

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Maryland Transit Administration v. Surface Transportation Board

700 F.3d 139 (4th Cir. 2012) · No. No. 11-1412 · Decided November 21, 2012

SUMMARY

The Fourth Circuit denied Maryland Transit Administration’s petition for review of a Surface Transportation Board order rejecting proposed interim trail-use agreements for a railroad right-of-way. The court held that the sponsors’ indemnity obligations, which were conditioned on sovereign immunity and future legislative appropriations, did not satisfy the Trails Act and applicable regulations. The court also rejected challenges based on state sovereignty and the Board’s allegedly ministerial role.

CASE DETAILS

COURT	United States Court of Appeals for the Fourth Circuit
WRITING FOR THE COURT	Niemeyer, Circuit Judge; Diaz, Circuit Judge; Max O. Cogburn, Jr., United States District Judge for the Western District of North Carolina, sitting by designation
JURISDICTION	Federal
DECIDED	November 21, 2012
DOCKET	No. 11-1412
DISPOSITION	writ_denied
PROCEDURAL POSTURE	The Maryland Transit Administration petitioned for review under 28 U.S.C. § 2344 of a Surface Transportation Board order rejecting its application to convert a railroad right-of-way to recreational trail use because proposed sponsors conditioned their indemnity obligations on sovereign-immunity limitations and future legislative appropriations.
STANDARD OF REVIEW	The court reviewed the STB’s decision under the Administrative Procedure Act and asked whether the Board acted arbitrarily and capriciously. The court also reviewed the reasonableness of the STB’s construction and application of the Trails Act and its regulation.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Maryland Transit Administration v. Surface Transportation Board, United States of America

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QUESTIONS PRESENTED

1. Whether the proposed sponsors' conditional indemnity agreements satisfied the Trails Act and 49 C.F.R. § 1152.29(a)(2) requirement that a trail sponsor assume full responsibility for legal liability or indemnify the railroad against any potential liability.
2. Whether the STB's interpretation of the Trails Act and its regulation unreasonably required state agencies to waive sovereign immunity or otherwise infringed state sovereignty without a clear congressional statement.
3. Whether the STB improperly treated its review as merely ministerial and failed to evaluate the substance of the sponsors' indemnity undertakings under applicable state law.

HOLDINGS

1. A proposed trail sponsor does not satisfy the Trails Act and 49 C.F.R. § 1152.29(a)(2) by promising to indemnify the railroad only if sovereign-immunity principles permit indemnification or if future legislative appropriations provide funds; the sponsor must assume full responsibility for liability or indemnify the railroad against any potential liability.
2. The STB's indemnity regulation is a reasonable implementation of the Trails Act and does not impose an unconstitutional requirement that state agencies waive sovereign immunity because participation in the federal rails-to-trails program is voluntary and the requirement to protect the railroad is a condition of receiving a voluntary federal benefit.
3. The STB did not improperly discharge its duties by performing a ministerial review; its regulation permissibly confined the Board's role to verifying whether sponsors submitted undertakings satisfying the statute and regulation, and the Board adequately considered the parties' arguments and explained its decision.

KEY QUOTATIONS

“It can hardly be argued that a requirement demanding that a party assume full responsibility for any liability or indemnify the railroad for any potential liability is satisfied by a promise to indemnify only if the principles of sovereign immunity so allow or if the money becomes available pursuant to future appropriations.” (slip op. at 7)

“The regulation’s indemnity option thus implements, in a reasonable manner, the Trails Act’s requirement that railroads be fully protected while also softening the statute’s impact on sovereign immunity.” (slip op. at 9)

FACTUAL BACKGROUND

The MTA owned a 54.1-mile railroad right-of-way between Clayton, Delaware, and Easton, Maryland, and sought to abandon freight use and convert the corridor to a recreational trail under the National Trails System Act. Proposed Delaware and Maryland governmental sponsors agreed to indemnify the MTA, but conditioned those undertakings on sovereign immunity, state law, and future legislative appropriations. The STB rejected the application because the conditions could result in no indemnification and because the Maryland agreement did not undertake responsibility for taxes assessed against the right-of-way.

PROCEDURAL HISTORY

The STB issued a certificate of interim trail use in January 2006. After the MTA submitted replacement agreements with Delaware and Maryland governmental sponsors, the Acting Director of the STB's Office of Proceedings denied the application, and the STB affirmed on February 24, 2011. The Fourth Circuit denied the petition for review and affirmed the STB's decision.

DISPOSITION

writ_denied

CASES CITED

- Bell Atl. Md., Inc. v. MCI WorldCom, Inc., 240 F.3d 279, 291 (4th Cir. 2001), vacated on other grounds sub nom. Verizon Md., Inc. v. Pub. Serv. Comm'n of Md., 535 U.S. 635 (2002)
- MCI Telecomm. Corp. v. Bell Atl.-Pa., 271 F.3d 491, 505 (3d Cir. 2001)
- Preseault v. I.C.C., 494 U.S. 1, 8 (1990)
- Nat'l Ass'n of Reversionary Prop. Owners v. S.T.B., 158 F.3d 135, 139 (D.C. Cir. 1998)
- Coll. Sav. Bank v. Fla. Prepaid Postsecondary Educ. Expense Bd., 527 U.S. 666, 686 (1999)
- Nat'l Wildlife Fed'n v. I.C.C., 850 F.2d 694, 696 (D.C. Cir. 1988)
- Am. Hosp. Ass'n v. NLRB, 499 U.S. 606, 612 (1991)
- Swan v. Clinton, 100 F.3d 973, 977 (D.C. Cir. 1996)
- Mississippi v. Johnson, 71 U.S. (4 Wall.) 475, 498 (1866)
- Verizon Md., Inc. v. Pub. Serv. Comm'n of Md., 535 U.S. 635 (2002)