

Other Submissions

In order to process your filing, please fill out the following information. If you do not know the docket number, please leave it blank and we will fill it out for you.

Please fill out the following information to help us complete your filing: **247384**

Docket #: EP -753 -0 -

Subject: * Comments
First Name: * Richard
Middle Name:
Last Name: * Welsh
Address: * 1100 Bellevue Way NE Ste 8A PMB719

ENTERED
Office of Proceedings
April 2, 2019
Part of
Public Record

City: * Bellevue
State: * Washington
Zip Code: * 98004-
Email Address: * dick156@earthlink.net
Group/Affiliation: NARPO

Message: The National Association of Reversionary Property Owners (NARPO) would like to comment on the proposed EP 753 Rulemaking by the Rails To Trails Conservancy (RTC).

NARPO does not have much heartburn with the one year NITU/CITU extension issue. If I remember correctly, the ICC, when they promulgated the rules for NITU/CITUs back in the late 1980s, used 180 days as the extension time because the Congress had mandated 180 days when the Public Use Condition was enacted in 1979.

NARPO would like to reiterate our request in our proposed rulemaking in EP-749 (not yet decided by the STB) that any NITU/CITU extension be limited to 3 years so that abutting property owners can have some semblance of finality as to their property rights to the underlying land of abandoned railroad rights of way.

NARPO cannot agree to RTCs trying to codify rules that would extend the CITU/NITU negotiating period for "good cause shown". This is just another attempt to thwart the abutting property owner's property rights to the underlying land of abandoned railroad rights of way. There are probably over 1,000 reasons trails groups could dream up to try and show "good cause" for a CITU/NITU negotiating period extension. If a trails group needs more than 3 years to come up with funds, appraisals, community support, etc., then maybe it is not a red hot issue with the local constituents.

One current example of an extended NITU is AB 33-262X which has been getting NITU extensions since 2008; 21 extensions so far and counting. The latest excuse in AB 33-262X is a local city council is debating different issues and appraisals are not done yet. It is over 11 years and 21 NITU extensions and issues are being debated that should have been settled before the NITU was requested. The trail proponents in AB 33-262X consider this good cause shown to get another NITU extension.

Another NITU extension that has been dragging on for 9 years is AB 33-255X in St.

Charles, Illinois. St. Charles' latest submittal for a NITU extension that runs 12 pages of which 8 pages was a title report that has 30 exceptions to a fee title. Now that title report was just done in the past month to try and satisfy the STB's request for a current status report to justify a NITU extension that NARPO had challenged. The Office of Proceedings rubber stamped the NITU request without any Board input visible even though the Board had previously requested bona fide reasons for another NITU extension. Does a qualified trail applicant wait 9 years to get a title report on 3 miles of a proposed trail, and with 30 exceptions to the title report, what exactly is the title report for in the way of title? It appears St. Charles got a quickie title report to show something to the STB.

Anyone can dream up reasons for a NITU extension, but will the STB bend over and continue granting extensions? NARPO is on record of not codifying an ambiguous rule that says "for good cause shown" or some such language for a reason to extend a NITU/CITU.

If the STB wants to change the NITU/CITU negotiating period to one year versus the current 180 days, NARPO could go along with that if the STB deems it proper, but NARPO can not go along with any language that adds ambiguity to any reason for an extension.

Sincerely yours,

Richard Welsh
NARPO--Executive Director