

June 7, 2024

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June 7, 2024
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Public Record

VIA E-FILING

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

Re: *Walkersville Southern Railroad Company—Notice of Exempt Abandonment—
Frederick County, MD*, STB Docket No. AB 1339X

Dear Ms. Brown:

Please find enclosed a Petition of the Maryland Transit Administration for Leave to File an Appeal, Time for Filing Having Otherwise Expired, in the above-captioned proceedings. Please do not hesitate to contact me with any questions.

Sincerely,



W. Eric Pilsch

Counsel for Maryland Transit Administration

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. AB 1339X

**WALKERSVILLE SOUTHERN RAILROAD, INC.—DISCONTINUANCE OF SERVICE
EXEMPTION—IN FREDERICK COUNTY, MD**

**PETITION OF THE MARYLAND TRANSIT ADMINISTRATION FOR LEAVE TO
FILE AN APPEAL, TIME FOR FILING HAVING OTHERWISE EXPIRED**

Communications with respect to this pleading should
be addressed to:

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Counsel for Maryland Transit Administration

Dated: June 7, 2024

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. AB 1339X

**WALKERSVILLE SOUTHERN RAILROAD, INC.—DISCONTINUANCE OF SERVICE
EXEMPTION—IN FREDERICK COUNTY, MD**

**PETITION OF THE MARYLAND TRANSIT ADMINISTRATION FOR LEAVE TO
FILE AN APPEAL, TIME FOR FILING HAVING OTHERWISE EXPIRED**

The Maryland Transit Administration (“MTA”), a modal administration of the Maryland Department of Transportation acting on behalf of the State of Maryland, respectfully petitions the Surface Transportation Board (“Board”) for leave to file an appeal of the Board’s decision issued and served on May 24, 2024, denying issuance of a Notice of Interim Trail Use (“NITU”) pursuant to a request by Frederick County, Maryland and a consent letter by MTA in the above-captioned proceedings (“Decision”), even though the time for filing an appeal has expired. Good cause exists for granting the leave to file the appeal, which will not prejudice any party and will serve to address an important State interest. In anticipation of a favorable response to this Petition, MTA proposes to file its appeal no later than June 13, 2024.

Normally under the Board’s regulations appeals regarding the applicability and administration of the Trails Act in abandonment and abandonment exemption proceedings issued pursuant to delegation of authority to the Director of Proceedings must be filed within 10 days after service of the Director’s decision. 49 C.F.R. §§ 1011.2(a)(7), 1152.25(e)(1)(iii). The Board will accept a pleading filed after its due date if good cause is shown why the pleading is filed late. 49 C.F.R. § 1152.25(d)(5).

Good cause exists here to grant MTA's request to late-file an appeal of the Decision. MTA's counsel believed initially that its appeal was covered as a petition for reconsideration under the Board's general appellate procedures under 49 C.F.R. Part 1115. These procedures provide that such petitions must be filed within 20 days after the service of the decision, rather than 10 days. 49 C.F.R. § 1115.3(e). Accordingly, MTA was preparing to file a petition for reconsideration within 20 days of the Decision. However, when MTA discovered this error, it moved promptly to file this Petition. MTA needs additional time to complete drafting the appeal itself and to coordinate with Frederick County, Maryland and Walkersville Southern Railroad, the other parties to this proceeding, and proposes to file the appeal as quickly as possible but no later than June 13, 2024.

Allowing MTA to file its appeal is necessary to correct a serious material error in the Board's decision that implicates this and potentially other State-owned lines that are important public assets for many small communities and rural areas in Maryland and, likely, in other states as well. Granting this Petition and accepting MTA's appeal will allow the full Board to consider the issues raised by the Decision and the implications of those issues for abandoned rail lines acquired by states or their political subdivisions. Failure to address this issue now could create ambiguity and lead to litigation in the future.

Finally, no party will be prejudiced by granting MTA's Petition. No parties opposed Frederick County's NITU or MTA's consent to trail use, and MTA has not been contacted by any parties regarding the Line's discontinuance or the NITU request, or opposing its potential use as an interim trail.

For the above reasons, MTA respectfully petitions the Board to grant it leave to file its appeal by no later than June 13, 2024, time for filing having otherwise expired.

Dated: June 7, 2024

Respectfully submitted,



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Counsel for Maryland Transit Administration

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of JUNE 2024, I caused the foregoing Petition for Leave to File an Appeal, Time for Filing Having Otherwise Expired to be served on the following parties by email:

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W. Eric Pilsk

Dated: June 7, 2024