BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. EP 777

JOINT PETITION FOR RULEMAKING TO CONSIDER AMENDMENTS TO REGULATIONS GOVERNING INTERIM USE OF RIGHTS-OF-WAY AS TRAILS (49 C.F.R. PART 1152)

JOINT COMMENTS FROM THE ASSOCIATION OF AMERICAN RAILROADS AND THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

Kathryn D. Kirmayer
J. Frederick Miller Jr.
Amber L. McDonald
ASSOCIATION OF AMERICAN RAILROADS
425 Third Street, SW
Washington, DC 20024
Tel: (202) 639-2500

Sarah G. Yurasko
General Counsel
AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION
50 F Street NW, Suite 500
Washington, DC 20001
Tel: (202) 628-4500

William A. Mullins
Crystal M. Zorbaugh
MULLINS LAW GROUP PLLC
2001 L Street, NW, Suite 720
Washington, DC 20036
Tel: (202) 663-7831

Counsel for the Association of American Railroads and the American Short Line and Regional Railroad Association

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Introduction And Summary

The Association of American Railroads ("AAR") and the American Short Line and Regional Railroad Association ("ASLRRA") jointly submit these comments on behalf of their members in response to the Petition filed by the U.S. Department of the Interior and the U.S. Department of Justice's Environment and Natural Resources Division ("Petitioners") on December 20, 2024 ("Petition"), requesting that the Surface Transportation Board ("STB" or "Board") open a rulemaking proceeding to consider potential amendments to the Board's regulations implementing section 208 of the National Trails System Act Amendments of 1983 (the "Trails Act Amendments"). The Petition suggests amendments to the Board's regulations that Petitioners claim would create a new pathway to railbanking via a discontinuance proceeding, while also replacing the current Notice of Interim Trail Use (NITU) process for abandonments that has existed for decades.

At this time, AAR and ASLRRA do not believe that such a rulemaking is necessary or advisable. Adoption of the proposed rules would have the unintended consequence of making discontinuance proceedings more complicated, not less. The proposed rule is likely to upend

decades of settled federal takings precedent. Furthermore, as drafted, the proposal could have substantial negative impacts on the Board's well-established abandonment process. The proposal also has the potential to complicate the offer of financial assistance process with little benefit to the rail industry and other relevant stakeholders. Finally, neither the R.J. Corman case[1] nor Petitioners' desire to reduce temporary takings losses justify a wholesale change in the Board's existing railbanking procedures. In short, the proposed amendments may impede future interim tail use and railbanking in direct contravention of the Trails Act Amendments' stated purpose. Nonetheless, if this Board decides to move forward with the Petitioners' request to open a rulemaking proceeding, which it should not do at this time, then ASLRRA and AAR recommend that the Board adopt a procedural schedule for further comment and proposals.

Interests of AAR and ASLRAA.

AAR is the world's largest leading organization of the U.S. freight rail industry with a broad spectrum of members including major freight railroads, passenger rail services, and smaller non-Class I railroads and rail systems. ALSRRA is a non-profit trade association representing the interests of approximately 600 short line railroads in legislative and regulatory matters. Collectively, AAR and ASLRRA represent the interests of the United States freight industry in ensuring freight policies that promote a stronger, safer, and more efficient national transportation infrastructure. And AAR and ASLRRA do so here.

Comments

Currently, AAR and ASLRRA do not believe it is necessary or advisable for the Board to expend resources revising the current trails use process. The Petition suggests that its proposed

[1] R.J. Corman Railroad Property, LLC—Abandonment Exemption—in Scott, Campbell, and Anderson Counties, Tenn., AB 1296X, slip op. at 6-8 (STB Served Nov. 17, 2022) (Board Member Fuchs joined by Board Member Schultz concurring and Board Member Hedlund concurring) ("R.J. Corman").

amendments will expedite the process and provide "numerous benefits for railroads, the Board, trail sponsors, landowners, and other stakeholders." Petition at 2. AAR and ASLRRA disagree.

The Petition broadly proposes two categories of amendments: (i) a new "discontinuance" option for railbanking, in addition to the existing abandonment process; and (ii) purported "clarifying adjustments," including replacing the existing NITU process with new terminology seemingly designed as an end-run around existing federal takings precedent.

As set forth below, the Petition's proposed discontinuance process could result in unintended consequences for well-settled law and processes and with little to no benefits. Further, the Petition's proposed "clarifying adjustments" to existing regulations are anything but. Some of the Petition's proposed changes *increase* regulatory burdens—contrary to the Petition's allegation that the changes "would not impose any new burdens." Others are simply unnecessary.

