

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Ex Parte No 690
TWENTY YEARS OF RAIL BANKING
A REVIEW AND LOOK AHEAD

225282

HEARING DATE – JULY 8, 2009

The Friends of the Fred Meijer Heartland Trail, P.O. Box 805, Stanton, Michigan 48888 request the opportunity to respond to the Surface Transportation Board with a written submission *affirming the continued importance of the rail banking statute to preserve railroad corridors for future rail use and interim development for alternative transportation, recreation uses, economic development and healthier communities.* The Friends have negotiated for three different sections of railroad corridor in Central Michigan to preserve the rights of way.

The Friends of the Fred Meijer Heartland Trail (FFMHT) was organized in 1994 to establish a recreation trail in Montcalm and Gratiot Counties, using abandoned railroad right-of-way, to promote understanding through education of the advantages of such a trail, and to establish mechanisms to develop, maintain and operate the trail. The Fred Meijer Heartland Trail represents a healthy and safe recreation outlet, close to home, for families and individuals of all ages. It has forged new bonds between local communities; promoted economic growth through tourism and related business opportunities; and enhanced the quality of life in Montcalm and Gratiot Counties.

The approximately 40-mile Fred Meijer Heartland Trail, itself, is unique because it was not a public sector project-either at the state or local level. It was a private project from the beginning; and has been a grass roots initiative, which included the original corridor purchase from CSX; preparation of the master plan for development; and the funding and contracting for the construction of the first phase. The Trail is operated and maintained by the Friends group since it was opened for public use. The original purchase of the ROW came about in 1994 because of cooperation between Rails-to-Trails Conservancy (RTC) in Washington DC and Fred and Lena Meijer. The RTC acted as the agent to purchase the ROW and Fred and Lena Meijer provided the needed funding.

In April 1996, The Hon. Jeffrey Martlew, Gratiot County Circuit Court ruled in favor of the defendants, CSX and RTC, and against the plaintiffs, Cary Enterprises and several Seville Township landowners. Plaintiffs; adjoining landowners claimed that the corridor was abandoned in the late 1980's and that the land reverted to them by operation of law. They sought to set aside a conveyance from CSX Transportation to Rails to Trails Conservancy. *By July 1998, the Michigan Supreme Court refused to hear an appeal by the landowners and the rail bed slated was freed to become the Fred Meijer Heartland Trail.*

Phase 1 of development from the City of Stanton to the Village of Sidney was completed in May 2000. The First Annual Fred Meijer Heartland Trail Bridge Walk from Stanton to the Historic Bridge over Fish Creek was held and still takes place every Labor Day in September. The FFMHT received \$1,060,665 MDOT grants and matching funds for constructing phases 4 and 5 Lake Road to Sidney and Stanton to Wyman Road.

In July 2003, the FFMHT was notified that CSXT was willing to negotiate for a Notice of Interim Trail Use for the 5.5 mile line that would extend the trail from Elwell to Alma. Through the rail banking statute, the FFMHT was able to secure the connection and extension into the City of Alma. Within 18 months, funds were raised and the Fred Meijer Heartland Trail now connected two major communities of interest within the two counties. Funding was readily secured through grants with MDOT and matching funds provided by local community government entities providing 9 more miles of developed trail corridor. *Rail banking was crucial in saving the corridor and to provide this transportation resource to eager community residents and governments.*

With the passage of the Transportation Equity Legacy for Users (TEA-LU) in the Federal Highway Transportation bill of 2005, FFMHT received a grant to complete the development of the corridor from Alma to Greenville where the over 40 mile trail would connect up to the Greenville Flat River Trail. The final dissemination of Funds from TEA-LU will be in the 2009 funding cycle and that will complete the development of the trail from end to end.

Since early 2001, FFMHT has been a partner in the West Michigan Trails and Greenways Coalition. The vision of the Coalition is to complete a regional trails/greenways network that will connect communities with each other and with the region's natural areas and parks, historic landmarks, cultural venues and civic destinations. Through the ongoing partnership with WMTGC an opportunity arose in 2007, to cooperate with Mid-Michigan Railroad to acquire 37.5 miles of soon to be abandoned corridor from Ionia to Greenville and to connect to the Fred Meijer Heartland Trail on the north. This also allowed a connection from Ionia to the East to an abandoned rail corridor which had become the Clinton-Ionia-Shiawassee Trail which is 42 miles long.

Through a two-year facilitated process by the WMTGC, and ownership by FFMHT, the Ionia to Lowell section has been purchased and grants and funding are being finalized to complete the Lowell to Greenville transaction by April 2010. *Through the cooperation of MMRR to allow and secure rail banking, the corridor is preserved for future rail service if needed. One of the key elements of the campaign to support the trail was the preservation of the corridor for the future.*

Along the 37.55 mile corridor from Ionia to Greenville, 13 out of 16 local government units submitted letters of support for the project and participated in the facilitated process to acquire the trail. Initial funding came from Meijer and Frey Foundations, Lowell and Greenville Foundations, and local government units for \$17,500 in appraisal costs. This project was not only a grass roots project but received statewide participation and grants thru the Michigan DNR, Michigan DOT and Michigan Trails & Greenways Alliance.

With these connected corridors in this region of Mid-Michigan, a rail trail will extend and on to Owosso with a lot of smaller communities along the 125 mile corridor. It will be the fifth longest rail trail in the nation.

On the Lowell to Greenville segment, adjacent property owner Hodges has filed a Federal Lawsuit claiming compensatory rights for the 'taking' of his property due to rail banking.

Exploration of issues surrounding the rail banking program:

- Rail banking has been successful in Michigan for both Public and Private sectors and with the cooperation from various railroads it appears to work well for rail carriers. Transition of

ownership to one party at fair market value has to be good business for the railroad companies, and efficient and cost saving.

- The 5.5 mile segment of the FMHT which was rail banked is developed now. The 37.5 mile sections just acquired from MMRR are projected to be developed by 2012.
- Trails Act agreements have not been compulsory or stipulated. Only the STB rail banking filing was used for the property acquisition of the 5.5 mile corridor from CSX in 2005. Early on in the negotiating process with MMRR, a Memorandum of Understanding was developed with the West Michigan Trails and Greenways Coalition; further on in the acquisition, MMRR and FFMHT developed a Purchase Agreement.
- Rail banking has proven time and time again the importance of trail building and connecting communities to healthier lifestyles, more tourism and economic development opportunities. Study after study by Michigan State University's; Christine Vogt; provides economic data from trail resources and users.
- When the rail carriers discontinue rail service on the corridors, they profit from the rails and ties. Usually, when a bridge or materials are removed, it is by the contractors for the rail service. The FFMHT had to replace two bridges to maintain a trail where the rail service had removed the trestle. Those issues should be negotiated at the time of sale or when the rail service buys back the corridor at fair market value.
- Reversionary Property Owners: Many original railroads in Michigan acquired fee interests in their corridors. Claims for compensation by adjacent landowners should be limited to those situations where the landowner can make initial proof that underlying corridor interest is, in fact, an easement.

The Michigan Trails & Greenways Alliance Michigander bike tour with over 400 riders will return for a second time to the communities along the Fred Meijer Heartland Trail for a week long bike tour which circles Mid-Michigan for over 400 miles. This tour will be the culmination of a real success story of corridor preservation, economic development and healthier communities. Motels, restaurants, and party stores profit from these events. Michigan State University studies confirm the advantages of continuing to rail bank corridors and preserving an irreplaceable resource in all the local communities.

If you have any questions please call or email me.

Sincerely,

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