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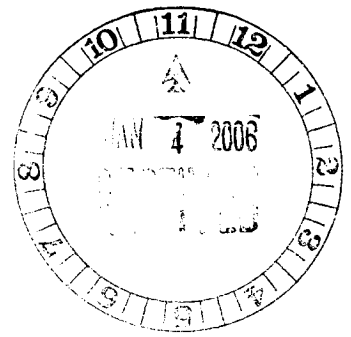
Tyrone Bridge and Rail Company, Inc.

JAN - 4 2005

P.O. Box 1202

Versailles, KY 40383

**SURFACE
TRANSPORTATION BOARD**



December 20, 2005

215488

Mr. Vernon A. Williams Secretary

Surface Transportation Board

1925 K St., NW, Room 711

Washington, DC 20423

Re: Norfolk Southern Railway Company-Abandonment Anderson and Woodford Counties, KY

STB Docket Number AB-290 (Sub-no. 192X)

FILED

JAN 4 - 2006

Dear Mr. Williams:

**SURFACE
TRANSPORTATION BOARD**

Pursuant to 49 C.F.R. § 1152.29(f) Tyrone Bridge and Rail Company, Inc. request that the Surface Transportation Board (STB) extend the time period for negotiation of a mutually acceptable interim trail use/railbanking agreement in this proceeding for an additional 180 days. This comment is filed on behalf of Tyrone Bridge and Rail Company, Inc., a non profit organization which is hereinafter referred to as Commenter. A copy of TBRC's statement of willingness to assume full responsibility for management of, and liability and payment of taxes for, the right-of-way, is attached as Exhibit A, accompanied by a check for \$350.00. This motion has the consent of Norfolk Southern Railroad Corporation (NS) (Exhibit B).

By decision served February 7, 2001, the Rails to Trails Conservancy (RTC) was recognized as the negotiating party, under the National Trails System Act, 16 U.S.C. § 1247(d), to negotiate with NS for the use of the subject right-of-way. On January 2, 2004 a petition was filed substituting TBRC, in lieu of RTC as the interim trail manager for the rail line. RTC continues to support this railbank request (under separate cover). On August 3, 2005 an extension was requested by TBRC. In addition to this support, Kentucky Rails to Trails Council (KRTC) has agreed to be a partner in this endeavor and fully supports TBRC efforts as trail manager. (See Exhibit C).

While not taking a position on the merits of this abandonment, Commenter requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between Lawrenceburg and Tyrone.

A. Public Use Condition

Commenter requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the rail corridor in question is would make an excellent recreational trail and conversion of the property to trail use is in accordance with local plans. In addition, the Young High Bridge and the 9 mile corridor have been placed on the National Registry of Historical Places. Norfolk Southern Railroad, owner of the bridge and a portion of the corridor, did not object to the

designation. This was made possible by the fundraising efforts of TBRC and Joe Brent, vice president of Mud Puppy and Water Dog.

The time period sought is 180 days from the effective date of the abandonment authorization.

Commenter needs this much time because in order to assume negotiations with Norfolk Southern and to work with state and federal officials who have made commitments to support the project.

TBRC has been meeting on a regular basis and is building support for the project.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, Commenter also makes the following request:

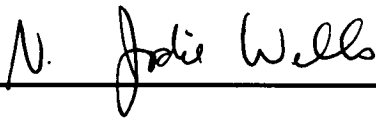
Tyrone Bridge and Rail Company, Inc. acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon Norfolk Southern Railway Company, 3 Commercial Place, Norfolk, Virginia 23510, by U.S. Mail, postage prepaid, first class, this 20th

day of December 2005.

I, N. Jodie Wells, declare under penalty of perjury that the foregoing is true and correct. Further,
I certify that I am qualified and authorized to file this pleading. Executed on December 20, 2005.

Respectfully Submitted,

A handwritten signature in black ink, reading "N. Jodie Wells", is written over a solid horizontal line that spans the width of the page.

N. Jodie Wells, President

Tyrone Bridge and Rail Company, Inc.

P.O. Box 1202

Versailles, KY 40383

Norfolk Southern Railway Company)
in Anderson and Woodford Counties, KY)AB Docket No. AB-290(Sub-No 192X)
--Abandonment Exemption--)

In order to establish interim trail use and rail banking under Section 8(d) of the National Trail System Act, 16 U.S.C. § 1247 (d), and 49 C.F.R. § 1152.29, The Tyrone Bridge and Rail Company, Inc. is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right of way in the above captioned proceeding, owned by Norfolk Southern Railway Company (NSR).

The Tyrone Bridge and Rail Company , Inc. acknowledges that use of the right-of-way is subject to the user 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 statement is being served on NSR on the same date it is being served on the Surface Transportation Board.

