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August 14, 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 FOR EXPEDITED CONSIDERATION

Dear Ms. Brown:

The City of Fishers, Indiana ("Fishers") hereby urges expeditious action on its pending petition to the Surface Transportation Board ("Board") for issuance of a notice of interim trails use ("NITU"), and agency action that is typically regarded as ministerial in nature where the trails sponsor and the line owner have agreed to negotiate trails use terms.

Over two months ago (June 8, 2018), Fishers requested an NITU for a 5-mile segment (the "Fishers Segment") of railroad line that is the subject of the above-referenced proceeding. Fishers tendered its NITU Petition in keeping with the Board's decision in City of Fishers, City of Noblesville, & Hamilton County, Ind., Docket No. FD 36137 (STB served May 31, 2018) ("Fishers Petition") permitting the line owners immediately to pursue trail use under the Board's interim trail use regulations at 49 C.F.R. § 1152.29. Noblesville has since petitioned for issuance of an NITU to the north, and the City of Indianapolis is expected soon to follow suit for a line segment contiguous to the southern end of the Fishers Segment.

While Fishers seeks to take definitive steps to implement its trails use plans, excursion train proponents – including Save the Nickel Plate, Inc. ("STNKP") – have come forward with a new round of obstructionist filings, offering a variety of new theories as to why the Board should delay, and ultimately block, trails use efforts. Filings such as STNKP's and those of US Rail Holdings, LLC, are procedurally unwarranted and legally meritless. Moreover, recent experience indicates that delayed agency action increases the possibility of more such filings from excursion train supporters, particularly where there are no applicable procedural

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deadlines to govern Board action. Linger uncertainty as to how long it could take the Board to dispense with the latest round of excursion train-oriented filings is itself problematic for those communities planning to convert portions of the right of way into trails. Fishers respectfully submits that no one other than trails opponents would benefit from a reprise of FD 36137 experience.

Excursion train advocates are already achieving the delay they seek. The Board has not yet ruled upon the merits of a two-month-old stay request sought by a short line operator with clear ties to excursion train proponents, but the lack of a Board-issued NITU at this point is the functional equivalent of a stay. The absence of an NITU precludes communities such as Fishers from moving ahead with development of long-contemplated trails use plans. After experiencing extensive delay in recreational trail development as a consequence of securing Board guidance in the FD 36137 proceeding, Fishers desires to move beyond agency deliberations and procedure, and advance to the task of trail sponsorship.

Fishers urges the Board to facilitate trails use plans for which the Board opened the door in May of this year, and to promptly undertake the ministerial act of issuing the requested NITU.

Respectfully submitted,



Robert A. Wimbish

Counsel for City of Fishers, Indiana

cc: All parties of record