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SERVICE DATE - LATE RELEASE NOVEMBER 14, 1996

SURFACE TRANSPORTATION BOARD

DECISION

S.B. Docket No. AB-43 (Sub-No. 163)

ILLINOIS CENTRAL RAILROAD COMPANY--ABANDONMENT--
BETWEEN ABERDEEN JUNCTION AND KOSCIUSKO, IN
HOLMES AND ATTALA COUNTIES, MS

Decided: November 12, 1996

On September 30, 1996, Illinois Central Railroad Company (Illinois Central) filed an application to abandon its 21.70-mile rail line between milepost H-0.20 at Aberdeen Junction and milepost H-21.90 at Kosciusko, in Holmes and Attala Counties, MS. Public notice was properly given.

Protests were filed by the City of Durant, MS, the Attala Company, Attala County, the City of Kosciusko, and jointly by the Mississippi Department of Transportation (MSDOT) and the Mississippi Public Service Commission (MSPSC). The latter four protests embrace requests for an investigation and for oral hearing. Comments in opposition were filed by MSDOT, State House of Representatives Member Mary Ann Stevens, jointly by the Attala Industrial Development Corporation and the Economic Development Authority of Attala County, and by the Mississippi Department of Economic and Community Development. The United Transportation Union filed a request for the imposition of labor protective conditions if abandonment is authorized.

Based on the protests and comments received, an investigation will be instituted to determine whether the proposed abandonment meets the criteria of 49 U.S.C. 10903. Protestants are advised that the Board's office of Public Services, telephone (202) 927-6184, is available to help them understand the Board's procedures and effectively present their evidence.

The existing record needs to be supplemented to enable the Board to render a fully informed decision. This order specifies information that should be submitted in the investigation. The following should be provided:

Illinois Central

1. Condition of Track and Bridges. Illinois Central should provide inspection reports verifying:
 - a) Illinois Central's statement that the track falls below FRA class 1 safety standards.
 - b) Illinois Central's estimate that three bridges require extensive rehabilitation.
2. Rehabilitation Cost. Illinois Central should provide support for all unit costs and quantities used to develop rehabilitation cost. Additionally, Illinois Central should explain:
 - a) Why all anchors need to be replaced.
 - b) Why approximately 25% of all ties need to be replaced. (According to Illinois Central's Exhibit D, this percentage is required to meet FRA class 1 safety standards only if the line has all defective ties.)
 - c) Why rail joint tightening is needed for the entire line.
 - d) Why the entire line requires resurfacing, in that only approximately 25% of the ties are being replaced.
3. Maintenance-of-Way (MOW) Expense. Illinois Central should provide support for all unit costs and quantities used to develop MOW.
4. Net Salvage Value. Illinois Central should provide support for all unit costs and quantities used to develop net salvage value.
5. Land value. Illinois Central should provide:
 - a) Proof that it possesses merchantable title to the land it is valuing (44% of total acreage).
 - b) Its calculation of total acreage for the line, including right-of-way width.
 - c) Support for its land value estimate.
6. Sale of The Line. Illinois Central should inform us regarding the status of the proposed sale of the line to MSDOT for \$500,000 (referenced in Representative Stevens' comments filed November 1, 1996) and explain any conditions of the sale.

Protestants

- land
- upon
- unit
1. Costing Errors. MSDOT should explain, with supporting detail, its allegation that Illinois Central’s cost calculations contain errors.
 2. Rehabilitation Cost, MOW, Land Value. If Protestants intend to challenge Illinois Central's rehabilitation cost, MOW expense, or value, they should provide fully supported estimates of what they think those figures should be.
 3. Net Salvage Value. Protestants' track appraiser, A&K Railroad Materials, Inc., should provide the "actual" estimated value based a site inspection" offered in A&K's letter of September 26, 1996. The estimate should include fully supported unit quantities and costs for each item included in net salvage.¹
 4. Sale of The Line. MSDOT should inform us regarding the status of its Purported offer of \$500,000 (referenced in Representative Stevens' comments filed November 1, 1996) for the line and explain its position regarding any conditions of the sale.

