53104 SERVICE DATE – NOVEMBER 27, 2026
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SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 6 (Sub-No. 380X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN KING COUNTY, WASH.

Digest:[1] The Board denies a petition to reopen and partially vacate a notice of interim trail use or abandonment, issued to The Burlington Northern & Santa Fe Railway Company and King County, Wash. The decision also denies petitions for declaratory orders concerning portions of the railroad right-of-way.

Decided: November 25, 2026

On January 28, 2025, the Waverly Hills Club, Inc. (Club), which asserts that it owns a portion of the property underlying the railbanked right-of-way (ROW) at issue in this proceeding, filed a petition to reopen the proceeding and partially vacate the notice of interim trail use or abandonment (NITU) issued in 1998, so as to permit the Club's continued use of existing "minor" improvements within the ROW. (Club Pet. 4, 7.) In the alternative, the Club seeks declaratory orders ending the "misuse of the railroad and trail easements" over the ROW by trail sponsor King County, Wash. (County), and confirming that the Club's existing uses and improvements within the ROW do not interfere with interim trail use or potential future railroad operations on the line. (Id. at 29, 38.)

On January 30, 2025, Raymond and Lael Spencer (the Spencers), who are property owners along the line, filed a petition requesting that the Board declare that (1) the County's railbanked easement is presently inactive or held in abeyance such that the County may not exercise active railroad easement rights; and (2) the Spencers' activities and improvements within the ROW do not interfere with either existing trail use or potential future railroad operations. (Spencers Pet. 19.)

As discussed below, the Board will deny the petition to reopen and the petitions for declaratory orders.

[1] The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Policy Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

BACKGROUND

In May 1998, The Burlington Northern & Santa Fe Railway Company (BNSF) obtained authority from the Board to abandon a 12.45-mile rail line located between milepost 7.3, near Redmond, and milepost 19.75, at Issaquah, in King County, Wash. (the Line). Burlington N. & Santa Fe Ry.—Aban. Exemption—in King Cnty., Wash., AB 6 (Sub-No. 380X) (STB served May 13, 1998). A few months later, in September 1998, a NITU was served authorizing two potential trail sponsors, including the County, to negotiate interim trail use/railbanking agreements with BNSF pursuant to the National Trails System Act (Trails Act), 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29. Burlington N. & Santa Fe Ry.—Aban. Exemption—in King Cnty., Wash., AB 6 (Sub-No. 380X) (STB served Sept. 18, 1998). The County ultimately reached an agreement with BNSF for interim trail use/railbanking over approximately 10.9 miles of the Line, from milepost 7.3 to approximately milepost 18.2. Burlington N. & Santa Fe Ry.—Aban. Exemption—in King Cnty., Wash., AB 6 (Sub-No. 380X), slip op. at 1, n.2 (STB served Apr. 5, 2000).[2]

The Club's Petition and Requests

In its petition to reopen, the Club states that it manages the community beach on Lake Sammamish known as Waverly Beach, which lies adjacent to the Line. (Club Pet. 13-14.) According to the Club, it owns in fee a portion of the property underlying the ROW, along with waterfront land just outside the ROW. (Id. at 4, 6.) The Club states that approximately 105 homeowners are members of the Club and that Waverly Beach is a communal focal point, with activities including swimming in the lake, picnicking, and boating. (Id. at 13.) The Club explains that it uses 21,688 square feet of the ROW, comprised of a grassy picnic area and a gravel parking area. (Id. at 5.) According to the Club, in 1973, it began leasing this part of the right of way from BNSF, which appears to have continued at least until BNSF filed for authority to abandon the Line. (Id. at 15-17.) The Club states that the County constructed an interim trail on the ROW in 2006 and completed the permanently paved trail in 2023 in the same location where the former tracks were located. (Id. at 20.) The Club further states that the County never objected to the Club's use of the ROW until 2020, and the parties have been unable to resolve their dispute since then. (Id.) Accordingly, the Club now "seeks approval from the Board to maintain existing minor improvements within the railroad right-of-way for the Club's community beach to use for a grass picnic area and tables, a chain-link security fence with gate, and a gravel surface parking lot." (Id. at 4.)

