Interim Trail Sponsors

- Public entities
  - State DOTs
  - Regional transportation agencies
  - Counties
  - Parks districts

- Private entities
  - Landbanks
  - Community non-profits
Interim Trail Sponsor Obligations

- Manage the right-of-way
- Assume any legal liability arising out of the transfer or use of the right-of-way
  - Unless the user is immune from liability (i.e., some public entities), in which case it need only indemnify the railroad against any potential liability
- Pay any taxes that may be levied or assessed against the right-of-way

49 CFR 1152.29(a)(2)
Interim Trail Sponsor Obligations

- Acknowledge that interim trail use is subject to:
  - Continued fulfillment of management obligations
  - Possible future reconstruction and reactivation of the right-of-way for rail service

49 CFR 1152.29(a)(3)
ROW Management

- Trail development
  - Local construction requirements will apply
- Trail management
  - Hours of operation
  - Trail use rules/restrictions
- Other uses
- Trail owner can also be interim trail sponsor
Liability

- Interim trail sponsor steps into railroad’s shoes – shields railroad from liability
- Insurance – private and public entities
- Recreational use statutes – all states
  - Public entities
  - Private entities – some
- Indemnification – public entities
  - Cannot be limited or qualified – i.e., “in accordance with state law” or “subject to annual appropriations”
Corridor Preservation

- “Bank” corridor in anticipation of future freight rail restoration
- Keep real property interests intact
- Preserve physical integrity of right-of-way
  - OR be in position to restore, relocate, or replace
Reactivation

- Interim trail sponsor must make corridor available for reintroduction of rail service
- Railroad that sought abandonment may reinstitute service without need for STB authority once NITU/CITU is vacated
- Proposal to reactivate must be commercially reasonable
  - Third party cannot force its way onto the line without justification
- Trail sponsor not required to bear costs of restoration
  - BUT can only recover costs if it is entitled to do so under contract
Questions?

Allison I. Fultz

afultz@kaplankirsch.com
(202) 955-5600