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September 1, 2017

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Request for Interim Trail Use Condition – Abandonment Exemption—Norfolk Southern Railway Co.—in Fulton County, Georgia, STB Docket No. AB-290 (Sub-No. 388X)*

Dear Ms. Brown:

I am attaching an original and ten (10) copies of the Atlanta BeltLine, Inc.'s request for an interim trail use condition in the above-captioned proceeding.

With respect to the filing fee, we have enclosed a check in the amount of \$300. However, the Atlanta BeltLine, Inc. (ABI), a nonprofit corporation and instrumentality of the City of Atlanta, is seeking a waiver of the filing fee based on the fact that it is a local government entity filing the Petition for Exemption on behalf of the general public. *See* 49 C.F.R. §1002.2(e); STB Ex Parte No. 542 (Sub-No. 6) - *Regulations Governing Fees For Services Performed In Connection With Licensing And Related Services--Policy Statement* (Served December 6, 2000). Specifically, 49 C.F.R. 1002.2(e)(1) states that "filing fees are waived for application and other proceedings which is filed by...a state or local government agency." ABI is a state government agency filing the request on behalf of the general public. Accordingly, ABI requests that the filing fee submitted with the Request for Interim Trail Use Condition be waived.

Please date stamp the extra copy and return to our messenger. Please note that a CD containing an electronic copy of this filing is enclosed.

Sincerely,

Charles A. Spitulnik
Counsel for Atlanta BeltLine, Inc.



FILING FEE WAIVED

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CONTAINS COLOR MAP

**BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, DC**

**DOCKET NO. AB-290 (SUB-NO. 388X)
NORFOLK SOUTHERN RAILWAY COMPANY
ABANDONMENT EXEMPTION IN FULTON COUNTY, GEORGIA**

**REQUEST OF ATLANTA BELTLINE, INC.
FOR INTERIM TRAIL USE PURSUANT TO 49 CFR 1152.29**

Communications with respect to this document should be addressed to:

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Attorneys for Atlanta BeltLine, Inc.

Dated: September 1, 2017

**BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, DC**

**DOCKET NO. AB-290 (SUB-NO. 388X)
NORFOLK SOUTHERN RAILWAY COMPANY
ABANDONMENT EXEMPTION IN FULTON COUNTY, GEORGIA**

**REQUEST OF ATLANTA BELTLINE, INC.
FOR INTERIM TRAIL USE PURSUANT TO 49 CFR 1152.29**

Pursuant to 49 C.F.R. §1152.29, the Atlanta BeltLine, Inc., a Georgia non-profit corporation and instrumentality of the City of Atlanta (ABI), hereby requests issuance of a Notice of Interim Trail Use with respect to the line segment that is the subject of this proceeding.¹ Norfolk Southern Railway Co.'s (NSR) exemption becomes effective on September 2, 2017. NSR has authorized ABI to represent that NSR assents to this request for interim trail use and agrees to negotiate a trail use agreement with ABI upon issuance of a notice of interim trail use in this proceeding.

¹ NSR's Notice of Exemption in this matter was published in the Federal Register on August 3, 2017 (82 Fed. Reg. 36,182). Under the Board's rules at 49 C.F.R. 1152.29(2), this petition was due on August 14, 2017. ABI respectfully requests that it be permitted to late-file this request as set forth at 49 C.F.R. 1152.29(3). ABI and NSR have entered into an agreement for the sale to ABI of the Armour Wye, from milepost DF 632.1 to milepost DF 632.42, including the western leg of the wye. ABI's affiliate, The Atlanta Development Authority, d/b/a Invest Atlanta, had previously acquired the remaining portion of the subject segment, from milepost DF 632.42 to milepost DF 633.1, and this Board held that that acquisition was exempt from the Board's oversight. *Atlanta Development Authority—Verified Petition for a Declaratory Order*, FD 35991 (Service Date Dec. 15, 2016), reconsideration denied, FD 35591 (Service Date May 26, 2017). ABI and NSR have agreed to railbank the line that is the subject of NSR's Notice of Exemption in this matter. Moreover, NSR has consented to ABI's request even though the request is being filed after the date set by applicable regulations. Accordingly, no party's interests will be prejudiced by ABI's submission of this request at this time. Since ABI's purpose in purchasing the line is to develop public recreational trails and continue rail-related use of the segment by establishing a modern passenger streetcar line on the corridor, medium- and long-term plans for the line are consistent with interim trail use.

ABI respectfully requests that, in light of the imminent effectiveness of NSR's exemption, this Board expedite its consideration of ABI's request to establish interim trail use.

In accordance with the applicable regulations, ABI submits the following Statement of Willingness to Assume Financial Responsibility and other information:

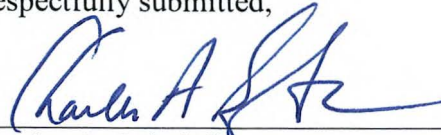
Statement of Willingness to Assume Financial Responsibility:

In order to establish interim trail use and rail banking under 16 U.S.C. §1247(d) and 49 CFR §1152.29, Atlanta BeltLine, Inc., a Georgia non-profit corporation and instrumentality of the City of Atlanta, is willing to assume full responsibility for management of, for any for any potential legal liability arising out of the transfer or use of (unless ABI is immune from liability, in which case it need only indemnify Norfolk Southern Railway Company against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way currently owned by NSR. The property extends from railroad milepost DF 632.1 to railroad milepost DF 633.1, a distance of approximately 1.0 mile in Fulton County, Georgia. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-290 (Sub-No. 388X).

Other required information: A map of the property depicting the right-of-way is attached.

ABI acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this trail use request is being served on the railroad on the same date it is being served on the Board.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Charles A. Spitulnik", written over a horizontal line.

Charles A. Spitulnik

Allison I. Fultz

Kaplan Kirsch & Rockwell LLP

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Suite 800

Washington, DC 20036

Phone: (202) 955-5600

cspitulnik@kaplankirsch.com

afultz@kaplankirsch.com

Dated: September 1, 2017

Certificate of Service

I hereby certify that on this 1st day of September, 2017, I caused to be served a copy of the foregoing Request of the Atlanta BeltLine, Inc., for Interim Trail Use to be served by first class mail, postage prepaid, upon:

William A. Mullins,
Baker & Miller PLLC
2401 Pennsylvania Ave, NW Suite 300
Washington, DC 20037



Charles A. Spitulnik

Map of Abandonment Area – STB Docket No. AB-290 (Sub-No. 388X)

