

BEFORE THE SURFACE TRANSPORTATION BOARD ENTERED
Office of Proceedings
July 29, 2022
Part of
Public Record

STB DOCKET NO. AB 1313

Great Redwood Trail Agency, formerly named North Coast Railroad Authority

(An Agency of the State of California) --

Adverse Discontinuance of Lease and Operating Authority—

Northwestern Pacific Railway Co.,

In Humboldt, Trinity and Mendocino Counties, Ca

REPLY COMMENT

On behalf of

GREAT REDWOOD TRAIL AGENCY

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For filing: July 29, 2022

This Board should grant the relief sought [adverse discontinuance of lease and operating authority of defunct Northwestern Pacific Railway Co. (“NWPY”) in Humboldt, Trinity and Mendocino Counties) by applicant Great Redwood Trail Agency (“GRTA”)¹ in this proceeding forthwith and without further delay.

Background. This Board’s regulations provide that protests and comments to discontinuance applications must be timely filed. 49 C.F.R. 1152.25(d)(1). This Board’s Decision served June 27, 2022, slip op. at 3, provides that (1) all protests and comments on GRTA’s application were due for filing on or by July 22, 2022, and (2) reply comments are due by August 7. Per the Board’s website, no protests or comments have been filed adverse to the relief sought in GRTA’s application. The only timely comment in the proceeding is by Humboldt Trails Council (“HTC”). In that comment (filed July 15), HTC favored the relief sought

¹ GRTA was formerly named North Coast Railroad Authority (“NCRA”). As is customary in adverse discontinuance proceedings, NCRA initially petitioned for waiver of requirements so it could file a third-party discontinuance proceeding on March 9, 2021. Rather than grant the waivers per 49 C.F.R. 1152.24(e)(5) (ruling in 30 days) or other authority, STB instituted a proceeding pursuant to 49 U.S.C. 10502. Decision in AB 1313 served June 7, 2021. No comments were sought or filed in the proceeding so instituted, except for a notification filed February 22, 2022 by NCRA that the California Legislature was changing NCRA’s name to GRTA effective March 1, 2022, and that STB was required by 49 U.S.C. 10502 to conclude the proceeding in AB 1313 it had instituted by March 6, 2022. The agency granted the waivers sought by Decision served March 4, 2022. In conformity with the March 4 Decision, and after completing notice requirements including required consecutive notices in various newspapers in the counties traversed, GRTA filed an application for adverse discontinuance on June 7, 2022.

by GRTA in its Application and “request[ed] the Board to grant [GRTA’s] application to terminate NWPY’s lease/operating rights without further delay.” It is also relevant that this Board has already exempted this proceeding from 49 U.S.C. 10904 (OFA’s) and waived related 49 C.F.R. 1152.27. Decision in AB 1313, served March 4, 2022, slip at p. 6.

Argument. GRTA’s application for adverse discontinuance of defunct NWPY’s lease and operating authority (never used on any of the line at issue in this proceeding) is unopposed and ripe for decision. The Application and record in this proceeding support the relief sought. GRTA’s Application should be granted in accordance with HTC’s comment “without further delay.”²

Filing fee matter. GRTA, an agency of the State of California, has requested waiver of filing fees for its Petition for Waiver (\$ 2300) as well as for its Adverse Application (\$27,300). Advised by Board staff telephonically to renew the request for waiver upon filing of an Adverse Application, GRTA did so, adding a request at least to reduce the hefty application fee to a level no greater than the filing fee for 49 C.F.R. 1152.50 two-year out-of-service notices of exemption (\$4400), as that procedure would have been used had NWPY not been defunct. In light of the fact that this proceeding has generated no substantive opposition, involves a

² GRTA will oppose, and reserves the right to oppose, any late-filed protests or adverse comments. Indeed, none should be accepted for filing given the language in 49 C.F.R. 1152.25(d)(1).

defunct entity that never provided -- and could not provide (due to an embargo) -- service on this portion of the line, and that GRTA is a state agency, GRTA again reiterates its request for waiver or at least reduction of the two filing fees.

Conclusion. There being no opposition, GRTA's application for adverse discontinuance of NWPY's lease and operating rights from MP 142.5 north to end of line and branches in Mendocino, Trinity and Humboldt Counties, CA, should be granted forthwith.

GRTA also reiterates its requests that the Board waive the filing fees already paid, or reduce the application fee to the level charged for two-year out-of-service abandonments and discontinuances.

Certificate of Service. By my signature below, I certify service of this Reply Comment on all parties listed on the agency's website for this docket (namely, Timber Heritage Association Att: Pete Johnson, petej@sonic.net, and Humboldt Trails Council Att: Bruce Silvey, brucesilvey@humtrails.org) by email attachment on July 29, 2022.

Respectfully submitted,

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