

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1305 (Sub-No. 1)

GREAT REDWOOD TRAIL AGENCY—ADVERSE ABANDONMENT—  
MENDOCINO RAILWAY IN MENDOCINO COUNTY, CAL.

Digest:<sup>1</sup> This decision denies an application for adverse abandonment of a 40-mile rail line in Mendocino County, Cal.

Decided: February 19, 2026

On April 12, 2024, the Great Redwood Trail Agency (GRTA), an agency of the State of California (State), filed an application under 49 U.S.C. § 10903 requesting that the Board authorize the third-party, or “adverse,” abandonment of an approximately 40-mile stub-ended rail line owned by Mendocino Railway (MRY) that extends between milepost 0 at Fort Bragg, Cal., and milepost 40 at Willits, Cal., in Mendocino County, Cal. (the MRY Line). Notice of the application was served and published in the Federal Register on May 2, 2024 (89 Fed. Reg. 35,919). As discussed below, the Board will deny GRTA’s application.

BACKGROUND

The MRY Line runs west to east between Fort Bragg and Willits, for approximately 40 miles. (Appl. 1, 16 & Ex. 3, Ex. C.) At Willits, the MRY Line connects to a 316-mile rail line known as the Northwestern Pacific Railroad corridor (GRTA Line). (Appl. 5.) MRY acquired the MRY Line from California Western Railroad in 2004, pursuant to 49 U.S.C. § 10902 and 49 C.F.R. § 1150.31. Mendocino Ry.—Acquis. Exemption—Assets of the Cal. W. R.R., FD 34465 (STB served Apr. 9, 2004). A tunnel located on the MRY Line approximately three miles east of Fort Bragg (Tunnel No. 1) has been closed since 2015, making it impossible for trains to traverse the entire length of the line. (Appl. 17-18 & Ex. 3, Ex. H at 13.) In 2024, the U.S. Department of Transportation awarded MRY and its parent company, the Sierra Northern Railway, a \$31.4 million Railroad Rehabilitation and Improvement Financing Loan (RRIF Loan) to finance rehabilitation of Tunnel No. 1 and certain other improvements. (MRY Reply, V.S. Pinoli, Attach. 13, June 17, 2024.)

MRY operates a passenger excursion service on segments of the MRY Line, known as the Skunk Train. (Appl. 25.) The Skunk Train runs a 3.5-mile service between Fort Bragg and

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<sup>1</sup> The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

Glen Blair Junction (west of Tunnel No. 1) and a 16-mile service between Willits and Wolf Tree (east of Tunnel No. 1). (Appl. 18-19 & Ex. 3, Ex. H at 13-14.)<sup>2</sup> There have been no “dedicated freight rail operations” over the MRY Line since 2002 when Georgia-Pacific closed a lumber mill located in Fort Bragg. (MR Y Reply 27 & App. B at 2, June 17, 2024; Appl. 2.) Nonetheless, MRY publishes a tariff for line-haul freight movements between Willits and Fort Bragg, as well as between Willits and Northspur, Cal., which is located approximately at the MRY Line’s midpoint. (See MR Y Reply, V.S. Pinoli, Attach. 4 at 7, June 17, 2024; Appl. 18.) The record further reflects that MRY has occasionally performed “spot” moves for certain entities located along the MRY Line, transporting, for example, a milling machine by flat car for the Mendocino Land Trust and a backhoe, lumber, tools and equipment by flat car for Camp Noyo.<sup>3</sup> (MR Y Reply, V.S. Pinoli 9-10, June 17, 2024; Appl. 26-28 & Ex. 5.)<sup>4</sup>

GRTA states that it has been directed by the State, pursuant to the Great Redwood Trail Agency Act (GRTA Act), CAL. GOV’T CODE §§ 93000-93030 (2022), to establish a long-distance recreational trail, to be known as the Great Redwood Trail, over the GRTA Line. (Appl. 5.) According to GRTA, it owns the property underlying the GRTA Line from milepost 295.5 near Arcata, Cal., to milepost 63.4, located between Schellville and Napa Junction, Cal. (Id. at 6.) GRTA explains that the GRTA Act expressly directs it to railbank and establish interim trail use on the GRTA Line pursuant to the National Trails System Act (Trails Act), 16 U.S.C. § 1247(d). (Appl. 1, 4-5); see also CAL. GOV’T CODE § 93022.<sup>5</sup>

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<sup>2</sup> MRY does not contend that its Skunk Train operations are within the Board’s jurisdiction. See also Denver & Rio Grande Ry. Hist. Found.—Pet. for Declaratory Ord., FD 35496, slip op. at 10 (STB served Aug. 18, 2014) (explaining that wholly intrastate excursion passenger services are not transportation that is conducted under the Board’s jurisdiction “as part of the interstate rail network.”)

<sup>3</sup> The Mendocino Land Trust is a forest conservation organization that owns the Noyo River Redwoods Property, which is a 426-acre property situated in the middle of the MRY Line. (MR Y Reply, V.S. Pinoli Attach. 5 at 2, June 17, 2024 (noting that “[s]ix miles of the [MR Y] Line wind through [the Mendocino Land Trust’s] property via a number of switchbacks on steep terrain”).) According to the Mendocino Land Trust, “[m]any areas of the property are not accessible via dirt road, and [it] depends on the [MR Y] for much of [its] maintenance access.” (Id.) Camp Noyo is a “remote wilderness camp used by the Boy Scouts of America,” and is also situated in the middle of the MRY Line. (Id., V.S. Pinoli 7 & Attach. 3 at 4.)

<sup>4</sup> Separately, MRY has also moved materials and workers to support an environmental restoration project on the MRY Line as well as utility improvements by AT&T, which leases the MRY Line’s right-of-way for a telephone line. (See Appl. 26-28 & Ex. 5; MR Y Reply, V.S. Pinoli 9-10, June 17, 2024.)

<sup>5</sup> Under the Trails Act, the Board must “preserve established railroad rights-of-way for future reactivation of rail service” by prohibiting abandonment where a trail sponsor agrees to assume full managerial, tax, and legal liability for the right-of-way for use in the interim as a trail. 16 U.S.C. § 1247(d); Nat’l Wildlife Fed’n v. ICC, 850 F.2d 694, 699-702 (D.C. Cir. 1988). Section 1247(d) expressly provides that “if such interim use is subject to restoration or reconstruction for railroad purposes, such interim use shall not be treated, for [any] purposes . . .

