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Ms. Ann Begeman, Chairman
United States Surface Transportation Board
395 E Street S.W.
Washington DC 20423-0001

Subject: Response to Petition for Rulemaking, Docket No. EP 749 (Sub No. 1)

Dear Ms. Begeman:

The United States Surface Transportation Board (STB) has announced a Petition for Rulemaking, Docket No. EP 749 (Sub No. 1), regarding limiting extensions of trail use negotiating periods during the process required to railbank railroad rights of way to provide for an interim use of a railroad corridor while retaining STB jurisdiction to preserve the right of way for future restoration of railroad operations. The Maryland Department of Transportation (MDOT) wishes to provide comment in response to this petition.

The STB has proposed limiting the number of 180-day extensions of Trail Use negotiating periods to six, absent extraordinary circumstances. This would provide a maximum of three years to complete the railbanking process and negotiate a Trail Use Agreement to permit consummation of railbanking by the STB. In our experience the proposed time limit would be insufficient and unrealistic for addressing all the necessary negotiations and legal requirements. The Trail Use negotiating period permits the parties involved to undertake and complete the STB railbanking process and negotiate a Trail Use Agreement. Negotiating and completing the railbanking process may also include addressing State and local laws and policies governing the use and disposition of railroad right of way. Extension of the Trail Use negotiating period may be necessary to provide adequate time to address complex matters that may arise during negotiations and respond to inquiries or directions from STB during the railbanking process.

Past experience indicates that efforts to railbank railroad property can be complicated and require considerable time and effort to address concerns that arise during negotiations and the approval process. MDOT respectfully requests that the STB reconsider the proposed rule to limit extensions as this would adversely impact the capacity of property owners and trail sponsors to

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execute effective Trail Use Agreements. We appreciate the opportunity to comment on this matter.

Sincerely,



Bradley M. Smith, Director
Office of Freight and Multimodalism

cc: Ms. Marty Baker, Deputy Director of Bicycle and Pedestrian Access, MDOT Office of Planning and Capital Programming
Ms. Heather Murphy, Director, MDOT Office of Planning and Capital Programming
Mr. Byron Smith, Principal Counsel, Office of the Attorney General, MDOT Maryland Transit Administration