

SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS

ACCEPT/REJECT NOTICE

ACCEPT OR REJECT THE ENVIRONMENTAL
AND HISTORIC REPORTS IN
DOCKET NO. AB 857 (Sub-No. 2)

August 31, 2022

We have reviewed the environmental and historic reports submitted in this (X) regulated abandonment, () petition for exemption, () notice of exemption proceeding.

- () **THE ENVIRONMENTAL AND HISTORIC REPORTS ARE ACCEPTABLE -**
Based on our review we have determined that the environmental and historic reports will satisfy the submission guidelines as described at 49 C.F.R. §§ 1105.7 and 1105.8.
- (X) **THE ENVIRONMENTAL AND HISTORIC REPORTS ARE UNACCEPTABLE -**
Based on our review we have determined that the environmental and historic reports are unacceptable for the reasons specified below.

REASONS FOR REJECTION:

OEA finds that the Environmental and Historic Report (E&H Report) is unacceptable for the following reasons:

(1) The 27 owners of the land underlying the rail line proposed for adverse abandonment in this proceeding (collectively, Applicant Landowners) have not indicated whether the E&H Report was properly served on appropriate federal, state, and local agencies at least 20 days prior to filing the application for adverse abandonment with the Surface Transportation Board (Board), as is required pursuant to 49 C.F.R. §§ 1105.7(b) and 1105.8(c); and

(2) The E&H Report filed by Applicant Landowners is the same report that Great Western Railway of Colorado, LLC (GWRC) prepared and filed with the Board on April 6, 2022, for a yet-to-be filed abandonment at the same location in Docket No. AB 857 (Sub-No. 3X). This has presented confusing and what appears to be conflicting information regarding any potential salvage of the line and Applicant Landowners' intended outcome in this adverse abandonment proceeding. The E&H Report filed by both GWRC and Applicant Landowners indicates that "no salvage operations" will occur and that GWRC intends to preserve the right-of-way through the interim trail use/railbanking process, which would allow for possible future reactivation of rail service. (E&H Report at 1 & 5.) However, it appears that Applicant Landowners are opposed to railbanking and preservation of the right-of-way, and instead support

salvaging the rail line to facilitate other use of the underlying land. If this is the case, then interested federal, state and local agencies have not yet been afforded the opportunity to provide informed comments on Applicant Landowners' proposed adverse abandonment, including comments regarding what impacts may occur as a result of salvage and whether any permits would be required.

OEA recognizes that applicants in adverse abandonment proceedings may not always have complete access to baseline environmental information regarding railroad rights-of-way proposed for adverse abandonment. However, accurate information regarding the disposition of the right-of-way and any proposed abandonment-related salvage is necessary in order to conduct a meaningful environmental review.

Therefore, Applicant Landowners should clarify whether they contemplate that the right-of-way would remain under the Board's jurisdiction via interim trail use/rail banking, or, alternatively, that the line would be removed from the Board's jurisdiction. Applicant Landowners should also clarify whether they contemplate that the track and track materials would be salvaged. Applicant Landowners should revise the E&H Report to reflect the accurate and updated information, serve the updated E&H Report on appropriate federal, state, and local agencies, pursuant to 49 C.F.R. §§ 1105.7(b) and 1105.8(c), and provide that information with any agency responses to OEA.

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