The northern portion of the GRTA Line, between Eureka, Cal., and Willits, has already been authorized for abandonment by the Board and railbanked under the Trails Act. See generally Great Redwood Trail Agency—Aban. Exemption—in Mendocino, Trinity, & Humboldt Cntys., Cal., Docket No. AB 1305X. GRTA states that it wants to seek abandonment authority for the middle portion of the GRTA Line, between the Sonoma County/Mendocino County border at milepost 89, and Willits, at milepost 139.5 (the Middle Portion), so that it can then railbank and establish interim trail use over this segment as well.<sup>6</sup> GRTA states that the Middle Portion has not supported freight or passenger rail traffic in over 25 years: it has been under a Federal Railroad Administration (FRA) embargo since 1998 and “has not been returned to serviceable condition since [then] because of the overwhelming expense to rehabilitate it, the lack of any need for rail service on it, and the instability and flooding of the land in the right-of-way.” (Appl. 6-7.) But GRTA argues that it could not obtain abandonment authorization and implement the GRTA Act’s railbanking directive because a Board order authorizing the abandonment of the Middle Portion, a necessary step under the Board’s railbanking regulations, would authorize GRTA to “strand” or disconnect the MRY Line from the interstate rail network, contrary to Board policy. (Appl. 13-14 (citing R.J. Corman R.R. Prop.—Aban. Exemption—in Scott, Campbell, & Anderson Cntys., Tenn., AB 1296X, slip op. at 3 (STB served Nov. 17, 2022) (“It is well settled that so long as there is a common carrier obligation attached to a particular segment of track, the Board will not allow that segment to become isolated from the rail system as a result of the abandonment of the adjoining segment.”)).) The MRY Line’s connection with the Middle Portion of the GRTA Line at Willits is its only physical connection to the interstate rail network. (Appl. 4, 13.)

For this reason, GRTA states that it filed the current application for adverse abandonment of the MRY Line to remove it from the interstate rail network so that GRTA can subsequently seek abandonment and railbanking authority for the Middle Portion of the GRTA Line. According to GRTA, adverse abandonment is warranted because there is no present or future need for Board-regulated rail service on the MRY Line. (Appl. 16.) Specifically, GRTA states that no interstate rail shipments have originated or terminated on the line since it was purchased out of bankruptcy by MRY in 2004, and that MRY has not identified a business interested in future interstate rail shipments on the MRY Line. (Id. at 2-3.) GRTA suggests that any movement on the MRY Line necessarily must be intrastate, and thus “not subject to STB jurisdiction,” because the MRY Line is no longer connected to the interstate freight rail system

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as an abandonment.” Instead, the right-of-way is “railbanked,” which means that the railroad is relieved of the current obligation to provide service over the line but that the railroad (or any other approved rail service provider) may reassert control over the right-of-way to restore service on the line in the future. See Birt v. STB, 90 F.3d 580, 583 (D.C. Cir. 1996); Iowa Power—Constr. Exemption—Council Bluffs, Iowa, 8 I.C.C.2d 858, 866-67 (1990); 49 C.F.R. § 1152.29.

<sup>6</sup> The southern portion of the GRTA Line, which extends between the Sonoma County/Mendocino County border and Lombard, Cal., has not been abandoned but was acquired in 2021 by the Sonoma-Marín Area Rail Transit District, a Class III rail carrier, which will be responsible for rail-with-trail development there. (GRTA Pet. for Waiver 5 & n.9 (citing Sonoma-Marín Area Rail Transit Dist.—Acquis. & Operation Exemption—N. Coast R.R., FD 36481 (STB served Feb. 18, 2021))).

by virtue of the Middle Portion being embargoed and inoperable. (*Id.* at 3, 13, 26, 30 (“MR[Y] has never had access to the interstate rail network since it acquired the MR[Y] Line out of bankruptcy . . . .”) & 35-36 (“[A]ll the information on freight revenues attributable to the MR[Y] Line do not involve interstate freight operations but only involve intrastate rail service.”).) It also submitted analysis by Marie Jones Consulting purporting to show that there is “insufficient actual demand for rail freight transport to fund the significant capital investment” needed to restore and maintain freight rail service on the MRY Line between Fort Bragg and Willits. (Appl., Ex. 3, Ex. H at 24.) GRTA further argues that MRY has attempted to use its status as a railroad under the Board’s jurisdiction to avoid state and local regulations and to obtain private properties under state eminent domain laws despite having no interstate rail operations on the MRY Line.<sup>7</sup> (Appl. 3.)

MRY filed a reply opposing GRTA’s adverse abandonment application on June 17, 2024. MRY states that it is holding out to the public to provide common carrier rail service, including through publication of a tariff, and further references the spot moves identified above, its continual reinvestment into the MRY Line, and the RRIF Loan it secured to rehabilitate Tunnel No. 1. (MRY Reply 15, 26-29, June 17, 2024.) MRY also notes efforts it has made to: (1) “expand its rail service offerings,” citing a letter of intent from Grist Creek Aggregates, LLC (Grist Creek) to ship aggregates from Willits to Fort Bragg upon restoration of Tunnel No. 1; and (2) construct a lumber transload facility on the former Georgia-Pacific property in Fort Bragg. (*Id.* at 31 & V.S. Pinoli Attach. 15.) And it challenges the analysis performed by Marie Jones Consulting, arguing, among other things, that the analysis ignored costs and revenues from MRY’s excursion service when evaluating the MRY Line’s viability. (*Id.* at 42-49.)

