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ENTERED
October 30, 2015
SURFACE
TRANSPORTATION BOARD

October 28, 2015

Via

Ms. Cynthia Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street S.W.
Washington, D.C. 20024



**Re: STB Docket No. AB-1112X
Caldwell Railroad Commission – Abandonment Exemption**

Dear Ms. Brown:

This petition is filed by Caldwell County Pathways, Inc. (“CCP”), a North Carolina nonprofit corporation exempt from taxation under section 501(c)(3) of the Internal Revenue Code. CCP was created to develop, coordinate and promote non-motorized, multi-use pathways and blueways in Caldwell County and as such is organized exclusively for the charitable and educational purposes of promoting health, public safety and non-motorized transportation opportunities for Caldwell County residents.

While not taking a position on the merits of the abandonment sought in this proceeding, CCP hereby requests that Surface Transportation Board (the “Board”), pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, issue Public Use Condition as well as an Interim Trail Use rather than an outright abandonment authorization for the 3.91-mile rail line located between mileposts 108.79 and 112.7, in Lenoir, Caldwell County, North Carolina (the “Line”). CCP submits that the Line is suitable for railbanking. Furthermore, the railroad, Caldwell Railroad Commission (the “Railroad”), has indicated its intent to railbank the Line in its Verified Notice of Exempt Abandonment filed with the Board in this proceeding.

A. Public Use Condition

CCP requests that the Board find the Line is suitable for other public use, specifically rail use, and to place the following conditions on abandonment.

1. 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. This condition is justified because the rail corridor in question would make an excellent recreational trail. Conversion of the property to trail use is consistent with local plans, and this corridor is identified in the Overmountain Victory National Historic Trail Master

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Plan that was recently completed in partnership with the National Park Service. As a consequence, any recreational trail built on the property is anticipated to be certified by the National Park Service as a part of the congressionally-designated Overmountain Victory Trail. Moreover, the corridor provides important open space and its preservation as a recreational trail is consistent with that purpose. The time period sought is 180 days from the effective date of the abandonment authorization. CCP needs this much time to complete negotiations with the Railroad.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Interim Trail Use

CCP submits that the Line is suitable for railbanking. In addition to the Public Use Condition sought above, CCP makes the following statement, pursuant to 49 C.F.R. § 1152.29:

Statement of Willingness To Assume Financial Responsibility

In order to establish interim trail use and rail banking under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 with respect to the right-of-way owned and operated by the Railroad and identified above, CCP is willing to assume full responsibility for: (1) Managing the right-of-way, (2) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor 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 right-of-way. The property extends from railroad milepost 108.79 to railroad milepost 112.7, a distance of 3.91 miles in Lenoir, Caldwell County, North Carolina. The right-of-way is the line of railroad proposed for abandonment in Docket No. AB-1112X. A map of the property depicting the right-of-way is attached.

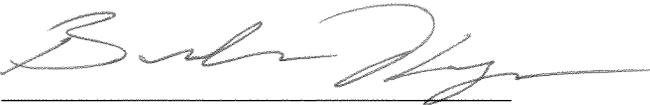
CCP acknowledges that use of the right-of-way is subject to the sponsor's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the Railroad, c/o David H. Coburn, Esq., Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, DC 20036, on the same date it is being served on the Board.

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Finally, also enclosed, pursuant to 49 C.F.R. § 1002(f)(27)(i), is the applicable filing fee in the amount of \$300. Should you have any questions, please do not hesitate to contact me.

Respectfully submitted,

CALDWELL COUNTY PATHWAYS, INC.

