



Suite 1650 | 25 East Washington Street | Chicago, IL 60602-1708 | Tel: 312-863-6250 | Fax: 312-863-6251 | www.openlands.org

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October 11, 2012

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

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

RE: Norfolk Southern Railway Company- Abandonment and Discontinuance of Service
in Lake County, IN, and Cook County, IL, STB Docket No. AB-290 (Sub-No. 336X)

Dear Ms. Brown:

I am writing on behalf of Openlands in response to a letter filing dated October 9, 2012, submitted by Norfolk Southern Railway Company (“NSR”) through its attorneys, Baker & Miller, PLLC.

NSR indicates it is not amenable to the public use condition (“PUC”) request filed by Openlands on October 1, 2012. The concern is that the PUC may interfere with the intended use of the abandoned line for placement of a bridge pier between milepost JH 15.80 and milepost JH 15.90 (the “Pier Segment”), in connection with a rail-highway grade separation at US Route 30.

Openlands asserts there is no conflict between the PUC and the use of the Pier Segment for placement of a bridge pier. Rather, a public trail use is entirely compatible with the grade separation and bridge pier installation. The Phase 1 Engineering Report for the grade separation has been completed by V3 Companies, consultant to Illinois Department of Transportation (“IDOT”). The Engineering Report includes a Build Alternative 1C, which was included in light of NSR’s intended abandonment of the line. Build Alternative 1C consists of a bridge that spans just the CN line, along with a box culvert at the NSR line providing 12 feet of clearance over the ground – more than enough for public recreational use. Based on the preliminary engineering, recreational public use of the NSR Eastern Line Segment will be accommodated whether or not the abandonment moves forward.

Openlands has no desire to see a delay in, or unnecessary costs accrued in connection with, the grade separation project. In fact, the grade separation is serving the same coalition of jurisdictions that are seeking the PUC. The current engineering for the grade separation includes the box culvert because the same communities that requested the grade separation for public safety reasons also have a long-standing interest in recreational trail use along the corridor. There are not competing public uses in this situation, because the bridge pier will occupy just a

tiny part of the right-of-way; while Openlands is seeking to negotiate a public use of the entire 6.3 mile corridor.

Openlands believes that NSR's concerns about the PUC arise from a misperception of conflict. Openlands requests the PUC in order to allow a window to address that misunderstanding. The PUC is necessary, and there is a strong likelihood of a successful negotiation that will allow both these compatible uses to co-exist. This is exactly the type of situation for which the PUC process was established.

In sum, the PUC is consistent with use of a small area of the Eastern Line Segment for placement of a bridge pier. Openlands is willing to negotiate in good faith. In light of the overwhelming public support for the PUC by local, county and state governments as well as numerous non-profit partners, Openlands respectfully requests issuance of the PUC.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "G. W. Adelman", with a long horizontal flourish extending to the right.

Gerald W. Adelman
President & CEO

Copy to:
Robert Wimbish
David A. Hirsh