A. The Proposal Adds To The Burdens Of A Discontinuance Proceeding With No Benefit To The Rail Industry

Petitioners assert that their discontinuance proposal will be faster and minimize regulatory hurdles associated with railbanking lines without having to go through the abandonment process, which Petitioners assert is more extensive and time-consuming than in a discontinuance proceeding. This is simply not the case.

Petitioners' position seems to be premised on their assertion that environmental and historic review is typically less burdensome in the context of discontinuance rather than abandonment. But that is generally true only where tracks are not salvaged in the discontinuance process. Given that tracks are salvaged before the construction of a recreational trail, the environmental and historic review process would, under the proposal, often be virtually identical in both the discontinuance and abandonment pathways. Except that Petitioner's proposal would move that

review process until after a trail use request is made instead of the current procedure requiring the environmental and historic review to begin before filing with the STB, thereby extending the time before the discontinuance authority takes effect.

Petitioners acknowledge that in large part, outside of the Trails Act procedures and the environmental and historic reporting procedures, the timelines and processes for abandonments and discontinuance are essentially the same: both being governed by 49 U.S.C. §§ 10903 – 10905 and the Board's regulations at 49 C.F.R. pt. 1152. Petition at 9. But the extent to which a discontinuance proceeding is less costly and time-consuming than an abandonment proceeding is precisely because a railroad seeking discontinuance authority generally does not have to comply with the National Environmental Policy Act ("NEPA"), the historic reporting requirements of Section 106 of the National Historic Preservation Act ("NHPA"), the Trails Act Amendment, or the public use conditions of 49 U.S.C. §10905, while a party in an abandonment proceeding must comply with all of those requirements.[2]

The petition implies that abandonment and discontinuance proceedings are equivalent as it pertains to environmental review. See, e.g., Petition at 20 (suggesting in connection with its discontinuance proposal that railroads might "realiz[e] an associated reduction in regulatory

[2] See, e.g., Everett Railroad Company – Discontinuance of Service Exemption – in Blair County, PA, STB Docket No. AB-721X slip op. at 2 n.2 (STB served Nov. 16, 2007) ("Because this is a discontinuance proceeding and not an abandonment, . . . no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively"); See, e.g., Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, STB Docket No. AB-297 (Sub-No. 103X), slip op. at 2 n.2 (STB served July 3, 2007) ("CAGY-Greenwood"); Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning County, OH, STB Docket No. AB-290 (Sub-No. 292X), slip op. at 2 n.2 ("NS-Mahoning") (STB served March 15, 2007); and Chillicothe-Brunswick Rail Maintenance Authority–Discontinuance Exemption–in Livingston, Linn, and Chariton Counties, MO, STB Docket No. AB-1001X, slip op at 2 n.3 ("CBRA-Livingston") (STB served Feb 23, 2007).

burdens [relating to environmental and historic review] and entities involved in environmental and historic reviews … also realizing benefits.") But the Board treats abandonments and discontinuances differently. See, e.g., Housatonic R.R.—Discontinuance of Service—Dutchess & Putnam Cntys., N.Y., Docket No. AB 733 (Sub-No. 1X) (STB served Feb. 17, 2023) ("Typically, a discontinuance does not require environmental review because the environmental review will occur during any later abandonment. However, in certain situations where the owner of a rail line proposed for discontinuance does not require Board approval to abandon the line, a discontinuance may require environmental review. See 49 C.F.R. § 1105.6(b)(3).") This is in part because discontinuance authorization does not necessarily involve track removal and disposition of the right-of-way. City of Tacoma, Department of Public Utilities, d/b/a/ Tacoma Rail Discontinuance Of Service Exemption – In Pierce County, Wash.; City Of Tacoma, Department Of Public Works, d/b/a/ Tacoma Rail Mountain Division – Discontinuance Of Service Exemption – In Pierce County, Wash., AB 1239 (Sub-No. 3X); AB 1328X, 2023 STB LEXIS 120, *8 (STB served June 26, 2023)(noting that discontinuance does not entail track salvage or disposition of railroad rights-of-way). It is the salvage potential in the context of an abandonment that triggers NEPA and Section 106 of the Historic Preservation Act. See Illinois Commerce Comm'n v. ICC, 848 F.2d 1246 (D.C. Cir. 1988) (affirming the environmental procedures used in ICC abandonment cases); State of Idaho et al. v. Interstate Commerce Commission, 35 F.3d 585 (D.C. Cir. 1994) (Board must comply with NEPA and take a "hard look" at environmental impacts of salvage before authorizing salvage activities).