MRY argues that granting GRTA’s application would: (1) be directly contrary to Congressional policy which favors maintaining rail service and rail infrastructure whenever possible; (2) conflict with the Board’s numerous precedents denying adverse abandonment applications when shippers use the line or there is potential for future use of the line; (3) undermine the RRIF Loan; and (4) have the potential to adversely affect essential services provided over the MRY Line. (*Id.* at 7.) MRY further argues that granting the adverse abandonment application is unnecessary for GRTA to accomplish its goal of developing a trail on the Middle Portion of the GRTA Line. According to MRY, GRTA could implement a “rails-with-trails” approach, which it asserts is consistent with GRTA’s past and planned actions and policies on other portions of the GRTA Line. (*Id.* at 7, 18, 33-34 & V.S. Pinoli 14.) Finally, MRY argues that the Board should not give weight to GRTA’s arguments, given GRTA’s alleged failure over the past 25 years to remove the embargo on its own line, which MRY argues

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<sup>7</sup> By decision served September 26, 2025, the Board confirmed MRY’s status as a Class III rail carrier subject to the jurisdiction of the Board. Mendocino Ry.—Pet. for Declaratory Order, FD 36868, slip op. at 1 (STB served Sept. 6, 2025). Although the Board further confirmed that MRY is entitled to whatever preemption would otherwise be applicable to a rail carrier pursuant to 49 U.S.C. § 10501(b), it made no finding regarding the preemptive effects of § 10501(b) on any particular federal or state law or regulation. *Id.* at 5-6. The California Coastal Commission has filed a petition for review of the Board’s decision in the U.S. Court of Appeals for the Ninth Circuit. See Cal. Coastal Comm’n v. STB, No. 25-7442 (9th Cir.).

created a direct barrier to MRY’s ability to interchange with other freight rail carriers. (Id. at 7-8, 67 & V.S. Pinoli 15-16.)

Additional pleadings in response to GRTA’s adverse abandonment application were filed by the American Short Line and Regional Railroad Association (ASLRRA), the California Short Line Railroad Association (CSLRA), the Pacific Legal Foundation (PLF), and the Transportation Solutions Defense and Education Fund (TRANSDEF). None supported GRTA’s application. ASLRRA filed a letter in support of MRY’s opposition to the adverse abandonment application. (ASLRRA Reply 1, June 17, 2024.) According to ASLRRA, GRTA failed to show that MRY has no likelihood of success in preserving the MRY Line for rail service. (Id. at 1-2.) ASLRRA argues, among other things, that MRY has presented evidence and argument showing that there is a present and future public need for service on the MRY Line, and that there is a reasonable expectation that this need will extend into the future. (Id. at 4.) ASLRRA further states that, so long as MRY is making good faith reasonable efforts to develop rail uses for the line, MRY should be given the opportunity to preserve rail service opportunities. (Id.) CSLRA filed a letter in support of MRY’s position, expressing similar arguments raised by ASLRRA. (CSLRA Reply 1-2, 4, June 17, 2024.) PLF filed a letter opposing GRTA’s adverse abandonment application. (PLF Reply 1, June 17, 2024.) According to PLF, the Board lacks authority to entertain adverse abandonment applications. (Id.) PLF argues that, pursuant to the ICC Termination Act of 1995 (ICCTA), Pub. L. No. 104-88, 109 Stat. 803, Congress has authorized the Board to consider applications filed only by “rail carriers whose lines are to be abandoned.” (PLF Reply 1, June 17, 2024.) Thus, PLF argues that the Board should deny GRTA’s adverse abandonment application, as granting it would be beyond the Board’s authority. (Id.) PLF also raises constitutional concerns regarding separation of powers and the Board’s structure. (Id. at 7-14.)<sup>8</sup> Finally, TRANSDEF submitted a letter noting that, while it has no objection to trails alongside rail tracks, it strongly opposes GRTA’s intention to railbank its line from Willits to Cloverdale, Cal.,<sup>9</sup> which would include the Middle Portion. (TRANSDEF Reply 1, June 12, 2024.)

On November 29, 2024, GRTA filed a rebuttal largely reiterating its primary argument that the MRY Line has no existing or prospective rail freight traffic. GRTA claims that all examples of past traffic cited by MRY were either intrastate in nature or for maintenance purposes. (GRTA Rebuttal 8-9, Nov. 29, 2024.) Additionally, GRTA disputes the viability of MRY’s two examples of potential future traffic; according to GRTA, Grist Creek has not

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<sup>8</sup> As discussed infra, because the Board will deny GRTA’s adverse abandonment application, it is unnecessary to reach the issue of whether the Board may grant abandonment applications by entities other than rail carriers that operate lines to be abandoned. PLF also states that “[i]f the Board does not deny the Application as *ultra vires*, it will be forced to grapple with difficult constitutional questions regarding the Board’s structure.” (PLF Reply 7, June 17, 2024). However, even assuming the Board may address PLF’s constitutional challenges to the Board’s structure, because this decision results in the outcome PLF favors—denial of GRTA’s adverse abandonment application—it is also unnecessary for the Board to consider PLF’s constitutional arguments.

<sup>9</sup> According to GRTA, Cloverdale is located on the GRTA Line at milepost 85.6, just south of the end of the Middle Portion. (Appl. 8.)

actually committed to ship by rail, while MRY’s plans for a lumber transload facility lack specifics. (*Id.*) GRTA also disputes PLF’s arguments that the Board lacks the statutory authority under 49 U.S.C. § 10903 to consider and grant applications for adverse abandonment. (GRTA Rebuttal 39, Nov. 29, 2024.) GRTA notes that the Board, and its predecessor, has exercised adverse abandonment authority since 1981, and that Courts have repeatedly affirmed the Board’s consideration of adverse abandonment applications. (*Id.* (citing City of S. Bend v. STB, 566 F.3d 1166, 1172 (D.C. Cir. 2009)).) GRTA further argues that PLF has cited no binding authority for the proposition that the Board’s structure is unconstitutional, nor has PLF provided any basis for the Board to question its own constitutionality. (GRTA Rebuttal 40, Nov. 29, 2024.)

## PRELIMINARY MATTERS

On June 14, 2024, TRANSDEF filed a motion to strike the verified statement and accompanying appendices of GRTA’s expert witness, Marie Jones, offered in support of GRTA’s application for adverse abandonment. Similarly, on June 17, 2024, MRY filed a motion to strike certain passages from GRTA’s application. GRTA filed in opposition to TRANSDEF’s and MRY’s motions to strike on July 5, 2024, and July 8, 2024, respectively.<sup>10</sup> Because GRTA’s adverse abandonment application will be denied on other grounds, the motions to strike filed by TRANSDEF and MRY will be denied as moot.

