

Five Rivers MetroParks
409 E. Monument Ave. #300
Dayton, OH 45402

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

June 27, 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, filed on behalf of Five Rivers MetroParks (FRMP), Montgomery County, Ohio, are in support of the rule modification proposed by the Surface Transportation Board (STB) to establish a one-year period for any initial interim trail use negotiating period, instead of the existing 180 days; to permit up to three one-year extensions of the negotiating period; and to permit additional one-year extensions if the trail sponsor and the railroad agree and good cause is shown.

We agree with the STB that the 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 complete railbanking 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 "are not favored" as part of the good cause standard. The 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 railbanking law based on vague and unsubstantiated concerns about reducing "uncertainty for some property owners."

FRMP developed and manages six recreation trails as part of our region's network in southwest Ohio, the largest paved trail network in the county. Four of these trails are on former railway corridors. In addition, we have three more bikeways prioritized in our ten-year comprehensive master plan. Our direct experience with railbanking is that these are sometimes complex situations that require a good deal of negotiation. We've also found that they often aren't at the top of the railroad's priority list, so we're at the mercy of their time schedule. The proposed rules offer a much fairer time frame for the railroad and a much more realistic time frame for trail providers to complete their transactions.

We 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 extensions, but request that the Board eliminate the language indicating that more than three extensions are “not favored.”

Thank you for your consideration,



Carrie A. Scarff
Chief of Planning and Projects
Five Rivers MetroParks