Petitioners ignore the distinctions between how NEPA and NHPA are applied in the context of discontinuances versus abandonment. Presumably, if the railroad is granted a discontinuance because it does not intend to salvage but nonetheless railbank the line in a process similar to that

proposed by Petitioners, then, yes, perhaps, NEPA and NHPA would not be triggered and perhaps the Notice of Railbanking process may potentially be feasible and more efficient than an abandonment. However, in such a case, the trail sponsor would be burdened by the existence of railroad tracks and materials and be responsible for the liability associated with the tracks and rail corridor. But that is not what Petitioners appear to envision.

According to Petitioners, the revisions will allow railroads to "salvage track and materials upon the Board's issuance of the Notice of Railbanking" (which appears to be a rebranded equivalent of a NITU). See Petition, Appx. (proposed revisions to 1152.29(d)(4)). As noted above, abandonment is oftentimes time-consuming and costly due to the need to comply with NEPA and NHPA. Petitioners' intent appears to be to allow salvage upon issuance of a Notice of Railbanking, but NEPA and NHPA arguably would still be triggered at some point . If railroads are going to be faced with the burden of undergoing the timely and expensive environmental and historical process anyway, it is unlikely that any railroad would do so under the proposed discontinuance process. There is simply no benefit.

Rather, railroads would likely continue to opt for the abandonment process if the same environmental and historic reporting requirements are still triggered at the time of discontinuance by its decision to salvage the track and materials for use as a trail in the context of a discontinuance. In part because under the existing regulations, if the railbanked line ever comes out of trails, the rail carrier could consummate its abandonment authority without filing for additional authority to do so.[3] This would not be true if the path to trails was through a discontinuance.

[3] Additionally, Petitioners state that draft and final Environmental Analysis ("EA") should "continue in exemption proceedings and the new discontinuance-based process proposed in this petition." Id. at n.10, 20. If a discontinuance meets the criteria for environmental review, it will be the same review required by an abandonment and there will be no savings of time or cost.

Further, the existing discontinuance process is attractive to railroads, in part, because of the ability to be relieved of its common carrier obligation without having to undergo NEPA and NHPA review, if the triggers are not met, while at the same time allowing the continued retention of track and track materials to be able to restore rail service, if necessary, in the future. If a railroad is nonetheless required to undergo NEPA and NHPA in a discontinuance where railbanking is the intended purpose, then the discontinuance process has not been made easier, but rather more difficult and time-consuming.[4] In that instance, the railbanking process is no different than an abandonment process. Such a discontinuance process is not to the benefit of the railroads nor does it make the STB process more efficient. It does not "reduce the time typically required to conclude the Board's railbanking process," Petition at 20, nor does it "not impose any new burdens on them." Id., 21. Quite the opposite. As a result, as long as the NEPA and NHPA process are going to apply to a discontinuance with railbanking under the proposed rules, the proposed rules provide little to no benefit to the parties involved in trail use, including States, counties, cities, other public entities, and the rail industry.

B. The Proposal Complicates Existing Abandonment Procedures And Raises The Potential For Unintended Consequences With The Abandonment Process

In addition to proposing the new discontinuance pathway that, if followed, adds complexity and burden to the discontinuance process, the Petition also proposes "clarifying adjustments" to the existing trail use regulations. Petitioners downplay these changes. Some are in fact substantive changes that will *increase* burdens. Others are completely unnecessary.

[4] Nonetheless, if the Board considers the proposed discontinuance process, which it should not do, it should do so with the intention of "streamlining or simplifying the environmental and historic reviews for discontinuance based petitions" (Petition, n. 10, at 20) where railbanking is going to be invoked, assuming there is way to do so without running afoul of NEPA or NHPA. Otherwise, it is highly unlikely that a railroad would pursue discontinuance over abandonment as it is difficult to see how discontinuance with salvage would provide any benefits vis-à-vis the abandonment process.

For example, the Petition proposes to rebrand NITUs and refer to them as "Notices of Negotiation." The proposal is more than just an unnecessary change in nomenclature. Under current law, when a NITU expires, the abandonment authorization is automatically re-instated. Under the Petition, however, the Notice of Negotiation (formerly NITU) would not by its terms authorize abandonment if trail use negotiations fail or the negotiation period expires. Rather, the railroad would be required to make a second filing with the Board in compliance with the abandonment, environmental, historic, and fee regulations. The Board would have to consider the record, including any opposition, environmental issues, requests for public use conditions, offers of financial assistance, and historic analyses, and another potential request for trail use, and then issue a new decision indicating "whether the railroad may fully abandon the line" And any applicable conditions. See Petition at 27. There is no reason to require a railroad to make two similar filings in order to obtain abandonment authority, thereby increasing regulatory burdens in this way.

