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March 11, 2015

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

Re: Docket No. AB-277 (Sub-No. 1X), Joint Trail Use Statement of Preston  
County Parks and Recreation Commission and Kern Valley Railroad  
Company

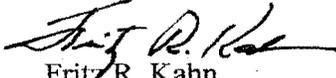
Dear Ms. Brown:

Enclosed for filing in the subject docket is the Joint Trail Use Statement whereby  
Preston County Parks and Recreation Commission requests the authorization to succeed  
Kern Valley Railroad Company as the operator of the trail between milepost 0.00 in  
Tunnelton and milepost 10.13 near Kingwood in Preston County, West Virginia.

Preston County Parks and Recreation Commission is governmental unit of  
Preston County, and accordingly payment of the \$300 filing fee is requested to be  
waived.

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: Doug Davis, Esq.

SURFACE TRANSPORTATION BOARD

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Docket No. AB-277 (Sub-No. 1X)

WEST VIRGINIA NORTHERN RAILROAD COMPANY  
--ABANDONMENT EXEMPTION--  
IN PRESTON COUNTY, WV

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JOINT TRAIL USE STATEMENT  
OF PRESTON COUNTY PARKS AND RECREATION COMMISSION  
AND KERN VALLEY RAILROAD COMPANY

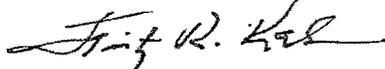
Pursuant to 49 C.F.R. § 1152.29(F), the trail user, Kern Valley Railroad Company, intends to terminate trail use, and another entity, Preston County Parks and Recreation Commission, intends to become the trail user by assuming financial responsibility for the right-of-way.

1. A copy of the Decision and Notice of Interim Trail Use or Abandonment, served February 20, 2001, is attached as Exhibit A.
2. The Statement of Willingness to Assume Financial Responsibility of Preston County Parks and Recreation Commission is attached as Exhibit B.
3. The parties wish responsibility for the right-of-way to be transferred to the new trail user April 1, 2015.
4. A letter authorizing the undersigned to represent both parties is attached as Exhibit C.

Respectfully submitted,

PRESTON COUNTY PARKS AND  
RECREATION COMMISSION  
KERN VALLEY RAILROAD COMPANY

By their attorney,



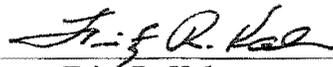
Fritz R. Kahn  
Fritz R. Kahn, P.C.  
1919 M Street, NW (7th fl.)  
Washington, DC 20036  
Tel.: (202) 263-4152  
e-mail: xiccg@gmail.com

Dated: March 11, 2015

#### CERTIFICATE OF SERVICE

A copy of the foregoing Joint Trail Use Statement was served upon Kern Valley Railroad Company by e-mailing a copy to its Vice President and General Counsel, Doug Davis, Esq..

Dated at Washington, DC, this 11th day of March 2015.



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Fritz R. Kahn

EXHIBIT A

31663  
DO

SERVICE DATE - FEBRUARY 20, 2001

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB- 277 (Sub-No. 1X)

WEST VIRGINIA NORTHERN RAILROAD COMPANY--ABANDONMENT  
EXEMPTION--IN PRESTON COUNTY, WV

Decided: February 15, 2001

West Virginia Northern Railroad Company (WVN) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon its entire line of railroad between milepost 0.0 in Tunnelton and the end of the line at milepost 10.13 near Kingwood, in Preston County, WV, a distance of 10.13 miles. Notice of the exemption was served and published in the Federal Register on December 21, 2000 (65 FR 80483-84). The exemption became effective on January 20, 2001.<sup>1</sup>

On February 6, 2001, Kern Valley Railroad Company (KVR) late-filed a request for issuance of a notice of interim trail use (NITU) for the entire line under the National Trails System Act, 16 U.S.C. 1247(d), in order to negotiate with WVN for acquisition of the right-of-way for use as a trail.<sup>2</sup> KVR submitted a statement indicating its willingness to assume full financial responsibility for the management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for payment of any and all taxes that may be levied or assessed against, the right-of-way, as required at 49 CFR 1152.29, and acknowledged that the use of the right-of-way for trail purposes is subject to future reactivation for rail service. By reply filed February 13, 2001, WVN indicated its willingness to negotiate with KVR for interim trail use.

