



## Rail Law Alert – Special Alert

March 2010

### **RTD, with Representation by Kaplan Kirsch & Rockwell, Concludes Major Property Acquisition and Facilities Relocation Agreement with BNSF Railway for the FasTracks Program**

On Wednesday, March 31, 2010, RTD and BNSF Railway signed agreements giving RTD possession of over 15 miles of rail corridor for construction of the FasTracks commuter rail project, and providing for RTD to relocate BNSF facilities as necessary to accommodate RTD's planned operations. The combined value of the property acquisition and relocation work totaled \$144 million. This acquisition will enable RTD to start construction of its Gold Line and Northwest Rail Corridors, create a connection between Denver Union Station and RTD's proposed commuter rail network, and provide access to RTD's planned commuter rail maintenance facility.

Kaplan Kirsch & Rockwell represented RTD in connection with the transaction and provided counsel relating to the real estate transfer, related title matters, review and analysis of agreements relating to the acquired property, rail-related federal regulatory approvals, and coordination of extensive technical and legal issues. The Firm managed and hosted the closing ceremony in its Denver office, and served as the base of operations for the final coordination of the transaction between RTD and BNSF in the days leading up to the closing. The transaction drew on the extensive expertise of Kaplan Kirsch & Rockwell's attorneys in complex real estate transactions, rail regulatory requirements, rail technology and construction.

RTD and BNSF executed a Purchase and Sale Agreement for the property acquisition, a Relocation and Construction Agreement to govern RTD's construction of BNSF's relocated facilities, and a Joint Corridor Use Agreement for the long-term shared use of the rail corridors serving RTD's Gold Line and Northwest Rail Corridor. The consummation of these agreements marks the culmination of over five years of negotiation between BNSF and RTD. RTD General Manager Phillip Washington remarked: "Our partnership with BNSF is a successful example of how a transit agency and railroad entity can work together in the best interests of the whole region." BNSF's Assistant Vice President of Passenger Operations, DJ Mitchell, characterized the successful agreement as part of BNSF's "cooperative history of working with commuter rail agencies," and stated that BNSF looks forward to "continuing to work with RTD in their efforts to bring commuter rail service to the Denver region."

A PDF of this special Rail Law Alert is available.