## DISCUSSION AND CONCLUSIONS

### A. Applicable Legal Standard.

The Board has exclusive and plenary jurisdiction over rail line abandonments in order to protect the public from an unnecessary discontinuance, cessation, interruption, or obstruction of available rail service. Norfolk S. Ry.—Adverse Aban.—St. Joseph Cnty., Ind. (Norfolk S. Ry. 2012), AB 290 (Sub-No. 286), slip op. at 4 (STB served Apr. 17, 2012); Modern Handcraft, Inc.—Aban. in Jackson Cnty., Mo., 363 I.C.C. 969, 972 (1981). Under 49 U.S.C. § 10903(d), the standard that applies to any application for authority to abandon or discontinue a line of railroad, including in the third-party, or adverse (involuntary), abandonment context, is whether the present or future public convenience and necessity (PC&N) require or permit the proposed abandonment or discontinuance. In making the PC&N finding, the statute requires the Board to “consider whether the abandonment or discontinuance will have a serious, adverse impact on rural and community development.” § 10903(d). The Board must also take into consideration, when making a PC&N determination, the goals of the Rail Transportation Policy (RTP), *see* 49 U.S.C. § 10101, and the “competing benefits and burdens of abandonment or discontinuance on all interested parties, including the railroad, the shippers on the line, the communities

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<sup>10</sup> On July 5, 2024, TRANSDEF filed a surreply to GRTA’s reply to TRANSDEF’s motion to strike. TRANSDEF’s surreply will be rejected as an impermissible reply to a reply. *See* 49 C.F.R. § 1104.13(c); *see also* Sunflower State Indus. Ry.—Pet. for Declaratory Ord., FD 36714 (Sub-No. 1), slip op. at 2 n.3 (STB served Mar. 28, 2025) (explaining that § 1104.13(c) will be more strictly enforced going forward to promote the orderly and efficient administration of cases).

involved, and interstate commerce generally.” See Seminole Gulf Ry.—Adverse Aban.—in Lee Cnty., Fla., AB 400 (Sub-No. 4), slip op. at 5-6 (STB served Nov. 18, 2004).

The Board recently discussed at length consideration of the PC&N standard in adverse abandonment proceedings in Colorado Landowners—Adverse Abandonment—Great Western Railway of Colorado in Weld County, Colorado, AB 857 (Sub-No. 2), slip op. at 6 (STB served Jul. 30, 2025). It explained that the Board’s “statutory duty to preserve and promote continued rail service,” N.Y. Cross Harbor R.R. v. STB, 374 F.3d 1177, 1187 (D.C. Cir. 2004), “is of paramount importance in adverse abandonment proceedings, where a carrier does not file an application indicating that it ‘intends to abandon any part of its railroad lines.’” Colo. Landowners, AB 857 (Sub-No. 2), slip op. at 5 (quoting 49 U.S.C. § 10903(a)(1)). Thus, while the PC&N standard contemplates a weighing of the “competing benefits and burdens of abandonment,” Seminole Gulf Ry., AB 400 (Sub-No. 4), slip op. at 5-6, the Board gives the potential for continued freight service “near dispositive weight in adverse abandonment proceedings,” Colo. Landowners, AB 857 (Sub-No. 2), slip op. at 6, with third-party applicants bearing a “heavy burden” of proof, id. at 5.

In Colorado Landowners the Board canvassed its modern adverse abandonment precedent and made several observations. First, since the Board was established in 1996, it has not granted adverse abandonment that would result in an active shipper losing rail service with the exception of one decision that was vacated on appeal.<sup>11</sup> Colo. Landowners, AB 857 (Sub-No. 2), slip op. at 6. Second, even where no shippers are actively using the rail line, the Board “will deny” an adverse abandonment application where the agency “cannot say that there is no potential for continued rail service.” Id. at 6-7 (quoting Seminole Gulf Ry., AB 400 (Sub-No. 4), slip op. at 5). Third, in considering the potential for rail service, the Board has inquired whether the carrier has “taken reasonable steps to attract traffic.”<sup>12</sup> Colo. Landowners, AB 857 (Sub-No. 2), slip op. at 7 (quoting Seminole Gulf Ry., AB 400 (Sub-No. 4), slip op. at 5). Such steps include efforts by the carrier to rehabilitate and utilize an inoperable line, see Hartwell First United Methodist Church—Adverse Aban. & Discontinuance—Great Walton R.R., in Hart Cnty., Ga., AB 1242, slip op. at 4-5 (STB served Jan. 31, 2018), or to hold itself out for rail service, see Seminole Gulf Ry., AB 400 (Sub-No. 4), slip op. at 5. Fourth, when considering these efforts, the Board has emphasized that it “will not second-guess the carrier’s ‘judgment about the need for, and usefulness, of’ the line.” Colo. Landowners, AB 857 (Sub-No. 2), slip op. at 7 (quoting Seminole Gulf Ry., AB 400 (Sub-No. 4), slip op. at 5).

The Board further examined the three cases over the last 20+ years since New York Cross Harbor in which it granted adverse abandonment over the objection of the operating

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<sup>11</sup> In New York Cross Harbor, the Court of Appeals vacated a Board decision granting an adverse abandonment, finding, among other things, that the Board failed to acknowledge its statutory duty to preserve and promote rail service, including a “fail[ure] to explain what effect its action w[ould] have on shippers’ options and competition generally,” and that the Board improperly shifted the burden to the objecting carrier to come forward with sufficient evidence of hardship or harm. 374 F.3d at 1181, 1186-88.

<sup>12</sup> 49 U.S.C. § 11101(a), requires a rail carrier to “provide . . . service upon reasonable request,” and the inquiry is not intended to expand that obligation.

carrier.<sup>13</sup> One decision—Stewartstown Railroad—Adverse Abandonment—in York County, Pa. (Stewartstown 2012), AB 1071 (STB served Nov. 16, 2012)—was subsequently vacated. Colo. Landowners, AB 857 (Sub-No. 2), slip op. at 7-8 & n.11 (citing Stewartstown R.R.—Adverse Aban.—in York Cnty., Pa., AB 1071 (STB served Nov. 14, 2013)).<sup>14</sup> Another—Paulsboro Refining Co.—Adverse Abandonment—in Gloucester County, N.J., AB 1095 (Sub-No. 1), slip op. at 4-6 (STB served Dec. 2, 2014)—was “more analogous” to an adverse discontinuance than an adverse abandonment since it was the non-carrier owner that was seeking abandonment over the operator’s objections, and the owner intended to contract with a non-carrier operator to provide switching services to the line’s sole, non-objecting shipper post-abandonment. Colo. Landowners, AB 857 (Sub-No. 2), slip op. at 7-8. And the last case—Denver & Rio Grande Railway Historical Foundation—Adverse Abandonment—in Mineral County, Colo., AB 1014 (STB served May 23, 2008)—involved a long inoperable one-mile line that the rail carrier had made no effort to rehabilitate and for which it made no reasonable steps to attract traffic. Colo. Landowners, AB 857 (Sub-No. 2), slip op. at 8. It was only after the Board considered—and rejected—the prospect of each of the line’s prospective shippers, and assured itself of the “essentially non-existent need to preserve this [one]-mile segment,” that the Board considered whether adverse abandonment would advance the public interest associated with the applicant’s plans to develop the property for non-rail uses. Id. (quoting Denver & Rio Grande, AB 1014, slip op. at 7-12, 17.) Based on this review of its recent precedent, the Board explained that it “tends to grant adverse abandonment over a carrier’s objection only where a line is inoperable, and the record *strongly* shows a lack of present or future need for rail service and a lack of interest by the rail carrier to restore the line or attract rail business.” Colo. Landowners, AB 857 (Sub-No. 2), slip op. at 8.

