

Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423

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Office of Chief Counsel
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Public Record

STB Docket No. AB- 346X

BAD WATER LINE - ABANDONMENT EXEMPTION IN FREMONT COUNTY, WY

REPLY AND OPPOSITION OF RAILS TO TRAILS CONSERVANCY (“RTC”) TO
“OBJECTION AND OPPOSITION” FILED BY TWO LANDOWNERS IN RESPONSE TO
RTC’S REPLY

Introduction

On February 11, 2026, Petitioners, who identify themselves as “two Landowners,” filed a petition to reopen an abandonment proceeding that concluded more than thirty years ago with the issuance of Notice of Interim Trail Use (“NITU”). This NITU resulted in the execution of a trail use/railbanking agreement with Fremont County, leading to the creation of the long-established Wyoming Heritage Trail. The Rails to Trails Conservancy (“RTC”) timely filed an opposition to the petition to reopen this Board’s administratively final abandonment decision on March 3, 2026, pointing out that the petition to reopen was untimely and without merit.

On March 18, 2026, the Landowners filed an “objection and opposition” to RTC’s “intervention. The Objection asserts that RTC does not have “standing” to comment on the petition and allowing RTC’s comment would introduce “unnecessary complications to the considerations of this proceeding.” Pet. Obj. at 4. Assuming the Landowners intend this filing

as a motion to strike RTC's reply, as suggested in its conclusion, RTC hereby files this reply and opposition.¹

Discussion

The Landowners' argument that RTC lacks the requisite interest to "intervene" in this proceeding, and therefore lacks standing to file its comment, is untethered to any relevant case, regulation, or administrative decision involving participation in exempt abandonment proceedings such as this. The Landowners note federal court decisions involving other agencies generally recognizing that "[a]gencies have broad discretion to limit the participation of interested parties and public interest organizations," and then they cite a hodgepodge of cases in support of this general proposition. Pet. Obj. at 3. However, the Landowners do not cite a single court case, rule, or administrative decision involving either this Board or its predecessor, the Interstate Commerce Commission, that in any way suggests that there are any restrictions on who can comment on exempt abandonment proceedings involving requests for trail use conditions.

In fact, this Board's applicable regulations governing participation in abandonment proceedings, which the Landowners ignore, specifically provide that "Interested persons may become parties to an abandonment or discontinuance proceeding by filing written comments or protests with the Board." 49 C.F.R. §1152.25(a)(1). A statement of "interest in the proceeding" is only required of entities who wish to file a "protest." *Id.* No protests are permitted in exempt abandonments such as this one. *Id.* § 1152.50 Moreover, the rules specifically provide that

¹ To the extent that the Landowners' objection is a reply to RTC's reply, the Landowners' filing must be stricken. See 49 C.F.R. 1104.13(c) ("[a] reply to a reply is not permitted.")

“Persons interested only in seeking public use or trail use conditions should also file comments. *Id.* §1152.25(a)(1).

The Landowners ignore this relevant rule. Instead, they cite an inapplicable rule governing petitions to intervene in order to participate in oral hearings before the Board, 49 C.F.R. § 1113.7. Pet. Obj. at 5. However, those rules pertain only to “those proceedings in which an oral hearing is to be held.” 49 C.F.R. § 1113.1(a). No oral hearings are permitted in exempt abandonments such as this one. *Id.* § 1152.50.

The court decisions cited by the Landowners, none of which involve this Board, are equally inapposite. To the contrary, those court cases do not even support their position that RTC’s interest in the administrative proceeding is insufficient to permit its participation. For example, in *Off. of Comm’n of United Church of Christ v. F.C.C.*, 359 F.2d 994, 1001 (D.C. Cir. 1966), the Court reversed the FCC’s restrictive view of standing to participate in FCC proceedings, recognized the appropriateness of according standing to persons seeking to participate “not for the protection of their private interest but only to vindicate the public interest.” *Id.* at 1001. *See also Animal Legal Def. Fund, Inc. v. Vilsack*, 237 F. Supp. 3d 15, 18 (D.D.C. 2017) (“the Court finds that ALDF’s demonstrated interest in the welfare of the zoo’s animals falls squarely within the scope of the USDA enforcement proceeding.”)

RTC would clearly satisfy this showing. RTC is the leading – indeed, the only -- national organization dedicated to defending and protecting the federal policy framework for facilitating and protecting rails-to-trails conversions, and in particular, the federal railbanking law, 16 U.S.C. § 1247(d).. RTC has not only participated as a party and commenter in numerous STB proceedings affecting railbanking and rails-to-trails conversions, RTC has intervened in numerous proceedings in federal courts on the basis of this national interest, without any

objection from any party. *See, e.g., CSX Transportation, Inc.—Abandonment Exemption—in Pinellas County, Fla.*, STB Docket AB-55 (Sub-No. 794X) (RTC filed opposition and reply to CSX petition to reopen) and *CSX, et al v. Surface Transportation Board, et al.*, Case No. 23-13860-AA (11th Cir. 2023) (RTC is an intervening respondent).

The Landowners nonetheless assert that RTC should not be permitted to comment in this proceeding because “in fact the railway corridor is primarily used by 4-wheel vehicles and ATV traffic, not for the intended use of ‘Great American Rail Trail.’” Pet. Obj. at 4. These unsupported assertions are both legally irrelevant to RTC’s right to comment in this proceeding and false. As the public descriptions of the [Wyoming Heritage Trail \(Rails to Trails\)](#) clearly state, the Wyoming Heritage Trail is “used for biking, walking and jogging. Equestrians and ATVs are also allowed on the trail.”²

Nor do the Landowners provide any support for disputing RTC’s interest in preserving future linkages to the Great American Rail Trail, a major initiative of the Rails to Trails Conservancy. <https://www.railstotrails.org/site/greatamericanrailtrail/>. Indeed, if future interests in the development of a rail-trail were insufficient to permit an interested party to comment in abandonment proceedings, then no one would be allowed to participate, since issuance of a NITU does not in any way guarantee that a trail use agreement will eventually be reached during the negotiating period.

² The Landowners cite a completely irrelevant case in which the plaintiff unsuccessfully sought to hold Fremont County, the trail manager, liable for personal injury when the Plaintiff drove his van off a trestle bridge on the trail at 10 pm at night while “coon” hunting. *Newberry v. Board of County Com’rs of Fremont County*, 919 P.2d 141 (1996). The irresponsible actions of a single driver in no way supports Landowners’ assertion that “the railway corridor is primarily used by 4-wheel vehicles.”

Finally, the Landowners argue that RTC's participation here threatens "to obstruct or overburden the proceedings" and does "not promote the orderly conduct of business in this matter." Pet Obj. at 4. This assertion is highly ironic in light of the extraordinary untimeliness of the Landowners' attempts to reopen this final administrative decision. In fact, reopening this proceeding more than thirty years after issuance of the trail use condition and consummation of a final interim trail use and railbanking agreement would be highly prejudicial to Fremont County and its investments in the trail over the past thirty years. The prejudice to Fremont County, and the disruption to the members of the public who use the Wyoming Heritage Trail, and to the continuity of the future Great American Rail-Trail and its linking trail systems, far outweighs the Landowners' parochial interest in contesting the assessment of county taxes through their untimely petition to reopen a final decision of this Board issued more than thirty years ago.

Conclusion

For the foregoing reasons, the Landowners' "objections" to RTC's comment should be dismissed.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of April, 2026, a copy of the foregoing Reply to Landowners’ “Objection” to RTC’s comment was served by email or as otherwise indicated upon the following parties of record in this proceeding.

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