

FILED
MAR - 6 2009
SURFACE
TRANSPORTATION BOARD



BEFORE THE SURFACE TRANSPORTATION BOARD

R.J. Corman Equipment Company)
--Abandonment Exemption--in)
Johnson, Breathitt and Magoffin Counties, KY)

224628

Docket No. AB-876X

Request to Extend the Time Period for Negotiation of an
Interim Trail Use/Railbanking Agreement

February 17, 2009

Mr. Vernon A. Williams Secretary
Surface Transportation Board
1925 K St., NW, Room 711
Washington, DC 20423

ENTERED
Office of Proceedings

MAR - 6 2009

Part of
Public Record

FEE RECEIVED
MAR - 6 2009
SURFACE
TRANSPORTATION BOARD

Dear Mr. Williams:

By decision and notice of interim trail use or abandonment (NITU) served on December 23, 2004, the Board granted R.J. Corman Equipment Company, LLC (RJCE)¹ and R.J. Corman Railroad Company/Bardstown Line (RJCR) (collectively, Corman) an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903. RJCE sought to

¹ RJCE has changed its name to R.J. Corman Railroad Property, LLC. For convenience, we refer here to RJCE by its prior name and to RJCE and RJCR collectively as "Corman"

abandon, and RJCR sought to discontinue service over, a line of railroad known as the Dawkins Line, extending from milepost 0.05 at Dawkins, KY, to the end of the track at milepost 36.13 near Evanston, KY, a distance of approximately 36.08 miles in Johnson, Magoffin and Breathitt Counties, KY. The exemption was granted subject to public use, environmental, and standard employee protective conditions, and the Board authorized a 180-day period as requested by the Big Sandy Area Development District (Big Sandy ADD) on behalf of Judge Executive Roger "Tucker" Daniel and the Johnson County Fiscal Court, Judge Executive Bill May and the Magoffin County Fiscal Court, and Judge Executive Lewis Warrix and the Breathitt County Fiscal Court (collectively, the Counties), to negotiate an interim trail use/rail banking agreement with RJCE under the National Trails System Act, 16 U.S.C. 1247(d). The negotiating period under the NITU was extended by decisions served on June 30, 2005, January 5, 2006, July 6, 2006, January 4, 2007, June 15, 2007, December 31, 2007, July 21, 2008 with the latest extension expiring on January 17, 2009.

On December 17, 2007 the Big Sandy ADD requested that the Kentucky Rails to Trails Council (KRTC) which is hereinafter referred to as Commenter assumes the responsibility of continuing to negotiate with R.J. Corman Railroad Company toward an interim use agreement for the Dawkins Line. KRTC is a non profit organization whose mission is to promote and develop rail trails in the state of Kentucky.

KRTC is requesting a 180 day extension to pursue funding for the development of a trail pending commitment of funding by the Commonwealth of KY. KRTC states that it will continue to pursue funding and that the parties have deferred further negotiations pending commitment to funding. KRTC adds that Corman has authorized it to state that Corman consents to a further extension of the NITU negotiating period and the consequent deadline for filing a notice of consummation.

A copy of KRTC's statement of willingness to assume full responsibility for management of, and liability and payment of taxes for, the right-of-way, is attached as Exhibit A. The standard filing

fee of \$350.00 is enclosed. This motion has the consent of R.J. Corman Railroad Property, LLC (under separate cover).

While not taking a position on the merits of this abandonment, Commenter requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization.

By signatures below, we certify service upon R.J. Corman Railroad Property, LLC, One Jay Station, P.O. Box 788, Nicholasville, KY 40356, by U.S. Mail, postage prepaid, first class, this 17th day of February 2009.

I, Keith Lovan, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this pleading. Executed on 2/17/09.

Respectfully Submitted,



Keith Lovan
P.O. Box 597
Lexington, KY 40508
859.254.6850

Cc: Ronald Lanc, Fletcher & Sippel, LLC
Sandy Runyon, Big Sandy ADD



BEFORE THE SURFACE TRANSPORTATION BOARD

R.J. Corman Railroad Equipment Company)
in Johnson Breathitt and Magoffin Counties, KY) AB Docket No. AB-876X
--Abandonment Exemption--)

Statement of Willingness to Assume Financial Responsibility

In order to establish interim trail use and rail banking under Section 8(d) of the National Trail System Act, 16 U.S.C. § 1247 (d), and 49 C.F.R. § 1152.29, The Kentucky Rails to Trails Council is willing to assume 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 in the above captioned proceeding, owned by R.J. Corman Railroad Company.

The property known as the Dawkins Line, extends from M.P. 0.5 at Dawkins, KY to the end of the line at M.P. 36.13 at Evanston, KY, a distance of 36.08 miles in Breathitt, Magoffin and Johnson Counties. The right of way is part of a line of railroad proposed for abandonment in STB Docket No AB-876X. A map depicting the right of way is attached.

Kentucky Rails to Trails Council, acknowledges that use of the right-of-way is subject to the user continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on R.J. Corman Railroad Property, LLC on the same date it is being served on the Surface Transportation Board.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Keith Lovan". The signature is written in black ink and is positioned above a horizontal line.

Keith Lovan, Chair
Kentucky Rails to Trails Council
P O Box 597
Lexington, KY 40588