

National Association of Reversionary Property Owners (NARPO)

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Surface Transportation Board, Cynthia Brown, Administrator

RE: Iowa Traction Railway--Discontinuance Exemption AB 1269-1X in Cerdo Gordo County, Iowa

Dear Ms. Brown:

On October 28, 2019, Iowa Traction Railway (IT) filed a petition to discontinue service over a three mile rail line in Cerdo Gordo County, Iowa. In IT's petition for discontinuance, they state that they will salvage the track materials and sell the land for railbanking.

Under STB rules, there can not be railbanking when only a discontinuance is petitioned for. After discussions with IT's attorney, IT is under the impression because the line was abandoned in 1987 (AB-1-205X) there is an exception to the discontinuance rules and railbanking when the line was previously abandoned. Since 1987 a series of non-carriers have had ICC and STB authority to operate part (three miles) of the rail line in question. The last non-carrier is IT, see FD 35677 OCTOBER 5, 2012.

The property owners along this three miles are all farmers who own the reversionary rights to the land where the right of way is situated. They have been waiting for 32 years to reclaim their land so they can farm the land the right of way is on.

The STB regulations and precedence do not allow railbanking on a discontinuance. It is questionable whether this rail line is even under STB

jurisdiction as the line was abandoned in 1987 and the abandonment consummated. Since 1987 a series of non-carriers (see Footnote 1 in FD 35677 October 5, 2012) have had some sort of operating authority even though it appears that no traffic has moved over the rail line in many years if not decades, see the last STB decision FD 35677 in 2012. NARPO does not see any STB regulation or decision that allows railbanking with a discontinuance after an abandonment by another carrier and 32 years later a non-carrier asks for a discontinuance and also railbanking.

NARPO requests the STB to reject this discontinuance petition as improperly filed as to the statement at the top of page 3 of the Petition;

...would permit IT Railway to salvage the track materials and sell the land in the right of way for railbanking and recreational trail use...

If the STB allows this requested discontinuance and railbanking, then the reversionary property owners would not be able to file a railbanking Takings claim at the U.S. Court of Claims as that court's precedence only allows railbanking takings claims after an abandonment has been certified by the ICC/STB. And the only abandonment on this rail line happened 32 years ago in 1987. The U.S. Court of Claims allows a six year statute of limitations for filing railbanking Takings claims and that six years passed 26 years ago. A STB ruling allowing this discontinuance and railbanking would not allow these many property owners to file a Takings claim, and that would be a totally unjust and unfair ruling for these property owners. The STB should see through this ruse by IT.

NARPO also requests the STB to determine whether the STB even has jurisdiction over this non-carrier's operating rights.

Richard Welsh--NARPO

NARPO has served all parties of record via email on October 30, 2019.

Richard Welsh--Executive Director NARPO