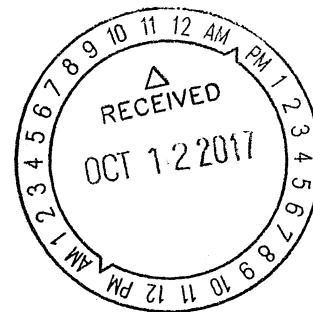


Hoosier Rails to Trails Council
PO Box 1688
Indianapolis IN 46206-1688



2017 October 09th

244547

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

ENTERED
Office of Proceedings
October 12, 2017
Part of
Public Record

Regarding: Finance Docket #36137: Petition against the Owners
Owners: City of Fishers, City of Noblesville, and Hamilton County,
Indiana in Petition for Partial Revocation of Exemption on NKP Line
from Milepost 2.13 in Downtown Indianapolis to approximately
Milepost 38.6 in Tipton, Indiana.

Ms. Brown:

I am writing on behalf of the Hoosier Rails to Trails Council ("HRTC") to petition the Surface Transportation Board for three decisions:

- (1) **TO DENY ALL OF FD # 36137-0 AND TO MOVE THIS 40 MILE LINE FROM "APPROVED FOR ABANDONMENT" INTO "ACTIVE AND COMMON CARRIER STATUS WITHIN THE NATIONAL TRANSPORTATION SYSTEM; and**
- (2) **TO INSTITUTE A NEW STATUS FOR A RAIL LINE (not of reverse abandonment, but) "REVERSE POSSESSION OF A RAIL LINE"; and**
- (3) **TO ARRANGE FOR A FIELD HEARING IN INDIANAPOLIS.**

HRTC is a statewide group which advocates for trails generally and rail-trails specifically. Generally HRTC would advocate for creating a trail. However, in this case, HRTC opposes the trail which is mentioned in FD 36137, because of three broad reasons.

- 1) The first reason is that the "Owners" (City of Fishers, City of Noblesville, County of Hamilton, all subdivisions of the State of Indiana) of this fondly named Nickel Plate Line (nicknamed for an earlier railroad company) are using both their form of "self railbanking" (outside of STB

regulations), and are using a proposed rail-trail as a means to kill the Nickel Plate Rail ("NKP" or "Line"), which is not subject to the rigors of economics, as it is owned by governmental subdivisions.

This attempt to kill the NKP clearly demonstrates a vision to actively destroy a rail line and a rail operation which would currently serve the public, if not for a lock out by the Owners and the rail manager, the Hoosier Heritage Port Authority. This lock-out is one realistic way in which the Owners and manager are implementing their needless vision of destruction. This vision of destruction is being demonstrated in a variety of other ways, but is adverse specifically to the rail line, to the potential freight shippers, and to the passengers, being denied passage, AND TO THE CHARTER AND INTENT OF THE PORT AUTHORITY TO SUPPORT, CONTINUE, AND ADVANCE THIS RAIL LINE. The vision is also destructive to the communities it serves in general. Because of the Owners and the Port Authority inflicting this negative vision, negative goals, and the negative behavior to implement their many ruthlessly negative tasks of public disrespect and discredit, which comprise reason #3, these elected and appointed officials have distinguished themselves as unworthy and incapable of owning – let alone managing – a railroad. **THE STB NEEDS TO REVERSE THEIR POSSESSION.** Recently four railroad operators proposed ways to operate this Line. HRTC suggests STB look into the options as presented by the four, and select one to run this Line.

- 2) The second reason is that many people (among them, some ten thousand who have signed petitions wanting to keep the "Nickel Plate Rails") want the train service – AND A RAIL-WITH-TRAIL – so as to improve and increase passenger service from Tipton, Noblesville, Fishers, and other communities to downtown Indianapolis to access Colts, professional basketball, professional baseball, other sports, theater, conventions, education, entertainment, and other cultural features. In addition, such track will benefit freight operations, and improve income for this Line. A trail near to the NKP rail would add the flexibility for people to ride the train with their bike, or shoes, and then pedal or hike back home from a train ride.

Further a number of us who want to improve rail service envision – and will work for – not only reactivating rail service from Indianapolis to Michigan City, Indiana (on Lake Michigan on the 150 mile Nickel Plate Line), but WE ALSO VISION A RAIL-WITH-TRAIL ALONG THIS NKP LINE. We know this will improve eco-tourism across northern Indiana, and will open freight opportunities too for Hoosier businesses.

