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May 29, 2020

VIA E-MAIL

Ms. Diana Wood
Office of Environmental Assessment
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

**Re: STB Docket No. FD 36328, Ken Tenn Regional Rail Partners, Inc. –
Construction and Operation Exemption–In Obion County, Tenn. and Fulton
County, Ky.**

Dear Ms. Wood:

Ken Tenn Regional Rail Partners, Inc. (“KTRRP”), respectfully requests a waiver of the requirements of 49 C.F.R. §1105.6(a) because an Environmental Assessment (“EA”) rather than an Environmental Impact Statement (“EIS”), will be sufficient since KTRRP’s proposal is not likely to have a significant impact on the environment.

KTRRP is a non-profit corporation created by the Fulton County Industrial Development Authority of Kentucky and the Industrial Development Board of the City of Union City, Tennessee. KTRRP is seeking to construct and operate 11.4 miles of new common carrier railroad line in Obion County, Tennessee and Fulton County, Kentucky (the “Proposed Line”). A portion of the Proposed Line, 1.32 miles, will be built over existing but abandoned right-of-way.

KTRRP anticipates traffic to average one roundtrip per day subject to seasonal variability. Potential cargo will likely include agricultural commodities and products, industrial products and raw materials for industrial products, finished manufactured goods, energy commodities, and special cargo.

The Proposed Line will connect the Canadian National Railway (“CN”) (via the Union City Terminal Railroad) near Union City, Tennessee to the Hickman-Fulton County Riverport (“the Port”). The long-term plan for the region is to connect the existing rail line operated by the Tennken Railroad between Tiptonville, TN and Hickman, KY and the Union City Terminal Railroad between Union City, TN and Rives, TN in order to create a loop accessing CN at two

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interchange points and allowing rail access to the Port and Cates Landing in upper Lake County, TN.

In Finance Docket 35802, the Board granted construction and operating authority to the Northwest Tennessee Regional Port Authority to build a 5.5-mile rail line in Lake County, Tennessee connecting the Port of Cates Landing on the Mississippi River to the Tennken Railroad near Tiptonville, TN.¹ As part of this decision, the Board issued a Final Environmental Assessment on March 30, 2016.

On November 26, 2019, the Office of Environmental Analysis (“OEA”) granted the request of KTRRP to waive the six-month pre-filing notice generally required for construction projects under 49 C.F.R. § 1105.10(a)(1). In the time since OEA approved KTRRP’s request:

- OEA approved KTRRP to engage CSR Engineering, Inc. (“CSR”) as a third party independent environmental consulting firm;
- KTRRP, CSR, and OEA executed a Memorandum of Understanding for handling the environmental and historic issues presented by this construction application;
- CSR submitted a Final Work Plan for Environmental Analysis and Preparation of Appropriate Environmental Documents to OEA.

In addition, on February 28, 2020, OEA mailed consultation letters to federal, state, tribal, and local agencies. According to KTRRP’s accounting, OEA has so far received responses from the following agencies:

- U.S. Army Corps of Engineers (“USACE”);
- Natural Resources Conservation Service (“NRCS”) – Kentucky;
- Tourism, Arts and Heritage Cabinet Kentucky Heritage Council;
- U.S. Department of the Interior Fish & Wildlife Service (“USFS”);
- Tennessee Historical Commission State Historic Preservation Office.

On March 19, 2020 OEA invited the Federal Railroad Administration to participate in the NEPA process as a cooperating agency in the event that KTRRP pursues United States Department of Transportation funding.

In late April 2020, OEA was to conduct a site visit, however, travel restrictions imposed in response to the COVID-19 Pandemic has made that site visit impossible at this time. Instead, on May 8, 2020, CSR presented to OEA and KTRRP a set of preliminary maps displaying the preferred route centerline with a 1.0-mile corridor (0.5 miles either side of centerline) (“Project Corridor”). CSR’s preliminary maps highlight road crossings (transportation), streams, wetlands, Clean Water Act 303(d) listed streams. Federal Emergency Management 100-year

¹ *Northwest Tennessee Regional Port Authority – Construction and Operation Exemption – In Lake County, Tenn.*, STB Finance Docket 35802 (served Apr. 21, 2016)(“Cates Landing”).

flood plain (water resources) and potential noise & vibration impact areas. CSR also presented its initial research on endangered species and hazardous waste resources along the corridor.

Under 49 C.F.R. §1105.6(a), an EIS “will normally be prepared for rail construction proposals.” However, section 1105.6(d) provides that an applicant can request that the Board instead evaluate a project through an EA, rather than an EIS, if the applicant demonstrates that a proposal is not likely to have a significant environmental impact.

(2) Transportation System

The Proposed Line is intended to bring an additional transportation mode that enhances options for Kentucky customers of the Port, tenants of the Port located on neighboring Port owned industrial property, and other neighboring industrial facilities. In Tennessee, companies located at the Northwest Tennessee Industrial Park will benefit from the additional rail transportation option that the Proposed Line will create. Movement of traffic over the Proposed Line by rail instead of truck will be beneficial due to the reduce highway congestion and associated air and noise pollution and energy consumption. As such, it is not expected that construction of the Proposed Line will divert passenger or freight traffic to other transportation systems or modes.

The majority of the roads listed within the Project Corridor are secondary roads or private roads. In Obion County, TN, the Proposed Line will cross six private roads (a combination of driveways and field roads) and one public road – Armstrong Boulevard – classified as Functional County, Average Daily Traffic “ADT” = 169.

