



230 West Huron Rd. • Unit 85.53 • Cleveland, OH 44113
www.allaboarдохio.org

December 7, 2017

Ms. Ann Begeman
Chairman
Surface Transportation Board
395 E Street SW
Washington, DC 20423

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244837

ENTERED
Office of Proceedings
December 11, 2017
Part of
Public Record

Regarding: AB_290_394_X 244696 -and- AB_1257_0_X 244697

Dear Ms. Begeman,

The Ohio Association of Railroad Passengers, dba All Aboard Ohio, and a 501c3 nonprofit association founded in 1973 is filing a motion to stay the above referenced exempt abandonment application and to render it void ab initio. Our reasons are described in the enclosed letter.

All Aboard Ohio's Executive Committee voted to authorize this action and to engage Brendan Delay, Esq. to represent us in opposing the abandonment application of Norfolk Southern of the 5.5 miles of the Randall Industrial Track submitted to the Surface Transportation Board.

Sincerely,

Ken Prendergast
Executive Director

Enc.



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December 4, 2017

Ms. Ann Begeman
Chairman
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Regarding: AB_290_394_X 244696 -and- AB_1257_0_X 244697

Dear Ms. Begeman,

As an interested party, we thank you for giving us an opportunity to comment on the above mentioned applications by Norfolk Southern (NS) for its proposed abandonment of service exemption and by Cleveland Commercial Railroad (CCR) for its discontinuance of a lease and operation authority – each for 5.5 miles of right of way in Aurora, Portage County, Ohio.

The Ohio Association of Railroad Passengers (OARP, dba All Aboard Ohio and dba RESTORE) is a statewide nonprofit association founded in 1973. Through education and advocacy, we have sought to preserve and improve passenger rail and public transportation services in Ohio. Our RESTORE initiative is directly focused on the preservation and restoration of rail rights of way and infrastructure.

OARP considers the timing and location of the application to be highly questionable and without justification. We believe it is the result of a de facto abandonment by neglecting a rail corridor in an apparent attempt to restrain trade and competition.

BACKGROUND: In November 1981, Conrail received Interstate Commerce Commission permission to abandon 22 miles of the Randall Secondary (former Erie-Lackawanna First District, Mahoning Division) between Chamberlain Road (site of Carlon, later Cantex plastics) in Mantua Township, OH and SN Tower in Leavittsburg, OH. This was E-L's former Cleveland-Youngstown mainline that had worked in tandem with the Pittsburgh & Lake Erie (P&LE) to access Pittsburgh as well. P&LE was seeking to buy the Randall Secondary to gain access to Cleveland and its lake port facilities. But Conrail refused to sell and successfully argued to the ICC that the P&LE's competition with parallel Conrail lines would reduce rates and diminish its efforts to attain profitability. Mantua Township-Leavittsburg tracks were removed in the summer of 1982. Conrail continued to run Randall Secondary local trains from Cleveland out to the Carlon plant until 1993. There were and are no shippers east of the Stouffers plant at Harper Road in Solon, OH. Despite this, Conrail continued to maintain the entire line, including vegetation control, until its sale and transfer to Norfolk Southern (NS) in 1999. NS renamed the

line as the Randall Industrial Track. During its ownership, NS never ran any trains east of Harper Road in Solon to Mantua Township, a distance of about 11.5 track-miles. Furthermore, NS or, after 2005, lessor CCR never undertook any efforts to maintain this portion of the line, allowing vegetation (ie: small trees) to reclaim the right of way. CCR representative Bill Brown informed me that CCR had also given verbal permission to municipalities to pave road surfaces over the rails at crossings, effectively abandoning NS's service exemption and discontinuing CCR's operating authority.

RESTORE INITIATIVE: In 2011, at the request of CCR, OARP's RESTORE initiative began investigating with the cooperation of CCR's then-business development manager Steven Wait a reactivation of the 11.5 miles of unused Randall Industrial Track in Solon, Bainbridge, Aurora and Mantua Township, as well as a 2-mile extension of track east of Chamberlain Road to near Infirmary Road in Mantua Township where a sand transload facility might be established on and next to several large sand quarries. Rail traffic market estimates were significant – up to 27 carloads per day, or 10,000 per year based on sand production at the quarries. All of this bulk product was moving in heavy trucks over local streets and roads, some of them residential.

RESTORE estimated the cost of reactivating and extending the 13.5 miles of track in 2011-12. Capital costs included acquiring some or all of four parcels, new and rebuilt track, grade crossing signals/surfaces/clear sightlines, brush clearing, provision of transload facilities/siding, drainage and contingencies. RESTORE estimated capital costs at \$15.6 million of which at least half could come from the public sector (45G tax credit, Public Utilities Commission of Ohio, and Ohio Rail Development Commission).

