting Thursday, Feb. 25 to answer questions and provide a status report on the proposed Rock Island Trail State Park. Approximately 200 area residents attended the event.

frankly I think we're pretty good at that," he added.

He said the important thing for people to leave with and understand is the state's not going to build a trail this spring or

even next winter.

He said Missouri State Parks was in favor of building the trail but added that a lot of questions needed to be answered over the next two years

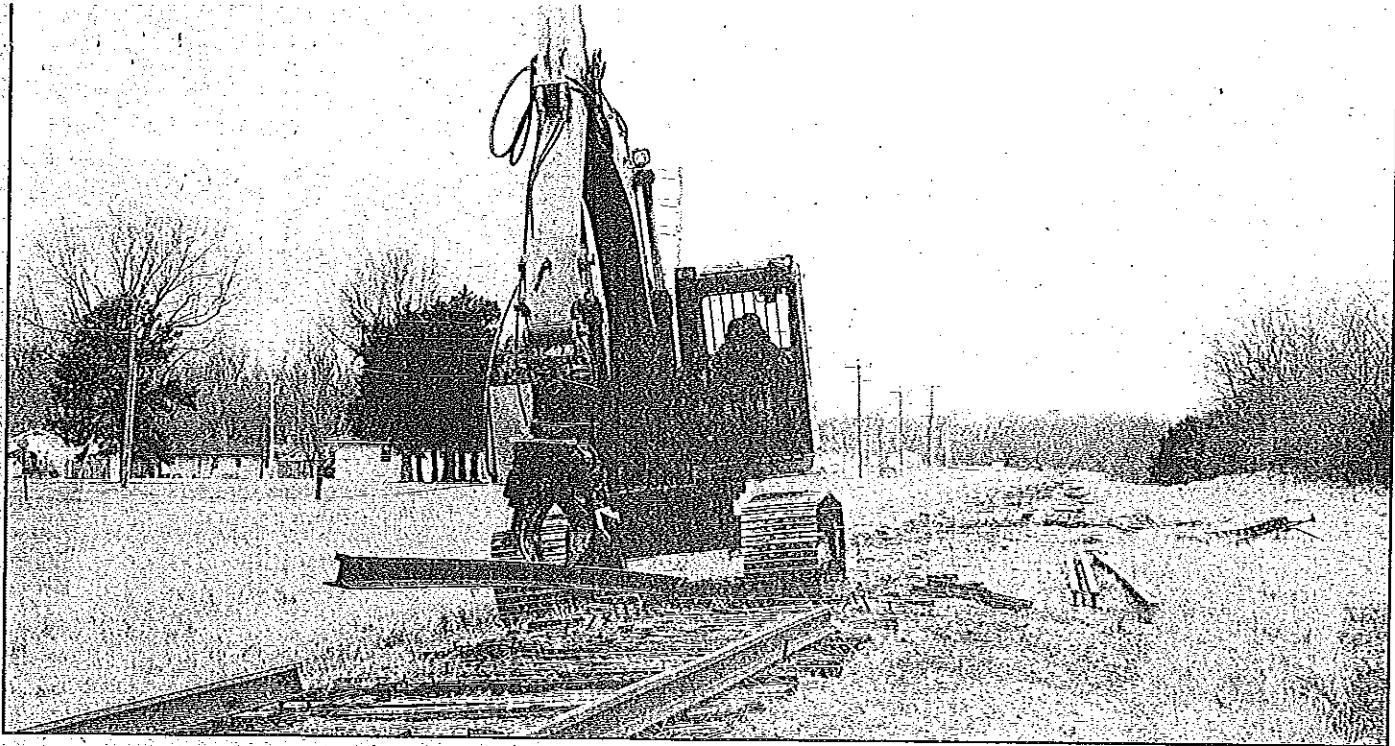
to determine the feasibility of the project.

Bryan explained that at present the state has no access to the rail bed, so engineers cannot assess the condition of

bridges, tunnels, etc.

"I'm certain as salvage work moving a little further we can work with the railroad (own

Continued on Page 3A



Removing the rail – Crews from A&K Railroad Materials work to remove rail and ties from along the old Rock Island line in Versailles. The work clears the way for development of the Rock Island Trail State Park. (Photo courtesy of Versailles Leader-Statesman)

State officials answer questions about proposed Rock Island Trail

Continued from Page 1A

by Ameren Missouri) and will get access. We'll have engineers out there and be able to start sizing this thing up. Then we'll have a better idea of how much it is going to cost and how we'll be able to pay for it."

He noted that the Katy Trail was built with about one-third private donations from Ted and Pat Jones (Edward Jones Company). The other two-thirds came from the state parks, soils and water sales tax.

In reality, though, he said completion of the Rock Island Trail would require a significant amount of private monies.

He said construction of the trail would also not occur overnight. Bryan said it took 25 years to complete the 240-mile Katy Trail.

