

National Association of Reversionary Property Owners (NARPO)

1100 Bellevue Way NE Ste. 8APMB 719 Bellevue, WA 98004
760-238-8420

dick156@earthlink.net

248459

September 10, 2019 E-FILED

Surface Transportation Board, Cynthia Brown, Administrator

794X

ENTERED
Office of Proceedings
September 10, 2019
Part of
Public Record

**RE: CSX Abandonment Exemption AB 55-~~749X~~ in Pinellas County,
Florida**

Dear Ms. Brown:

On September 9, 2019, the City attorney of St. Petersburg, Florida (City) filed a Petition asking the STB to not allow the Trails Use request by Georgetown and High Line Railway Co. LLC. (Georgetown) in AB 55-794X. The City's rational for their request of the STB was that CSX is using subterfuge to scam the STB rules on Interim Trail use under 49 CFR 1152.29. NARPO is in total agreement with the City in how CSX and Georgetown are abusing the STB rules and Congress' Trails Act, 16 USC 1247(d). NARPO has long been active in bringing the abuses of the Trails Act to the ICC and STB's attention, and this includes NARPO proposed rulemaking in EP-749 on changing the STB rules for implementing the Trails Act regulations and NARPO's recent final Rebuttal Comments to EP-749. The scam CSX is trying to perpetrate in AB 55-794X is just another example of the different railroads attempting to exact more money from government agencies under the guise of preserving railroad rights of way for future use. On July 31, 2019, the STB revoked an abandonment exemption in FD 35982 which Jackson County, Missouri (County) and Union Pacific Railroad (UP) worked up a scheme to defraud local taxpayers of approximately \$50 million by using the STB Exemption procedures to work around UP having to file its own abandonment and thus negate the requirements of the Trails Act. The STB saw through the County and UP's

scheme and revoked the Exemption issued to the County; citing abuse of STB rules. Jackson County reversionary property owners informed the STB of the proposed scheme by the railroad and the County.

Another problem the City brought forth in their Petition of September 9, is the other numerous Trail Use requests that Georgetown has been issued over the past few years; all of which have never resulted in a Trail Use Agreement, and all of which has left the abutting reversionary property owner's rights in limbo. Besides the property owner's rights being in limbo, the U.S. Government, meaning us taxpayers, are on the hook for millions of dollars in 5th Amendment Takings claims before the U.S. Court of Claims. Previous federal court cases have mandated that the Takings start on the date the NITU or CITU is issued by the STB. So if a NITU or CITU is issued by the STB to Georgetown or any other of the phony trails groups, then the U.S. taxpayers will have to pay compensation to the reversionary property owners even if no trail is ever built. Because the average Claims Court Trails Use case takes over 10 years to complete, the U.S. taxpayers will be paying the just compensation plus 4 or 6% interest compounded for all the years of the court procedures.

NARPO will not repeat the 12 abandonments and exemptions NARPO recited in their final Rebuttal Comments to EP-749, but all of those cited actions involve the same scams and schemes in this abandonment. And all 12 of those scams and schemes are costing the U.S. taxpayers millions of more dollars in just compensation and compounded interest. While all this cost to the taxpayers is going on, the STB merilly goes on with its old time worn rules and regulations allowing the railroads and these phony trails groups to acquire millions of dollars more from county, city and state taxpayers such as the \$50 million from Jackson County, Missouri taxpayers. It is no wonder the AAR and the individuals railroads were gleefully agreeable to the deficient rules the ICC promulgated originally in 1986 and then the STB added to in 1996.

Another rule the railroads and trails groups are abusing is the abandonment consummation rule, 49 CFR1152.50(e) and 49 CFR 1152.60(e). Here the railroads are approved for abandonment and possibly a NITU or CITU is issued by the STB, but the railroads never consummate the abandonment or wait many years to consummate the abandonment. Meanwhile, during these years of wait, the abutting reversionary property owner is again in limbo with a cloud on their title due to an easement that may or may not have a trail on the land through their property sometime in the future. There have been cases where the railroad never consummated an approved abandonment for over 14 years, but after 14 years, a trails group comes forward and the STB certifies a NITU to this trails group. But that leaves the reversionary property owner with no recourse for 14 years, and then an untold number of years in limbo while the trails group negotiates with the abandoning railroad. In this case, the property owner has no recourse for the 14 years the railroad stalled off the consummation process.

It is time for the STB to call a halt to this legalized nonsense they have allowed over the past 33 years since the Trails Act rules were promulgated. The STB should revoke the Abandonment Exemption in AB 55-794X or not allow Georgetown to have a NITU, and then consider the City's adverse abandonment petition which it filed. Also the STB should consider amending their consummation rules to reflect an even handed fairness to property owners who own these many railroad right of way easements throughout the United States.

Sincerely yours

Richard Welsh--Executive Director--NARPO

NARPO has served all parties of record via email on September 9, 2019.
Richard Welsh--Executive Director NARPO