N. Jodie Wells
N. Jodie Wells, President

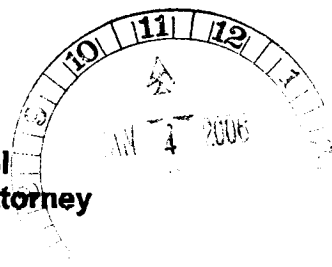
December 20, 2005

Exhibit A



Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9241

James R. Paschall
Senior General Attorney



Writer's Direct Dial Number

(757) 629-2759

December 9, 2005

Honorable Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423

RE: STB Docket No. AB-290 (Sub-No. 192X), Norfolk Southern Railway
Company – Abandonment Exemption – in Anderson and Woodford
Counties, Kentucky

Dear Mr. Williams:

Norfolk Southern Railway Company (NSR) has not consummated the abandonment of the line that is the subject of this proceeding. The interim trail use negotiation condition in this matter is scheduled to expire on December 24, 2005. NSR continues to negotiate with the Kentucky Rails to Trails Council on behalf of Tyrone Bridge and Rail Company for an interim trail use agreement with respect to the subject line. NSR consents to the Board's issuance of a 180-day extension of the trail use negotiation condition that is to be requested by the Kentucky Rails to Trails Council on behalf of Tyrone Bridge and Rail Company.

Sincerely,

James R. Paschall / Kch

James R. Paschall

cc: via fax (859) 258-3458
Mr. Keith Lovan
Kentucky Rails to Trails Council
for Tyrone Bridge and Rail Company

J. T. Moon

Exhibit B



December 20, 2005

Kentucky Rails to Trails Council (KRTC) urges the Surface Transportation Board to grant Tyrone Bridge and Rail Company, Inc a 180 day extension of the NITU, which is set to expire on December 24, 2005. KRTC supports the Tyrone Bridge and Rail Company's (TBRC) goal of converting this abandonment into a rail and is pleased to provide the funds for the filing of this request.

The TBRC proposal is especially appealing because of several unique factors that other projects in other parts of the country do not have. This project would include the highest and longest bridge span of all rail trails in the country. Young's High Bridge has a significant history as well and has been placed on the National Registry of Historic Places and is truly a unique asset to the community and state. It is also located next to one of the premiere bourbon distilleries.

KY Rails to Trails recognizes the value of converting this abandonment into a rail trail and fully supports Tyrone Bridge and Rail Company.

Sincerely,

A handwritten signature in black ink that reads "Keith Lovan". The signature is written in a cursive, flowing style.

Keith Lovan
Chairman, KRTC

Exhibit A handwritten mark in black ink, possibly a stylized "C" or "1C", located next to the word "Exhibit".

SURFACE TRANSPORTATION BOARD DECISION DOCUMENT**Decision Information**Docket Number: **AB_290_192_X**Case Title: **NORFOLK SOUTHERN RAILWAY COMPANY--ABANDONMENT
EXEMPTION--IN ANDERSON AND WOODFORD COUNTIES, KY**Decision Type: **Decision**Deciding Body: **Director Of Proceedings****Decision Summary**

Decision Notes: **(1) REOPENED THIS PROCEEDING; AND (2) GRANTED THE
REQUEST OF TYRONE BRIDGE AND RAIL COMPANY TO EXTEND
THE NITU NEGOTIATING PERIOD FOR AN ADDITIONAL 180 DAYS
THROUGH DECEMBER 24, 2005.**

Full Text of Decision36086
DO

SERVICE DATE – AUGUST 3, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 192X)

NORFOLK SOUTHERN RAILWAY COMPANYCABANDONMENT EXEMPTIONC
IN ANDERSON AND WOODFORD COUNTIES, KY

Decided: August 2, 2005

By decision and notice of interim trail use or abandonment (NITU) served on May 28, 2004, a 180-day period was authorized for the Tyrone Bridge and Rail Company (TBRC) to negotiate an interim trail use/rail banking agreement (agreement) with the Norfolk Southern Railway Company (NS) for a line of railroad between milepost 0.7-LL, at Lawrenceburg, and milepost 3.5-LL, at Tyrone, in Anderson and Woodford Counties, KY, a distance of approximately 2.8 miles (line).^[1] This decision also extended the NITU negotiating period for TBRC to July 2, 2004. Subsequent decisions served on July 2, 2004, and January 11, 2005, further extended the NITU negotiation period for TBRC through June 27, 2005.

On August 1, 2005, the Board received TBRC's motion to extend the NITU negotiation period for an additional 180 days. NS's reply to TBRC's anticipated request for an extension of the NITU negotiation period was received on June 21, 2005. NS indicates that it has not consummated the abandonment and that it consents to the request to extend the trail use negotiation period.

Where, as here, the carrier has not consummated the abandonment at the end of the previously

imposed negotiating period and has indicated its willingness to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended through December 24, 2005.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. TBRC's request to extend the NITU negotiating period is granted.
3. The NITU negotiating period is extended through December 24, 2005.
4. This decision is effective on the date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

[1]

This decision vacated the existing NITU and designated TBRC to serve as the new interim trail manager, substituting TBRC, in lieu of the Rails to Trails Conservancy, to negotiate a trail use agreement with NS.

Decision Attachments

36086.doc
36086.pdf

26 KB
12 KB

Size of PDF File: 0.01 MB

Approximate download time at 28.8 kb: 0 Minutes

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