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October 17, 2012
Public Record

Branch Area Bike Association

An organization committed to bike advocacy & safety for everyone at any age

Family, Fun, Fitness & Friendship

October 17, 2012

Ms. Cynthia T. Brown
Chief of the Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington DC 20423-0001

RE: Request for Issuance of a Public Use Condition and Interim Trail Use
Condition and Statement of Willingness to Assume Financial Responsibility
(Indiana Northeastern Railroad Company Petition for Abandonment – Docket No.
AB-1102X)

Dear Ms Brown:

Enclosed is a combined REQUEST and STATEMENT OF WILLINGNESS TO
ASSUME FINANCIAL RESPONSIBILITY (“REQUESTS-STATEMENT”) filed by The Branch Area Bike Association (BABA). Enclosed, also, is credit card information to be processed for the \$250 filing fee.

Copies of this letter and the REQUEST-STATEMENT have been mailed today, first class postage prepaid, to the legal counsel for The Indiana Northeastern Railroad Company: Mr. Carl M. Miller, Miller & Harants, 618 Professional Park Dr., PO Box 332, New Haven IN 46774. As well, copies of this letter and the REQUEST-STATEMENT have been mailed today, first class postage prepaid, to the Indiana Northeastern Railroad Company, Main Office, South Milford IN.

If you have any questions, please call me at 517.617.7506 or email me at bev.ohm@gmail.com.



Sincerely Yours,
The Branch Area Bike Association

Beverly Ohm
Beverly Ohm, President & Founder

Enclosures

cc: Indiana Northeastern Railroad Company
7570 South 790 East
PO Box 123
South Milford IN 46786

cc: Mr. Carl M. Miller
Miller & Harants
618 Professional Park Dr.
PO Box 332
New Haven IN 46774



BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-1102X

REQUEST FOR PUBLIC USE CONDITION, REQUEST FOR INTERIM TRAIL
USE AND STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL
REPONSIBILITY

October 17, 2012

Cynthia T. Brown
Chief of the Section of Administration,
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington DC 20423-0001

RE: Request for Issuance of a Public Use Condition and Interim Trail Use Condition and Statement of Willingness to Assume Financial Responsibility (The Indiana Northeastern Railroad Company Petition of Abandonment - STB Docket No. AB-1102X)

Dear Ms. Brown,

This request is filed on behalf of The Branch Area Bike Association (BABA) - caretaker of The Bike Branch Fund within The Branch County Community Foundation – a non-for-profit organization in the state of Michigan. The BABA is interested in conservation and recreation of this rail corridor and is hereafter known as “Proponent”.

Proponent requests issuance of a Public use Condition as well as an Interim Trail Use Condition rather than an outright abandonment authorization from railroad milepost 81.32 at Garfield Road near Coldwater, in Branch County, Michigan, and milepost 100.69, 1,000 feet west of Big Hill Road, near Sturgis in St. Joseph County, Michigan.

A: Request for Public Use Condition

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

1. An order prohibiting the Indiana Northeastern Railroad Company from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the corridor would make an excellent recreational trail for use in biking, hiking, walking, cross country skiing, and possibly rollerblading. Another justification for this condition is that the corridor would make an excellent nature and environmental enhancement to the surrounding area such as bird watching and other wildlife habitat and open space. A further justification is that this rail corridor connects the City of Coldwater (the county seat of Branch County) with the City of Sturgis. The time period sought is 180 days from the effective date of the abandonment authorization. Proponent needs this much time to begin negotiations with The Indiana Northeastern Railroad Company.
2. Make the order effective for a period of one hundred eighty (180) days from the effective date of the Abandonment Authorization. BABA needs this time in order to complete its rail plan, negotiations with The Indiana Northeastern Railroad Company, and ultimately complete its due diligence before taking title to the corridor. Due diligence includes title examination, reviewing environmental issues, inspection/evaluation of trestles and culverts, completing a risk assessment for liability purposes, and developing a trail plan.
3. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts, tunnels, and railroad ballast. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is one hundred eighty (180) days from the effective date of the abandonment authorization for the same reason as indicated in Paragraph 2 above.

B: Request for Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, proponent also makes the following request:

**STATEMENT OF WILLINGNESS TO ASSUME FINANACIAL
REPONSIBILITY**

In order to establish interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, with respect to the rail corridor, proponent is willing to assume full responsibility for 1) managing the right-of-way comprising the rail corridor, 2) any legal liability arising out of, the transfer or use of the right-of-way comprising the rail corridor (unless the user is immune from liability, in which case it need only indemnify the railroad against any

potential liability), and 3) the payment of any and all taxes that may be levied or assessed against the rail corridor after its transfer to the Proponent.

Proponent 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 rail corridor right-of-way for rail service.

A map depicting the right-of-way is attached.

CERTIFICATE OF SERVICE: By my signature below, I certify that on October 17, 2012, I served a copy of this Request Statement by first class mail, postage prepaid, addressed to the following:

The Indiana Northeastern Railroad Company
Attn: Mr. Gale Schultz, Owner
7570 South 790 East, PO Box 123
South Milford IN 46786

And the legal counsel of The Indiana Northeastern Railroad Company:
Mr. Carl M. Miller
Miller & Harants
618 Professional Park Dr., PO Box 332
New Haven IN 46774.

Thank you for your consideration of this petition.

Respectfully Submitted,



Beverly Ohm
Founder & President
The Branch Area Bike Association
427 Grand Street
Coldwater MI 49036
Bev.ohm@gmail.com
517-617-7506

