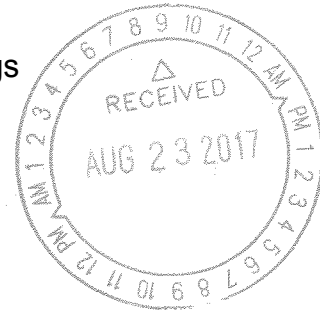


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August 9, 2017

William Decker, Associate Faculty
Indiana University Purdue University Fort Wayne
829 Forest Drive
Anderson, Indiana 46011

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August 28, 2017
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Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings Surface Transportation Board
395 E Street, S.W., Room 1034 Washington, DC 20024

Re: Docket No. FD 36137 City of Fishers, City of Noblesville, and Hamilton County, Indiana
Petition for Partial Revocation of Exemption

Dear Ms. Brown:

I write to express my concern over, and opposition to, the proposal by the City of Fishers, City of Noblesville, and Hamilton County, Indiana to obtain a partial revocation so as to allow them to railbank the southern portion of the railroad known as the "Nickle Plate." As a history instructor, I have many qualms with discontinuing service of this historic line; however, I want to limit my comments to the nature of the "Port Authority," who claims ownership of the line. In the best-case scenario, the "Authority" is empowered to operate the line in the public trust for the people of the two cities and the county listed above. This creates an issue when we look at the concept of "rail banking." As you know, rail banking was intended as a tool for corporate rail owners to hand over their abandoned lines to not-for-profit or government agencies for the public trust. This allows lines to be turned over intact for trail use, without the need for the property to revert to adjacent property owners. So, it is clear that the intent of the National Trails Systems Act of 1983 was to provide for-profit rail owners the opportunity to use their abandoned property for the public good.

The issues with the current filing are as follows: 1. The rails are not owned by a for-profit railroad; but, instead a "Port Authority" funded by local taxpayers. To be honest, the taxpayers are the owners of the rail line. Yet, no referendum has ever been placed in front of the taxpayers regarding this project. Nonscientific polls would tend to indicate that such a referendum would fail. As such, the true owner of the rail line is not requesting railbanking. Instead a governmental entity; which appears to have little consideration for the public trust is attempting to push this through. The consideration of a taxpayer as a partial owner of the facility operated by a port authority has some federal standing. When the Fort Wayne—Allen County Airport Authority (Fort Wayne, Indiana) attempted to shut down Smith Field, an effort was made to list the airport on the National Register of Historic Places. The airport authority held that they were the owner and as such no one else could request a Register listing. However, both the Indiana Historic Register Commission and the US Department of the Interior agreed that a taxpayer had the right to ask for the property to be listed. Thus, the concept of taxpayers having an ownership interest in property belonging to a port authority has been supported by the US Department of the Interior. 2. Railbanking is intended for "abandoned" lines. This line is only "abandoned" due to the order of the "Port Authority." In fact, it appears to have multiple operators requesting to run trains on that track. The only reason that trains are not on that track this week is that the political powers within the "Port Authority" refuse to allow the line to be utilized. This hardly fits the intent of the word

"abandoned" when the NTS Act was passed in 1983. 3. Surveys have been completed showing that a trail could be run next to the rail on land owned by the "Port Authority." Thus, the historic rail line could survive without precluding the development of a trail. As such, railbanking is not in any way required.

Due to the large gulf between the intent of the "Port Authority" request and the intent of the National Trails System Act of 1983, I ask that you deny the request partial revocation.

Sincerely,



William Decker

<u>Code</u>	<u>Filed By</u>	<u>Address</u>	<u>Email</u>	<u>Filed For</u>
Party Of Record	Wimbish, Robert	29 North Wacker Dr Ste 920 Chicago, IL 60606-2832 Tel: 312-252-1504 Fax: 312-252-2400	<u>Rwimbish@Fletcher-Sippel.Com</u>	City Of Fishers, Indiana, City Of Noblesville, Indiana, And Hamilton County, Indiana

STEP 2

Add your hand signature or digital signature to the signature line below. A digital signature is: /s/[Your Name].

I certify that I have this day served copies of the document upon the Applicant in this proceeding, by ~~U.S. Mail~~ or E-mail]. To Rwimbish@Fletcher-Sippel.com.



Signature

Date

8/28/2017