[2] The rest of the Line, between milepost 18.2 and milepost 19.75, also is railbanked; the trail sponsor for that portion is the City of Issaquah, Wash. See Burlington N. & Santa Fe Ry.—Aban. Exemption—in King Cnty., Wash., AB 6 (Sub-No. 380X), slip op. at 1 n.2 (STB served Apr. 5, 2000).

The Club alleges that changed circumstances and new evidence support reopening the proceeding to partially vacate the NITU. Specifically, the Club points to litigation and expert testimony in Hornish v. King County, 182 F. Supp. 3d 1124 (W.D. Wash. 2016), aff'd 899 F.3d 680 (9th Cir. 2018), purportedly establishing that future railroad operations would require substantially less corridor width than the original ROW. (Club Pet. 21-22.) The Club emphasizes that a trail has now been fully developed and that no railroad operator has sought to reactivate the Line during the more than 27 years since issuance of the NITU. (Id. at 26.) Accordingly, the Club argues that these developments demonstrate that the disputed portion of the corridor is unnecessary for either trail purposes or potential future rail use. (Id.) According to the Club, revoking the NITU with respect to the area of the ROW would allow for the property's "complete abandonment," and the area removed from the Board's jurisdiction, "would no longer be encumbered by the railroad and trail easements." (Id. at 7.)

In the alternative, the Club asks the Board to issue an order declaring that (1) the County may not "rely upon the railroad or trail easements" to impose rental usage fees or to prohibit the Club's "noninterfering" uses of the property; and (2) the Club's existing improvements—including a grass picnic area, gravel parking area, and chain-link fence—do not interfere with interim trail use or potential future railroad operations and therefore may remain unless and until removal becomes necessary for actual railroad purposes. (Club Pet. 7-8.) In its petition, the Club argues that the ROW, which was created under the General Railroad Right-of-Way Act of 1875, 18 Stat. 482, 43 U.S.C. §§ 934 et seq. (repealed 1976) (the 1875 Act),[3] conveyed only an easement for railroad purposes and is therefore limited in scope and only applicable for railroad purposes. (Id. at 5, 33.) The Club's petition further contends that authority to use the ROW as a trail was established under the Trails Act and grants the County only an easement for trail purposes rather than exclusive possessory rights over the entire corridor. (Id. at 36-37.) The Club therefore argues that the County lacks authority to exercise exclusive control over the ROW or to prohibit use by the fee owner absent a demonstrated conflict with trail operations or potential future railroad service. (Id. at 37.) The Club also contends that its existing uses and improvements have existed for decades and have coexisted with both railroad operations and interim trail use without conflict. (Id. at 4-5.) According to the Club, its improvements are located largely outside the area necessary for trail operations or any realistic future rail reactivation and therefore do not impede either present trail use or preservation of the corridor for future rail service. (Id. at 41-42.) According to the Club, the County's assertion that it may exclude the Club from portions of the corridor, require removal of longstanding improvements, or impose "land use fees" effectively treats the easement as fee ownership. (Id. at 37-38.) The Club's petition further maintains that charging rent for use of the property is not a permissible railroad or trail purpose and therefore exceeds the County's authority under its easements. (Id. at 38.)

[3] The 1875 Act granted railroad companies rights-of-way over public land to construct tracks and operate railways. Beres v. United States, 64 Fed. Cl. 403, 405 (2005).

The Spencers' Petition and Requests

The Spencers' January 30 petition asks the Board to declare that (1) the County's railbanked easement is "held in abeyance or inactive, precluding [the County] from asserting present rights to exercise a railroad easement"; and (2) the Spencers' activities and improvements in the ROW do not interfere with trail use or potential future railroad use. (Spencers Pet. for Declaratory Ord. 19.)

According to the Spencers, they originally purchased their property in 1992. (Id. at 2.) The Spencers assert that, from the time of purchase, they "fully utilized" the ROW adjacent to their property "because [BNSF], and next the County, only had easements." (Id.) Consistent with that understanding, the Spencers constructed a raised garden bed located inside the ROW. (Id. at 3.) The Spencers argue, however, that, in the County's view, the County has exclusive use and possession over the entire scope of the ROW. (Id. at 5.) Consequently, the Spencers assert that the County claims it may charge fees for the Spencers' use of the ROW, demand that the Spencers stop using the land, and request that the Spencers restore the ROW to the County's specifications even for areas of the ROW where the Spencers' use has not conflicted with potential future railroad operations or present trail use. (Id.)