"So it's a long-term project, it's a lot of miles. It's a lot of challenges and problems we need to solve," Bryan added.

"It's a long time coming so we have opportunities to talk about what the challenges are and how to make solutions that are beneficial for everybody," Bryan explained.

Trail impact

He noted that based on laser counters the state estimated 400,000 persons used the Katy Trail in 2012. Some in attendance argued that this was inaccurate, suggesting that wildlife could be triggering some false numbers.

Still, Bryan said the state spent approximately \$1 million last year on operation and maintenance of the Katy Trail while figures showed an economic return of \$18 million as a result of the trail.

"We'll bring the trail, then as for how many antiques and Gatorades are sold is up to the local businesses," Bryan said.

Fencing & cattle

As for fencing concerns by adjoining landowners, Bryan said the state parks policy is to provide the materials for property owners to construct the fence.

As for the issue of moving cattle across the trail for those who own land on both sides of the corridor, Bryan said they had developed an idea for establishing an "alley" with a set of 16-foot gates at such crossings.

The way the idea works is the gates would remain closed, parallel to the trail, and could be locked by property owners.

Then when cattle needs to be moved, the gates could be swung out across the trail (and locked if necessary) to provide an alley whereby cattle farmers could move their livestock across the trail.

Concerns were also voiced about what was a "reasonable" time frame to accommodate this and whether trail users would complicate the matter.

Bryan did explain that every crossing established by property owners would be grandfathered in at the time of the trail development and the state would work with property owners to accommodate their needs.

Deer & bicycles

The question of hunting seasons and trail usage was also brought up.

Senator Kehoe said while State Parks has not indicated a stand on the matter, one idea is to close the trail, which is a state park, for the duration of deer firearms season.

Kehoe added, however, that while no trail runs through his property he regularly has to run hunters off his land. So he is aware of the concerns.

One trail enthusiast said she and her husband do not use the trail during hunting seasons, for safety reasons.

While enforcement would be an issue, they said signage could be posted at trailheads and media outlets and social media could be used to inform would-be trail users that the trail is closed.

Ameren & timeline

Ameren's Warren Wood talked about the process of clearing vegetation and removing the rail and ties along the corridor as part of the rail-banking process.

He explained that the first step is clearing the 30-plus years of vegetation from along the corridor.

He added that the contractor has until March 31 to remove the trees along the corridor to protect the habitat for an endangered bat species. If the work is not completed by then they would have to wait until next winter to resume those

Once the vegetation is cleared, survey work will be done to determine the width and location of the right-of-way.

After the surveyors, an operator will come in and pull up the steel. Then they pull up the ties.

Wood said this is unlike the first 47 miles where the ties were left. The Department of Natural Resources discovered this was a big mess. So the plan is to remove all rail and ties on the remaining 144 miles of the Rock Island corridor.

He then gave a status update on vegetation clearing and steel removal.

Wood noted that the survey information is being provided to the counties so they have it in their permanent records.

Trail security

Senator Kehoe also addressed concerns over security along the trail and adjoining road crossings as the corridor is opened up.

"Now that you have this vegetation cleared and these huge corridors opening up. It's pretty tempting when someone drives by that has some bad reasons, whether it's a boy and girl parking or someone who has even more mischievous ideas," Kehoe said.

He said they met with Captain Mike Turner from Troop F of the Missouri State Highway Patrol and he is going to coordinate efforts with county sheriff's departments to provide security as the trail becomes clear.

He said they have also spoken with Ameren about having their contractor establish simple fencing and no trespassing signs across the trail corridor at roads and highways to help deter unauthorized access to the trail.

Property tax

Senator Kehoe added that he discovered there's nothing in state statutes that covers the removal of a swath of land that runs through your property so you don't have to pay property tax on it.

Senator Kehoe said after discovering this oversight, he had filed a bill to rectify this.

"I don't want to get anybody's hopes up because these are long and lengthy and com-

plicated discussions, but to me as a conservative that was unbelievable," Kehoe added.

Impact on businesses

Laura Simmons Markway asked whether a study had been done to determine how much agricultural or commercial business had been lost from development of the Katy Trail.

While he knew of no such studies, State Parks Director Bryan said the Katy Trail took no agricultural land out of production.

"So I don't believe it had an impact," he said.

The issue of overwhelming businesses and, in particular, restroom facilities, was also raised.

Bryan said one thing the state has learned from development of the Katy Trail is that water and restroom facilities are needed approximately every 10 miles.

State funding

Gene Snellen, who owns properties on the Osage River, voiced opposition to the idea of spending state monies on the river bridge that spans about half a mile.

"It's unbelievable that you're talking about putting a trail across this bridge," he said.

He said he also owns property in northern Missouri at Thomas Hill Lake and the highway department closed the road across T highway two years ago because the bridge isn't intact.

Snellen said a simple box culvert would fix it, pointing out that the closure affects a 5,500 acre recreational lake and 6,000 acres of conservation land and campground.

