

TIMOTHY E. PETERSON
ATTORNEY AT LAW

5126 South Harlan Street, Indianapolis, IN 46227 (317) 409-9925

June 27, 2009

Anne K. Quinlan, Acting Secretary
Surface Transportation Board
Mercury Building
395 E Street, S. W.
Washington, DC 20423-0001

225292



RE: Joinder in Petition and Motion to Supplement the Record for Petition to Transfer Holder of Notice of Interim Trail Use/Trail Manager/Responsible Party Status for the Nickel Plate Trail Submitted to the Surface Transportation Board June 4, 2009 (the Former Norfolk Southern Railway/Norfolk & Western Railway); Status Granted in STB Docket No. AB-290 (Sub-No. 168X), Norfolk and Western Railway Company - Abandonment Exemption - Between Kokomo and Rochester in Howard, Miami, and Fulton Counties, Indiana

Dear Ms. Quinlan:

Enclosed please find the following pleading: An original and ten copies of a "Joinder to Petition and Motion to Supplement the Record for Joint Motion of the Indiana Trails Fund, Inc. and the Nickel Plate Trail, Inc. for Substitution of New Holder of Interim Trail Use/Trail Manager/Responsible Party Submitted to the Surface Transportation Board June 4, 2009."

Also, please consider this letter to be my appearance in the above captioned proceeding, as an attorney in good standing with the Indiana Supreme Court, Attorney number 14927-49, on behalf of the Hoosier Rails to Trails Council, Inc., Indiana Trails Fund, Inc. and the Nickel Plate Trail, Inc. The addresses of these parties are as follows:

Mr. Richard C. Vonnegut, President
Hoosier Rails to Trails Council, Inc.
P.O. Box 402
Indianapolis, IN 46206-0402

Mr. Richard C. Vonnegut, President
Indiana Trails Fund, Inc.
P. O. Box 402
Indianapolis, IN 46206-0402

Mr. Michael Kuepper, President
Nickel Plate Trail, Inc.
206 North Cass Street
P. O. Box 875
Peru, IN 46970

ENTERED
Office of Proceedings
JUN 29 2009
Part of
Public Record

Thank you for your consideration of this joinder to petition and motion to supplement the record for the above joint petition. The parties ask that processing of this request be expedited so as to enable the Nickel Plate Trail, Inc. to apply for grant funding in a few weeks. Please call me if you have any questions at 317-409-9925.

Sincerely,

Timothy E. Peterson
Attorney for the Petitioners

TEP:lw

cc: Richard C. Vonnegut
Michael. Kuepper
All Parties of Record
Files

Before the Surface Transportation Board



Norfolk and Western Railway Company –)
Abandonment Exemption – Between Kokomo)
and Rochester in Howard, Miami, and Fulton)
Counties, Indiana)
_____)

AB-290 (Sub-No. 168X)

**Joinder in Petition and Motion to Supplement the Record in the
Joint Petition of the Indiana Trails Fund, Incorporated
and the Nickel Plate Trail, Incorporated
for Substitution of New Holder of Interim Trail Use / Trail Manager / Responsible Party
Submitted to the Surface Transportation Board June 4, 2009**

Comes now the Hoosier Rails to Trails Council, Incorporated (“HRTC”) by its attorney Timothy E. Peterson and moves to join in the Joint Petition of the Indiana Trails Fund, Incorporated and the Nickel Plate Trail, Incorporated (“NPT”) for Substitution of New Holder of Interim Trail Use/Manager/Responsible Party, which was submitted, pursuant to 49 C.F.R. § 1152.29(f), to the Surface Transportation Board on June 4, 2009, and to supplement the record in this cause. In support of said Joinder in Petition and Motion to Supplement the Record, the HRTC sets forth the following, to wit:

1. The HRTC and Indiana Trails Fund, Incorporated (“ITF”) originally jointly requested that the Surface Transportation Board issue a Notice of Interim Trail Use for the former Norfolk and Western Railway (succeeded by the Norfolk Southern Railway Company) in Docket No. AB 290 (Sub-No. 168X). The HRTC now supplements the record with respect to its

involvement with the ITF in obtaining the Notice of Interim Trail Use in regard to the first Notice of Interim Trail Use served on May 14, 1996 (NITU-1).

2. The HRTC, 1987 Indiana not-for-profit corporation, and ITF, 1994 Indiana not-for-profit corporation, were incorporated and formed by trails enthusiasts who saw the need to support trails in several ways in Indiana. In these early years, the process of forming and determining the focus and functions of the two organizations was still in a state of evolution.