Other proposed changes are simply unnecessary. For example, the Petition makes much of wanting to clarify and confirm that the railroad's participation in trail use negotiations is voluntary. See, e.g., Petion at 27 (proposed change to (d)(1) requiring railroad's reply to include a statement affirming that it is voluntarily entering into negotiations and may withdraw at any time). The agency's trail use procedures have been in place for decades and there has been no confusion as to the voluntary nature of negotiations. Court and agency case law on this topic is clear. E.g., Soo Line R.R.—Aban. Exemption, AB 57 (43X) (Dec. 31, 1997) ("16 U.S.C. 1247(d) permits only voluntary negotiations for interim trail use"); Rail Abandonments-Use of Rights-of-Way, 2 I.C.C.2d 591 (1986) ("we conclude that section 1247(d) permits only voluntary arrangements"). Currently, under well-functioning procedures, the railroad simply responds to a

request for negotiations by consenting to those negotiations. That has been more than sufficient to show that the railroad is voluntarily entering negotiations. Despite decades of precedent, the Petition would add this unnecessary requirement that the Board would then have to monitor for compliance and completeness.

The proposal could also change long-settled law on the current abandonment process. Will the numerous STB and court precedents regarding the legal implications flowing from the issuance of a CITU or NITU apply to issuances of a Notice of Negotiations or a Notice of Railbanking? What are the implications on other regulatory requirements within the Board's abandonment and discontinuance regulations? For example, would 49 C.F.R. 1152.29(e)'s requirement to file a notice of consummation within 60 days run from "expiration" of the negotiation period (as is currently the case) or would the new Board decision indicating whether the railroad may fully abandon the line become the new trigger ("removal of the legal or regulatory barrier")? At the very least, if the Board opens a rulemaking proceeding, it should establish a procedural schedule to get additional comments on the proposal and its potential implications, as well as alternate proposals.

C. The Proposal Is Likely To Complicate The Offer Of Financial Assistance Process

The Offer Of Financial Assistance ("OFA") process is governed by 49 U.S.C. § 10904 and its corresponding implementing regulations at 49 CFR 1152.27. Under this process, when abandonment or discontinuance has been authorized, a party can make an OFA to purchase the line or subsidize it. When a line has been authorized for discontinuation, a party can only offer to subsidize its operations for one year. Any OFA, whether to purchase or to subsidize, takes precedence over trails use. See Rail Abandonments--Use of Rights-of-Way As Trails, 2 I.C.C.2d 591, 608 (1986) ("Offers of financial assistance to acquire rail lines or subsidize rail operations

under section 10905 [now 10904] take priority over both interim trail use and public use conditions because retention of existing rail service is mandatory under section 10905. . . ."); see also, Union Pacific Railroad Company – Abandonment Exemption – In Rio Grande And Mineral Counties, CO; In The Matter Of An Offer Of Financial Assistance, AB-33 (Sub-No. 132X), 2000 STB LEXIS 283, *12 (STB served May 24, 2000) (Moreover, the acquisition pursuant to the OFA in this proceeding takes precedence over any potential Trails Act acquisition).

The Petition "does not discuss Offers of Financial Assistance," though it does acknowledge that OFAs "would continue to take precedence over railbanking" and that under the new discontinuance pathway "there would be an opportunity for the submission of offers to subsidize continued rail operations." Petition at 14, n. 7. Under the Petitioners' discontinuance process (and existing regulations), an OFA in the context of discontinuance is limited to offers to subsidize continued rail operations, thus removing the opportunity for submissions of offers to purchase rail lines that are available in abandonment proceedings.

