

DLD#C/02227001

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TODD E. WALLSMITH

PARTNERSHIP TENURE

JAMES W. NICHOLS 1887-1903

WILLIAM C. PENTECOST 1900-1914

ORVILLE W. NICHOLS 1914-1970

August 6, 2003



Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

RE: Public Use Condition and Trail Use Request
Docket No. AB-847 (Sub No. 1X); — 208702
Docket No. AB-856 (Sub NO. 1X) — 208703
Toledo, Peoria & Western Railway Corporation
And J. K. Line, Inc. (And Subsidiaries)
Proposed Rail Abandonment Between
Mile Post 199 Near North Judson And
Mile Post 183 Near Monterey, Indiana,
The End Of The Line, A Distance Of
Approximately 17 Miles In Starke
And Pulaski Counties, Indiana

FILED

AUG 13 2003

TRANSPORTATION BOARD

ENTERED
Office of Proceedings

AUG 14 2003

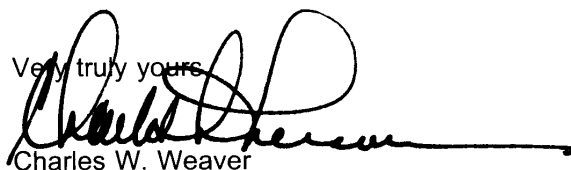
Part of
Public Record

Dear Mr. Williams:

Enclosed are original and 10 copies of Request for Issuance of a Notice of Interim Trail Use. Please time and date stamp the additional copy of this letter and the Request and return to me in the enclosed self-addressed stamped envelope.

Thank you for your assistance. If you should have any questions, please feel free to contact me.

Very truly yours,


Charles W. Weaver

CWW
enclosure

cc: Mr. Gary A. Laakso, Vice President,
Regulatory Counsel
Mr. Louis E. Gitomer, of Ball Janik, LLP

P.S. I was unable to locate filing fees on the STB website. Please notify me of any filing fees due. CWW/pt

STATE OF INDIANA

ss:

COUNTY OF STARKE

AFFIDAVIT OF SERVICE

Charles W. Weaver, being duly sworn upon his oath, deposes and says:

1. That on the 7th day of August, 2003, he served a copy of Public Use Condition and Trail Use Request by Hoosier Valley Railroad Museum, Inc., by first class mail, by depositing same in a United States Post Office in this State, on each of the following:

Mr. Louis E. Gitomer, Of Counsel,
Ball Janik, LLP
1455 F Street, NW, Suite 225
Washington, D.C. 20005; and,

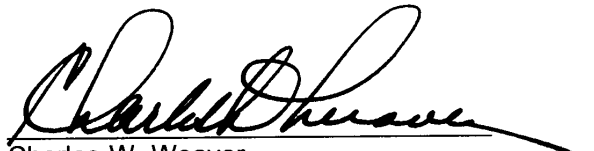
Mr. Gary A. Laakso
Vice President, Regulatory Counsel
5300 Broken Sound Blvd NW
Boca Raton, FL 33487.

Further, Affiant saith not.

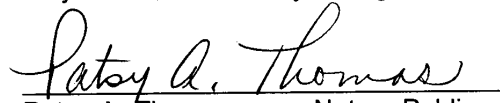
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Charles W. Weaver
Attorney for Hoosier Valley Railroad
Museum, Inc.

Subscribed and sworn to before me, a Notary Public, this 7th day of August, 2003.


Patsy A. Thomas, Notary Public

My commission expires:
June 24, 2007
Resident of Starke County, IN



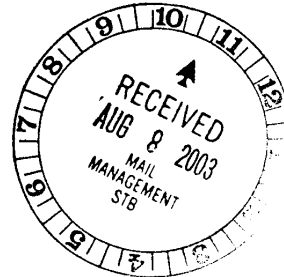
**Hoosier Valley
Railroad Museum, Inc.**

⑥ 2789

FILED

AUG 13 2003

August 6, 2003



Mr. Vernon A. Williams, Secretary
Surface Transportation Board
12th & Constitution Ave., N.W.
Washington, D.C. 20423

RE: PUBLIC USE CONDITION AND TRAIL USE REQUEST
DOCKET NO. AB-847 (SUB NO. 1X); 208702
DOCKET NO. AB-856 (SUB NO. 1X) 208703
TOLEDO, PEORIA & WESTERN RAILWAY CORPORATION
AND J. K. LINE, INC. (AND SUBSIDIARIES)
PROPOSED RAIL ABANDONMENT BETWEEN
MILE POST 199 NEAR NORTH JUDSON AND
MILE POST 183 NEAR MONTEREY, INDIANA,
THE END OF THE LINE, A DISTANCE OF
APPROXIMATELY 17 MILES IN STARKE
AND PULASKI COUNTIES, INDIANA

ENTREPRENEUR
Office of Public Affairs

AUG 13 2003

Public Affairs

Dear Mr. Williams:

This request is filed on behalf of the HOOSIER VALLEY RR MUSEUM, INC., a private, public-interest organization concerned with preserving the history of railroads, in the State of Indiana, which are hereinafter referred to as "Proponent".