CCR MAHONING VALLEY ACCESS PLAN: With the growing local interest in developing natural gas, steel pipe, sand, polyethylene/plastics, and other shale-related shipping opportunities, CCR informed RESTORE in about 2013 they were thinking bigger – restoring the former Randall Secondary right of way all the way into the Mahoning Valley (ie: Warren, Niles, Youngstown, etc). Capital cost estimates of \$80+ million were reported to us by CCR, but could be financed by strong revenues on traffic estimates of up to 85 total carloads per day from the likes of Cantex, Mittal Coke Works, Oscar Brugmann Sand & Gravel, RG Steel, Palmer-Donavin Manufacturing Co., Reinforcement Systems of Ohio, Therm-O-Link/Vulkor, Thomas Strip Steel, Vallourec Star Steel, Warren Steel Holdings, and others.

However, CCR informed us that NS strongly discouraged them from pursuing this project further. No reason was shared with us. That was the last we'd heard of the matter.

JUSTIFICATION: Considering that there are no online shippers east of Harper Road in Solon, OARP is curious to learn why NS/CCR are seeking to keep roughly 7 miles of right of way from Harper Road in Solon to near Treat Road in Aurora and not the entire 12.5 miles (the last 1 mile of which has no track) east to Chamberlain Road in Mantua Township. This 12.5 miles has been entirely inactive since 1993 and not maintained to a usable condition since NS's acquired it in 1999. If the 7-mile portion of the long-unused and now-unusable right of way is worthy of being retained as a rail corridor, then surely the entire 12.5 miles should be retained as well.

TIMING: As we debate the future of this rail corridor, once one of two mainline routes between Cleveland and Pittsburgh, the Federal Railroad Administration (FRA) is finalizing its Midwest Regional Rail Plan to identify and prioritize promising passenger rail corridors it will consider for further development. According to preliminary data from the FRA, the most promising market for passenger rail development in the entire Midwest is a corridor network whose spine would link Chicago, Cleveland and Pittsburgh.

With train speeds above 90 mph, the FRA estimates 7.2 million riders per year and operating revenues exceeding costs by 157 percent on a Chicago-Cleveland-Pittsburgh corridor network.

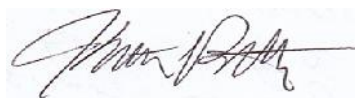
After completion of this report, the next step is a Tier 1 environmental assessment/alternatives analysis. As noted above, the rail right of way that is the subject of this abandonment application was one of two Cleveland-Pittsburgh mainlines. The other is NS's Cleveland Line/Fort Wayne Line via Alliance, OH, a busy rail corridor that hosts upwards of 70 freight trains a day plus Amtrak's nightly *Capitol Limited* between Chicago, Cleveland, Pittsburgh and Washington DC.

Abandoning more portions of a parallel rail corridor make it more likely that NS's Cleveland Line/Fort Wayne Line becomes the default rail corridor for expanded passenger rail service between Cleveland and Pittsburgh. OARP asks why NS would do this. Why wouldn't NS do everything in its power to ease barriers that make a parallel, largely freight-free rail corridor more attractive for passenger rail development?

Similarly, Vibrant NEO, a locally and federally funded organization to enhance regional cooperation and economic competitiveness in Northeast Ohio has identified the development of regional transportation, including commuter and freight rail services, as among its priorities. A commuter transportation link between Cleveland and the Mahoning Valley (Boardman, Niles, Warren, Youngstown etc.) is one of the corridors considered for development. The rail right of way that is the subject of this abandonment application is part of what was historically the most direct rail corridor between Cleveland and the Mahoning Valley. In fact, it was the route of Ohio's last commuter rail service which Conrail terminated in 1977 even though it continued to be well-patronized west of Mantua to downtown Cleveland right up until the end of service.

In summary, OARP believes current/prior owners of the Randall Secondary/Industrial Track have intentionally neglected this rail corridor to restrain competition and to discourage development of intercity/commuter passenger rail service. FRA, CCR, OARP and Vibrant NEO have all shown there is a strong, untapped market for developing rail freight and passenger traffic on this rail right of way. We therefore ask the STB to reject the pending applications AB_290_394_X 244696 and AB_1257_0_X 244697. Thank you again for this opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Prendergast", is written over a light blue rectangular background.

