



Chicago Metropolitan Agency for Planning

233 South Wacker Drive
Suite 800
Chicago, Illinois 60606

312 454 0400
www.cmap.illinois.gov

246682

November 1, 2018

ENTERED
Office of Proceedings
November 1, 2018
Part of
Public Record

Via e-filing:
www.stb.gov

Surface Transportation Board
Attn: Docket No. EP 749 (Sub-No. 1)
395 E Street SW
Washington, DC 20423-0001

Comment on Docket No. EP 749 (Sub-No. 1), National Association of Reversionary Property Owners-Petition for Rulemaking; Limiting Extensions of Trail Use Negotiating Periods

To whom it may concern:

Thank you for the opportunity to comment on this Notice of Proposed Rulemaking (NPRM) revising regulations related to the National Trails System Act. The Chicago Metropolitan Agency for Planning (CMAP) opposes this proposal to set an arbitrary limit of six 180-day extensions of a trail use negotiating period, absent extraordinary circumstances.

As the region's comprehensive planning agency and federally designated metropolitan planning organization, CMAP represents 8.5 million residents in 284 communities. The agency has a strong interest in promoting biking and walking, and therefore the potential of rail corridors to be preserved through interim trail use via rail banking. Rail rights of way are an important resource for bike and pedestrian trails that promote access to jobs, transit, and services as well as provide a recreational and community amenity. They often travel through well-established communities and can add strong non-motorized linkages to the transportation system.

The proposed changes would unreasonably limit the negotiating period for trail sponsors and railroads. A limitation of approximately three years of extensions is impractical and ignores the historical realities of the rail banking process. Following federal procedures, land acquisition (when trail use negotiations may take place) may only begin after the first phase of engineering is complete and design approval is attained. But that first phase of engineering a trail requires

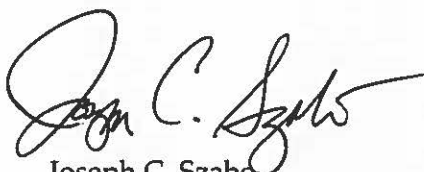
many of the same engineering procedures as building a new road;¹ the Illinois Department of Transportation's typical time frame for right-of-way acquisition for such complicated projects is 4 to 7 years after engineering begins.² Finding funding for such engineering and securing an engineering contractor will itself take time. Unforeseen environmental issues, negotiation of management agreements, and finalization of intergovernmental agreements can further contribute to the delay and may make the "extraordinary circumstances" exception a frequent subject of appeal, diverting the Board's attention from more important matters.

Within the CMAP region, at least two specific projects could be negatively impacted by this proposal. Rail banking negotiations for the purpose of building the El Paseo multi-purpose path on the Southwest Side of Chicago are ongoing (AB-6 (Sub No. 482X)), as are negotiations for an interim trail use/rail banking agreement in St. Charles (AB-33 (Sub-No. 284X)). If these projects and others like them are subject to the proposed timeframes, they may not be able to move forward. CMAP's ON TO 2050 comprehensive regional plan strongly supports providing more options for biking and walking, and retaining flexibility in processes that achieve this goal is key.

Often, the public interest in achieving an agreement is overwhelming, even if the trail use proceedings take time. Much of the rail system in the Chicago region is on structures, and abandonment of these structures has sometimes led to public nuisances – potentially hazardous – adding to the struggles of disadvantaged communities.³ Public right-of-way may sometimes be involved. Allowing the engineering and right-of-way processes to play out is important in protecting the public health, safety, and welfare.

The rail banking program relies on voluntary agreements, and the STB currently has the discretion to balance the interests of stakeholders in rail banking negotiations. An artificial cap would hamper this process, and I urge the STB to withdraw this rulemaking.

Sincerely,



Joseph C. Szabo
Executive Director
Chicago Metropolitan Agency for Planning

¹ Rail-trails often require the construction of new structures, environmental surveys and mitigation, and complex staging plans, owing to the dense urban environment.

² Illinois Department of Transportation. "It Takes Time: Highway Construction from Start to Finish." Posted at <http://www.idot.illinois.gov/assets/uploads/files/about-idot/pamphlets-&-brochures/it%20takes%20time%20brochure-final.pdf>.

³ E.g., the abandoned rail viaduct at [41°49'19.11"N, 87°37'06.14"W](#).