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SERVICE DATE – NOVEMBER 27, 2019

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1269 (Sub-No. 1X)

IOWA TRACTION RAILWAY COMPANY—DISCONTINUANCE OF SERVICE
EXEMPTION—IN CERRO GORDO COUNTY, IOWA

Decided: November 26, 2019

On November 6, 2019, Iowa Traction Railway Company (Iowa Railway) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service over a three-mile rail line between milepost 155.5, located approximately 100 yards south of Elm Drive, and milepost 152.5, located approximately 600 yards north of County Highway B-20, in Mason City (the City), Cerro Gordo County, Iowa (the Line). Iowa Railway states that, once discontinuance authority is obtained, the City will file a request for railbanking and interim trail use of the right-of-way under the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act). (Verified Notice 4.)

According to Iowa Railway, Chicago & North Western Transportation Company obtained authority to abandon the Line in 1987¹ and consummated the abandonment. (Verified Notice 2.) Iowa Railway states that, following consummation of the abandonment, the Line was acquired by Hermitage Homes, Inc. (Hermitage), a noncarrier. (*Id.* at 3.) In 1988, Iowa Traction Railroad Company (Iowa Railroad) was authorized to operate over the Line pursuant to a lease with Hermitage. See Iowa Traction R.R.—Operation Exemption—Hermitage Homes, Inc., FD 31353 (ICC served Nov. 23, 1988). In 2012, Iowa Railway was authorized to replace Iowa Railroad as the operator of the Line through a change-in-operators exemption under 49 C.F.R. § 1150.31(a)(3). Iowa Traction Ry.—Change in Operators Exemption—Rail Line of Backtrack, Inc., FD 35677 (STB served Oct. 5, 2012). By that time, Backtrack, Inc., had succeeded Hermitage as the noncarrier owner of the Line. (Verified Notice 3.)

On November 12, 2019, the National Association of Reversionary Property Owners (NARPO) filed a comment requesting that the Board reject Iowa Railway's notice, or, in the alternative, that the Board not entertain a request for railbanking of the Line. According to NARPO, under the Board's rules, there can be no railbanking in a discontinuance proceeding. (NARPO Comment 1.) NARPO also questions whether the Line is within the Board's jurisdiction, as the Line was authorized for abandonment in 1987, and the abandonment was consummated. (*Id.* at 2.) On November 13, 2019, Iowa Railway filed a reply in opposition to NARPO's comment, arguing that the Board has jurisdiction over the proposed discontinuance.

¹ See Chi. & N.W. Transp. Co.—Aban. Exemption—in Mason City, Iowa, AB 1 (Sub-No. 205X) (ICC served July 10, 1987).

(Iowa Railway Reply 4.) Iowa Railway also argues that discontinuance authority is sufficient to railbank a line under the Trails Act where, as here, the line was abandoned before discontinuance authority was sought. (Id. at 3.)

Iowa Railway's notice, and the parties' subsequent filings, raise questions about the proposed transaction that must be considered before further action can be taken. Accordingly, this proceeding will be held in abeyance pending further Board order. See City of Belfast—Aban. Exemption—in Belfast, Me., AB 1109X (STB served Aug. 13, 2013) (holding proceeding in abeyance to allow information in supplemental filing to be considered).

It is ordered:

1. This proceeding is held in abeyance until further Board order.
2. The decision is effective on its service date.

By the Board, Allison C. Davis, Director, Office of Proceedings.