The Spencers note that the County previously took a much different approach to minor improvements installed by private property owners in this ROW when it resolved a dispute involving neighboring property owners. (Id.) According to the Spencers, a group called the Sammamish Homeowners (SHO) and other individuals challenged the County's permitting processes and sought to obtain clarity about permitted uses within the ROW. (Id. at 5-6.) The result was a 2014 settlement agreement (SHO-KC Settlement Agreement) in which the County agreed that landscaping improvements and vegetation could be installed within the County's ROW, in accordance with certain criteria. (Id. at 6.) The Spencers argue that the SHO-KC Settlement Agreement demonstrates two important points: first, that the County implicitly found that "landscaping," including "planting beds, fences, and retaining walls," posed no conflict with potential future railroad use; and second, that the same improvements outside the portion of the right-of-way being used as a trail posed, and still pose, no conflict with trail use. (Id.) The Spencers, therefore, contend that their own improvements—including a gravel parking area and a raised garden bed located within the right-of-way, but outside of the trail footprint—similarly do not interfere with trail use or future rail operations. (Id. at 6-7.)

Thus, the Spencers assert that a declaratory order is necessary here to clarify the nature and extent of the County's rights to use the ROW and to determine whether the County may lawfully assert exclusive control over the entirety of the corridor absent any demonstrated interference with interim trail use or potential future railroad operations. (Id. at 9-10.) Further, the Spencers assert that, because the corridor remains subject to the Board's exclusive jurisdiction unless and until abandonment is authorized, the Board is the appropriate forum to resolve the parties' dispute and remove the uncertainty surrounding the permissible scope of the Spencers' use of the property. (Id. at 9.)

Pending Federal Court Litigation

On January 29, 2025, the Club filed a complaint against the County in the Superior Court of Washington for Pierce County seeking declaratory relief concerning its right to use the ROW, the legality of the County's "land use fees," and related equitable relief. (County Mot. for Abeyance 3, Mar. 3, 2025; id., Ex. 1.) Thereafter, on January 31, 2025, the Spencers filed a complaint against the County in the U.S. District Court for the Western District of Washington seeking, among other things, declarations regarding their rights to use the ROW, ownership interests in the property, and the parties' rights and obligations under the SHO-KC Settlement Agreement. (Id. at 4; id., Ex. 2.) The Club's complaint was removed to the U.S. District Court for the Western District of Washington and the Spencers' complaint was transferred to the judge handling the Club's complaint. (Id. at 5; id., Exs. 4, 5.) On March 3, 2025, the County moved to hold the Board proceeding in abeyance pending resolution of the federal litigation. (County Mot. for Abeyance 1, Mar. 3, 2025.)

On April 21, 2026, the County notified the Board that the district court had issued decisions addressing the Club's and the Spencers' claims. (County Ltr. 1, Apr. 21, 2026.) The court held that, because the Line is railbanked under the Trails Act, the County may exclude the Club's encroaching structures from the corridor because the County's use of the ROW is exclusive. Id.; see also Waverly Hills Club Inc. v. King Cnty., Case No. 2:25-cv-00204-TMC, slip op. at 14-15 (W.D. Wash. Mar. 31, 2026). The court also granted, in part, the County's motion for summary judgment in the Spencers' action, holding that the County owns the portion of the ROW at issue there in fee simple and is entitled to quiet title. (County Ltr. 1-2, Apr. 21, 2026.); see also Spencer v. King Cnty., Case No. 2:25-cv-00204-TMC, slip op. at 22-23 (W.D. Wash. Mar. 31, 2026). Based on these rulings, the County argues that the principal property law issues raised in the petitions have been resolved and that, to the extent that the court proceedings are not entirely concluded or may be appealed, the court's decisions at minimum support the County's motion to hold these proceedings in abeyance pending finality of the federal litigation. (County Ltr. 1-2, Apr. 21, 2026.)