But if salvage is to occur in the context of a discontinuance with railbanking, would offers to purchase then become available in that context? This is unclear, but one thing is clear: allowing offers to purchase in the context of discontinuance with railbanking would, like requiring compliance with NEPA and NHPA, simply add an additional burden to this new discontinuance process, disincentivizing the advantages currently afforded in the discontinuance process as opposed to the abandonment process. In such a scenario, if a railroad, that desires to railbank a line in the context of a discontinuance, is nonetheless going to have to comply with NEPA, NHPA, be subject to an OFA to purchase, and face the potential for state reversionary interest claims, it is highly likely that such a railroad would choose the abandonment process over the

proposed discontinuance process, which defeats the purpose of the proposed rulemaking. At least the abandonment process provides certainty and clarity. The proposal creates just the opposite.[5]

One final area where the proposal creates uncertainty is that it fails to address situations where the railroad seeking discontinuance authority does not own the underlying infrastructure. If a lessee or operator were to discontinue its operations, any rule modifications must make it clear that in such proceedings, any trails use or other negotiations would have to be initiated by the rail carrier or party owning the rail line, not the operator or lessee. Failure of Petitioners to address the OFA process and its implications in the context of salvage with a discontinuance/railbanking is a significant shortfall of the discontinuance proposal. Unless these shortfalls are addressed and resolved, AAR and ASLRRA cannot support the proposal.

D. Neither the R.J. Corman Case Nor the DOJ's Litigation Strategy Justify The Proposed Unintended Consequences Flowing From The Petition

Petitioners cite two reasons to institute a rulemaking: the R.J. Corman decision and the DOJ's desire to upend long-standing case law in the Court of Federal Claims to eliminate temporary takings liability. Neither justifies the unintended consequences that would flow from the changes proposed in the Petition.

First, Petitioners claim that their proposal to allow a railroad to railbank a line without first seeking and obtaining authority to abandon the line was suggested in concurrences by three Board Members in the R.J. Corman case. It is true that the concurrences in that case expressed concern about the excessive burden placed on a carrier attempting to use the Board's expedited

[5] The existing process does not call for or allow railbanking in a discontinuance. The new rules would. Are there going to be two different discontinuance processes? What happens if a discontinuance is granted without railbanking and later, because the line still remains within the Board's jurisdiction, the railroad and a trail sponsor agree to railbank? Can salvage then occur? Would the case have to be reopened so that NEPA and NHPA apply? These and other potential conflicts and issues are not addressed but should be if the Board moves forward with a rulemaking proceeding.

exemption process for a line which had been out of service for seven years. The real burden imposed on the railroad in that case, however, was not the result of complications related to the railbanking process or the inability to railbank in the context of discontinuance. Rather, that proceeding was plagued by issues relating to late-filed evidence, OFAs, and most significantly the Board's policy and application of its so-called "stranded segment" doctrine. See R.J. Corman at 3-4.

Member Fuchs put it succinctly and precisely when he said:

> [T]he application here of the Board's policy disallowing stranded rail lines may appear unnecessary. Indeed, part of what would be stranded is currently unusable, part has an unknown owner, and part may not even be subject to Board regulation.

R.J. Corman, Member Fuchs, joined by Member Schultz, concurring at 6-7.

The fundamental problem raised by the R.J. Corman case is not the need to upend the long-standing application of the railbanking process as proposed by Petitioners, but rather to reconsider the application and implementation of the stranded segment doctrine. In the R.J. Corman case, if the Board, in the unique circumstances of those facts, had allowed the segments to be nonetheless stranded, abandonment could have been quickly approved and railbanking implemented in a timely and consistent matter. Indeed, there may be ways to develop a streamlined and efficient process to quickly approve the abandonment of lines that would otherwise be stranded where such lines are unusable, the owner can't be found, or there are questions as to whether the line was ever within the Board's jurisdiction or might otherwise qualify for treatment under 49 U.S.C. §10906 and AAR and ASLRRA stand willing to cooperate in developing such a process. The bottom line is that there are ways to remedy the concerns expressed in R.J. Corman without adopting a wholesale change allowing railbanking in a discontinuance.

Second, the Petition claims that the Board should open the rulemaking proceeding to eliminate temporary takings in the context of Tucker Act litigation in the Court of Federal Claims. Petition at 22. Citing both Memmer v. United States, 50 F.4th 136 (Fed. Cir. 2022) ("Memmer") and Caldwell v. United States, 391 F.3d 1226 (Fed. Cir. 2004), the Petitioners note that Fifth Amendment claims may accrue when the Board issues a NITU because it is the issuance of the NITU that is the "government action" that prevents the vesting of state law reversionary claims and triggers the permanent takings claim. Petitioners then note that in those instances where a trail use agreement is not reached and the NITU period expires, subsequent courts have allowed landowners to recover for a temporary taking for the period in which the railroad and the potential trail sponsor were negotiating, citing Memmer and Caquelin v. United States, 959 F.3d 1360, 1371-72 (Fed. Cir. 2020).

