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June 8, 2018

VIA E-FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

**Re: Docket No. AB-290 (Sub-No. 117X)
Norfolk and Western Railway Company – Abandonment Exemption –
Between Indianapolis and Tipton in Marion, Hamilton, and Tipton Counties, Ind.**

***Request of City of Fishers, Indiana, for Interim Trails Use/Rail Banking and
Statement of Willingness to Assume Financial Responsibility***

Dear Ms. Brown:

This letter filing is tendered in the above-referenced proceeding on behalf of the City of Fishers, Indiana (“Fishers”), the City of Noblesville, Indiana (“Noblesville”), and Hamilton County, Indiana (“Hamilton County”). As suggested in the recently-concluded City of Fishers, City of Noblesville, & Hamilton County, Ind., Docket No. FD 36137 (STB served May 31, 2018) (“Fishers Petition”) proceeding, Fishers believes that the appropriate docket to which to tie the present trails use request is the proceeding pursuant to which the Interstate Commerce Commission authorized the abandonment of the rail line segment at issue here¹ (and following which Fishers, Noblesville, and Hamilton County acquired that rail line from Norfolk and Western Railroad Company).²

¹ If, however, the Board were to decide that the appropriate docket for purposes of Fishers’ trails use request is FD 36137, then Fishers respectfully requests that the Board issue the requested NITU in that proceeding instead.

² Although the original docket is in the name of Norfolk and Western Railway Company (“N&W”), N&W’s interest in the Line was extinguished via sale in 1995. See Fishers Petition, slip op. at 6 (“Here, the Line was authorized for abandonment in 1991 and sold to the cities of Fishers and Noblesville in 1995 with the trackage intact”).

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Fishers hereby petitions for Surface Transportation Board (“Board”) issuance of a Notice of Interim Trail Use (“NITU”) applicable to a portion of the 37.56-mile Nickel Plate Line, which runs from milepost I-2.13 at Indianapolis, Indiana, to milepost I-39.69 at Tipton, Indiana (the “Line”), and which was recently the subject of Fishers Petition, and, before that, the AB-290 (Sub-No. 117X) proceeding. Fishers wishes to serve as trail sponsor for a portion of the Line within its corporate jurisdiction (hereinafter, the “Fishers Segment”) between approximately milepost I-14 (to the north of the Line’s crossing of E. 96th Street) and approximately milepost I-19 (to the south of the Line’s crossing of E. 146th street), a total distance of approximately 5 route miles. A map depicting the Fishers Segment is attached.

Pursuant to the requirements of 49 C.F.R. § 1152.29 – and in order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d) – Fishers hereby states that it is willing to assume full responsibility for: (1) managing the subject right-of-way; (2) any legal liability arising out of the transfer or use of the right-of-way (or, to the extent that Fishers is immune from liability, then Fishers will indemnify the Line’s owners against any potential liability), and (3) the payment of any and all taxes that may be levied or assessed against the right-of-way.

Fishers acknowledges that its proposed use of the right-of-way is subject to the continuing obligation to meet its responsibilities described above, and is subject to possible future reconstruction and reactivation of the right-of-way for rail service.

As indicated above, the City of Fishers, the City of Noblesville, and Hamilton County – collectively, the owners of the Line – join in this filing to indicate that they are willing to negotiate with Fishers for an interim trails use agreement, and to advise that they do not object to Fishers’ request for Board-issuance of the requested NITU.

Finally, Fishers understands that, as a consequence of being a public municipal subdivision of the State of Indiana, the otherwise-applicable filing fee associated with a request for issuance of a trails use condition will be waived automatically.