#### B. PC&N Analysis.

Applying the principles described above to the facts of this case, the Board finds that GRTA has not established that the PC&N require or permit adverse abandonment. Because MRY, which holds the common carrier obligation over the MRY Line, opposes abandonment, GRTA carries a “heavy burden,” see Norfolk S. Ry.—Adverse Aban.—St. Joseph, Cnty., Ind. (Norfolk S. Ry. 2008), AB 290 (Sub-No. 286), slip op. at 5 (STB served Feb. 14, 2008), to make the required PC&N showing. GRTA has failed to meet its burden. First, MRY has put forth persuasive evidence that there is a potential for continued freight service on the MRY Line:

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<sup>13</sup> The Board noted that it has granted a number of adverse abandonment applications where the carrier does not oppose the requested abandonment and there are no remaining shippers who desire service. Colo. Landowners, AB 857 (Sub-No. 2), slip op. at 7 n.10 (cataloguing cases).

<sup>14</sup> The Line in Stewartstown had also been in a state of disrepair due to deferred maintenance and lacked freight service “of any kind” for over 20 years, and the rail carrier conceded that it had made “little credible effort . . . to secure freight rail traffic.” Stewartstown 2012, AB 1071, slip op. at 5, 9. Moreover, as noted in Colorado Landowners, “the Board granted adverse abandonment only after reviewing all of the future shipping prospects of each prospective shipper that had been identified, or which submitted a letter of opposition with the Board, and concluding that ‘there is no present need, and little likelihood of a future need, for rail service on the Line.’” Colo. Landowners, AB 857 (Sub-No. 2), slip op. at 8 n.12.

portions of the MRY Line are operable (and operating), and MRY has taken significant steps to make the entire line operable; MRY holds itself out as a common carrier, including by publishing a tariff, and has provided occasional freight rail service; and MRY has taken reasonable steps to secure regular freight traffic once the line becomes fully operational. Second, GRTA has not overcome this “near dispositive” factor. GRTA’s stated reason for seeking the adverse abandonment of the MRY Line—to facilitate development of a recreational trail on an adjacent rail corridor—is not sufficient to overcome the potential for continued spot moves and future regular service on the MRY Line, even assuming that trail and rail uses were incompatible. Moreover, nothing in the record indicates that there is such incompatibility for the Middle Portion of the GRTA Line. Indeed, no facts in the record suggest that the development of a recreational trail within the GRTA Line’s right-of-way would not be possible, provided doing so would not interfere with future rail service. Such dual use, however, would not take place under the auspices of the Board’s Trails Act regulations because, due to the Board’s precedent against stranded rail segments, the Board will not authorize abandonment of the Middle Portion while the MRY Line remains within the Board’s jurisdiction.

Present or Future Need for Rail Service.

According to GRTA, there is no present nor future need for rail transportation on the MRY Line. (Appl. 2-3, 16.) GRTA suggests that no shipment on the MRY Line—even after Tunnel No. 1 is restored—can be a Board-regulated freight movement because the MRY Line has no connection to the interstate rail network and hence any movement on the MRY Line is necessarily intrastate. (Appl. 26-27, 30; GRTA Rebuttal 2, 10, Nov. 29, 2024.)

GRTA’s argument is flawed for two reasons. First, it assumes that only shipments that cross state lines fall under the Board’s jurisdiction. However, 49 U.S.C. § 10501(a)(2) is clear that the Board has jurisdiction over shipments between a “State and a place in the same . . . State as part of the interstate rail network.”<sup>15</sup> Thus, contrary to GRTA’s argument, the fact that MRY’s current and future rail shipments might consist only of movements to and from points within the same state does not mean those shipments are not subject to the Board’s jurisdiction.<sup>16</sup>

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<sup>15</sup> MRY argues that even if the Middle Portion of the GRTA Line is abandoned, the MRY Line would still be considered part of the interstate rail network and therefore subject to Board jurisdiction due to MRY’s ability to use the MRY Line for interstate transload shipments. (MRY Reply 35 n.94, 58-59, June 17, 2024.) In support, MRY cites to other examples where it claims the Board has found it has jurisdiction over such “island” carriers. (*Id.*) Because the Board is denying GRTA’s application for adverse abandonment, the MRY Line will continue to remain physically connected to the interstate rail network, and it is therefore unnecessary for the Board to address this argument.

<sup>16</sup> GRTA suggests that the Superior Court of California “flatly rejected” MRY’s argument that it was engaged in interstate commerce in *Mendocino Railway v. Meyer*, SKUK-CVED-2020-74939 (Cal. Sup. Ct. Apr. 19, 2023). (See Appl. 28-29 & Ex. 6.) There, the Court rejected an effort by MRY to acquire certain property west of Willits using California eminent domain law. (*Id.*, Ex. 6 at 1, 5, 7.) Contrary to GRTA’s suggestion, the Court did not find that the “minimal” freight traffic on the MRY Line was not interstate commerce, but rather that MRY