As noted, four Protestants have requested oral hearing. The modified procedure, rather than oral hearing, is normally used when it appears that substantially all material issues of fact can be resolved through the submission of written statements. 49 CFR 1112.1. Here, Protestants have not specified any matters that require oral hearing for their resolution. The Protestants do not support their assertions that administrative economy would be promoted ed by an oral hearing. Accordingly, the requests will be denied.

The environmental and energy conservation impacts of the proposed abandonment have been examined and found not to be significant. The Board's Section of Environmental Analysis (SEA) made public its environmental assessment (EA) of the proposal on November 4, 1996. SEA states that the abandonment as proposed will not significantly affect the quality of the human environment and that, therefore, the environmental impact statement process is unnecessary. However, SEA recommends that, if abandonment is authorized, certain conditions be imposed.

First, it notes that the Mississippi Department of Environmental Quality (MSDEQ) has expressed concern about contamination at a railroad-owned site near Kosciusko that MSDEQ identifies as the "ICG-Arnold Oil Site". Illinois Central has identified this site as a 150-foot by 250-foot parcel of land adjacent to the right-of-way near milepost 17.7. The parcel is included in the abandonment application but is not part of the right-of-way. Therefore, SEA recommends that the following condition be imposed on any decision granting abandonment authority: Illinois Central shall consult with the MSDEQ and not dispose of the 150-foot by 250-foot parcel of land adjacent to the right-of-way near milepost 17.7 until the remediation of the contamination is complete.

Next, SEA indicates that the Mississippi Department of Archives and History (SHPO) has stated that two brick arch bridges (at MP 14.60 and MP 15.60) are potentially eligible for the National Register of Historic Places. SEA recommends that the following condition be imposed on any decision granting abandonment authority: Illinois Central shall retain its interest in and take no steps to alter the historic integrity of two brick arch bridges at MP 14.60 and MP 15.60 until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

Finally, SEA notes that the National Geodetic Survey (NGS) has identified 11 geodetic markers along the rail line and requests 90 days notice to plan relocation of any markers that may be disturbed or destroyed. Therefore, SEA recommends that the following condition be imposed on any decision granting abandonment authority: Illinois Central shall consult with the National Geodetic Survey and provide it with 90 days' notice prior to disturbing or destroying any geodetic markers.

Comments on the EA are due on December 4, 1996. Interested persons may obtain a copy of the EA by writing to SEA at the Surface Transportation Board, Room 3219, Washington, DC 20423, or by calling Elaine Kaiser, Chief, SEA, at (202) 927-6248.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ Without benefit of a site inspection, A&K values all track material at its lowest possible value (scrap value) and assumes (erroneously) that all track is 90-pound. The estimate lacks specificity, in that no unit costs or salvage values by item are provided.

It is ordered:

1. An investigation into the proposed abandonment is instituted under the modified procedure. The parties must comply with the applicable provisions of 49 CFR 1112.1 through 1112.10.
2. The requests for oral hearing are denied.
3. In order to meet the new statutory time frames of the ICC Termination Act of 1995,² the schedule for filing verified statements is as follows:

Applicant's initial statements, including the additional data requested or required in this decision, will be due on November 29, 1996.

Protestants' initial and reply statements, including the additional data requested or required in this decision, will be due on December 9, 1996.

Applicant's reply and rebuttal statement will be due on December 19, 1996.

4. Except when good cause is shown, preliminary motions and requests for other relief will not be acted on prior to the date that all verified statements are required to be filed.

5. The decision is effective on the service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

² New section 10903 has not retained the specific Processing timetable found in former section 10904, but new section 10904 (ir. preserving the opportunity in former section 10905 to offer financial assistance for the continuation of rail service) has established a 4-month deadline after an application is filed for the submission of offers of financial assistance (OFA). In large part due to this 4-month deadline, which would seem to dictate a Board decision on the abandonment before the submission of an OFA, the Board has proposed new rules in Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903, S.B. Ex Parte No. 537 (S.B. served Mar. 15, 1996), calling for a Board decision on the merits of an application in all cases before the expiration of this month period or on day 110 after the application is filed. Day 110 in this case is January 18, 1997, a Saturday. Consequently, the Board's decision must be served by Friday, January 17, 1997.