On May 1, 2026, the Club filed a letter with the Board noting that the County failed to acknowledge that both the Club and the Spencers had filed motions seeking interlocutory appellate review of the district court's decisions under 28 U.S.C. § 1292(b). (Club Ltr. 2, May 1, 2026.) According to the Club, because the district court's rulings are interlocutory and remain subject to further review, the Board should not rely on them. (Id.) The Club further argues that the County has misrepresented the court's rulings and has ignored the overriding federal law issue raised in the Club's Petition—whether a portion of the Line may be removed from railbanking—a matter it states is under the Board's exclusive jurisdiction. (Id. at 1.) The Club also argues that the district court's conclusions concerning the exclusivity of the County's easement under the 1875 Act and the Trails Act involve questions of federal law that should be resolved by the Board. (Id. at 2.) The Spencers, thereafter, filed a letter on May 14, 2026, noting

that they did not object to the proceedings being held in abeyance. (Spencers Ltr. 1, May 14, 2026.)

DISCUSSION AND CONCLUSIONS

The Club's Petition to Reopen

Under 49 U.S.C. § 1322(c) and 49 C.F.R. § 1115.4, the Board may reopen a proceeding because of "material error, new evidence, or substantially changed circumstances." In order for reopening to be granted, the alleged grounds must be sufficient to convince the Board that its prior decision in the case would be materially affected. See Montezuma Grain v. STB, 339 F.3d 535, 541-42 (7th Cir. 2003); Canadian Nat'l Ry.—Control—EJ&E W. Co., FD 35087 (Sub-No. 8), slip op. at 4 (STB served Dec. 21, 2018). For the reasons discussed below, the Board finds that the Club has failed to present any new evidence or changed circumstances that would warrant reopening this proceeding. See 49 C.F.R. § 1115.4.

The Club seeks to reopen and partially vacate the 1998 NITU, arguing that a 21,688 square foot portion of the Line is no longer needed for future railroad use. To support its request, the Club argues that: (1) a court found that only a 100-foot ROW was needed for potential future railroad operations on a portion of the rail corridor immediately adjacent to the Club's property; (2) no railroad company has sought to reactivate the Line since the NITU was issued; and (3) the Club's use of the property does not conflict with the County's permanent paved trail occupying the centerline of the ROW. (Club Pet. 20, 26-29.) According to the Club, while 1875 Act land grants are 200 feet wide, substantial portions of the Line are only 100 feet wide, and some are even narrower. (Id. at 27.) The Club argues that, since assuming trail manager duties in 1998, the County has extensively evaluated the corridor for trail construction and potential future railroad operations and that in previous litigation involving the rail corridor, the County presented evidence supporting the necessity of only a 100-foot ROW for safety and operational reasons. (Id. at 27-28.) The Club asserts that this information constitutes new evidence that was unavailable in 1997-1998 and represents a substantially changed condition, demonstrating that a 200-foot width is not necessary for this portion of the ROW. (Id. at 26); see also Hornish, 182 F. Supp. 3d at 1130.

The Club also argues that the 21,688 square foot portion of ROW is not required for railroad operations or the permanent trail. The Club states that no railroad company has sought to reactivate the line in the 27 years since the NITU was issued and that a permanent paved trail is now complete with no foreseeable conflicts with the Club's improvements. (Club Pet. 26.) The Club argues that, according to the precedent set in Union Pacific Railroad—Abandonment—Between Echo & Park City & Between Keetley Junction & Phoston, in Summit & Wasatch Counties, Utah (Echo & Park City), AB 33 (Sub-No. 55), slip op. at 1 (STB served Feb. 1, 2006), the fact that a portion of right-of-way is not needed for a trail is sufficient grounds for its removal from the right-of-way. (Club Pet. 29.) Based on this precedent, the Club requests that this

proceeding be reopened to consider the Club's request to remove the identified area from the ROW. (Id.)

The Board finds that the Club has not demonstrated sufficient grounds to reopen and partially vacate the 1998 NITU. As a threshold matter, the primary authority it relies upon does not apply. In Echo & Park City, the trail sponsor itself requested to reopen and partially vacate a Certificate of Interim Trail Use (CITU) pursuant to the Board's regulation at 49 C.F.R. § 1152.29(c)(2). That provision, and a similarly worded provision that applies to NITUs (49 C.F.R. § 1152.29(d)(2)), expressly permits a trail sponsor who "intends to terminate interim trail use on all or any portion of the right-of-way covered by an interim trail use agreement" to request that the CITU be vacated on a specified date. Under those circumstances, the Board will reopen the abandonment proceeding, vacate the CITU/NITU, and issue a decision permitting immediate abandonment for the involved portion of the right-of-way or reinstating the abandonment exemption. Because the County, as trail sponsor here, does not request that a portion of the NITU be vacated, neither 49 C.F.R. § 1152.29(d)(2) nor Echo & Park City apply.