Notably, the 150 mile NKP Line goes through eight county seats – Indianapolis, Noblesville, Tipton, Kokomo, Peru, Rochester, Plymouth, and LaPorte, and the City of Michigan City, which accesses Amtrak, the South Shore RR, and together offers a strong positive passenger and freight potential of economic growth to Indianapolis, to the county seats, and to many communities northward.

- 3) The third reason is that the Owners who have conspired to destroy this Line have done so in ways of disservice, lies, deceptions, deceit, convolutions, conspiracies, confusion, and all around malfeasance to the public, to their constituents, to the people of Marion County, to citizens in other counties, and to the public of northern Indiana, who could benefit by reopening train service for 150 miles.

HRTC counts some thirty~six ways in which the Owners and Port Authority have offended public credit, perhaps the law, but in all, ways which the Owners are responsible for underhandedly backing citizens, other officials and many people into uncomfortable and/or misguided positions, which should never have happened, had the elected officials been open and transparent in the first place.

The following are the 36 OFFENCES ABOUT OWNERS OF THE NKP – as the Owners wrongfully pit rail against trail without even the courtesy of considering rail and trail, which has worked out well in many places throughout the United States.

A- ILLOGICAL FILING WITH STB IN FD #36137-0

- 01) Owners should have filed from the Norfolk and Western RR
Docket "AB-290 (Sub-No. 117X)", and not interrupted the continuous course set by this AB docket, by creating this new Docket "FD#36137-0.
This would have set a more continuous course for the logic of this case.
- 02) Owners are suggesting that they be allowed to "self railbank"
AND be set free from STB regulations. STB regulations control railbanking, namely that the corridor be a part of the national rail system, so therefore, if Owners are set free from national rail system, then Line would not qualify for saving. Thus Line could be forfeited to adjacents, who would claim reversionary interests.

B- WRONGFUL AND NEFARIOUS GOALS AND OBJECTIVES

- 03) People will need no public transit to get into and out of Fishers.
04) There will be no need for the rail line in the future to Indpls.
- 05) Using a trail and railbanking as excuse to get rid of NKP rail line.

C- DEGRADING THE LINE (the Nickel Plate "NKP" Line, here ~36 miles)

- 06) Owners keeping The Museum from improving the Line.
07) Keeping The Museum from improving Line to Union Station.

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D- DEGRADING THE MUSEUM (Ind. Transportation Museum)

- 08) Trying to close down The Museum, generally.
- 09) Locking out The Museum from running trains on NKP track.

E- NO PUBLIC MEETINGS; MIS-INFORMATION; NO MASTER PLAN

- 10) No professional master plan, no feasibility study, no base report, no source for objective information, from Owners.
- 11) Not notifying public of meetings.
- 12) Not allowing or repressing public comment at meetings.
- 13) Not holding open meetings, rather use time of "public cram sessions" for cramming mis-information, lies, etc. to people.
- 14) Saying that Rails w/ Trails are not feasible, claiming to need a span of 125 ft right-of-way width, when nationally many are 25' ft, and some are 10 ft.
- 15) Saying Rw/Ts are unsafe, when nationally 2 deaths in 20 years.
- 16) Exaggerating and overestimating the cost of rail: 20mph vs 10.
- 17) Underestimating costs of building a trail: no bridges for safety.

F- FORCING COMMUNITIES TO BACK INTO "DEAL", W/O CONSULTING

- 18) Holding TIPTON hostage: without consulting.
- 19) Holding KOKOMO hostage: without consulting.
- 20) Holding INDIANAPOLIS hostage: without consulting.
- 21) Holding HAMILTON COUNTY hostage: without consulting.
- 22) Holding THE STATE FAIR Hostage: without consulting.

G- "THE COMPROMISE": RUNNING A TRAIN ON THE NORTH

- 23) Suggesting the North is sustainable after the middle is gone.
- 24) Pronouncing a COMPROMISE, before a 2ND side is chosen.

H- WHY A FORTH TRAIL???