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<sup>1</sup> By decision served January 18, 2001, the proceeding was reopened at the request of the Board's Section of Environmental Analysis and the exemption was made subject to the condition WVN retain its interest in and take no steps to alter the historic integrity of the line until completion of the section 106 process of the National Historic Preservation Act.

<sup>2</sup> The December 21 notice provided that trail use/rail banking requests had to be filed no later than January 2, 2001. However, in Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903, STB Ex Parte No. 537 (STB served Dec. 24, 1996, and June 27, 1997), the Board retained the policy of accepting filings after the due date when good cause is shown. Because there is no indication that KVR's late-filed request will prejudice any party, it will be accepted. See Wheeling & Lake Erie Railway Company--Abandonment Exemption--In Starke County, OH, STB Docket No. AB-227 (Sub-No. 10X), slip op. at 1 n.1 (STB served Nov. 7, 1997).

Trail use requests may be accepted as long as the Board retains jurisdiction over the involved right-of-way<sup>3</sup> and the carrier is willing to enter into negotiations. Inasmuch as WVN has not consummated the abandonment and is willing to negotiate with KVR for the right-of-way, a NITU will be issued with the trail use negotiation period running 180 days from the service date of this decision or until August 19, 2001. If no agreement is reached within 180 days, WVN may fully abandon the line, provided that the environmental conditions imposed in the decision served January 18, 2001, are met. Use of the right-of-way for trail purposes is subject to restoration for railroad purposes. See 49 CFR 1152.29(d)(2).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice of exemption published in the Federal Register on December 21, 2000, exempting the abandonment of the line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below, for a period of 180 days from the service date of this decision and notice (until August 19, 2001), subject to the environmental conditions imposed in the January 18, 2001 decision.
3. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case 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 right-of-way.
4. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.
5. If interim trail use is implemented, and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

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<sup>3</sup> See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Soo Line Railroad Company--Exemption--Abandonment in Waukesha County, WI, Docket No. AB-57 (Sub-No. 23X) (ICC served May 14, 1987); and Missouri-Kansas-Texas Railroad Company--Abandonment--in Pettis and Henry Counties, MO, Docket No. AB-102 (Sub-No. 16) (ICC served Apr. 26, 1991).

6. If an agreement for interim trail use/rail banking is reached by August 19, 2001, interim trail use may be implemented. If no agreement is reached by that time, WVN may fully abandon the line.

7. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary

EXHIBIT B

Statement of Willingness to Assume Financial Responsibility

In order to establish interim trail use and rail banking under the National Trails System Act, 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29, Preston County Parks and Recreation Commission is willing to assume full responsibility for the management of, for any legal liability arising out of the transfer or use of (unless the use is immune from liability, in which case 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 right-of-way owned and formerly operated by the West Virginia Railroad Company and currently held by Kern Valley Railroad Company for trail use/rail banking. The property extends between Milepost 0.0 in Tunnelton and the end of the line at Milepost 10.13 near Kingwood, a distance of 10.3 miles in Preston County, WV. The right-of-way is part of the line of railroad which was authorized to be abandoned pursuant to the Notice of Exemption, served December 21, 2000. A map of the railroad line depicting the right-of-way is attached.

Preston County Parks and Recreation Commission acknowledges that use of the right-of-way is subject to the user's continuing obligation to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail use.

A copy of this statement is being served on the Kern Valley Railroad Company on the same date it is being filed with the Board.

Dated at KINGWOOD, West Virginia, this 11 of March 2015.