And second, GRTA assumes that because the GRTA Line is embargoed and inoperable, the MRY Line is no longer part of the interstate rail network. (See, e.g., Appl. 6 (“MR[Y] has no access to [the] interstate rail network from the MR[Y] Line.”).) GRTA’s argument is incorrect. The MRY Line connects with the GRTA Line at Willits, and the GRTA Line itself is still part of the interstate rail network. While “a valid embargo excuses the [common carrier] service obligation, it does not terminate the carrier’s [common carrier] duty.” GS Roofing Prods. Co. v. STB, 143 F.3d 387, 392 (8th Cir. 1998).<sup>17</sup> The GRTA Line, like any rail line under the Board’s jurisdiction, remains part of the interstate rail network until it has been abandoned under the Board’s procedures. See, e.g., Baros v. Tex. Mex. Ry., 400 F.3d 228, 234 (5th Cir. 2005) (“Once a rail carrier abandons a line, the line is no longer part of the national transportation system, and the [Board’s] jurisdiction terminates.”).<sup>18</sup>

Here, MRY has put forward persuasive evidence of a potential need for continued freight service on the MRY Line. Moreover, the record contains some evidence of existing freight traffic. As noted, over the last several years, MRY has transported machinery, equipment, and tools for the Mendocino Land Trust and Camp Noyo on the MRY Line. GRTA contends that these movements are “intrastate in nature” and are “not subject to STB jurisdiction.”<sup>19</sup> (Appl. 26; GRTA Rebuttal 7, Nov. 29, 2024.) However, as explained, these movements are under the Board’s jurisdiction as movements between a “State and a place in the same . . . State as part of the interstate rail network.” 49 U.S.C. § 10501(a)(2).

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did not provide “evidence” of these movements sufficient to carry its “burden of proof to establish its legal status as [a] public utility” under California law. (Id., Ex. 6 at 4-5.) Here, GRTA bears the burden of proof and does not contest the veracity of the shipper data provided by MRY under 49 C.F.R. § 1152.22(c). (See Appl., Ex. 5.) In any event, the California Court of Appeal has since reversed the Superior Court judgment, finding among other things that proof of “actually rendered” freight services was not required: “rather what is required is a showing of the public’s unconditional right to use [MR[Y].” (MRY Ltr., Attach. at 13, Jan. 13, 2026.)

<sup>17</sup> See also Bar Ale, Inc. v. Cal. N. R.R., FD 32821, slip op. at 6-7 (STB served July 20, 2001) (holding that an embargo temporarily excuses the duty to provide service on reasonable request but does not permanently eliminate the common carrier obligation under 49 U.S.C. § 11101(a)). In Mendocino Railway—Petition for Declaratory Order, FD 36868, the California Coastal Commission also argued that the MRY Line “is not connected to the interstate rail network” because the GRTA Line “has been embargoed and inoperative for 25 years.” Cal. Coastal Comm’n Reply 4-5, Aug. 11, 2025, Mendocino Ry.—Pet. for Declaratory Ord., Cal. FD 36868. That argument is incorrect for the reasons given herein.

<sup>18</sup> MRY correctly notes that if GRTA’s argument were correct, then not only would the MRY Line be considered severed from the network, but so would the northern portion of the GRTA Line which GRTA has railbanked and needs as part of its plan to establish the Great Redwood Trail. (MRY Reply 24 n.62, 60, June 17, 2024.)

<sup>19</sup> Given the other grounds for denying adverse abandonment discussed below, the Board need not address GRTA’s argument that MRY’s movement of materials and equipment for the environmental restoration project and AT&T utility improvements discussed above, supra note 4, do not fall under the Board’s jurisdiction because they involve “maintenance of the MR[Y] Line.” (GRTA Rebuttal 8-9, Nov. 29, 2024.)

Moreover, the Board finds that MRY has taken reasonable steps to attract additional traffic, including by maintaining the MRY Line so that it can continue to support both the Skunk Train and freight rail service. MRY avers that it has invested more than \$30 million in the MRY Line over the last 20 years, including half of its annual revenues each year over the last decade. (MRY Reply, V.S. Pinoli 10-11, June 17, 2024.) Between 2015 and 2019, MRY claims to have spent over \$3.5 million to address hillside stabilization around Tunnel No. 1, to make it ready for restoration. (*Id.*; *see also id.*, V.S. Pinoli Attach. 3 at 4.) Notably, MRY has spent nearly four years and over \$1.3 million to obtain the \$31.4 million RRIF Loan, of which \$21.5 million will be used for projects on the MRY Line, including projects to repair Tunnel No. 1, to improve bridges and tracks, and otherwise to restore rail service between Fort Bragg and Willits. (*Id.*, V.S. Pinoli 10-11, 15-16.)

The Board also finds that MRY has made reasonable efforts to market freight service to potential customers, as evidenced by its preliminary agreement with Grist Creek for the movement of at least 400 carloads annually between Willits and Fort Bragg, upon repair of Tunnel No. 1. (MRY Reply 31-32, June 17, 2024; *see also id.*, V.S. Pinoli, Attach. 15.) GRTA argues that Grist Creek has merely provided a letter of support and not an actual commitment and contends that there are no transload facilities in either Fort Bragg or Willits to load and unload aggregates. (GRTA Rebuttal 9, Nov. 29, 2024.) However, the letter from Grist Creek shows that its interest in shipping by rail is more than speculative. Indeed, Grist Creek states that the letter serves as “a preliminary agreement showing our intent, contingent upon the completion of necessary repairs to the tunnel along the CWR route,” and later refers to the letter as a “formal letter of intent.” (MRY Reply, V.S. Pinnoli, Attach. 15, June 17, 2024.) Moreover, Grist Creek provides an estimate of the number of cars it would ship on a weekly and annual basis, based on MRY’s current tariff rate. (*Id.*) Although GRTA contends that the letter is short of an actual contract, the Board does not require binding contracts in this circumstance, and the Grist Creek letter is certainly more than the “highly speculative” potential for future shipments rejected by the Board in Denver & Rio Grande. *See* AB 1014, slip op. at 10-11. As for GRTA’s allegation that there are not yet transload facilities that would allow for the loading or unloading of aggregates, Grist Creek itself acknowledges this, but it still pursues rail service and states that it is interested in exploring the availability and terms for such transload facilities. (MRY Reply, V.S. Pinnoli, Attach. 15, June 17, 2024.)

