

FEE RECEIVED

MAR 21 2016

aolls@bdixon.com

MAR 21 2016

SURFACE TRANSPORTATION BOARD

SURFACE TRANSPORTATION BOARD

March 18, 2016

240331 ENTERED

Office of Proceedings

MAR 21 2016



Via Overnight Mail

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

Part of Public Record

Re: Caldwell Railroad Commission - Abandonment of Caldwell County, N.C.
STB Docket No. AB-1112X

Decision box containing: DECISION ID NO.: 45127, DECIDED DATE: 3-28-2016, SERVICE DATE: 3-29-2016, APPROVED: Joseph Jettmar Acting Director

Dear Ms. Brown:

Caldwell County Pathways, Inc. (the "CCP"), a North Carolina nonprofit corporation, hereby petitions the Surface Transportation Board (the "Board") for an order extending the time period for reaching an agreement for interim trail use/rail banking in the above-referenced docket by 180 days, to and including November 17, 2016.

On October 5, 2015, Caldwell Railroad Commission ("CRC") filed an amended verified notice of exemption under 49 C.F.R. part 1152 subpart F to abandon the 3.91-mile rail line located between mileposts 108.79 and 112.7, in Lenoir, Caldwell County, North Carolina (the "Line").

On October 30, 2015, CRC filed a request for the issuance of a notice of interim trail use ("NITU") to negotiate with CRC for acquisition of the Line for use as a trail under the National Trails System Act (the "Trails Act"), 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29. In a response filed on November 9, 2015, CRC indicated its willingness to negotiate with CCP for interim trail use.

On November 23, 2015, the Board issued its Decision and Notice of Interim Trail Use or Abandonment providing for a 180-day period concluding on May 21, 2016 for negotiations between CCP and CRC to reach an agreement for interim trail use/trail banking.

Promptly after the issuance of the Decision, CCP initiated negotiations with CRC regarding the CCP's desire to acquire the Line for trail use under the Trails Act. The parties have since discussed the terms and conditions of the proposed rail banking agreement. The parties are presently working in good faith to prepare the operative legal documents that would transfer possession of the Line to CCP for trail use. Nevertheless, the parties require additional time—beyond the current initial deadline of May 21, 2016—to finalize these documents and

Ms. Cynthia Brown

March 18, 2016

Page 2 of 2

obtain the requisite approvals from their governing boards in order to consummate the transaction.

The purpose of the Trails Act is to preserve corridors for possible reactivation of rail service by permitting and encouraging their interim use as recreational trails. *See* Policy Statement on Rails to Trails Conversion, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990). For this reason, an extension of the negotiation period—particularly where, as here, the parties are negotiating in good faith—will promote the establishment of trails and rail banking consistent with the Trails Act.

Accordingly, CCP respectfully requests that the Board issue an order extending the negotiation period for an additional 180 days, to and including November 17, 2016.

I am authorized to represent that CRC has no objection to this extension request.

Enclosed, pursuant to 49 C.F.R. § 1002(f)(27)(ii), is the applicable filing fee in the amount of \$450.00.

By my signature below, I hereby certify that a copy of this letter request is being served on CRC, c/o David H. Coburn, Esq., Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, DC 20036, dcoburn@steptoe.com, by electronic mail and by U.S. Mail, postage pre-paid, first class, on the same date it is being served on the Board.

Should you have any questions, please do not hesitate to contact me.

Respectfully submitted,

BAILEY & DIXON, LLP

By:



Adam N. Olls

N.C. State Bar. No. 38405

aolls@bdixon.com

434 Fayetteville Street, Suite 2500

Raleigh, North Carolina 27601

*Attorneys for Caldwell County Pathways, Inc.*

c: Jenny Wheelock

