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EXPEDITED CONSILIDATION REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
January 28, 2025
Part of
Public Record

STB Ex Parte No. 777

**JOINT PETITION FOR RULEMAKING TO CONSIDER AMENDMENTS
TO REGULATIONS GOVERNING INTERIM USE OF RIGHTS-OF-WAY AS
TRAILS (49 C.F.R. PART 1152)**

**NATIONAL ASSOCIATION OF REVERSIONARY PROPERTY OWNERS'
REQUEST FOR A STAY IN THE DEADLINE TO REPLY TO JOINT
PETITION FOR RULEMAKING TO AMENDME 49 C.F.R. PART 1152**

The Department of Interior (DOI) and the Environmental Natural Resources Division of the Department of Justice (ENRD) filed a Joint Petition for Rulemaking proposing amendments to 49 CFR Part 1152 (the Joint Petition). This Joint Petition was filed with the Surface Transportation Board (the Board) on Friday, December 20, 2024, immediately before the Christmas and Hanukkah holiday break. Interested parties including the Rails to Trails Conservancy (RTC), the Lassen Land and Trail Trust (LLTT), and the National Association of Reversionary Property Owners (NARPO) requested an extension of time within which to file a reply to the Joint Petition.

On January 13, the Board granted these organizations, including NARPO, an extension of time to file a reply to this Joint Petition. This Board held, “[t]he requests from RTC, LLTT, and NARPO are reasonable and will be granted. To ensure that all interested persons have an equivalent opportunity to respond to the joint petition, the reply deadline will be extended to January 29, 2025, for all interested persons.”

49 C.F.R. § 1104.4 provides: “(a) If a party is represented by a practitioner or an attorney ... [t]he signature of a practitioner or attorney constitutes a certification that the representative: (1) Has read the pleading, document or paper; (2) Is authorized to file it; (3) Believes that there is good ground for the document.” The Joint Petition states it is filed on behalf of the “U.S. Department of the Interior and the U.S. Department of Justice’s Environmental and Natural Resources Division”. The Joint Petition is filed pursuant to 49 C.F.R. §1110.2(b) requesting the Board to open a rulemaking proceeding. The signatories to the document are Dondrae N. Maiden “Associate Solicitor in the Division of Parks and Wildlife” of the Office of the Solicitor of the U.S. Department of the Interior, Aaron G. Moody, an Associate Solicitor in the Division of Land Resources in the Office of Solicitor of the U.S. Department of Interior. Todd Kim signed by facsimile as Assistant Attorney General and Peter McVeigh signed electronically as “counsel for the Environmental and Natural Resources Division.” Judy Harvey is also listed in the signature block.

On January 20th Donald J. Trump was inaugurated as our Nation’s Forty-Seventh President. Former Attorney General Merrick Garland and former Secretary of Interior, Deb Haaland, who served during the Biden-Harris administration have resigned as Attorney General and Secretary of Interior and Todd Kim who served as Assistant Attorney General of ENRD has also resigned. President Trump nominated Pam Bondi to be the nation’s new Attorney General and Governor Doug Burgum to be Secretary of Interior. President Trump has already issued more than three hundred orders rescinding policies of the Biden Harris Administration and has appointed a new cabinet, including incoming Attorney General Bondi and Secretary Burgum and subordinate government officials.

Responding to the Joint Petition, as filed on December 20 during the last days of the Biden Harris Administration, will require significant effort by the interested parties and the staff and personnel of this Board. The proposed rulemaking for which the Joint Petition advocates involves significant issues of public policy. The National Association of Reversionary Property Owners requests this Board stay the deadline for interested parties to file a reply to the Joint Petition until after it is known whether President Trump, incoming Attorney General Bondi and incoming Secretary of Interior Burgum will embrace the position advocated in the Joint Petition as filed by the Biden Harris Administration.

Counsel for NARPO has spoken by phone with ENRD counsel Mr. McVeigh and sent emails to Department of Interior Associate Solicitors Moody and Maiden. See attached **Exhibit A**. Mr. McVeigh indicated he thought it unlikely that he would be able to confirm the position of the Trump Administration on this matter before tomorrow's deadline for filing a reply to the Joint Petition. Accordingly, NARPO requests this Board grant this stay of the deadline to file a reply. NARPO does not make this request to delay this proceeding but rather, and to the contrary, to avoid this Board and the parties devoting resources to this matter when the Trump Administration may pursue a different course than the one advocated in the Joint Petition filed during the last days of the Biden Administration.

Alternatively, should the Board not temporarily stay the deadline for a reply to the Joint Petition, NARPO requests a thirty-day extension of time until February 29 to file a reply.

Respectfully submitted,

/s/ Mark F. (Thor) Hearne, II
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Counsel for NARPO

CERTIFICATE OF SERVICE

I do hereby certify that on this 28th day of January 2025, I have served a copy of national association of reversionary property owners' request for a stay in the deadline to reply to joint petition for rulemaking to amendment 49 C.F.R. PART 1152 by electronic delivery upon:

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/s/ Mark F. (Thor) Hearne, II
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EXHIBIT A

Tuesday, January 28, 2025 at 14:59:17 Central Standard Time

Subject: FW: STB Ex Party No. 777 - Petition for Rulemaking proposing amendments to 49 C.F.R. Part 1152.
Date: Tuesday, January 28, 2025 at 12:29:16 PM Central Standard Time
From: Thor Hearne
To: Peter.Mcveigh@usdoj.gov, aaron.mmody@soi.doi.gov
CC: dondrae@sol.doi.gov
Attachments: image001.jpg, image002.jpg

Mr. Maiden and Mr. Moody, I have attached my email to Peter McVeigh. I spoke with Peter this morning. And wanted to ask you the same question. To wit, whether the incoming Trump Administration and Secretary of Interior Burgum will continue to pursue the Petition requesting the Surface Transportation Board to open a rulemaking proceeding to consider the proposed amendments to railbanking and 49 C.F.R. Part 1152? Alternatively, would you agree to request the Board to stay the January 29 deadline for a reply to the Joint Petition you filed to confirm the new administration's policy on this petition for a rulemaking? I look forward to any insight you can provide. All the best, THOR

Mark F. (Thor) Hearne, II



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From: Thor Hearne <thor@truenorthlawgroup.com>

Date: Tuesday, January 28, 2025 at 12:17 PM

To: "Peter.Mcveigh@usdoj.gov" <Peter.Mcveigh@usdoj.gov>

Subject: STB Ex Party No. 777 - Petition for Rulemaking proposing amendments to 49 C.F.R. Part 1152.

Peter, thanks for taking my call this morning. As we discussed, I anticipate filing a reply on behalf of the National Association of Reversionary Property Owners responding to the Joint Petition for a rulemaking. As we discussed, I wanted to confirm whether you knew if this Joint Petition reflects the policy of the new Trump Administration and incoming Attorney General Bondi or whether the new administration will withdraw this petition for a rulemaking? Should you have any clarity on this I would be most appreciative. Alternatively, would you agree to a request that the STB stay the January 29 deadline for a reply to await a decision by the Trump Administration of whether the new administration intends to proceed with this Petition for Rulemaking? My hope is to avoid having the government, the Board and the various interested parties devote significant effort to this proceeding if the incoming administration does not intend to pursue the matter. All the best, THOR

Mark F. (Thor) Hearne, II



Founding Partner

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