GRTA’s freight rail demand analysis does not support its argument that the PC&N warrants adverse abandonment. Relying on a *Feasibility & Market Analysis* performed by its witness, Marie Jones, GRTA argues that there is insufficient demand for freight rail service to justify the capital investment needed to rehabilitate the MRY Line: that is, MRY would not be able to recover its capitalization costs with earned income from freight revenues and therefore would presumably go bankrupt. (Appl. 39-40, *see also id.* V.S. Jones 22, 24.) In response, MRY argues that GRTA’s study is flawed because it fails to consider revenues from MRY’s excursion service and submits a verified statement from its own witness, Matt Gedney, to refute Jones’s findings. (MRY Reply, V.S. Gedney 18, June 17, 2024.) MRY contends that its Skunk Train passenger service and other revenues (e.g., the AT&T lease) “essentially cover” the fixed costs associated with maintaining and investing in the MRY Line, that the RRIF Loan will cover the MRY Line’s rehabilitation, and that any profit obtained through freight service can “help cover

any RRIF loan payments and provide a contribution toward profit and capital investment.” (MRY Reply 53, June 17, 2024; see also id., V.S. Gedney 7-10; id., V.S. Pinoli 18-20.) In rebuttal, GRTA’s witness conceded that this argument “seems like a fair criticism,” but contends that even accounting for Skunk Train and other revenues, MRV would need 1,187 freight carloads at a rate competitive with trucks to “break even” on MRV Line rehabilitation and annual operating costs. (GRTA Rebuttal, V.S. Jones 15, Nov. 29, 2024.)

GRTA raises for the first time in rebuttal the impact (or lack thereof) of Skunk Train and other revenues. GRTA, as the applicant, bears the burden of proof and, hence, its application (and the expert report appended to its application) should have considered all of MRV’s revenue sources when critiquing the MRV Line’s financial feasibility. See Denver & Rio Grande, AB 1014, slip op. at 14 (“[P]assenger service could factor into the PC&N analysis if revenue from existing or potential passenger service on a line might make more than a de minimis amount of rail freight service feasible.”). Raising these issues on rebuttal is not consistent with the Board’s precedent, especially where the remedy sought is removal of a line from the interstate rail network over the carrier’s objection. In any event, the Board will not second-guess MRV’s judgment about the need for, and usefulness of, a rail line, especially where, as here, the MRV Line is used for existing rail operations—both jurisdictional and non-jurisdictional. See Colo. Landowners, AB 857 (Sub-No. 2), slip op. at 7. As Gedney explained, “to the extent the possibility of freight service, and indeed the corridor itself, can be preserved through non-freight revenue sources, that is a good thing even if there is no active freight service over a period of time.” (MRY Reply, V.S. Gedney 8-9, June 17, 2024). The Board agrees. And to the extent a shipper wishes to move freight by rail between Fort Bragg and Willits in lieu of Highway 20—which GRTA’s own expert characterizes as a “winding two-lane highway [that] can only accommodate 48’ trucks,” (Appl., Ex. 12, V.S. Jones App. A 11)<sup>20</sup>—a fully restored MRV Line will afford it that option.

For these reasons, the Board finds that MRV has demonstrated a present and future need for use of its line.

#### Other Interests.

As noted, in assessing an adverse abandonment request, the Board considers not only present or future interest in rail service, but also other interests that may be implicated, including those of GRTA, the larger community, and the interstate rail network at large. See, e.g., N.Y. Cross Harbor R.R., 374 F.3d at 1180. In doing so, the Board is mindful of Congress’s intent that lines be kept within the rail system where possible and the MRV Line’s potential to support rail service to the shipping public. Norfolk S. Ry. 2008, AB 290 (Sub-No. 286), slip op. at 5-6; see also N.Y. Cross Harbor R.R., 374 F.3d at 1188 (criticizing the Board for failing to adequately

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<sup>20</sup> Fort Bragg and Willits are connected by Highway 20, which, due to the mountainous terrain, has “many tight curves and can accommodate only shorter trucks” operating at a low average speed. (Appl. Ex. 3, Ex. H at 2.) By contrast, Highway 101, which runs north to south through Mendocino County (and Willits) “is a two-lane highway which easily accommodates 53-ft trucks” capable of carrying 10,000 more pounds of freight than a 48’ tractor-trailer. (Id. at Ex. 3, Ex. H at 11.)

account for an “abandonment’s impact on rail service or on interstate commerce generally”). Here, GRTA contends that adverse abandonment of the MRY Line is necessary so that, in accordance with the GRTA Act, it may establish interim trail use/railbanking over the Middle Portion under the Trails Act. (Appl. 14.) GRTA further argues that excursion rail services could continue on the MRY Line, or the line could be converted into a pedestrian and bike trail that could connect to the Great Redwood Trail in Willits, which would be consistent with the State’s present plans for this area. (*Id.* at 32-33.) It also contends that adverse abandonment is needed to prevent MRY from improperly claiming federal preemption as grounds for not complying with certain local regulations and improperly using its status as a rail carrier to acquire land under state eminent domain laws having “nothing to do with constructing rail facilities.” (*Id.* at 42-46.)

GRTA’s interest in establishing interim trail use on the GRTA Line under the Trails Act is not enough to warrant removal of the MRY Line from the interstate rail network. First, the Trails Act expressly subordinates interim trail use to the “restoration or reconstruction [of railroad rights-of-way] for railroad purposes.” 16 U.S.C. § 1247(d). Although it is the GRTA Line Middle Portion that is proposed to be railbanked here (rather than the MRY Line), it would make little sense to force the abandonment of a line actively used for rail service, and for which a significant federal rail rehabilitation loan recently was granted, in favor of railbanking another carrier’s adjoining line. Second, as MRY contends, abandonment of the MRY Line is not necessary for GRTA to use the Middle Portion to support trail use, albeit outside the Trails Act through a “rails-with-trails” arrangement.<sup>21</sup> (MRY Reply 7, June 17, 2024.). There is generally no prohibition to a rail carrier permitting its right-of-way to be used for non-rail purposes so long as such uses do not interfere with common carrier rail service. Cf. Norfolk S. Ry.—Aban. Exemption—in the City of Greensboro, N.C., AB 290 (Sub-No. 404X), slip op. at 4-5 (STB served June 28, 2023) (“[T]he Board understands that rail carriers often sell, lease, or transfer parts of their rights-of-way under state law for other purposes, such as utility lines, and they are not required to seek Board authority to do so.”).

