

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1242]

Hartwell First United Methodist Church—Adverse Abandonment and Discontinuance—
Hartwell Railroad Company and the Great Walton Railroad Company, Inc., in Hart
County, Ga.

On April 14, 2017, Hartwell First United Methodist Church (Hartwell First or Applicant) filed an application under 49 U.S.C. § 10903 requesting that the Surface Transportation Board (Board) authorize the third-party, or adverse, abandonment and discontinuance of approximately 0.25 miles of rail line and associated right-of-way (the Line) owned by The Great Walton Railroad Company (GWRC). The Line, which traverses United States Postal Service Zip Code 30643, extends from Athens Street to a stub end at South Forest Avenue in Hartwell, Hart County, Ga. It is a portion of a line of railroad, which Hartwell First refers to as the Hartwell Line, between Bowersville, Ga., and Hartwell.¹ There are no stations associated with the Line. The application is

¹ In earlier filings, Hartwell First stated that the Line is owned by Hartwell Railroad Company (HRC) and that GWRC has trackage rights over it. (See, e.g., Hartwell First Pet. for Waiver 1, May 26, 2016.) In its application, however, Hartwell First states that, based on additional research, it does not appear that HRC has any ownership or operating rights with respect to the Line. Hartwell First also contends that no carrier (including GWRC and HRC) has Board authorization to own or operate the Hartwell Line. In this notice, references to GWRC should be read to include HRC to the extent appropriate.

available on the Board's website at <http://www.stb.gov>, or a copy can be secured from Hartwell First's counsel, whose name and address appear below.

Hartwell First currently owns property on both sides of the Line that it wishes to develop. According to Hartwell First, the Line has not been used to provide local rail service since 1996, is largely overgrown, and public crossings have been removed and/or closed by the Georgia Department of Transportation. Hartwell First states that GWRC has entered into a 99-year lease for the Line and adjacent property with a local non-profit for development of a park, walking path, and farmers' market. Thus, Hartwell First asserts that the Line cannot currently be used to conduct rail service even if GWRC wanted to do so. Hartwell First states that GWRC has refused to seek abandonment or discontinuance authority voluntarily. Accordingly, Hartwell First seeks adverse abandonment and discontinuance authority, so that it can then seek to quiet title to the Line to the extent it bisects Hartwell First's property between Athens Street and Webb Street.

In a decision served in this proceeding on August 29, 2016 (August 2016 Decision), Hartwell First was granted exemptions from several statutory provisions as well as waivers of certain Board regulations at 49 C.F.R. pt. 1152 that were not relevant to its adverse abandonment application or that sought information not available to it. Specifically, Hartwell First was granted an exemption from 49 U.S.C. § 10903(c) and waiver of 49 C.F.R. § 1152.22(a)(5) pertaining to System Diagram Maps; waivers of certain requirements pertaining to the notice of intent prescribed at 49 C.F.R. § 1152.21;

waiver of 49 C.F.R. § 1152.20(a)(1) to the extent it requires service of the notice on the Board by certified letter rather than electronic or other delivery after a proceeding has been instituted; waiver of 49 C.F.R. § 1152.20(a)(2)(x) that notice be served on Amtrak; exemption from 49 U.S.C. § 10903(a)(3)(B) concerning posting the notice of intent at agency stations or terminals; waiver of 49 C.F.R. § 1152.22(b)-(e), which require that discontinuance and abandonment applications include information regarding the condition of properties, service performed, attributable revenue and cost data, and rural and community impact; waiver of 49 C.F.R. § 1152.22(i) concerning the wording of the draft Federal Register notice; exemption from 49 U.S.C. § 10904 and waiver of 49 C.F.R. § 1152.27, which govern an offer of financial assistance (OFA) to continue common carrier rail service; exemption from the public use provisions of 49 U.S.C. § 10905 and waiver of the corresponding regulation at 49 C.F.R. § 1152.28; and waiver of the requirement under 49 C.F.R. § 1152.29(e)(2) that the abandonment be consummated within one year after the abandonment application.

In the August 2016 Decision, Hartwell First was directed to amend certain language in its notice of intent; serve copies of the notice on any significant shippers identified by HRC and/or GWRC; serve copies of the notice on any duly certified labor organizations identified by HRC and/or GWRC as representing their employees; and serve a copy of the notice on the U.S. Railroad Retirement Board. Hartwell First has complied with these requirements.

Hartwell First states that the Line does not contain federally granted rights-of-way. Any documentation in Hartwell First's possession will be made available promptly to those requesting it. Hartwell First's entire case-in-chief for adverse abandonment and discontinuance was filed with the application.

The interests of railroad employees will be protected by the conditions set forth in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

Any interested person may file written comments concerning the proposed adverse abandonment and discontinuance or protests (including protestant's entire opposition case) by May 29, 2017. Persons who may oppose the proposed adverse abandonment and discontinuance but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons opposing the proposed adverse abandonment and discontinuance who wish to participate actively and fully in the process should file a protest, observing the filing, service, and content requirements of 49 C.F.R. § 1152.25. Hartwell First's reply is due by June 13, 2017.

Any request for an interim trail use/railbanking condition under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 must be filed by May 29, 2017, and should address whether the issuance of a certificate of interim trail use in this case would be consistent with the grant of an adverse abandonment and discontinuance application. Each trail use request must be accompanied by a \$300 filing fee. See 49 C.F.R. § 1002.2(f)(27).

All filings in response to this notice must refer to Docket No. AB 1242 and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; (2) Eric M. Hocky, Esq., Clark Hill PLC, 2005 Market Street, Suite 1000, Philadelphia, PA 19103, (215) 640-8500.

Filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's "www.stb.gov" website, at the "E-FILING" link. Any person submitting a filing in the traditional paper format should send the original and 10 copies of the filing to the Board with a certificate of service. Except as otherwise set forth in 49 C.F.R. pt. 1152, every document filed with the Board must be served on all parties to this adverse abandonment and discontinuance proceeding. 49 C.F.R. § 1104.12(a).

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Board's Office of Environmental Analysis (OEA) will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact OEA by phone at the number listed below. EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245-0238 or refer to the full abandonment/discontinuance regulations at 49 C.F.R. pt. 1152. Questions concerning environmental issues may be directed to OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our website at

"WWW.STB.GOV."

Decided: May 1, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.