

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-1033X

**Murray-Calloway Economic Development Corporation - Abandonment Exemption - In
Marshall and Calloway Counties, KY**

BACKGROUND

In this proceeding, the Murray-Calloway Economic Development Corporation (MCEDC) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of an approximately 7.5-mile rail line in Marshall and Calloway Counties, Kentucky. The line extends between milepost 30, near Hardin, and milepost 37.34, near Murray. If the notice becomes effective, MCEDC will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way. A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

MCEDC submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. MCEDC served the Environmental Report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)].¹ The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

The previous owner and operator of the line, Hardin Southern, operated a seasonal passenger excursion service under a lease agreement with the Mid-South Rail Heritage Foundation; however, tourist traffic has not been provided on the line since approximately 2004. In addition, the line has not generated any freight service since 2000. Accordingly, the proposed abandonment would not adversely impact the development, use, and transportation of energy

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-1033X.

resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

According to MCEDC, the line was built in approximately 1890, and it has been used primarily to transport outbound grain, agricultural products and lumber. More recently, the line was used for a seasonal passenger excursion service. Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. MCEDC intends to salvage rail, ties, and track materials from the line.

The National Geodetic Survey (NGS) identified three geodetic station markers in the area of the proposed abandonment, and has requested notification at least 90 days in advance of any activities that would disturb or destroy these markers in order to plan for their relocation. Accordingly, we recommend that MCEDC consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

MCEDC does not believe that the proposed project would have any adverse effect on prime agricultural land, and the Natural Resources Conservation Service (NRCS) submitted comments stating that the proposed abandonment would have no significant effect on the environment. Accordingly, the NRCS did not request any mitigation.

The U.S. Fish and Wildlife Service submitted comments stating that no significant adverse impacts to wetlands or Federally-listed threatened or endangered species are anticipated from this proposed abandonment. Accordingly, no further consultation pursuant to Section 7 of the Endangered Species Act is required and no mitigation is necessary.

The U.S. Army Corps of Engineers (Corps) has not submitted any comments regarding the proposed abandonment. Accordingly, SEA recommends that, prior to commencement of any salvage activities, MCEDC consult with the Corps regarding its requirements and, if applicable, comply with the reasonable requirements of the Corps. We also recommend that the railroad report the results of these consultations in writing to SEA prior to the onset of salvage operations.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts. SEA is providing a copy of this EA to the Corps for review and comment.

Trails Use

MCEDC believes that the right-of-way may be suitable for use as a trail or other public purpose, and SEA received a phone call from a citizen who indicated interest in converting the

line into a trail. SEA notes that the National Trails System Act (Trails Act), 16 U.S.C. 1247(d), gives interested parties the opportunity to negotiate voluntary agreements to use, for recreational trails, railroad right-of-way that otherwise would be abandoned.² The Trails Act is intended to preserve railroad rights-of-way for future railroad use. Under the Trails Act and the Board's implementing procedures (49 CFR 1152.29), a state or local government or private organization can request a trail condition. This process allows railroad rights-of-way to be preserved by allowing interim trail use on lines that otherwise would be abandoned.

HISTORIC REVIEW

MCEDC submitted an Historic Report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Kentucky Heritage Council (State Historic Preservation Office or SHPO) pursuant to 49 CFR 1105.8(c). In the Historic Report, MCEDC states that there are approximately 20 bridges on the line that are 50 years old or older, and MCEDC believes that these structures were generally built in 1890. At the time of this EA, the SHPO had not submitted comments and, therefore, SEA has not been able to consider the SHPO's opinion before determining whether the proposed project could affect historic properties. Accordingly, we are recommending a condition requiring MCEDC to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 CFR 800.2, SEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd/> to identify Federally-recognized tribes, which may have ancestral connections to the project area. The database indicated that the following Federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment: Eastern Band of Cherokee Indians of North Carolina, Miami Tribe of Oklahoma, and Peoria Tribe of Indians of Oklahoma. Accordingly, SEA is sending a copy of this EA to those tribes for review and comment.

CONDITIONS

SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. Murray-Calloway Economic Development Corporation shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

² The Board does not conduct an environmental review of a potential conversion to interim rail use/railbanking because it does not exercise sufficient Federal control so as to qualify as a "major Federal action" under NEPA. Only major actions by Federal agencies require environmental review.

2. Prior to commencement of any salvage activities, Murray-Calloway Economic Development Corporation (MCEDC) shall consult with the U.S. Army Corps of Engineers (Corps) regarding its requirements and, if applicable, shall comply with the reasonable requirements of the Corps. MCEDC shall report the results of these consultations in writing to the Board's Section of Environmental Analysis prior to the onset of salvage operations.
3. Murray-Calloway Economic Development Corporation (MCEDC) shall retain its interest in and shall take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. MCEDC shall report back to the Board's Section of Environmental Analysis regarding any consultations with the Kentucky Heritage Council (State Historic Preservation Office or SHPO) and the public. MCEDC may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this EA, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean who prepared this EA. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-1033X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Christa Dean the environmental contact for this case, by phone at (202) 245-0299, fax at (202) 245-0454, or e-mail at christa.dean@stb.dot.gov.

Date made available to the public: April 27, 2009.

Comment due date: May 12, 2009.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Anne K. Quinlan
Acting Secretary

Attachment