Proponent requests issuance of a Public Use Condition as well as an interim Trail Use Condition, rather than an outright abandonment authorization between Mile Post 199 near North Judson, Indiana, and Mile Post 183 near Monterey, Indiana.

P.O. Box 75, North Judson, IN 46366

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A. Public Use Condition.

Proponent requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. Barring non-public disposition

Condition sought: an order prohibiting the carrier from disposing of the corridor, other than the tracks, ties, and signal equipment, except for public use on reasonable terms.

Justification: THIS LINE OFFERS THREE REASONS TO RAILBANK THE CORRIDOR. ONE IS BECAUSE IT IS IMMEDIATELY ADJACENT TO AN OPERATING RAILROAD MUSEUM, WHICH MAY WELL EXPAND OPERATIONS IN THE FUTURE. RAILBANKING THIS CORRIDOR WILL ALLOW FOR SUCH EXPANSION WITH A MINIMUM HASSAL OF FURTHER LAND ACQUISITION.

THE SECOND REASON IS THAT THIS CORRIDOR IS DIRECTLY ON THE PATH TO LINK CENTRAL NORTH INDIANA - THE ROCHESTER AREA - TO CHICAGO. THIS SEGMENT WILL BECOME PART OF THE AMERICAN DISCOVERY TRAIL, AND AS SUCH, IT WILL LINK WITH AND COMPLEMENT OTHER TRAILS BEING DEVELOPED IN THE AREA.

THIRDLY, THIS LINE TRAVERSES SOME OF INDIANA'S MOST SCENIC AND PRODUCTIVE FARMLAND TOPOGRAPHY, AND AS SUCH PROVIDES A VALUABLE METHOD FOR CITIZENS TO OBSERVE AND LEARN ABOUT AGRICULTURE.

FOURTHLY, THIS AFFORDS AN EXCELLENT CHANCE TO INCREASE THE LOCAL TOURISM ECONOMY AND FARM EDUCATION, AND RAILROAD HISTORY.

This time period sought is 180 days from the effective date of the abandonment authorization. Proponent needs this much time to coordinate efforts with local interest groups and to commence negotiations with the carrier.

2. Preserving trail-related structures

Condition sought: an order barring removal or destruction of trail-related structures such as bridges, culverts, and tunnels, but not removal of tracks, ties, and signal equipment.

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Justification: bridges, culverts and tunnels have considerable value for, and would certainly enhance the use of, recreational trails. On the other hand, such structures generally have negative salvage value for a railroad so the preservation poses no burden on interstate commerce.

The time period sought is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Interim Trail Use.

The railroad right-of-way in this proceeding is suitable for railbanking, this Proponent requests railbanking and interim trail use. Proponent accordingly makes the following statement:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY...

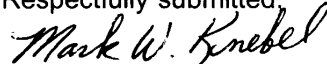
In order to establish interim trail use and railbanking under 16 U.S.C. 1247(d) and 49 CFR 1152.29 THE HOOSIER VALLEY RAILROAD MUSEUM, INC., the interim trail user, is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (if the user is immune from liability, it need only indemnify the railroad against any potential liability) and for the payment of any and all taxes that may be levied or assessed against the railroad right-of-way owned by TOLEDO, PEORIA & WESTERN RAILWAY CORPORATION AND J.K. LINE, INC.

THE PROPERTY EXTENDS FROM RAILROAD MILEPOST 199 AT OR NEAR NORTH JUDSON, IN., AND MILEPOST 183 AT OR NEAR MONTEREY, IN., A DISTANCE OF APPROXIMATELY 17 MILES IN STARKE, AND PULASKI COUNTIES, INDIANA.

A map of the property depicting the right-of-way is attached. The HOOSIER VALLEY RAILROAD MUSEUM, INC. (the interim trail user) acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

A copy of this statement is being served on the railroad on the same date that it is being served on the Commission.

Respectfully submitted;



Mark Knebel, Secretary
Hoosier Valley RR Museum, Inc.

MK
enclosure

Mr. Vernon A. Williams
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Attorney for Hoosier Valley Railroad Museum, Inc. is:

Charles W. Weaver
NICHOLS, WALLSMITH & WEAVER
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Telephone #: (574)-772-2900
Facsimile #: (574)-772-7036
email address: c.weaver@nitline.net

Docket No. AB-847 (Sub-No. IX)
 TOLEDO, PEORIA & WESTERN
 RAILWAY CORPORATION-
 DISCONTINUANCE EXEMPTION-
 (BETWEEN NORTH JUDSON AND
 MONTEREY) IN STARKE AND
 PULASKI COUNTIES, IN
 Docket No. AB-856 (Sub-No. IX)
 J.K. LINE, INC.-ABANDONMENT
 EXEMPTION-(BETWEEN NORTH
 JUDSON AND MONTEREY) IN STARKE
 AND PULASKI COUNTIES, IN