Ken Prendergast
Executive Director

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC

AB-290 (Sub-No. 394X)

NORFOLK SOUTHERN RAILWAY COMPANY
— ABANDONMENT EXEMPTION —
IN AURORA, PORTAGE COUNTY, OHIO

AB-1257

CLEVELAND COMMERCIAL RAILROAD COMPANY, LLC
—DISCONTINUANCE OF LEASE AND OPERATION AUTHORITY —
IN AURORA, PORTAGE COUNTY, OHIO

MOTION TO DISCLOSE CONTROL MARKS, DEEP DRIVEN RODS AND RIVETS OF THE NATIONAL GEODETIC SURVEY IN THE 5.5 MILES SUBJECT OF THE ABANDONMENT EXEMPTION & IN PORTAGE COUNTY TAX PARCEL NO. 23-026-00-00-013-00 PURCHASED BY PORTAGE PARK DISTRICT AS RECORDED ON AUGUST 10, 2017 IN PORTAGE COUNTY RECORDER AFN # 17134884 & TO ALLOW ACCESS BY ALLABOARDOHIO TO INSPECT FOR SUCH SPATIAL REFERENCE MARKS AND RIGHT OF WAY MARKS AND LAND LINE MARKERS. 49 CFR 1105.7 (B)(10)

MOTION TO DISCLOSE SURVEY RESULTS, FINDINGS AND MEASUREMENTS AND IDENTIFY OF SURVEYOR AND ENTRY PERMITS OF THE 2017 SURVEY FLAGGED ON THE 5.5 MILES BETWEEN MILEPOSTS 22 AND 27.5 OF THE ABANDONMENT EXEMPTION.

OF

ALLABOARDOHIO
A non-profit entity

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Attorney for AllAboardOhio

MOTION TO DISCLOSE CONTROL MARKS, DEEP DRIVEN RODS AND RIVETS OF THE NATIONAL GEODETIC SURVEY IN THE 5.5 MILES SUBJECT OF THE ABANDONMENT EXEMPTION & IN PORTAGE COUNTY TAX PARCEL NO. 23-026-00-00-013-00 PURCHASED BY PORTAGE PARK DISTRICT AS RECORDED ON AUGUST 10, 2017 IN PORTAGE COUNTY RECORDER AFN # 17134884 & TO ALLOW ACCESS BY ALLABOARDOHIO TO INSPECT FOR SUCH SPATIAL REFERENCE MARKS AND RIGHT OF WAY MARKS AND LAND LINE MARKERS IS MADE BY ALLABOARDOHIO. 49 CFR 1105.7 (B)(10)

The Norfolk Southern Railway Corporation has notified the National Geodetic Survey at the Geodetic Survey Division, Room 9202, NGS/12, 1815 East West Highway, Silver Spring, Maryland 20910 of the abandonment intention in June 2017. However, the Exemption Application as filed on November 13, 2017 makes no mention of whether and control marks, deep driven rods and rivets of the National Geodetic Survey are contained on the five and one half miles of this line of railroad. No mention is made whether other survey monuments, brass tablets embedded in concrete foundations or solid structures exist on the line of railroad. No mention is made of whether these Erie Railroad 115 pound and 132 pound rails serve as land boundary witnesses. This motion asks for this information to be disclosed in a public filing.

Also filed today are photographs showing orange survey flags affixed to wooden stakes at Chamberlain Road, Mantua, Ohio and at Route 82 where it crosses the line of the Erie Railroad, now dismantled and removed without authorization by the Surface Transportation Board. These survey flags were affixed in November 2017 according to accounts of local residents. The surveyors when questioned would not disclose whom they were working for, nor who commissioned the survey, saying "they did not know". This information is pertinent to this abandonment exemption as it is believed that the survey was commissioned either by the City of Aurora, the Portage County Park District or a large electric utility. This information would be critical to know as it would indicate that the Norfolk Southern Railway Company is strip mining this mainline instead of living up to its common carrier obligation to operate or promptly abandon.

Likewise, the Portage Park District should disclose its survey monuments on the adjacent 1.2 miles of ex-Erie Railroad right of way it just purchased from Earl Herr and Dennis Herr on August 10, 2017, near Frost Road, Mantua, Ohio perhaps for \$60,000 in funds provided by an Ohio trails agency. The Portage Park District also owns a parcel of land abutting this purchase which it intends to use as a parking area for the trail. This section of right of way will be needed to relay track to serve sand quarries adjacent to the line and for future passenger service to Youngstown and Pittsburgh, Pennsylvania. It is vital to know of these survey control marks, deep driven rods and rivets and other monuments for future development of the corridor for rail. The Portage Park District has placed its official letter into this abandonment exemption and must now make disclosure. 49 CFR 1105.7 (B)(10)

December 11, 2017

s/ brendandelay s/

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Certificate of Service

A copy of the foregoing has been served by First Class United States Mail and via facsimile at 202-666-7849 to William A. Mullins and Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Avenue, NW, Suite 300, Washington, D.C. 20037 and via First Class United States Mail and facsimile at 757-533-4872 to Gregg E. Summy, General Solicitor, Norfolk Southern Corporation, Three Commercial Place, Norfolk, Virginia 23510 and via First Class United States Mail to the National Geodetic Survey at the Geodetic Survey Division, Room 9202, NGS/12, 1815 East West Highway, Silver Spring, Maryland 20910
this 11th day of December 2017.

s/ brendandelay s/

Brendan Delay













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