

Sample Petition to Request Federal Railbanking

Adopted by North Carolina Rail-Trails, Inc. Board of Directors on October 8, 2005

[Background - NCRT's Board of Directors (BOD) agreed at its July 9, 2005 meeting that NCRT Land Trust needed to be able to exercise its land trust capacity in an immediate and/or emergency situation. This capacity needs to be added to NCRT's (new) LTA Land Trust Standards and Practices. The BOD wants to have land trust railbanking capacity to file for federal railbanking of "to be abandoned rail corridors" with the USDOT Surface Transportation Board whenever the opportunity arises, as determined by North Carolina Rail-Trails Board of Directors affirmative action.] Cost to file: \$200.00

N.B. Prompt action is required to start the railbanking process since there is only a ten (10) day window for a public response once the railroad announces it is going to abandon a rail line. This sample letter may provide a useful starting point for any group wishing to step in to negotiate the preservation of a rail corridor as it is moving towards abandonment.

A Petition for Federal Railbanking

This petition requests both a public use condition and federal railbanking.
(Complete the items in italics, as well as fill in the blanks.)

Mr. Vernon A. Williams
Secretary

Surface Transportation Board
1925 K Street, NW, Room 711
Washington, DC 20423

Re: [Name of Railroad Company]-Abandonment-[Name of County and State] AB-xx
(Sub-no. yy)[STB Docket Number]

Dear Mr. Williams:

This comment should be treated as a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of North Carolina Rail-Trails, Inc., a specialized North Carolina Federal Railbanking Land Trust, certified by both the national Land Trust Alliance and the North Carolina Land Trust Council of the Conservation Council of North Carolina, which is hereinafter referred to as Commenter.

While not taking a position on the merits of this abandonment, Commenter requests issuance of a Public Use Condition and a Certificate and/or Notice of Interim Trail Use to assure the public transportation function in the corridor and not to authorize an outright abandonment between, e.g. [Mile Post 0.00] and [Mile Post 70.00].

A. Public Use Condition

Commenter requests the STB to find this property suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that [example: the rail corridor in question is along a scenic river and will connect a public park to a major residential area. The corridor would make an excellent recreational trail and conversion of the property to trail use is in accordance with local plans. In addition, the corridor provides important wildlife habitat and greenspace and its preservation as a bicycle commuter/recreation trail is consistent with that end]. The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time because [example: we have not had an opportunity to assemble or to review title information, complete a trail plan, commence negotiations with the carrier or program funding through local and state transportation sources or private interests].
2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for commuter/recreational trail use. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, Commenter also makes the following statement:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, North Carolina Rail-Trails, Inc., is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of the corridor, and indemnifies 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 owned by [Name of Railroad Company] and operated by [Name of Railroad Company].

The property, known as _____ extends from railroad milepost near [endpoint a] to railroad milepost near [endpoint b] a distance of ____ miles in [County Name(s)], [State]. The right-of-way is part of a line of ____ railroad proposed for abandonment in STB Docket No. AB-xx (Sub-no. yy).

A map depicting the right-of-way is attached.

North Carolina Rail-Trails, Inc., acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities as described above and is subject to possible future reconstruction and reactivation of the right-of-way for rail service at the request of the Surface Transportation Board by a bona fide railroad.

By my signature below, I certify service upon [Railroad Company and address], by U.S. Mail, postage prepaid, first class, this day 00.

Respectfully submitted,

David Coats,
General Counsel, North Carolina Rail-Trails, Inc.
Bailey & Dixon LLP PO Box 1351 Raleigh, NC 27602 (919/828-0731)

On behalf of:
North Carolina Rail-Trails, Inc., PO Box 61348 Durham, NC 27715-1348
(919/542-0022)

Name:

On behalf of:

Company and address], by U.S. Mail, postage prepaid, first class, this day of 20xx

Respectfully submitted,