By: 

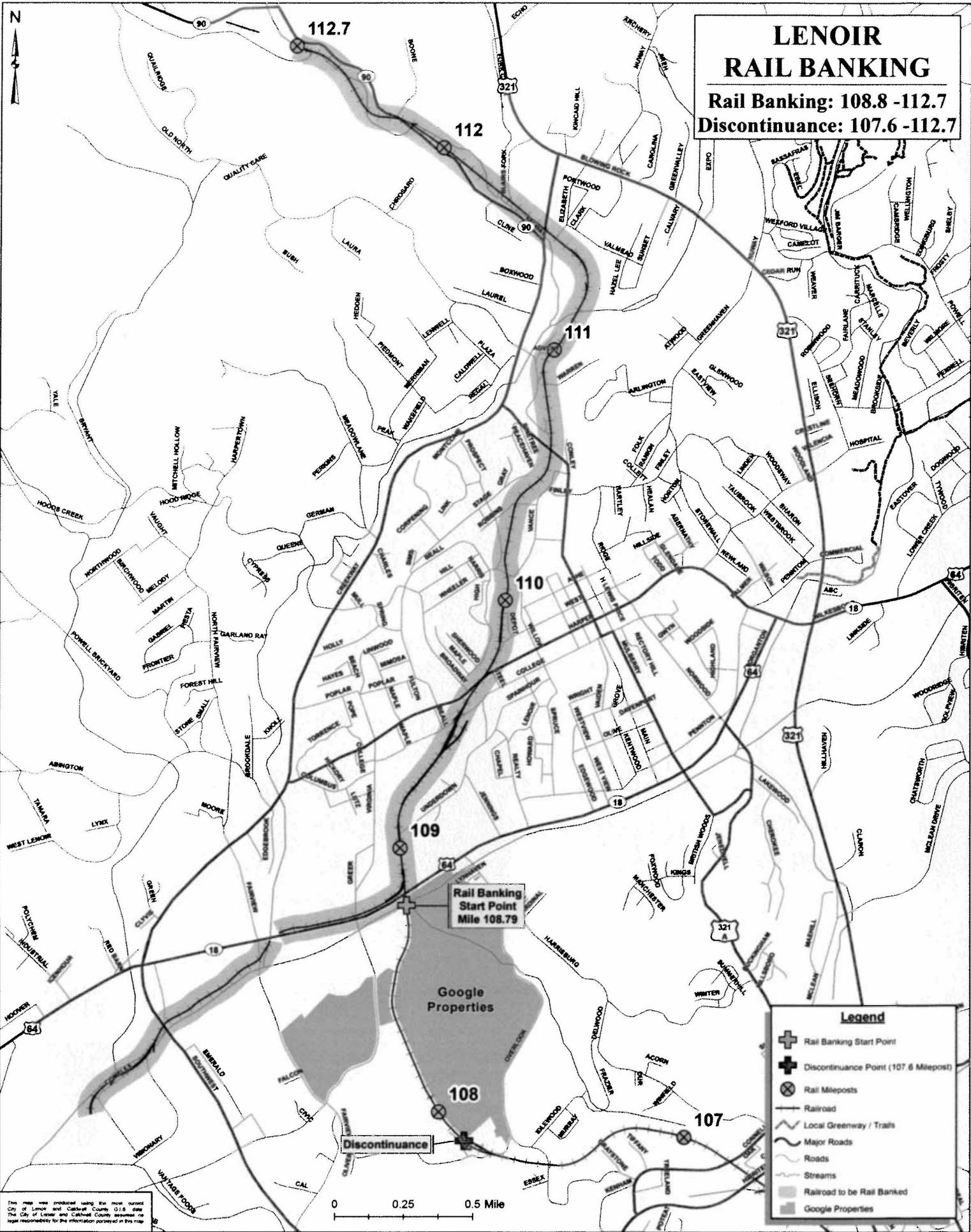
Brandon Thompson
Chairperson

Enc. as stated

cc: Adam N. Olls, Esq.

LENOIR RAIL BANKING

Rail Banking: 108.8 -112.7
Discontinuance: 107.6 -112.7



This map was produced using the most current City of Lenoir and Caldwell County GIS data. The City of Lenoir and Caldwell County assume no legal responsibility for the information portrayed in this map.

0 0.25 0.5 Mile

Legend

- Rail Banking Start Point
- Discontinuance Point (107.6 Milepost)
- Rail Mileposts
- Railroad
- Local Greenway / Trails
- Major Roads
- Roads
- Streams
- Railroad to be Rail Banked
- Google Properties