- 25) How nefarious can Owners be for "Nickel Plate Rail Trail", when...
- 26) Fishers names its bike-sidepath the "Nickel Plate Trail" a done Deal in building toward Noblesville.
- 27) Noblesville asks Indpls about creating a White River Trail,
- 28) U.S. Bike Route #35 already connects Noblesville, Fishers, Hamilton County to Indianapolis, but Cities never asked.

I- NO PUBLIC INVOLVEMENT

- 29) Not having a local citizens group help study, respond to the three issues of rail, trail, and rail-with-trail, rather than cram the public talk as only rails, or trail, with no rail-with-trail option?
- 30) Holding a "public" meeting, but inviting "pro trail people, and anti-rail folks, and anti-rail-with-trail persons to the meeting early to pack the audience – thus denying the word "public".

J- INEPT REQUEST FOR PROPOSALS TO PORT AUTHORITY FOR TRAINS

- 31) Having proposals sent to an unoccupied office.
- 32) Having proposals ask for train service for all 38 miles.
- 33) Rejecting 3 of 4 for having freight service, revenue generator.
- 34) Choosing a low score RFP:
 - A-which has no freight option, thus will be a drain on Owners's pockets, thus will fail over time.
 - B-which has a Hamilton County official as a principal.
 - C-which will run only on northern segment (Compromise).

K- REJECTING POSITIVE VISIONS FOR IMPROVED RAIL OPERATIONS

- 35) By denying freight, Owners and Port Authority have framed the future of the Line into a negative vision.
- 36) By pulling rail, the Owners reject several positive visions for the future of both the 40 mile line segment of Indianapolis to Tipton, and the whole 150 mile line to Michigan City.

To begin the discussion, in the original petition of August 1st, 2017, the Owners asked to be out of STB regulation. The Owners also said that they will railbank this Line, in their own way. However, if this Owners's petition is approved, the Owners will be out of STB regulation. If out of regulation the terms of railbanking – connection to the national rail system – and the authority of the STB will not exist. That the STB continues regulation of the national transportation/rail system, is one of the primary purposes of the STB to keep the national transportation system running well. Thus the logic of the Owners holds an original flaw of philosophy.

Continuing flaws by Owners is that they have not supported the Indiana Transportation Museum for the last eleven years, by not signing a ten plus year agreement to run, build, and improve rail service on this Line. This lack of support has forced the Museum to operate at

adequate, but less than optimum funding status. This lack of support defies the charter and intent of the Hoosier Heritage Port Authority.

Continuing, the Owners have thrown their argument into the rail or trail position, and not included rail-with-trail. Thus the Owners have positioned themselves to be public dis-servants, unable to reasonably and openly discuss the pros and cons of all three positions with their public. All subsidiary positions and information by the Owners has been corrupted.

THEREFORE HRTC PETITIONS THE STB TO DENY FD#36137-0, AND MOVE THE RAIL LINE INTO AN ACTIVE AND COMMON CARRIER STATUS.

As to the second reason, to promote the positive rail – and eliminate the negative - many people support the vision and need to enhance – not cut – rail service. This positive is supported by at least ten thousand people who have signed petitions to save the passenger trains, and keep them running. Some business operators along the Line – specifically Stone Spectrum and Crown Technologies – would like freight service.

When the Owners and the Port Authority voted on July 31, 2017, to “railbank (their way)” the Line, they also turned down four proposals by potential operators of freight and passenger service. That this vote is to both chop part – therefore ultimately all forty miles – of the line, and to prevent freight service – the heart, soul, and money of the Line – clearly and distinctly shows the vision of the Owners to destroy this line.

As to the third reason - to implement their negative vision - the Owners have conspired to carry out:

- 1) Disservice: The Owners wanting to kill the Indiana Transportation Museum without being forthright in allowing various sides to present their points of view
- 2) Deceptions: Saying Noblesville held a “public” meeting on March 23, 2017, at which, the public was not invited to sit in the front of the room, but rather packed with “friends of trail” by an e-mail invite from Deputy Mayor Cook for “friends” to come early to eliminate the publics’ participation. This bias created a non-listening session by the City of Noblesville.
- 3) Lies:
 - a- When the B~Deception was made public, Noblesville’s Mayor Ditsler told WISH Channel 8 News that Deputy Mayor Steve Cook was “off the case” of the Nickel Plate, only to have Cook working on the case three days later.