3. What emerged was a common purpose to support trails, but different ways of doing it. HRTC is an open member organization with a more public relations and education program mission, including a newsletter, Website (currently being redeveloped) and other publicity to promote rail trails and trail activities. More importantly, the HRTC lobbies regarding legislation affecting trails. HRTC is not a 501 (C) (3) organization with the Internal Revenue Service, so that it may engage in lobbying efforts without the IRS restrictions on such charitable groups.

4. ITF became a companion entity to HRTC, however it only consists of board members and has different areas of emphasis. One is to raise funds and provide an avenue for charitable tax deductible gifts for trails, to which end ITF is an IRS 501 (C) (3) organization. ITF does not lobby. It does provide education regarding trails, both through conferences and working with the public and trail advocates to create trails for which ITF is involved. ITF provides financial assistance to other not-for-profit trail organizations. ITF was also especially created to meet the specialized need for help with land acquisition for trails. There was a special need in the

state for a not-for-profit organization that could rail bank railroad lines under the National Trails Act. Often the quick notice with which railroad lines become available meant no state or local park and recreation boards or other not-for-profit groups had the funds on hand or could respond rapidly enough to meet the rail banking schedule. Also, in rural areas especially, there were often no local park and recreation agencies available to purchase a railroad line on short notice. As a not-for-profit organization designed to serve the whole state but not limited by the state borders, the ITF is also able to engage in projects which exceed the boundaries of governmental units and many not-for-profit groups, which is often critical given the length and location of some railroad lines proposed for rail banking. The ITF determined that a priority for its efforts should be seeking to preserve rail corridors for trails, since this was a niche that was critical to fill. ITF is not limited to rail corridors, but that is where the most opportunities have arisen since ITF was formed. The ITF does not seek to be a long-term landowner, but rather to acquire property and hold it until another not-for-profit or governmental agency is able and willing to acquire the land from ITF and develop it for a public trail. Several times ITF has recruited people and worked with them to form local trail groups, this is the case with the Nickel Plate Trail, Incorporated.

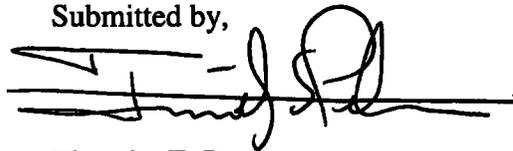
5. Because HRTC and ITF were in their formative years, they acted jointly to request the first Notice of Interim Trail Use Service Date May 14, 1996 ("NITU-1"). By the time Norfolk Southern Railway sold 34.2 miles of the former Norfolk and Western Railway in Docket No. AB 290 (Sub-No. 168X) on January 21, 1999, the purchaser was solely the ITF, because HRTC and ITF had determined that ITF would be the entity in the pair that would

undertake real property acquisition for trails and that HRTC would not engage in land acquisition or future rail banking initiatives. For this reason, HRTC had no involvement in ITF's application for the second Notice of Interim Trail Use Service Date March 10, 2004 ("NITU-2") for the above docket.

6. The HRTC has yielded all management functions for the Nickel Plate Trail project in the above docket to the ITF since NITU-1 and now seeks to clarify its role in regard to the transfer of the Holder of Interim Trail Use/Trail Manager/Responsible Party status in regard to NITU-1. The HRTC, however, is still involved with the ITF and the NPT by engaging in public policy initiatives that support trails and meets regularly with ITF.

Wherefore, the HRTC moves the STB to permit it to supplement the record as to its involvement with the ITF and the NPT in managing the railroad corridor subject to this docket and to permit it to join in the petition filed jointly by the ITF and NPT.

Submitted by,

A handwritten signature in black ink, appearing to read 'Timothy E. Peterson', written over a horizontal line.

Timothy E. Peterson
Attorney at Law
5126 South Harlan Street
Indianapolis, Indiana 46227

Surface Transportation Board Docket No. AB-290 (Sub-No. 168X)
Case Title: NORFOLK AND WESTERN RAILWAY COMPANY - ABANDONMENT
EXEMPTION - BETWEEN KOKOMO AND ROCHESTER IN HOWARD, MIAMI AND
FULTON COUNTIES, IN

Certificate of Service

The undersigned hereby certifies that a copy of the of Joinder in Petition and Motion to Supplement the Record for the Joint Petition of the Indiana Trails Fund, Incorporated and the Nickel Plate Trail, Incorporated for Substitution of New Holder of Interim Trail Use/Trail Manager/Responsible Party in Surface Transportation Board Docket No. AB-290 (Sub-No. 168X) Submitted to the Surface Transportation Board June 4, 2009 was

mailed via first class mail on the 27th day of June, 2009 to the following list of recipients.



