

Board of Perry County Commissioners

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January 31, 2023

306136

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

ENTERED
Office of Proceedings
February 13, 2023
Part of
Public Record

Re: Conrail Abandonment of Lines In Zanesville, OH, AB-167 (Sub-No. 445N); Ohi-Rail Corporation – Discontinuance of Service and Lease Operations– In Perry and Muskingum Counties, OH, AB-1321X

Dear Ms. Brown:

This request is filed on behalf of the Perry County Board of Commissioners ("Perry County"), (hereinafter referred to as the "Proponent"). Proponent requests issuance of a Certificate of Interim Trail Use Condition ("CITU") for the approximately 14.8 miles of rail line owned by the Ohio Rail Development Commission ("ORDC") including the Fultonham Running Track from milepost 0.0 to milepost 3.1 ("Glass Rock-East") and Z&W Industrial Track from milepost 45.8 to milepost 57.5 ("Glass Rock-West") (the "Line" or the "Glass Rock Branch") that is the subject of a pending discontinuance notice of exemption in Ohi-Rail Corporation – Discontinuance of Service and Lease Operations– In Perry and Muskingum Counties, OH, AB-AB-1321X.¹ The required filing fee of \$350.00 has been paid on pay.gov.

Proponent believes that the rail right-of-way pertaining to the Line is perfect for public use, specifically trail use. The Line corridor is ideal for recreational use and would allow for the creation of a public greenway trail to be operated by the Proponent.

Statement of Willingness to Assume Financial Responsibility

In order to establish interim trail use under Section 8(d) of the National Trails System

¹ In a decision served December 22, 2020, the Board found that abandonment authority for the Line which was previously authorized for abandonment in 1982 was never consummated; that the Line remained within the Board's jurisdiction; and was eligible for interim trail use/rail banking under the National Trails System Act, provided the current operator of the Line requests and receives Board authority to discontinue common carrier service. See Ohio Rail Development Commission – Petition for Declaratory Order, FD 36387 (STB served December 22, 2020) ("ORDC Decision")

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FILED
February 13, 2023
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
February 13, 2023
SURFACE
TRANSPORTATION BOARD

Act, 16 U.S.C. §1247(d) and 49 CFR §1152.29 with respect to the right-of-way owned by ORDC and last operated by Ohi-Rail Corporation, Proponent is willing to assume full responsibility for (1) managing the right-of-way, (2) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability), and (3) the payment of any and all taxes that may be levied or assessed against the right of way owned by ORDC. The Line subject to this CITU is an approximately 14.8-mile railway line that includes the Fultonham Running Track from milepost 0.0 to milepost 3.1 ("Glass Rock-East") and Z&W Industrial Track from milepost 45.8 to milepost 57.5 ("Glass Rock-West") (the "Line" or the "Glass Rock Branch"). As stated above, the right of way was authorized for abandonment in 1982, but abandonment authority was not consummated.

A map depicting the portion of the right-of-way to be subject to the trail use condition requested is attached.²

Perry County acknowledges that the use of the right-of-way is subject to Perry County's continuing commitment to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

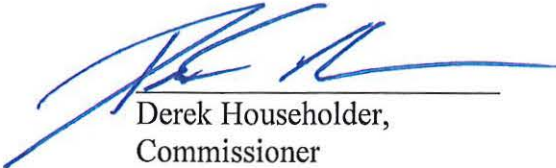
Proponent hereby requests that the Board issue a CITU providing one year of negotiations for ORDC and Proponent to reach an interim trail use rail/banking agreement.

Should the Board have any questions, the Proponent's designated person of contact concerning this matter is:

Benjamin Carpenter
Perry County Board of Commissioners
212 S. Main Street – Lower Level
New Lexington, Ohio 43764

By my signature below, I certify a copy of this CITU was served on counsel for ORDC by email and U.S. Mail, first-class, postage pre-paid contemporaneous with the filing of the same with the Board this 31st day of January 2023.

Sincerely,



Derek Householder,
Commissioner

cc: Parties of Record

² See Exhibit A.

Exhibit A

Map

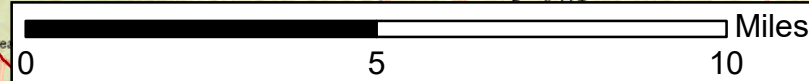
Glass Rock Line and Ohio Southern Rail Line

Exhibit A



Ohio Rail Lines

-  Glass Rock East
(Formerly Fultonham Running Track)
-  Glass Rock West
(Formerly Z&W Industrial / Secondary Track)
-  OH Southern RR
-  Other Active Lines



Source: ORDC Rail Data
Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community