- b- At the “public cram sessions” on March 21 in Fishers, and on March 23rd the Owners crammed lies into the public statements, such a lie: that rails with trails were unsafe, when national reports (Federal and Rails to Trails Conservancy) indicated that two people had been killed in twenty years;
- c- that rails with trails take at least 125 feet width, when national reports report many trails are within twenty five feet of a track;
- d- that rails are more expensive than trails when the Indiana Transportation Museum paid for rail maintenance for twenty years, when Owners paid very little, when Owners said that the cost of rail maintenance would be millions of dollars to get the Line into shape, when the shape was twenty mph, needless for a safe and adequate ten mph level of operation;
- e- that trails are less expensive than rail, when the cost of a trail did not include the costs of bike/ped bridges over busy streets.
- f- Deceit: The Owners not coming out and saying matter of factly that their goal of “the trail” on the Nickel Plate RR Line is to bring the Indiana Transportation Museum to ruin, instead of deceiving their public into thinking that somehow the growth of Fishers will not need the trail with rail;
- g- Convolutions: the Owners using the name “Nickel Plate Trail” to describe the “done deal” for the mostly already built bike/ped sidepath along Lantern Road, 131st Street, and to build along Allisonville Road to Connor Prairie (history center), as a means to twist the public into thinking that the popularly held “Nickel Plate Rail Trail” is a “done deal”, when in fact it is not – **particularly if the STB denies FD36137-0, and makes the Line active.**
- h- Conspiracies:
 - a. At a “press conference on February 28, 2017 at which the Owners announced the trail, but not telling the Hamilton County Council, thus backing these partial owners – and the public - into a difficult position of not being informed of the trail plan (meeing Sept 12, 2017);

- b. City of Noblesville Violated the Open Door Law by Conducting an Illegal Executive Session to Discuss the Nickel Plate Trail in February 2017;
- i- Confusion: Holding a public meeting on March 21st in Fishers by not having the Mayor, or anyone else in authority to speak from a central position. Others, at tables spread around the room, were not knowledgeable about the real issues - laws, railbanking, rails with trails, and other facets of this project. Notably, by issuing lies (above) and other mis-information in a non-centered room, this meeting had so much confusion, it presented a disservice to most attending. The result was that Noblesville reformed its meeting on March 23rd to a more centrally focused format. Sadly, "friends" of the City were packed into the room before the public first arrived; and
- j- All around malfeasance by the Owners for proposing to spend millions of dollars, yet not having any – let alone a professionally written - master plan, feasibility study, or comprehensive guide, or similar objective analysis for this project and for the public to compare and contrast details. Owners did not talk to the City of Indianapolis, to the Hamilton County Councillors, and to Tipton County people. For these and many other offences – even if not specifically illegal – the plethora of offences are deplorable and malfeasant.

Lastly, the Owners have distinguished themselves in some thirty six ways as being totally responsible for the degradation of this Nickel Plate Rail Line, for the discredit of their public offices, and for the many thousands of hours which citizen advocates have had to take to see through their nefarious steps to kill the rail Line, that **The STB needs to remove this Rail Line from their authority**, so these steps of conspiracy cannot be repeated and cost citizens time and money.

NOTABLY, THE OWNERS HAVE RIGOROUSLY, DETERMINATELY, RESPONSIBLY, AND DILIGENTLY PURSUED A COURSE BY ELECTED OFFICIALS OF BAD BEHAVIOR – A COURSE SMACKING OF MALFEASANCE – WHICH THEY CANNOT DENY, AND FROM WHICH THEY CANNOT ESCAPE.

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For these and many other acts of deception to their constituents, to the public, to the people of Marion County and other counties, and to the public of northern Indiana, HRTC petitions for the **Surface Transportation Board**:

- 1) to deny all of FD 36137, and make the Line "active and a common carrier" again;
- 2) (to institute a new status for a rail line) to reverse possession of a rail line; and
- 3) to call for a field hearing in Indianapolis.

I am serving this missive to Mr. Wimbish, at <rwimbish@fletcher-sippel.com>, as attorney for the Owners.

In Appreciation,

A handwritten signature in cursive script that reads "Richard Vonnegut". The signature is fluid and stylized, with a prominent 'R' and a long, sweeping underline.

Richard Vonnegut
Vice Chair
Hoosier Rails to Trails Council
317-237-9348
trails@indianatrails.com