

# **Bond Case Briefs**

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## **EMINENT DOMAIN - TEXAS**

### **Anderson v. United States**

**United States Court of Appeals, Federal Circuit - January 20, 2022 - F.4th - 2022 WL 175725**

Owners of lands adjacent to railroad corridor filed rails-to-trails case against United States, seeking just compensation for alleged Fifth Amendment taking by Surface Transportation Board's (STB) issuance of notice of interim trail use (NITU) to convert corridor into recreational trail pursuant to National Trail Systems Act.

The Court of Federal Claims granted in part government's motion for summary judgment. Owners appealed.

The Court of Appeals held that, under Texas law, unambiguous granting clauses of deeds to railroad granted fee simple interests rather than easements, with respect to strips of land for railroad corridor.

Under Texas law, unambiguous granting clause, of deed for strip of land for railroad corridor, was controlling despite language in deed's description of land referring to the conveyance as a right of way, and thus, deed conveyed to railroad fee simple interest rather than easement, so that Surface Transportation Board's (STB) issuance of notice of interim trail use (NITU), to convert corridor into recreational trail pursuant to National Trail Systems Act, did not constitute a taking of grantor's property without just compensation; granting clause stated that deed conveyed "all that piece or parcel of land," though description following granting clause stated that deed was made "for a right of way" for construction and operation of railroad, and also "granted" right to take and use all stone earth and other material existing or that might be found within right of way.