The Petition's proposed amendments replacing the NITU process with a new "Notice of Negotiations" and "Notice of Railbanking" appears designed to bolster Petitioners' attempts to avoid the Federal Circuit's temporary takings rulings in Memmer and Caldwell.[6] It is not at all clear whether the proposed amendments would ultimately change the underlying Fifth Amendment analysis, nor is it possible to predict in advance how courts might address the wide range of claims, arguments, and situations that might present themselves should any of the proposed amendments be adopted. But what is clear is that the Petition's proposed amendments would sow confusion and uncertainty within a legal environment that, at present, features established doctrines. Under the existing Tucker Act litigation framework, railroads are already subject to unnecessary third-party document discovery, deposition demands, and even subpoenas

[6] AAR and ASLRRA note that the Petition incorrectly implies that temporary takings occur because the negotiations are not voluntary. See, e.g., Petition at 24. As noted previously, railbanking negotiations are voluntary and not compelled by the government.

by DOJ and landowner counsel to testify at trial. The uncertainties related to the proposed amendments will further exacerbate transactional and litigation costs for all stakeholders.

The root of these flaws is that the Petitioners appear to be attempting to use the STB's limited regulatory role in the context of the Trails Act for the unrelated purpose of bolstering the DOJ's litigation strategy in Fifth Amendment takings cases. This is contrary to historical practice, as the STB has been hesitant to inject itself into Trails Act takings issues in the past. And it should not do so here. Indeed, while the Petition cites Executive Order No. 12,630 as justification, it neglects to mention that the STB has observed that the Executive Order in question does not apply and more importantly that issues surrounding Trails Act conversions and takings were "more properly addressed and evaluated in other forums." Burlington Northern R.R.—Abandonment Exemption—In Skagit County, WA, Docket No. AB 6 (Sub-No. 299X) (ICC decided June 14, 1989). Simply put, if Petitioners seek to change existing Tucker Act precedent, they should do so in the courts, not through the agency. That is particularly true given the possibility of unintended consequences that may arise from a potential change in existing Tucker Act liability in the context of STB abandonments and discontinuances.

When the Board decides to open a rulemaking, it generally looks to whether the proposed rule would further the rail transportation policy at 49 U.S.C. 10101 or is necessary for some other reason consistent with its statutory mission. There is nothing in the Petition that would further the RTP—if anything, the proposal adds regulatory requirements which are inconsistent with the expeditious handling of proceedings. See 10101(15). And there is no reason to believe that the proposed changes to the interim trail use regulations are necessary.

Conclusion

AAR and ASLRRA appreciate the opportunity to share their concerns with the approach set forth in the Petition. However, neither AAR nor ASLRRA believes that the proposal should move forward toward issuance of either an ANPRM or NPRM. The proposal, as currently structured, could lead to significant unintended consequences by adding to a railroad's burden in a discontinuance proceeding, unnecessarily changing the current abandonment process, entangling railroads in takings and state quiet title actions, upending the OFA process, and potentially subjecting railroads to OFAs to purchase in the context of a discontinuance. Furthermore, the proposal is not necessary to resolve the concerns raised by the Board in R.J. Corman.

While neither AAR nor ASLRRA believes that changes are necessary at this time, if the Board decides to open a rulemaking proceeding nonetheless, AAR and ASLRRA urge the Board to set a procedural schedule for the submission of comments, reply comments, and other proposals. The Board has sought additional comment before deciding the merits of a rulemaking petition in a number of other proceedings. See, e.g., Montana Rail Link, Inc.—Pet. For Rulemaking—Classification of Carriers, Docket No. EP 763 (STB served May 14, 2020); Pet. for Rulemaking to Amend 49 C.F.R. Part 1250, Docket No. EP 724 (Sub-No. 5) (STB served Apr. 5, 2019).

Respectfully submitted,

/s/ William A. Mullins

William A. Mullins
Crystal M. Zorbaugh
MULLINS LAW GROUP PLLC
2001 L Street, NW, Suite 720
Washington, DC 20036
Tel: (202) 663-7831

Kathryn D. Kirmayer
J. Frederick Miller Jr.
Amber L. McDonald
ASSOCIATION OF AMERICAN RAILROADS
425 Third Street, SW
Washington, DC 20024
Tel: (202) 639-2500

Sarah G. Yurasko
General Counsel
AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION
50 F Street NW, Suite 500
Washington, DC 20001
Tel: (202) 628-4500

Attorneys for the Association of American Railroads and the American Short Line and Regional Railroad Association

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