



Friends of the Cheat

Working to Restore, Preserve, & Promote the Outstanding Natural Qualities of the Cheat River Watershed since 1994

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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 Friends of the Cheat, 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.

In 2015, after over a decade of negotiations and countless 180-day extensions to the NITU period, Friends of the Cheat finally purchased about 8 miles of rail corridor from CSX. As a nonprofit, we paid the filing fee each time, many times, which added up to a significant amount. A longer negotiating period would reduce the frequency of filings and, for nonprofits, paying the filing fee each time. This would in turn reduce the administrative burden of all parties involved. These resources could instead be applied to property purchase and trail design and construction. A longer negotiating period would enable trail use proponents to fundraise through grants or private donations for funds needed to complete due diligence including title research and appraisals. A longer period would also allow for inevitable price negotiations with the railroad. In our case, price negotiations took over a decade – CSX's first asking price was \$1.875M, and in 2015 we paid \$95,000.

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



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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.”

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,

A handwritten signature in blue ink, appearing to read 'Amanda Pitzer', is written over a faint, larger blue outline of the same signature.

Amanda Pitzer
Executive Director