

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Ex Parte No. 777

309641

ENTERED
Office of Proceedings
June 9, 2025
Part of
Public Record

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

**MOTION FOR ADDITIONAL TIME TO MAKE ANY FURTHER FILING
CONCERNING JOINT RULEMAKING PETITION**

Petitioners, the U.S. Department of the Interior and the U.S. Department of Justice’s Environment and Natural Resources Division (ENRD), respectfully move the Board for leave for an extension of the deadline (from June 9, 2025, to and until August 8, 2025) to make any further filing concerning the petition for rulemaking filed jointly by the U.S. Department of the Interior and ENRD on December 20, 2024. In a decision issued on April 8, 2025, the Board granted Petitioners leave to submit any further filing by June 9, 2025, “[t]o give the new Administration an opportunity to evaluate the petition for rulemaking per Petitioners’ request and to respond to Stakeholder comments.” *Joint Petition for Rulemaking to Consider Amendments to Regulations Governing Interim Use of Rights-of-Way as Trails (49 C.F.R. Part 1152)*, EP777, slip op. at 2 (STB Served Apr. 8, 2025). In that decision, the Board also waived the 120-day deadline established by 49 C.F.R. § 1110.2(d) for the Board to grant or deny the rulemaking petition; the Board deferred a decision on the rulemaking petition until further order of the Board. *Id.*

While Petitioners have worked diligently on this matter since April 8, 2025, with the goal of completing its review of the relevant issues and submitting any further filing concerning the rulemaking petition by June 9, 2025, reviews have taken longer than originally anticipated due

to: (1) the pendency of many pressing matters following the change in Administration; (2) the nature of the issues that the rulemaking petition seeks to address (including technical subject matter); and (3) the need to carefully review comments submitted by stakeholders—which are voluminous, when viewed collectively. It became clear late last week that Petitioners likely would not be able to meet the Board’s June 9 deadline, and Petitioners hereby confirm that they are unable to meet this deadline.

Petitioners respectfully request a 60-day extension of time, to and until August 8, 2025, to allow Petitioners to complete their review and make any further filing concerning the rulemaking petition. While 49 C.F.R. § 1104.7(b) generally requires that “[a] request for an extension must be filed not less than 10 days before the due date,” Petitioners respectfully ask the Board to waive this requirement due to the circumstances described above. 49 C.F.R. § 1110.9 (“Any person may petition the Board for a permanent or temporary waiver of any rule.”); 49 C.F.R. § 1100.3 (“The rules will be construed liberally to secure just, speedy and inexpensive determination of the issues presented.”). The additional time should ensure that Petitioners can complete their review of the relevant issues, while balancing the need to continue to attend to other important matters. As of last week, ENRD assigned additional staff (newly hired counsel in the Office of the Acting Assistant Attorney General) to help facilitate the completion of the review. Furthermore, as noted in Petitioners’ March 11, 2025, filing, allowing Petitioners to complete a full review of this matter and potentially respond to stakeholder comments should help ensure the Board has a more complete record upon which to evaluate the rulemaking petition.¹

¹ In addition, undersigned counsel for ENRD will be out of the country on leave from June 16 to June 27, and will be unable to work on this matter during this time.

Petitioners appreciate the Board's patience in awaiting the outcome of their review.

Respectfully submitted,

/s/ Aaron Moody

AARON G. MOODY

Associate Solicitor

Division of Land Resources

Office of the Solicitor

U.S. Department of the Interior

1849 C Street, NW, MS 6410

Washington, DC 20240

aaron.moody@sol.doi.gov

(202) 208-3495

Counsel for the U.S. Department of the Interior

ADAM R.F. GUSTAFSON

Acting Assistant Attorney General

/s/ Peter McVeigh

PETER MCVEIGH

JUDY HARVEY

U.S. Department of Justice

Environment and Natural Resources Division

950 Pennsylvania Ave., NW

Washington, D.C. 20530

peter.mcveigh@usdoj.gov

(202) 514-4642

Counsel for the Environment and Natural Resources Division, U.S. Department of Justice

CERTIFICATE OF SERVICE

I certify that I have this day served copies of document upon all parties of record in this proceeding, by emailing a copy to each of the individuals included on the Board's service list.

/s/ Peter McVeigh
PETER MCVEIGH