Respectfully submitted,

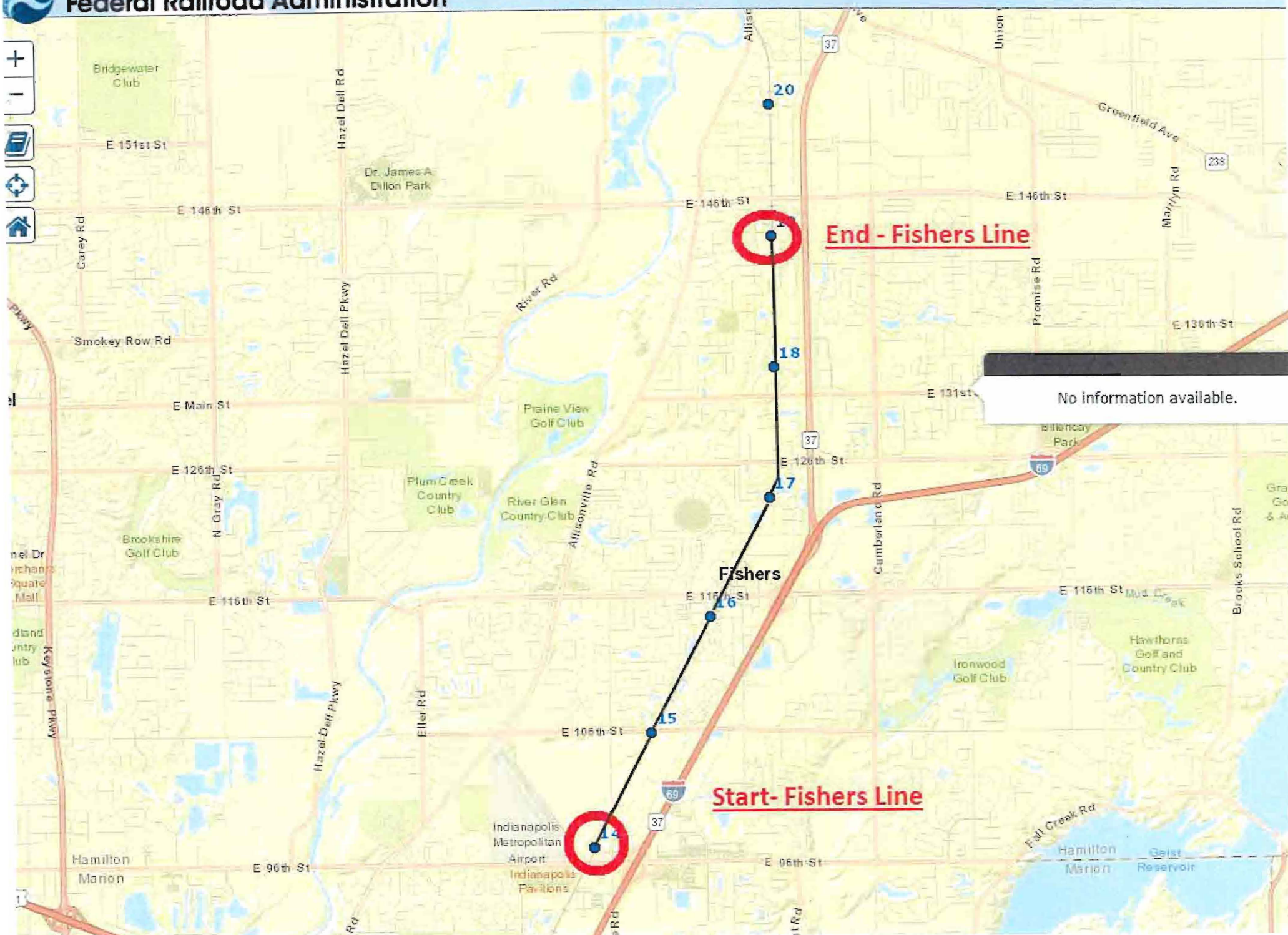


Robert A. Wimbish

Counsel for City of Fishers, Indiana, City of
Noblesville, Indiana, and Hamilton County, Indiana

Enclosure (map)

cc: All parties of record



No information available.