

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1063

CERRO GORDO COUNTY, IOWA—ADVERSE ABANDONMENT—
BACKTRACK, INC.

Decided: April 28, 2010

On April 26, 2010, Cerro Gordo County, Iowa (County) filed a petition for waiver of certain Board abandonment regulations and for exemption from certain statutory provisions related to an adverse or third-party abandonment application it will soon file. The County states that it will seek the adverse or third-party abandonment of the section of railroad right-of-way, owned by a corporate entity, Backtrack, Inc. (Backtrack), that crosses Road B-20 located in Cerro Gordo County. The County also requests that the Board issue and make its decision on the waiver/exemption petition effective on or before April 28, 2010.

In a letter also filed on April 26, 2010, Backtrack opposes the expedited consideration request as “unrealistic and unreasonable.” Backtrack states that it will require the 20 days provided by the Board’s regulations to prepare and file an adequate reply to the petition for waiver and exemption. In its letter, Backtrack states that Iowa Traction Railroad Company (IATR) has the right to operate over this right-of-way.

The County’s request for expedited consideration of its waiver/exemption petition by April 28, 2010, will be denied. Board rules provide 20 days for the filing of a reply to any pleading filed with the Board. See 49 C.F.R. § 1104.13(a).¹ Granting the County’s request for immediate issuance of a decision on the waiver/exemption petition would deprive interested parties of an opportunity to prepare an adequate reply, and deprive the Board of any time to consider the request. The County has not shown good cause for such expedited consideration.

Replies to the waiver/exemption petition are due no later than May 17, 2010. The Board will issue a decision on the petition after that date.

¹ The County’s petition was accepted for filing on August 26, 2010, following a grant of the County’s request for fee waiver. Replies to the petition are therefore due no later than May 17, 2010.

It is ordered:

1. The request for expedited consideration of the waiver/exemption petition by April 28, 2010, is denied.

2. This decision will be effective on its service date.

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