Timothy E. Peterson, Attorney at Law

June 27, 2009
Date

Party of Record	Filed by:	Nels Ackerson Ackerson Kauffman Fex PC 1250 H Street, NW Suite 850 Washington, DC 20005
	Filed for:	William C. Friend, Steven Furnivall and Linda Schanlaub
Party of Record	Filed by:	Eric Bolton Ackerson Kauffman Fex, PC 1250 H Street, NW, Suite 850 Washington, DC 20005
Party of Record	Filed by:	Howard P. Cohen 17 Rollins Rd. Warwick, RI 02886
Party of Record	Filed by:	Howard R. Cohen Locke Reynolds 1000 Capital Center South 201 North Illinois Street Indianapolis, IN 46204
	Filed for:	Indiana Trails Fund, Inc.
Party of Record	Filed by:	Daniel R. Elliott III United Transportation Union 14600 Detroit Avenue Cleveland, OH 44107-4250
Party of Record	Filed by:	Cecilia Fex Ackerson Kauffman Fex 1250 H Street NW Suite 850 Washington, DC 20005
	Filed for:	William C. Friend
Party of Record	Filed by:	Thomas F. McFarland Thomas F. Mcfarland, P.C. 208 South Lasalle St., Suite 1890 Chicago, IL 60604

Party of Record	Filed by:	Charles H. Montange 426 NW 162nd Street Seattle, WA 98177
	Filed for:	Nickel Plate Trail, Inc.
Party of Record	Filed by:	Norfolk & Western Railway Co. Three Commercial Place Norfolk, VA 23510-2191
Party of Record	Filed by:	James R. Paschall Norfolk Southern Railway Company Three Commercial Place Norfolk, VA 23510-9241
	Filed for:	Norfolk Southern Railway Company
Party of Record	Filed by:	Donald J. Tribbett Starr Austen Tribbett Myers & Miller 201 S. Third Street Logansport, IN 46947
Party of Record	Filed by:	Richard C. Vonnegut P. O. Box 402 Indianapolis, IN 46206-0402
Non-Party	Filed by:	Governor of Indiana State Capitol Indianapolis, IN 46204
Non-Party	Filed by:	Governor of Texas State Capitol Building Austin, TX 78711
Non-Party	Filed by:	Kyle J. Hupfer Indiana Division of Historic Preservation 402 W. Washington Street, W274 Indianapolis, IN 46204-2748

Non-Party	Filed by:	Indiana Department of Environmental Management Indiana Government Center- North 100 North Senate Avenue Indianapolis, IN 46204
Non-Party	Filed by:	Indiana Department of Natural Resources Division of Water 402 West Washington Street Indianapolis, IN 46204
Non-Party	Filed by:	Indiana Department of Transportation Railroad Section 100 N Senate Ave., 1GC-N, Room N901 Indianapolis, IN 46204
Non-Party	Filed by:	Natural Resources Conservation Service U.S. Department of Agriculture Poage Federal Building 101 South Main Street Temple, TX 76501-7685
Non-Party	Filed by:	Natural Resources Conservation Service U.S. Department of Agriculture 6013 Lakeside Blvd. Indianapolis, IN 46278
Non-Party	Filed by:	Texas Commission on Environmental Quality P.O. Box 13087 Austin, TX 78711-3087
Non-Party	Filed by:	Texas Office of Budget, Planning, and Policy P.O. Box 12428 Austin, TX 78711-2428
Non-Party	Filed by:	Texas Public Utility Commission P. O. Box 13326 Austin, TX 78711-3326

Non-Party	Filed by:	Texas Railroad Commission P.O. Box 12967 Austin, TX 78711-2967
Non-Party	Filed by:	U.S. Army Corps of Engineers Galveston District P.O. Box 1229 Galveston, TX 77553-1229
Non-Party	Filed by:	U.S. Fish and Wildlife Service Ecological Services Field Office Stadium Centre Bldg. 711 Stadium Drive E, Suite 252 Arlington, TX 76011-6247
Non-Party	Filed by:	U.S. Fish and Wildlife Service 620 S. Walker Street Bloomington, IN 47403-2101
Addition to STB Service List		James R. Walker, Mayor City of Peru 35 South Broadway Peru, IN 46970
Addition to STB Service List		Michael R. Fitch, P.E. LPA Review Engineer Consultant Services Section Fort Wayne District Indiana Department of Transportation 5333 Hatfield Road Fort Wayne, IN 46808
Addition to STB Service List		Bob Bronson, Chief Grants Section Division of Outdoor Recreation Indiana Department of Natural Resources 402 West Washington Street, Room W271 Indianapolis, IN 46204