Under 49 U.S.C. § 10903(d), the Board is required to consider whether an abandonment will have a serious, adverse impact on rural and community development. The MRY Line traverses a rural area, and its abandonment would preclude the potential freight traffic from Grist Creek and other shippers. As explained herein, MRY has provided some occasional spot moves and has demonstrated that there is a potential for future traffic. Given these past moves and the

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<sup>21</sup> GRTA states that the GRTA Act includes an “express direction to railbank the GRTA Line in accordance with STB rules and the National Trails System Act,” (Appl. 5), which indicates that MRY’s proposed alternative would not satisfy the statutory directive regarding the precise manner in which the Middle Portion is converted into a trail. But GRTA has not disputed that it could accomplish this goal without using the Trails Act, namely, to create a trail using the right-of-way of the Middle Portion. Moreover, in Docket No. EP 777, the Board is considering a petition seeking to amend its railbanking regulations to allow parties to obtain railbanking authority under the Trails Act via the Board’s rail line discontinuance procedures, among other things. U.S. Dep’t of Interior & U.S. Dep’t of Justice’s Env’t & Nat. Res. Div. Pet. for Rulemaking 2, 13-17, 27- 30, Dec. 20, 2024, Joint Pet. for Rulemaking to Consider Amendments to Reguls. Governing Interim Use of Rights-of-Way as Trails (49 C.F.R. Part 1152), EP 777.

potential for future freight moves on the MRY Line, the Board finds that the proposed adverse abandonment would indeed have serious, adverse impact on this region.

As for GRTA's arguments regarding MRY's alleged misuse of federal preemption, such concerns can be addressed through other means. The Board has authority under 5 U.S.C. § 554(e) and 49 U.S.C. § 1321 to issue a declaratory order to eliminate controversy or remove uncertainty. See Bos. & Me. Corp. v. Town of Ayer, 330 F.3d 12, 14 n.2 (1st Cir. 2003); Delegation of Auth.—Declaratory Ord. Procs., 5 I.C.C.2d 675 (1989). Thus, it may issue an order addressing whether state and local regulations are preempted, including because the activities sought to be regulated are not "transportation by rail carrier." 49 U.S.C. § 10501(a); see also, e.g., Hi Tech Trans, LLC—Pet. for Declaratory Ord.—Hudson Cnty., N.J., FD 34192, slip op. at 4 (STB served Nov. 20, 2002) ("Preemption under section 10501(b) hinges on what can reasonably be considered to be part of 'transportation by rail carrier' under section 10501(a)."). The Board routinely issues preemption determinations, and GRTA may seek a declaratory order in the future should concerns arise.

Regarding GRTA's claims that MRY has improperly sought to use eminent domain powers as a rail carrier to acquire private property, generally, the Board's jurisdiction does not preempt a rail carrier's efforts to condemn property to construct or rebuild track. See Great Walton R.R.—Pet. for Declaratory Ord., AB 1242 (Sub-No. 1), slip op. at 7 (STB served June 23, 2020). "Eminent domain proceedings are governed by state law," and rail carriers are generally responsible for acquiring the land necessary to support their operations, including to the extent permitted by condemnation. See, e.g., Tongue River R.R.—Construction & Operation—W. Alignment, FD 30186 (Sub-No. 3) et al., slip op. at 16 n.50 (STB served Oct. 9, 2007). Indeed, MRY's status as a Class III rail carrier was apparently "not relevant" to the California Court of Appeal determination referenced above. (See supra note 16 & MRY Ltr., Attach. at 15 n.10, Jan. 13, 2026.)

Overall, on this record, GRTA has not satisfied the "heavy burden," Norfolk S. Ry. 2008, AB 290 (Sub-No. 286), slip op. at 5, to justify removing the MRY Line from the interstate rail network against the carrier's wishes under the PC&N test. The current and future potential use of the MRY Line to support rail service is enough to outweigh the public interests described by GRTA. See City of S. Bend, 566 F.3d at 1170-71; N.Y. Cross Harbor R.R., 374 F.3d at 1180; Yakima Interurban Lines Ass'n, AB 600, slip op. at 5-6. Denial of the proposed abandonment will therefore be consistent with the Board's duty to preserve and promote continued rail service. See City of S. Bend, 566 F.3d at 1168; N.Y. Cross Harbor R.R., 374 F.3d at 1187. For these reasons, GRTA's application for adverse abandonment of the MRY Line will be denied.

It is ordered:

1. The application for adverse abandonment is denied.
2. The motions to strike filed by TRANSDEF and MRY are denied as moot. TRANSDEF's surreply to GRTA's reply to TRANSDEF's motion to strike is rejected as an impermissible reply to a reply.

3. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, and Schultz. Board Members Fuchs and Hedlund concurred with separate expressions.

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BOARD MEMBER FUCHS, concurring:

I write separately to emphasize Member Hedlund’s insights regarding potential reforms to the Board’s railbanking/interim trail use regulations. See generally U.S. Dep’t of Interior & U.S. Dep’t of Justice’s Env’t & Nat. Res. Div. Pet. for Rulemaking, Dec. 20, 2024, Joint Pet. for Rulemaking to Consider Amendments to Reguls. Governing Interim Use of Rights-of-Way as Trails (49 C.F.R. Part 1152), EP 777. Exploring ideas that allow railbanking/interim trail use via the Board’s discontinuance authority could provide rail carriers and prospective trail sponsors with additional, lower-burden options for mutually agreeable solutions to preserve established railroad rights-of-way, promote network connectivity, and encourage the establishment of appropriate trails. I intend for the Board to consider, in the near future, the petition in Docket No. EP 777 addressing potential reforms.

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BOARD MEMBER HEDLUND, concurring:

While I join today’s opinion, I write separately to focus on a potential solution to one of the driving issues in this case. GRTA is statutorily charged with railbanking the Middle Portion of its line but is functionally prevented from doing so by the Board’s “stranded segment” doctrine, which currently prohibits us from authorizing abandonment of a line where it would result in another line (here, MRY’s) becoming jurisdictionally disconnected from the interstate rail network. However, as was noted in the R.J. Corman case, slip op. at 7 (now-Chair Fuchs and now-Vice Chair Schultz concurring), nothing in the Trails Act requires that our implementing regulations be tied to a line’s abandonment, which could be altered to allow for railbanking upon a grant of discontinuance authority. In fact, just such a change has been proposed by the U.S. Department of Justice in EP 777, which is currently pending. See supra, n.21. I encourage the Board to explore ideas that could avoid application of the stranded segment doctrine in situations such as this and provide a path forward for GRTA to railbank the Middle Portion of its line despite our denial of its request for adverse abandonment in this case.