Moreover, the "process of vacating a NITU [under 49 C.F.R. § 1152.29(d)(2)] was developed to apply to situations where the length of a railbanked line would be shortened—i.e., where the abandonment of the line would be partly consummated." Norfolk S. Ry.—Aban. Exemption—in the City of Greensboro, N.C., AB 290 (Sub-No. 404X), slip op. at 4 (STB served June 28, 2023). Vacating a NITU is not appropriate "where the right-of-way would be narrowed but remain adequate for potential future rail service." Id. In those cases, the Board will "instead issue a decision clarifying that the width of the right-of-way that the trail sponsor has demonstrated is not needed to reactivate rail service is no longer part of the NITU/CITU." Mo. Pac. R.R.—Aban. Exemption—in Red River & Bowie Cntys., Tex., AB 3 (Sub-No. 137X), slip op. at 4 (STB served July 29, 2021).

For these reasons, the Club's contention that a portion of the width of the ROW is no longer needed for railroad operations or trail use does not and cannot justify revocation of the NITU under the Board's processes. And the Club has not otherwise supplied a basis for revocation. Further, the Club has not argued that the Trails Act was improperly invoked, that the County is failing to meet its obligations as a trail sponsor, or that the ROW does not remain subject to restoration or reconstruction for railroad purposes. 16 U.S.C. § 1247(d). The Board finds the alleged new evidence and changed circumstances to be immaterial as this information does not alter the fact that the requirements under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 were, and are still being, met.

As noted above, the Board has a process for clarifying that a partial width of a right-of-way is no longer part of a NITU/CITU that does not involve revocation: specifically, "where a trail sponsor proposes to narrow the width of a right-of-way subject to a NITU/CITU," and where it demonstrates that the remaining width of the right-of-way would be sufficient to support the reactivation of rail service, the Board will "issue a decision clarifying that the width of the right-of-way that the trail sponsor has demonstrated is not

needed to reactivate rail service is no longer part of the NITU/CITU." Mo. Pac. R.R., AB 3 (Sub-No. 137X), slip op. at 4. As with the process set out in 49 C.F.R. § 1152.29(c)(2), (d)(2), however, this process is initiated upon the trail sponsor's request.

To the extent the Club argues or suggests that the Board should extend the availability of this process to include requests initiated by third parties, like the Club, who wish to remove portions of a right-of-way from a NITU over the trail sponsor's objection, the Board declines to do so. Declaring that a portion of a railbanked right-of-way is no longer within the NITU/CITU because it is not necessary for trail use or future rail reactivation, when the trail sponsor opposes that request, is inconsistent with the Board's limited and "essentially ministerial" role under the Trails Act. See Citizens Against Rails-to-Trails v. STB, 267 F.3d 1144, 1151-52 (D.C. Cir. 2001); Goos v. ICC, 911 F.2d 1283, 1295 (8th Cir. 1990). Indeed, the Board "has little, if any, discretion to forestall a voluntary agreement" effecting the transfer or conveyance of a right-of-way from a rail carrier to a potential trail sponsor for trail use. Goos, 911 F.2d at 1295. Accordingly, the Board does not decide whether interim trail use is desirable for a particular line, Rail Abans.—Use of Rights-of-Way as Trails—Suppl. Trails Act Procs., 4 I.C.C.2d 152, 156 (1987), nor does it require that a railbanked line be developed in a certain way for recreational use, CSX Transp., Inc.—Aban. Exemption—in Monroe & Owen Cntys., Ind., AB 55 (Sub- No. 514X) slip op. 2 (STB served Sept. 30, 1997). It is not the Board's role here to decide how much of a railbanked right-of-way should be available for trail use or future rail service. Those decisions are for the trail sponsor and/or rail carrier to make.[4]

Based upon the foregoing, the Board will deny the Club's petition to reopen the proceeding and partially vacate the NITU as the Club has not shown any new evidence or substantially changed circumstances that would warrant reopening.

