

SURFACE TRANSPORTATION BOARD
49 CFR CHAPTER X
[DOCKET NO. FD 36040]
PETITION FOR DECLARATORY ORDER

ENTERED
Office of Proceedings
September 21, 2016
Part of
Public Record

REPLY TO NEWVISTA REBUTTAL
FROM RAILROADS FOR NATIONAL DEFENSE PROGRAM
MILITARY SURFACE DEPLOYMENT AND DISTRIBUTION COMMAND
TRANSPORTATION ENGINEERING AGENCY

The Military Surface Deployment and Distribution Command (SDDC) has no objection to the removal of inactive Ironton Branch trackage between mileposts 0.71 and 1.87.

We do ask the Board to affirm the following points to avoid setting a precedent that injures national defense or the public interest.

1. No adverse abandonment is authorized for the portion of the Ironton Branch between mileposts 0.0 and 0.71; active track exists in this area.
2. No abandonment is authorized for any Provo Subdivision main track.
3. Public notice requirements, and notification to the Department of Defense, shall not be waived in adverse abandonment cases.
4. That parties, in addition to the owning railroad, have standing to oppose adverse abandonments of active yard track. In an adverse abandonment the party seeking the abandonment is seeking to serve its own private interests by removing the railroad track in question. This railroad track may benefit the public by remaining in operation. In the specific case of Ironton Branch between mileposts 0.0 and 0.71 the track has the following benefits:
 - a. It allows Union Pacific more flexibility in routing military trains through the Provo area.
 - b. It allows Union Pacific more flexibility in routing Amtrak trains through the Provo area, if a service interruption occurs near milepost MP 700 on Provo Subdivision main track.
 - c. It allows Union Pacific more flexibility in routing coal and other freight trains through the Provo area.
 - d. It allows freight trains from the east of Provo with destinations south of Provo to make a continuous movement through the Provo area without stopping and reversing direction. Grade crossings near downtown Provo could be blocked to other traffic (including motor vehicles and pedestrians) while the requisite reverse movement is performed.

5. In an adverse abandonment case, the owning railroad may be injured if it is forced to relinquish active yard track it owns, various public interests may also suffer, and National Defense implications must be considered. The Board should retain jurisdiction over all active yard track (as affirmed in FD-35468 in April of 2015), and consider all the public interests, as well as the interests of the owning railroad and the Department of Defense, when considering an adverse abandonment case involving such track.

6. The Board should scrutinize all adverse abandonments more closely than it examines abandonments filed by railroad companies. When a railroad company files an abandonment, it can be safely assumed that the company has already analyzed the direct impact as well as any secondary impacts that such an action would precipitate, and the railroad company has determined that such abandonment would be beneficial. However, when an outside entity files an adverse abandonment action, they do not necessarily possess the knowledge of railroad operations or experience in the railroad business, and may not be in a position to adequately identify adverse implications and second-order effects of their requested adverse abandonment. In such a case, it would be appropriate for the Board to increase its scrutiny when faced with a petition for adverse abandonment.



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CERTIFICATE OF SERVICE

21 September 2016

Office of Proceedings
Surface Transportation Board
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Washington, DC 20423

Re: DOD Reply Regarding NewVistas Request for Adverse Abandonment of the Ironton Branch (Docket No. FD 36040)

I, the undersigned, hereby certify that, on this date, the following parties have been served copies of our "Reply to NewVista Rebuttal," on behalf of the Railroads for National Defense Program, Military Surface Deployment and Distribution Command Transportation Engineering Agency:

Mr. Carl J. Belliston
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Notice was provided today via E-mail as well as by U.S. Mail.

A handwritten signature in blue ink, reading "David J. Dicenso", is written over a horizontal line.

DAVID J. DICENSO
Attorney-Advisor