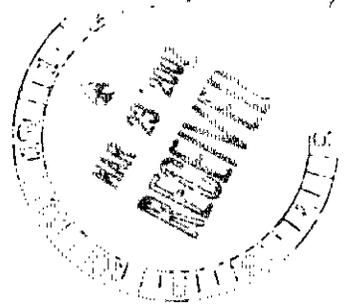


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22 March 2007

Hon. Vernon Williams
Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20024

Chillicothe-Brunswick Rail Maintenance)
Authority -- Discontinuance Exemption --) AB 1001X
-- Livingston, Linn and Chariton)
Counties, Missouri)

Opposition to intervention

Dear Mr. Secretary:

This letter is in response to the petition for leave to intervene dated March 20, 2007, by John Rupp, et al., in the above proceeding. The petitioners request intervention for the sole purpose of opposing a "Joint Motion of the City of Chillicothe ... and the Chillicothe-Brunswick Rail Maintenance Authority ..., filed on March 12, 2006, seeking entry of a Notice of Interim Trail Use...." Petition at p. 1.

The Petition represents that the various petitioners own property adjacent to the rail corridor. However, not even one provides evidence of ownership in any form, nor does a single one even identify where the alleged property is owned. Under these circumstances, City of Chillicothe ("City"), Chillicothe-Brunswick Rail Maintenance Authority ("CBRMA"), and Motive Rail (to the extent it participated in the "Joint Motion") do not admit that the petitioners have shown standing.

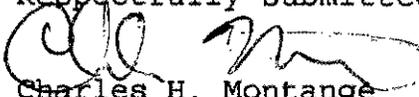
Petitioners claim that their intervention will not prolong the proceeding or adversely affect the interests of any of the parties. That is certainly incorrect. Rather than address the precedent cited by City and CBRMA in the Joint Motion (which precedent includes the leading case on railbanking, namely, Preseault v. ICC, 494 U.S. 1 (1990)), petitioners say only that "it is not worth the time and effort to distinguish the circumstances of the cited proceedings from those at hand." Petition at 2. Petitioners in short wish to intervene but not address the argument. By its nature, that serves only to prolong matters and adversely impact the interests of the parties.

Petitioners assert that the City owns "a railroad line long abandoned." This is a misleading representation. While City has no common carrier obligation on the line by reason of the rulings of this Board's predecessor, it is undeniable that CBRMA and Motive Rail have had extant common carrier obligations over the line in question. The owner could not lawfully fully "consummate" an abandonment for this line until the common carrier obligations of CBRMA and Motive Rail were lawfully authorized for termination, and that authority exercised. This Board has provided that CBRMA and Motive Rail will have authority to terminate their respective common carrier obligations effective only on March 28. CBRMA and Motive Rail obviously have not exercised what they do not yet have. Under the circumstances, the railroad line remains intact and in rail use, railroad easements in it if any are not abandoned, and the rail and track may not yet lawfully be removed. Under this Board's precedent (in particular, the Preseault case involving essentially the same facts regarding issuance of a NITU on termination of a leasehold as relevant here), now is the time at which one may obtain a Notice of Interim Trail Use ("NITU") in these circumstances; at any prior time, a NITU would have been premature. Petitioners cite no case to the contrary.

Since petitioners seek leave to intervene without demonstration of standing and while outright acknowledging no intent to respond to the argument City and CBRMA presented, City and CBRMA of course must oppose their intervention.

By my signature below, I certify service by facsimile transmission and USPS prepaid first class on petitioners' attorney, Fritz Kahn.

Respectfully submitted,


Charles H. Montange
for City and CBRMA

cc. Fritz Kahn, Esq. (Washington, D.C.)
Mayor Rodenberg (City of Chillicothe)