Petitions for Declaratory Order

The Board has discretionary authority under 5 U.S.C. § 554(e) and 49 U.S.C. § 1321 to issue a declaratory order to eliminate a controversy or remove uncertainty. See Bos. & Me. Corp. v. Town of Ayer, 330 F.3d 12, 14 n.2 (1st Cir. 2003); Delegation of Auth.—Declaratory Ord. Proc., 5 I.C.C.2d 675 (1989). For the reasons explained below, the Board, in its discretion, will decline to issue the requested declaratory orders.

The primary issue raised in the requests for declaratory orders—namely, whether the County, as trail sponsor, may exert exclusive control over the ROW—largely involves questions

[4] Just as the Board has no authority to prohibit a rail carrier from selling, leasing, or transferring parts of its rights-of-way under state law, so long as doing so does not interfere with the provision of common carrier service, Norfolk S. Ry.—Aban. Exemption—in the City of Greensboro, N.C., AB 290 (Sub-No. 404X), slip op. at 5, it likewise does not have the authority to force a rail carrier (or trail sponsor) to dispose of its property interests under these circumstances.

beyond the Board's limited role under the Trails Act. The Board's primary concern once a rail carrier has transferred its property interests in a right-of-way to a trail sponsor under the Trails Act is that the statutory conditions under the Trails Act are not compromised and that nothing occur that would preclude a railroad's right to reassert control over the right-of-way at some future time to reactivate rail service. Sunflower Rails-Trails Conservancy, Inc.—Pet. for Declaratory Ord.—Sale of Railbanked Right-of-Way, FD 36034, slip op. at 4 (STB served Feb. 23, 2017) (citing Idaho N. & Pac. R.R.—Aban. & Discontinuance Exemption—in Washington & Adams Cntys., Idaho, 3 S.T.B. 50 (1998)). As the Board recently noted, from its perspective, what is important is that the rail carrier's interests remain within the Board's jurisdiction and thus cannot be deemed abandoned as a matter of state law, and that the rail carrier's ability to reinstate service in the future otherwise cannot be undermined. Pet. for Rulemaking to Consider Amendments to Regs. Governing Interim Use of Rights-of-Way as Trails (49 CFR Part 1152), EP 777, slip op. at 19 (STB served Nov. 24, 2026). Accordingly, the Board does not involve itself in the trail sponsor's efforts to secure whatever property or contractual rights it may need to establish trail use, or determinations regarding the scope of any such rights, because those questions are not relevant to the Board's regulation of the rail network and its limited role under the Trails Act.

The Board also declines to rule on petitioners' requests that the Board determine whether their uses or activities within the railbanked corridor interfere with interim trail use or potential future railroad operations, because any such determination would be moot should the decisions by the U.S. District Court for the Western District of Washington be upheld on appeal. As noted, the Court has found that the County has sufficient rights in the ROW to exclude encroachment by the Club and the Spencers.

The County's rights aside, from the Board's perspective, railbanking under the Trails Act generally should not prevent a third party from continuing to use a portion of the rail right-of-way in the same manner it was lawfully used before the interim trail use on the line, so long as that use does not interfere with potential reactivation of rail service. As already explained, the Board's principal concern after a railbanking agreement has been reached is that "nothing occur that would preclude a railroad's right to reassert control over the right-of-way at some future time to revive active service." See, e.g., Idaho N. & Pac. R.R.—Aban. & Discontinuance Exemption—in Wash. & Adams Cntys., Idaho, 3 S.T.B. 50, 59 (1998); see also Jie Ao—Pet. for Declaratory Order, FD 35539 (STB served June 6, 2012) (determining whether certain state law property claims are preempted as unreasonably interfering with potential reactivation of rail service on a railbanked corridor). And it is highly unlikely that a third-party's lawful use of a railbanked right-of-way would run afoul of the Trails Act's requirement that the right-of-way be "subject to restoration or reconstruction for railroad purposes," or preclude use of the right-of-way as a trail, if that use is no different than it was while the right-of-way was used in active rail service.

For the reasons given above, the Board will not issue the requested declaratory orders, and the petitions submitted by the Club and the Spencers are denied. Because the Board is ruling

here on the petitions, the County's March 3, 2025 request to hold this proceeding in abeyance will be denied as moot.

It is ordered:

1. The Club's petition to reopen, or in the alternative, petition for declaratory orders, is denied.

2. The Spencers' petition for a declaratory order is denied.

3. The County's motion to hold this proceeding in abeyance is denied as moot.

4. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Kloster, and Schultz.