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October 16, 2012

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VIA ELECTRONIC FILING

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

ENTERED
Office of Proceedings
October 16, 2012
Part of
Public Record

re: Docket No. AB-290 (Sub-No. 336X), Norfolk Southern Railway Company--
Abandonment and Discontinuance of Service Exemption--In Lake County
Indiana, and Cook County, Illinois

Dear Ms. Brown:

The Illinois Department of Transportation ("IDOT") replies to the Request for Public Use Condition and Request for Interim Trail Use, filed October 1, 2012, by Openlands on behalf of a number of public and private groups.

Openlands seeks the imposition of a condition that would have the right-of-way of the entire 6.30-mile line between MP JH 12.80 and MP JH 19.10 which Norfolk Southern Railway Company ("NSR") proposed to abandon be made available for rail-banking or trails use.

IDOT opposes Openlands' Request for an Interim Trail Use Condition insofar as it would include an approximately 300-foot segment at or near MP JH 15.84, where NSR's right-of-way intersects with US Route 30 (Lincoln Highway), for it would defeat the very purpose for which the abandonment had been sought by NSR.

As NSR stated in its filing of September 4, 2012, and the Board reiterated in its Decision, served September 24, 2012, "NSR . . . has filed this notice of exemption to facilitate the construction by Canadian National Railway Company (CN) and Elgin, Joliet & Easter Railway (EJ&E) of a grade separation over US Route 30, a project upon which the Surface Transportation Board (Board) conditioned its approval of CN's acquisition of

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control of EJ&E and which is in close proximity to the Line [citing *Canadian Nat'l Ry. and Grand Trunk Corp--Control--EJ&E W. Co.*, FD 35087 (STB served Dec. 24 2008)]."

NSR's abandonment, due to become effective October 21, 2012, will permit the construction of an overpass at Lynwood that is shorter, one that needs only to cross the nearby track of the EJ&E rather than the tracks of both NSR and EJ&E, and hence one that will be less costly to construct and to maintain.

IDOT furthermore opposes Openlands' Request for Public Use Condition for it would delay for six months the preparation for the construction of the overpass that would carry US Highway 30 over the EJ&E track in compliance with the Board's mandate that there be a grade separated crossing at Lynwood and threaten what in its effect is the deadline that the construction begin no later than the end of 2015.

In the event that the Board were to grant Overlands' Requests, filed October 1, 2012, excluding the approximately 300-foot segment at or near MP JH 15.84, where NSR's right-of-way intersects with US Route 50, and the parties thereafter were able to reach one or more agreements to utilize the remainder of NSR's right-of-way as a recreational trail, IDOT would endeavor to make a portion of the property it acquired from NSR for the construction of the Lynwood overpass available to allow the recreational trail to be a continuing, uninterrupted one.

I certify that I this day have served this letter upon Openlands by mailing it a copy by prepaid first-class mail and upon NSR by e-mailing a copy to its attorney at rwimbish@bakerandmiller.com.

If you have any question concerning this filing or if I otherwise can be of assistance, please let me know.

Sincerely yours,



Fritz R. Kahn

cc: Mr. Gerald W. Adelman
Robert A. Wimbish, Esq.