

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1253]

State of South Dakota Acting by and Through its Department of Transportation—
Adverse Discontinuance of Operating Authority—Napa-Platte Regional Railroad
Authority

On March 29, 2018, the State of South Dakota acting by and through its Department of Transportation (the State) filed an application under 49 U.S.C. § 10903 requesting that the Surface Transportation Board (the Board) authorize the third-party, or “adverse,” discontinuance of the operating authority of Napa-Platte Regional Railroad Authority (NPRRA)¹ over approximately 13.4 miles of rail line extending from milepost (MP) 0.0, referred to as Napa Junction, in South Dakota, to MP 13.4+/- near Tabor, S.D. (the Napa-Tabor Line). The Napa-Tabor Line traverses United States Postal Service Zip Codes 57078 and 57063.²

According to the State, the Napa-Tabor Line is part of a longer line that runs from MP 0.0 to MP 83.3 near Platte, S.D. (the Napa-Platte Line). The State explains that the Napa-Platte Line was authorized for abandonment in 1980 but, prior to being abandoned, was acquired by the State. See Ogilvie—Aban.—in S.D., Iowa, & Neb., AB 7 (Sub-

¹ According to the State, NPRRA is a political subdivision of the State of South Dakota and is a non-operating common carrier railroad.

² In a letter filed April 11, 2018, the State informed the Board that United States Postal Service Zip Code 57058 had inadvertently been included in its verified notice.

No. 88) (ICC served May 14, 1980); see also Napa-Platte Reg'l R.R. Auth.—Modified Rail Certificate, FD 35026, slip op. at 1-2 (STB served June 14, 2007). The State further explains that, in 2007, NPRRA obtained Board authority to lease and operate the Napa-Tabor Line. See Napa-Platte Reg'l R.R. Auth.—Lease & Operation Exemption—Dakota Short Line Corp., FD 35025 (STB served May 31, 2007). According to the State, NPRRA's last lease from the State expired on September 20, 2015. The State claims that neither NPRRA nor any other rail carrier provided common carrier service over the Napa-Tabor Line between 2007 and September 20, 2015. The State further claims that, beginning September 21, 2015, the State has leased the Napa-Tabor Line and a connecting line segment to the Dakota Southern Railway Company (DSRC). See Dakota S. Ry.—Notice of Modified Certificate of Pub. Convenience & Necessity—Yankton, Bon Homme, & Charles Mix Ctys., S.D., FD 36086 (STB served Jan. 25, 2017). According to the State, following the termination of NPRRA's lease, the State requested that NPRRA seek a voluntary termination of its lease and operating authority over the Napa-Tabor Line, but NPRRA has not done so. The State now seeks Board authority through an adverse discontinuance proceeding to terminate NPRRA's regulatory authority to lease and operate the Napa-Tabor Line. The State asserts that NPRRA does not oppose the State's application for adverse discontinuance.

In a decision served in this proceeding on May 31, 2017, the State was granted exemptions from several statutory provisions as well as waivers of certain Board regulations that were not relevant to its adverse discontinuance application or that sought information not available to the State.

According to the State, the Napa-Tabor Line does not contain federally granted rights-of-way. Any documentation in the State's possession will be made available promptly to those requesting it. The State's entire case-in-chief for adverse abandonment and discontinuance was filed with the application.

Any interested person may file written comments concerning the proposed adverse discontinuance or protests (including protestant's entire opposition case) by May 14, 2018. Persons who may oppose the proposed adverse 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 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. The State's reply is due by May 29, 2018.

All filings in response to this notice must refer to Docket No. AB 1253 and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; and (2) John H. LeSeur, Slover & Loftus LLP, 1224 Seventeenth Street, N.W., Washington, DC 20036.

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 discontinuance proceeding. 49 C.F.R. § 1104.12(a).

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full discontinuance regulations at 49 C.F.R. pt. 1152. 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: April 12, 2018.

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