"We can't fix that but we're suggesting we can put a trail across this Rock Island railroad bridge," he added.

He pointed to priorities in the state budget, noting that Missouri has the lowest paid state workers in the nation and we can't fix our highways and bridges.

Senator Kehoe explained that the state cannot take money from dedicated taxes such as the 1/10 of a cent parks, soils and water sales tax, and that while he is not an anti-trail person, he said his priorities are hard surface roads and bridges.

Bryan did note that in the 47 mile stretch from Windsor to Pleasant Hill just one bridge will need significant work. The others will only require con-

"But we may find that the Gasconade River bridge, which is even longer than the Osage River bridge, that they may be too big, that they may be at an expense that just doesn't make sense," Bryan added. "But we won't know that until the engineers see it."

He said there is also the possibility of grant funding through the Federal Highway Administration and Recreational Trails program for such projects.

Crime concerns

The question was also raised about the extent of loitering, vandalism and other criminal activity along the Katy Trail.

Bryan explained that since the Katy Trail opened, park rangers reported 300 incidents with seven arrests.

He said people expected a lot of incidents along the Katy Trail and it did not materialize.

Drug use was also brought up as a concern.

Bryan said he did not have a breakdown on how many of the 300 incidents involved illegal drug use, but he could get that information.

Still, he anticipated the problem was minimal along the Katy Trail.

Railbanking

Megan Largent with the law firm of Arent Fox was also on-hand to answer questions and explain the property rights issue.

Arent Fox currently represents approximately 450 property owners along the corridor.

She explained that the reason an abandoned railroad in Missouri can be converted to a trail is because of a federal law passed in 1983.

She went on to explain that while there had been no train traffic on the line for approximately 35 years, the rail line was not formally abandoned until last year.

She explained that railroads are heavily regulated and cannot be abandoned without permission from the federal government.

The railroad was formally abandoned in February 2015, when the Federal Surface Transportation Board ruled that the railroad could be sold for a recreational trail. Had it not been abandoned the land would have been returned to adjoining property owners.

She said it could be sold to anyone, but in this case the state is the buyer.

She explained, however, that the federal constitution requires "just compensation" for the taking of private property for public use.

Largent did say for most of her clients that is the second-best option. They are opposed to the trail and want their land back, but neither she nor any lawyer can make that happen.

She said that case went all the way to the Supreme Court, which said it is constitutional for the federal government to take private property for public use through eminent domain.

As a result, property owners will receive "fair market value" compensation from the federal government for the taking of their land for trail use.

She explained that in the 1980s Congress wanted to preserve the national infrastructure and railroad corridors.

This was accomplished through the National Trails System Act where railbanking is used to preserve the corridors for future use.

Sierra Club endorsement

Ben Duffield, representing the Sierra Club, said the club supported the Rock Island Trail project.

Trail development

State Rep. David Wood voiced support for accommodating buggy traffic along the corridor as it goes through Versailles to safeguard those in the Mennonite community, which he represents.

He also acknowledged the efforts of Eldon community leaders and encouraged them to proceed with efforts to develop the three-mile stretch of the trail through the city.

The meeting was closed with both Woods and Kehoe reminding those gathered that they would work to keep residents posted on progress on all trail related issues.

ARGYLE - For years, the Rock Island rail line carried trains across Missouri, straight through towns like Eldon, Freeburg and Belle. Now, plans are on track to convert the railway, largely abandoned for several decades, into a biking and walking trail.

Proponents of the trail call it a path to economic progress for the communities along the abandoned rail corridor. They cite the success of the Katy Trail, which draws an estimated 400,000 visitors and generates an \$18.6 million economic impact annually.

"This trail is already transforming communities," said Greg Harris, the executive director of Missouri Rock Island Trail, Inc.

Harris said the trail could boost tourism and enhance the lives of citizens in trailside communities by providing access to safe, affordable recreation.

In towns like Owensville, Harris said, the trail could provide students with a safe walking path to school.

But some landowners along the proposed trail route say they like living off the beaten path, and they aren't looking forward to the potential increase in tourist traffic.

The first spur of the Rock Island Trail, a 47-mile stretch between Pleasant Hill and Windsor, opened in late 2016.

Utility company Ameren expects to transfer an additional 144 miles of rail corridor to the state later this year for development into a trail.

That 144-mile segment will stretch from Windsor to Beaufort. The Rock Island Trail will intersect with the Katy Trail at Windsor to form one of the nation's—if not the world's—longest contiguous rails-to-trails recreational paths.

But farmer and small-town mayor Chris Brundick of Argyle said "we never intended to be a tourist town," and many residents living in Argyle "don't want the world walking through their backyards."

Brundick said some of the small towns that dot the trail, like Argyle, lack the resources to support increased tourism and trail traffic.

"Trespassing, property rights, emergency services—those are all things we just don't have answers to," Brundick said. "But no one has approached us and asked us what our concerns are as far as being a small town and having to potentially provide emergency services."