

ENTERED
Office of Proceedings
June 27, 2019
Part of
Public Record

Hummingbird Trail Alliance
13510 McCoy Ridge Drive
Huntersville, NC 28078

June 14, 2019

RE: Docket No. EP 749 (Sub-No. 1) – Limiting Extensions of Trail Use Negotiating periods;
Docket No. EP 753 – Rails to Trails Conservancy – Petition for Rulemaking

Ms. Allison C. Davis
Acting Director
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Dear Ms. Davis:

These comments are filed on behalf of the Hummingbird Trail Alliance, a 501 C.3 non-profit corporation created to assist in regional recreational trail development in the Lake Norman Region of North Carolina. They are offered in support of the rule modification proposed by the Surface Transportation Board (STB) to establish a minimum of a one-year period for any initial interim trail use negotiating period, instead of the existing 180 days; to permit up to three (3) one-year extensions of the negotiating period; and to permit additional one-year extensions if the trail sponsor(s) and the railroad agree and “good cause” is shown.

We *strongly* agree with the STB that this proposal effectively balances the interests of all affected parties and stakeholders. We also applaud the STB’s conclusion, presented in RTC’s rulemaking petition, that the establishment of a one-year initial negotiating period would more closely reflect the *actual* time needed to begin and move toward completion of rail-banking negotiations, while reducing burdens on trail use proponents, railroads, and the STB alike. We also support the decision to revise the prior outstanding notice of proposed rulemaking to substitute the more lenient “good cause” standard for the “extraordinary circumstances” standard initially proposed.

However, we do not support the language that additional extensions beyond three (3) years “are not favored” as part of the good cause standard. That language suggests an unnecessary presumption against granting additional extensions even where no prejudice would result to any party. Such a standard would undermine the purposes of the rail-banking law based on vague and unsubstantiated concerns about reducing “uncertainty for some property owners.” Such “uncertainty” generally stems from a desire for potential sale of their property for “highest and best use”, which results in maximum economic advantage and return for the owner; thus bicycle-pedestrian trails often are perceived as “risks” in this regard.

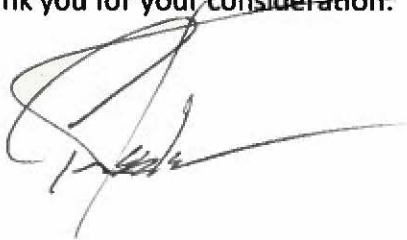
Our experience here focuses on a proposal for development of a 46-mile regional strip park on the east side of Lake Norman between the cities of Charlotte and Statesville, NC. This is a complex project involving many tracts of public- and privately-held land. The routing generally aligns with an existing single-track freight line (i.e. the "O-Line") with a right-of-way delegated to Norfolk-Southern Railroad's use and operation. But Trail routing would be separated from this trackage by some variable distance.

In the future, should Norfolk-Southern choose to abandon this trackage between Charlotte and Mooresville, NC, the right-of-way would *immediately* become subject to potentially multiple competing uses, most likely a route for bus rapid transit (BRT) to connect suburban communities to provide an alternative transportation corridor for commuting purposes. But, if tolling lanes newly added to Interstate I-77, which will enable free use by BRT busses, prove viable, then any rail segment abandonment might then become a much sought-after and highly desirable development as a regional "rail-trail".

However, the process to acquire needed additional connector trail segments, as well as links to municipal greenway networks now actively under development would entail a complicated process of negotiations and agreements among adjacent private and commercial, as well as publicly-owned county and municipal landholders. In addition to any abandonment initiatives instigated by the railroad, these types of parcel acquisition negotiations can often stretch from months into years, requiring substantial time and effort to bring any agreements to fruition.

We therefore urge the Board to adopt the rule modification proposed in Docket No. EP 749 (Sub-No.1) et al., including the "good cause" standard for granting adequate annual extensions, but request that the Board *eliminate* the language indicating that more than three extensions are "not favored."

Thank you for your consideration.

A handwritten signature in black ink, appearing to read 'Geoffrey C. Steele', with a long horizontal flourish extending to the right.

Geoffrey C. Steele
Board Vice-President
Hummingbird Trail Alliance
Huntersville, NC

Cc: Eli Griffen; Rails to Trails Conservancy; Washington, DC