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Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 1242

**HARTWELL FIRST UNITED METHODIST CHURCH
- ADVERSE ABANDONMENT AND DISCONTINUANCE -
THE GREAT WALTON RAILROAD COMPANY, INC., IN HART COUNTY, GA**

**REPLY OF
HARTWELL FIRST UNITED METHODIST CHURCH
TO JANUARY 2021 STATUS REPORT OF
THE GREAT WALTON RAILROAD COMPANY, INC.**

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Dated: February 24, 2021

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On February 9, 2021, The Great Walton Railroad Company, Inc. (“GWRC”) filed its January 2020 Status Report (the “January 2021 Status Report”) pursuant to the requirements of the Board’s January 31, 2018 Decision (the “2018 Decision”) in this proceeding. Hartwell First United Methodist Church (“Hartwell First” or the “Church”) is filing this Reply because it believes that the January 2021 Status Report includes certain misleading statements that go beyond a mere status update.¹

DISCUSSION

As GWRC has previously reported, it has generally completed its rehabilitation of the Line (being the main line in downtown Hartwell), except for portion of the Line from Jackson Street to S. Forest Street which has not been repaired as it is still leased to TORCH. The January 2021 Status Report accurately advises the Board that GWRC has not been able to establish or obtain title to the property underlying the former north spur, having now lost at the Georgia Public Service

¹ Although the Board’s 2018 Decision did not specifically mention the right of Hartwell First (or other parties) to file a reply, the Board’s regulations provide that “[a] party may file a reply or motion addressed to *any pleading* within 20 days after the pleading is filed with the Board...” 49 CFR §1104.13(a) (emphasis added).

Commission, the Superior Court of Fulton County and the Georgia Court of Appeals. GWRC has now asked the Georgia Supreme Court to hear its appeal by filing a petition for certiorari. That petition remains pending.

Notwithstanding the accurate description of the state court litigation and the condition of the Line, GWRC continues to make misleading statements to the Board, including the following:

1. Although GWRC is continuing to provide service to Quality Services, LLC (“Quality”), it is not in any way using the Line to “facilitate rail transportation services” for Quality. January 2021 Status Report at 1-2. Rather, GWRC continues to provide the service without using the Line, and without any need for a runaround track in downtown Hartwell. The sole use of the Line continues to be to store three unused railcars behind the Church. As established in the record neither the Line nor the runaround have been used to provide rail service to customers since 1998.
2. GWRC continues to misstate when the runaround track was built, and that it was operated as part of the general system of rail transportation. January 2021 Status Report at 2. While the former north spur was built in 1913, at that time it was clearly just a spur, and there is no evidence of railroad ownership of the real estate underlying the spur. The original spur was extended by the Clinkscapes-owned industrial track under a 1919 agreement. It does appear from the tracks on the ground that at some point in time (perhaps in the 1950s) that the combined spur tracks were connected back to the Line, but without any agreement or right of way transfer or ICC authorization. The Board has specifically determined that the former north spur (before it was removed) and the runaround track were ancillary track and was never part of the general system of rail transportation. See Corrected Decision served June 23, 2020 in *The Great*

Walton Railroad Company – Petition for Declaratory Order, Docket No. AB 1242
(Sub-No. 1).

3. In losing before the Georgia Public Service Commission and two state courts, GWRC has not been denied any “statutory right” to reconstruct the runaround track (January 2021 Status Report at 2); rather the agency and the courts have confirmed that GWRC does not have any such statutory right and has no claim to the property where the former north spur was located.

In sum, the Board should merely take note that GWRC has continued to provide service to Quality without the use of the Line, and that GWRC has to-date failed to establish any rights in the state litigation to the property underlying the former north spur.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of February, 2021, I served a copy of the foregoing

Reply on the following persons by email where shown or by U.S. mail, postage prepaid:

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