

SERVICE DATE – JULY 29, 2024

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1305 (Sub-No. 1)

GREAT REDWOOD TRAIL AGENCY—ADVERSE ABANDONMENT—MENDOCINO
RAILWAY IN MENDOCINO COUNTY, CAL.

Decided: July 29, 2024

On April 12, 2024, Great Redwood Trail Agency (GRTA) filed an application (Application) under 49 U.S.C. § 10903 for third-party, or “adverse,” abandonment of an approximately 40-mile rail line owned by Mendocino Railway (MR) that extends between milepost 0 at Fort Bragg and milepost 40 at Willits, in Mendocino County, Cal. Notice of the Application was served and published in the Federal Register on May 2, 2024 (89 Fed. Reg. 35,919). Pursuant to an amended procedural schedule, protests and comments in response to the Application were due on or before June 17, 2024,¹ and GRTA’s replies to protests and comments are currently due on or before August 1, 2024.²

On July 23, 2024, GRTA filed a motion to compel MR to respond to discovery (Mot. to Compel). On July 25, 2024, MR filed a reply (MR Reply).³ In the Motion to Compel, GRTA states that it initially served MR with “extensive” document requests on June 17, 2024, but that it has since narrowed the requests to seek production of only one document: MR and Sierra Northern Railway’s joint loan application pursuant to the Railroad Rehabilitation and Improvement Financing program (RRIF Loan Document). (Mot. to Compel 2-3; see MR Reply 1 n.2.) According to GRTA, MR has “repeatedly indicated” that it does not intend to comply with the request due to its untimeliness and lack of relevance. (Mot. to Compel 1, 4.) GRTA argues that the Board’s rules do not prohibit document requests at this stage and that the RRIF Loan Document is relevant to GRTA’s reply to MR’s protest given MR’s “heavy reliance” on the document. (Id. at 4.) GRTA therefore asks that the Board order MR to produce the

¹ See Great Redwood Trail Agency—Adverse Aban.—Mendocino Ry. in Mendocino Cnty., Cal., AB 1305 (Sub-No. 1) (STB served May 20, 2024) (granting MR’s request for a 20-day extension of the deadline for protests and comments).

² See Great Redwood Trail Agency—Adverse Aban.—Mendocino Ry. in Mendocino Cnty., Cal. (June Order), AB 1305 (Sub-No. 1) (STB served June 25, 2024) (granting GRTA’s request for a 30-day extension of the deadline for replies).

³ GRTA and MR previously referred to this dispute in briefing related to GRTA’s request to extend the deadline for replies, but the Board declined to substantively address the issue as “such dispute [was] not presently before” the Board. June Order, slip op. at 2 n.2. The Board noted that the parties could file a motion should they be unable to resolve the issue. Id.

document on an expedited basis ahead of GRTA's August 1, 2024 deadline to file replies to protests and comments.⁴

In its reply, MR argues that discovery is not appropriate at this stage of the proceeding, particularly because GRTA has "known for years about the [RRIF Loan Document] and its relevance to this entire proceeding." (MR Reply 3.) MR also raises certain confidentiality concerns with producing the document and further asserts, among other things, that allowing GRTA to review the document would enable it to introduce new arguments and information in reply to MR's protest. (Id. at 2-3.)

To provide sufficient time for the Board to fully consider the arguments presented, the August 1, 2024 deadline for GRTA's replies to protests and comments will be postponed until further order of the Board.

It is ordered:

1. The deadline for GRTA's replies to protests and comments is postponed until further order of the Board.
2. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

⁴ GRTA incorrectly states that the reply deadline is August 2, 2024. (See Mot. to Compel 1.)