



MISSOURI FARM BUREAU FEDERATION

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July 21, 2017

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Regulatory Reform Task Force
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

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RE: Docket No. EP 738

The following comments are submitted on behalf of Missouri Farm Bureau, the state's largest general farm membership organization. We appreciate the opportunity to provide input to the Surface Transportation Board's (STB) Regulatory Reform Task Force.

When conversion of a rail corridor into a recreational use trail is proposed, we believe landowners whose property adjoins the rail corridor and/or is encumbered by an easement for the corridor should be provided notice and opportunity to present their views locally as part of the administrative record. Under the current process, the very landowners who would be most directly and adversely affected are neither notified nor provided adequate opportunity to express their views for the public record.

We urge the Task Force to recommend the following procedural changes:

- Public notice by the STB via local news outlets regarding railroad Notices of Exemption with explicit reference to the potential conversion of the rail corridor pending approval of a Notice of Interim Trail Use (NITU);
- A substantial public comment period and at least one locally held public hearing prior to certification or notification for interim trail use; and
- Consultation required by the STB as a condition for exemption in the absence of a response by government agencies that are subject to notification by exemption applicants.

A case in point is the pending conversion of 144.3 miles of rail corridor across central Missouri by Missouri Central Railroad Company (MCRR) (Docket No. AB 1068 Sub-No.3X). As participants to this proceeding, we requested actions outlined in the following paragraph (emphasis added) from our initial comment letter:

*In short, the scope of the potential impact of this proposed rail line abandonment and anticipated conversion to interim trail use relative to the environment, human health, economic interests, and public safety remains largely unknown. We urge the Surface Transportation Board to ensure that the **matters identified in the Environmental Assessment on which information is lacking be addressed** before the exemption becomes effective and interim trail use is authorized. Furthermore, we urge the Surface Transportation Board to conduct **public hearings at locations along the rail corridor for the purpose of promoting transparency** by providing an opportunity for those most directly affected to learn firsthand about this proceeding and have their views heard by representatives of the government agency that is conducting this proceeding. We respectfully suggest that the need for information by both the Board and local citizens warrants granting **a stay to allow time for further review and comment** by all concerned. Finally, if a stay is not granted, we request that **neither a Public Use Condition nor Interim Trail Use Condition be issued until the matters referenced previously are addressed.***

Public Comment

In its Final Environmental Assessment (EA), the STB's Office of Environmental Analysis (OEA) stated that the only comment letters received during the 15-day comment period were the two we filed. Given the circumstances, this is not surprising. Until hearing from attorneys seeking to represent those eligible to file compensation claims for property takings, many of the nearly 1000 landowners along the rail corridor were unaware of the proposal. Furthermore, the short timeframe (15 days) coinciding with the holiday season (December 12-January 2) was not conducive to public participation.

Despite lack of input noted by the OEA from the US Army Corps of Engineers (USACE), US Environmental Protection Agency (USEPA), US Department of Agriculture's Natural Resource Conservation Service (NRCS), and US Fish and Wildlife Service (USFWS), MCRR contended the EA included "recommended conditions to address all relevant environmental issues associated with the abandonment." Furthermore, MCRR stated "...all the concerns raised by MFBF are without merit or justification to hold a hearing or delay these proceedings." We respectfully disagree.

The OEA's final recommendations required MCRR to consult with USACE, USEPA, DNR, and USFWS prior to commencement of salvage activities. Our concerns included the impact of salvage activities on farmland, among which was the creation of new access points. The OEA followed up with MCRR in this regard and noted MCRR's response in the final EA. While we greatly appreciated the OEA's attention to this concern, additional potential impacts to farmland remained unaddressed. Consequently, we believe NRCS should have been included among the agencies with which consultation was required.

Public Hearing

In its January 6, 2015 decision adopting the OEA's recommendations, the STB stated its intent to address our requests for public hearings and a stay at a later date.

On February 12 we filed comments regarding a potential operator whose bid to acquire the section of railway proposed for abandonment had only then come to our attention. We also reiterated our request for public hearings.

On February 25 the STB issued a NITU and denied our requests for public hearings and a stay. In its decision the STB noted public hearings on proposed abandonments or trail use and public use requests are not required by the Board's regulations and have been held "only occasionally." The STB concluded public hearings were "not necessary."

As a grassroots organization, we believe landowners whose daily lives stand to be significantly disrupted by a proposed trail should be provided adequate opportunity to be heard by the STB as the government body with decisionmaking authority. Since October 2014 when MCRR formally initiated the proceeding cited, no such opportunity has been provided.

In closing, we urge the Task Force to advance our recommendations or comparable measures to improve transparency in the process in a manner that (a) makes information more readily available to landowners along the rail corridor, and (b) provides adequate opportunity for their views to be entered into the administrative record. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Blake Hurst". The signature is fluid and cursive, with the first name "Blake" written in a larger, more prominent script than the last name "Hurst".

Blake Hurst
President