In Fulton County, KY, the Proposed Line will cross three private roads (driveways and an entrance to a business) and seven public roads. These public roads include:

- 4 Public State Roads classified as local: Rural/Urban, ADT = < 50;
- State Road 1463 classified as Minor Rural Collector, ADT = 601 in Hickman City Limits, ADT = 241 outside City Limits;
- State Roads 125 & 166 classified as Major Rural Collector, 125 S of Merge ADT = 1497, 166 E of merge ADT = 1524, 125/166 merged ADT = 2516.

(3) Land Use

CSR’s preliminary maps indicate that the Proposed Line will primarily cross agricultural farmland. OEA contacted local regional planning agencies but has yet to receive any response.

The Proposed Line extends 11.4 miles and is anticipated to be 100 feet wide totaling approximately 139 acres. On one segment of the line near Hickman, KY, a banking/slope easement may be required.

(4) Energy

The Proposed Line will result in new rail traffic, creating a modest net increase in energy use for train operations. Once fully operational, KTRRP anticipates an average of nearly one roundtrip train per day with seasonal variability totaling an estimated 275-300 trains each year. The proposed action will have no adverse effect on recyclable commodities. No diversions of existing traffic from rail to motor carriage is expected to occur as the Proposed Line is intended to divert existing and future motor carriage to rail.

(5) Air

Under 49 CFR §1105.7(e)(5)(i)(C), “[f]or a proposal under 49 U.S.C. 10901 (or 10502) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.” KTRRP anticipates traffic to average close to one roundtrip per day once the Proposed Line is fully operational and therefore, KTRRP does not expect that the traffic to be handled over the Line will exceed the traffic threshold of 8 trips per day.

(6) Noise

Anticipated traffic volume can be expected to lead to a corresponding increase in noise levels. However, none of the agencies contacted by OEA have raised any noise concerns and according to CSR’s preliminary maps there do not appear to be any sensitive noise receptors located in areas immediately adjacent to the Proposed Line.

(7) Safety

The Proposed Line is not expected to have an adverse impact on public health. A Phase I Environmental Site Assessment will be performed to identify recognized environmental conditions both within the 1.0-mile corridor and within 100 feet of the proposed/alternative rail routes.

Traffic delays are not expected to materially impact public safety. Any delay would be less than 5 minutes calculated by adding the 30 second warning time before and after a train travels through an intersection with the average of less than 1 minute for a 15-18 car train.

Crossings will be designed following the Federal Railroad Administration (FRA) and Federal Highway Administration (FHWA): Highway-Rail Crossing Handbook, Chapter 3- Treatment Selection Guidance. For this project, KTRRP is proposing a combination of active and passive warning and control devices at all rail crossing intersections. For the 5 low-traffic public road crossings that are designated as Local Rural/Urban and/or County Functional a passive design will be considered. For KY State Routes, 166, 125 and 1463, fully active warning systems consisting of signals, lights and gates will be considered.

(8) Biological Resources

OEA and CSR are consulting with USFS and state agencies to determine whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as critical habitat. On March 17, 2020, USFS responded on behalf of itself and its Tennessee and Kentucky Field Offices.

USFS recommended that OEA and CSR obtain a species list from its Information for Planning and Consultation website where OEA can identify all federally threatened or endangered species and designated critical habitat that may be present within KTRPP's proposed project. If OEA determined that KTRPP's project will affect these resources, OEA is required to consult with the USFS.

Following USFS's recommendation, CSR did not identify any critical habitat. But CSR has identified the following:

- 3 Federally listed mammals (Gray, Indiana and Northern Long-eared Bats);
- 1 Federally listed bird (Least Tern);
- 1 Federally listed clam (Fat Pocketbook);
- Obion Co. USFWS-1 listed endangered fish;
- Obion Co. TN Natural Areas-5 threatened/endangered vascular plants, 1 endangered bird;
- Fulton Co. KYFWS-42 recent/historical threatened/endangered species;
- Fulton Co. KY Office of nature Preserves 23 'rare' plants.

Specific inquiries will be made to USFS requesting verification and mitigation.

(9) Water

OEA consulted with state water quality officials to determine whether the proposed action is consistent with applicable Federal, State or local water quality standards. To date, OEA has received no responses.

The Proposed Line is expected to impact waters of the United States, including streams and wetlands. North Reelfoot Creek, a 303d listed stream, is the largest water crossing and will require jurisdictional waters determination and review by the USACE. Permits may be required from the USACE and KY and TN state agencies.

(10) Cultural Resources

OEA consulted with the Kentucky and Tennessee state historic preservation offices: Tourism, Arts and Heritage Cabinet Kentucky Heritage Council ("KY SHPO"), Tennessee Historical Commission State Historic Preservation Office ("TN SHPO").

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The KY SHPO states that a “cursory review of the project area depicted on the map included with the letter indicates the project has the potential to affect historic resources.” Although, it did not say what those historic resources may be. The KY SHPO continued that there “has been little archaeological or cultural historic survey within the project area.” The agency anticipates the need to conduct such a survey.

Similarly, the TN SHPO requested additional information and an archaeological survey.

Additional Information

The Proposed Line will connect to existing lines of common carrier railroad. As part of this project, KTRRP proposes to utilize 1.32 miles of existing but abandoned right-of-way. CSR will initiate evaluation for Alternative Routes within the 1.0-mile Project Corridor and will coordinate with OEA and KTRRP in proposing and mapping the Alternative Routes.

Considering the foregoing review, KTRRP respectfully requests that the Board evaluate KTRRP’s proposed rail line through an EA because it is not likely to have a significant environmental impact. Further, in the *Cates Landing* project – also located in Lake County, TN – the Board chose to evaluate the project under an EA instead of an EIS.

Sincerely,



Justin J. Marks
*Counsel for Ken Tenn Regional Rail
Partners, Inc.*