



Office of the City Manager

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October 12, 2017

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E. St. SW
Washington, DC 20472

Dear Ms. Brown:

RE: Norfolk Southern Railway Company Abandonment in Montgomery County,
Ohio, Docket AB-290 (Sub-No. 390X)

 GRANTED Office of Proceedings	DECISION ID NO.: <u>46123</u>
	DECIDED DATE: <u>10-26-17</u>
	SERVICE DATE: <u>10-27-17</u>
	APPROVED <u>[Signature]</u> Acting Director ☒ <u>Extended to 11-27-18</u>

The City of Dayton ("City"), a municipal corporation in and of the State of Ohio, hereby petitions the Surface Transportation Board ("STB") for an order extending the time period for negotiations for interim trail use and railbanking, between the City and Norfolk Southern Railway Company ("Norfolk") concerning property between Milepost ZX 12.1 and Milepost ZX 15.4 and Milepost ZQ 0.0 and Milepost ZQ 3.2 ("Line") located in Dayton, Ohio, for one hundred and eighty (180) days until April 27, 2018.

The City has been negotiating with Norfolk for mutually acceptable interim trail use and railbanking agreement since STB's issued its original Notice of Interim Trail Use ("NITU"). As such, the City initiated and completed the process of having the Line appraised and is continuing to locate relevant documents for negotiations. However, the parties need additional time to complete the negotiations.

In an effort to preserve the Line for interim trail use and railbanking under Section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d), it is necessary for the negotiation period to be extended up to and including April 27, 2018. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub. No. 13b)(ICC served Feb. 5, 1990)(extension of time promote the establishment of trails and railbanking consistent with the National Trails System Act).

Since the original issuance of the NITU by the STB, Norfolk at all times has maintained an intention to transfer the Line intact for interim trail use and railbanking. Norfolk has not sold, or offered for sale, any parcels of land that would interfere with interim trail use and railbanking portion of the Line. The Line remains intact and Norfolk has been negotiating with the City for the transfer or sale of the entire and intact Line. Accordingly, the STB retains jurisdiction to extend its original order and allow for the City and Norfolk to continue bona fide and active negotiations for interim trail use of the Line.

The City, as a governmental entity, also respectfully requests a waiver of the Board's filing fees in accordance with 49 C.F.R. § 1002.2(e)(1).

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Should you have any questions, please do not hesitate to contact Mr. Jon White in the City's Department of Planning and Community Development at (937) 333-3683.

Respectfully submitted,



Shelley Dickstein
City Manager

SD/jw

cc: Parties of Record



Surface Transportation Board

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Docket #: **AB_290_390_X**

Case Title: **NORFOLK SOUTHERN RAILWAY COMPANY - ABANDONMENT EXEMPTION - IN DAYTON, MONTGOMERY COUNTY, OHIO**
8 Service List entries found.

<u>Code</u> <u>Desc</u>	<u>Filed By</u>	<u>Address</u>	<u>Email</u>	<u>Filed For</u>
Party Of Record	Dickstein, Shelly	City Of Dayton P.O. Box 22 Dayton, OH 45401 Tel: Fax:	www.daytonohio.gov	City Of Dayton, Ohio
Party Of Record	Mullins, William A	Baker & Miller PLlc 2401 Pennsylvania Ave, Nw-Suite 300 Washington, DC 20037 Tel: (202) 663-7823 Fax: (202) 663-7849	Wmullins@Bakerandmiller.Com	Norfolk Southern Railway Company
Party Of Record	Zorbaugh, Crystal	Baker & Miller P.L.L.C. 2401 Pennsylvania Avenue, Nw, Suite 300 Washington, DC 20037 Tel: 202-663-7820 Fax: 202-663-7849	Czorbaugh@Bakerandmiller.Com	Norfolk Southern Railway Company
Non- Party	Douglas G. Lankford Chief Miami Tribe Of Oklahoma	P.O. Box 1326 Miami, OK 74355 Tel: Fax:		
Non- Party	Kerry Holton President Delaware Nation Executive Committee	P.O. Box 825 Anadarko, OK 73005 Tel: Fax:		

Non- Mr. John P. P.O. Box 1527
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