Signature

Name

Title

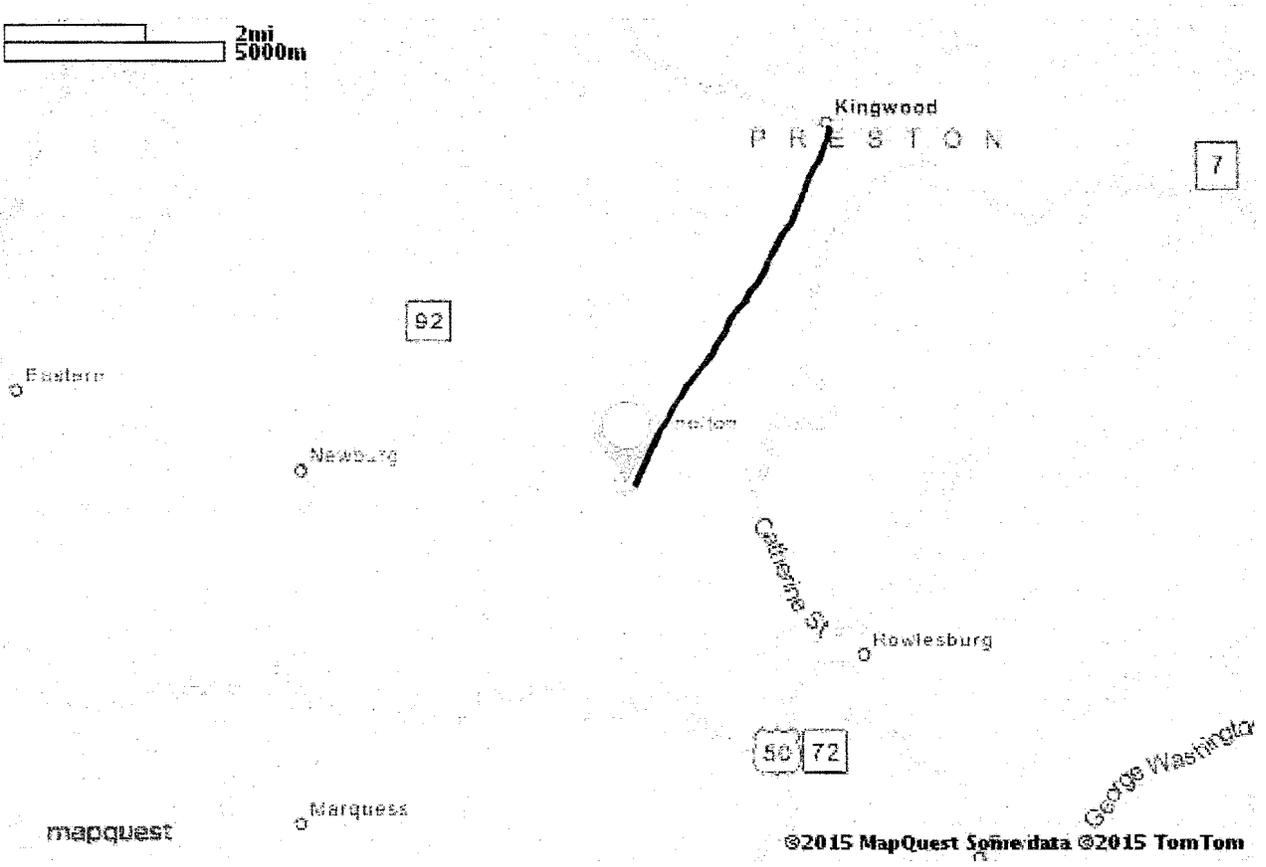
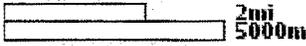
[Handwritten Signature]

LYNN HOUSNER

RESIDENT

# Tunnelton, WV

mapquest



Tunnelton is a town in Preston County, West Virginia, United States. The population was 336 at the 2000 census.  
 Tunnelton is located at 39°23'42"N 79°44'47"W / 39.395000°N 79.746438°W / 39.395000; -79.746438 (39.395000, -79.746438).  
 According to the United States Census Bureau, the town has a total area of 0.4 square miles (1.0 km<sup>2</sup>), all land.

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EXHIBIT C

PRESTON COUNTY PARKS AND RECREATION COMMISSION  
11 Club House Drive  
Terra Alta, WV

March // , 2015

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

Re: Docket AB 277 (Sub-No. 1X), West Virginia Northern Railroad Company—  
Abandonment Exemption—in Preston County, WV

Dear Ms. Brown:

Preston County Parks and Recreation Commission is agreeable to having Fritz R. Kahn serve as its counsel for purposes of transferring the trail from his client, Kern Valley Railroad Company, to the Commission. There is no conflict of interests in his doing so. On the contrary, the two parties share a common interest in effecting this transfer.

Sincerely yours,



\_\_\_\_\_  
Signature

LYNN HOUSER

\_\_\_\_\_  
Name

PRESIDENT

\_\_\_\_\_  
Title