

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 1242

ENTERED
Office of Proceedings
May 2, 2017
Part of
Public Record

**HARTWELL FIRST UNITED METHODIST CHURCH
- ADVERSE ABANDONMENT AND DISCONTINUANCE -
HARTWELL RAILROAD COMPANY AND
THE GREAT WALTON RAILROAD COMPANY, INC., IN HART COUNTY, GA**

**REPLY OF HARTWELL FIRST UNITED METHODIST CHURCH
TO MOTION TO DISMISS**

On April 14, 2017, Hartwell First United Methodist Church (“Hartwell First” or “Applicant”) filed an application (the “Adverse Application”) seeking authority from the Board for the adverse abandonment and discontinuance of the approximately 0.25 miles of railroad tracks and associated right of way between Athens Street and the end of line at South Forest Avenue, in Hartwell, Hart County, Georgia (the “Line Segment”). The Line Segment is part of the line of railroad between Bowersville and Hartwell, Georgia (the “Hartwell Line”). In response to the Adverse Application, Hartwell Railroad Company (“HRT”) on April 18, 2017, filed a motion to dismiss it as a party in this proceeding on the grounds that HRT does not have any interest in the Hartwell Line (including the Line Segment).

At the time Hartwell First commenced this proceeding by filing a Petition for Waivers and Exemptions, and more recently when Hartwell First filed and published its Notice of Intent, it was not sure whether the Line Segment was owned by HRT or by its affiliate The Great Walton Railroad Company, Inc. (“GRWR”) which at times appears to do business as “Hartwell Railroad Company.” In prior filings with the Board, neither HRT nor GRWR clarified the ownership issue. Accordingly, Hartwell First proceeded with naming both railroads as possible

respondents. However, by the time the Adverse Application was filed, Hartwell First had similarly concluded, as set forth in the Motion to Dismiss, that HRT does not have any ownership or operating rights with respect to the Line Segment (or the Hartwell Line), and that GRWR is the actual owner of the Harwell Line. *See* Adverse Application at pp. 1 fn.1, and 4-6.

Although acknowledging that HRT does not have any interest in the Line Segment, and that GRWR is the owner, Hartwell First does not acknowledge that GRWR is properly authorized to own and operate the Hartwell Line or Line Segment, or that it has actually been operating the Line Segment. The Motion to Dismiss confirms that GRWR only has rights to operate the Hartwell Line under a trackage rights exemption (and thus that it never received authority to acquire and operate the Hartwell Line). Motion to Dismiss at pp. 1-2. *See also* Adverse Application at pp. 4-6. Under these circumstances, it is appropriate for Hartwell First to continue to seek both abandonment and discontinuance authority, and if the Board determines to grant the Adverse Application, for the Board to determine whether abandonment or discontinuance authority, or both, is proper.

Because Hartwell First agrees that HRT does not have any interest in the Line Segment, Hartwell First does not oppose the dismissal of HRT from this proceeding provided that the Board accepts the Notice of Intent and Adverse Application as properly filed. Hartwell First requests that the caption of the proceeding be restated as follows:

HARTWELL FIRST UNITED METHODIST CHURCH
- ADVERSE ABANDONMENT AND DISCONTINUANCE -
THE GREAT WALTON RAILROAD COMPANY, INC., IN HART COUNTY, GA

Subject to the foregoing, Hartwell First does not oppose the Motion to Dismiss HRT from this proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Eric M. Hocky', is positioned above the printed name.

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Dated: May 2, 2017

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of May, 2017, I served a copy of the foregoing Reply
to Motion to Dismiss by email on the following:

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Eric M. Hocky