

# **Bond Case Briefs**

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## **EMINENT DOMAIN - VERMONT**

### **Carpenter v. United States**

**United States Court of Federal Claims - April 3, 2020 - Fed.Cl. - 2020 WL 1650878**

Owners of property abutting railway corridor filed rails-to-trails case, seeking just compensation for Fifth Amendment taking allegedly effected by Surface Transportation Board's (STB) issuance of notice of interim trail use (NITU) authorizing conversion of railway corridor into recreational trail under National Trails System Act.

Parties cross-moved for partial summary judgment.

The Court of Federal Claims held that:

- Successors-in-interest had property interest required for takings claim, and
- STB's issuance of NITU constituted compensable taking of that property.

Under Vermont law, railroad acquired by quitclaim deed only easement over land used as railroad corridor, not fee simple title, and thus, successor-in-interest to land had property interest necessary to support takings claim based on Surface Transportation Board's (STB) conversion of corridor into recreational trail under National Trails System Act; deed followed recording of survey and location selection in exercise of railroad's eminent domain power, deed contained language conveying only what railroad required for its "own proper use, benefit and behoof" which was easement for its railway, and railroad's corporate charter prohibited it from exercising eminent domain power to acquire fee simple interest.

Surface Transportation Board's issuance of notice of interim trail use (NITU), authorizing conversion of railroad corridor to recreational trail under National Trails System Act, effected compensable taking of property interest of successor-in-interest to railroad's easement; NITU severed railroad's claim to land because recreational use fell outside scope of easement, and burdens of easement ran with land, so all reversionary rights vested with successor-in-interest upon severance.