

SERVICE DATE – FEBRUARY 1, 2011

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 449 (Sub-No. 3X)

**Western Kentucky Railway, LLC – Abandonment Exemption –
Webster, Union, Caldwell, and Crittenden Counties, Ky.**

BACKGROUND

In this proceeding, the Western Kentucky Railway, LLC (WKRL) filed a notice under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 to abandon 5 lines of railroad in Webster, Union, Caldwell, and Crittenden Counties, Kentucky. The rail lines pass through the Kentucky communities of Sturgis, Sullivan, Blackford, Wheatcroft, Clay, and Providence. According to WKRL, the rail lines proposed for abandonment are, when taken together, 39 miles long and constitute all the rail lines owned by WKRL.¹ The proposed abandonment includes the following line segments: (1) between Milepost 48.0 at Dekoven and Milepost 62.5 at Blackford, an approximate distance of 14.5 miles; (2) between Milepost 0.00 at Blackford and Milepost 3.8 at Pyro Wye and between Milepost 3.8 and Milepost 8.5 at Clay, an approximate distance of 8.5 miles; (3) between Milepost 0.0 at Costain Prep Plant and Milepost 9.5 at Providence, an approximate distance of 9.5 miles; (4) the Wheatcroft Loop which connects line 2 and 3 as described above between Milepost 0.8 ± on Line 3 and running north towards Milepost 5.6 ± and Milepost 6.0 ± on Line 2, an approximate distance of 1.0 mile; and (5) between Milepost 0.0 at Costain Prep Plant and Milepost 5.5 at Caney Creek, an approximate distance of 5.5 miles. WKRL certifies that no rail cars have used the line for at least two years and that no overhead traffic would have to be rerouted over other lines as a result of the abandonment.

WKRL states that in 1995, it acquired the rail lines now proposed for abandonment. In 2005, Genesee & Wyoming, Inc. gained indirect control of WKRL's assets. WKRL reports that since the change in management, there has been no freight service on the rail lines, and portions of track have been removed, and some scavenged without permission. WKRL believes that continued freight service is not a realistic alternative, but rather, that the right-of-way is suitable for recreational use or some other public amenity.

¹ In its initial filing of December 29, 2010, WKRL stated that the proposed abandonment included all of its remaining rail lines, even if some of the lines were inadvertently not included in the line descriptions. WKRL has since filed a supplemental statement, dated January 7, 2011, that states that it will be seeking abandonment authority for the 5 described rail lines only.

The right-of-way is generally 50 feet wide and the rail line traverses U.S. Postal Service Zip Codes 42459, 42604, 42404, 42450. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad would be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

WKRL 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. WKRL 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 C.F.R. § 1105.7(b)).² The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

WKRL states that no local traffic has moved over the line for at least two years and no overhead traffic would be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy 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

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other 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. Following abandonment, WKRL intends to salvage the rail, ties and track material, but will leave the roadbed, bridges, and culverts intact. WKRL does not intend to disturb subsurface resources or use heavy machinery that would cause ground disturbances, and further states that it will comply with all applicable federal, state, and local laws and regulations pertaining to the environment.

² The railroad's 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 449 (Sub-No. 3X).

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment. The proposed abandonment should not affect public safety because there has been no traffic on the rail line since 2005.

The U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) in Crittenden and Caldwell Counties commented that the proposed rail line abandonment would have no significant impact on the environment. OEA has not yet received comments from NRCS offices in Webster and Union Counties, but has included them in the service list for this proceeding so that they may receive a copy of this EA.

The U.S. Army Corps of Engineers (USACE) commented that it reviewed the proposed abandonment in accordance with the requirements of Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. Based on the information provided, USACE could not determine if the proposed action would result in the discharge of dredged or fill material into waters of the U.S., including wetlands. OEA believes that the proposed action would not result in such releases because WKRL has stated in its salvage procedure that it does not intend to disturb any ground or remove any bridges, culverts, or roadbed during the salvage process. However, in order to address USACE's comments, OEA is recommending a condition that requires WKRL to consult with the USACE prior to commencement of any salvage activities and, if applicable, to comply with its reasonable requirements.

The Kentucky Department of Environmental Protection (DEP) commented that the proposed abandonment should not have an adverse effect on the environment, and added that it does not have any comments on or objections to the proposed action. Therefore, OEA has determined that no further consultation with the Kentucky DEP is necessary.

The U.S. Department of Commerce, National Geodetic Survey (NGS) commented there are approximately 18 geodetic markers in the area of the proposed abandonment. Therefore, OEA is recommending a condition that requires WKRL to notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

Caldwell County commented that it had no opinion on the proposed abandonment. Webster County expressed concern about the salvage procedure and recommended that a local company perform the work. OEA has reviewed the railroad's salvage procedure and concludes that salvage would be conducted in a manner that would protect the environment to the greatest extent practicable. However, the Board does not have the authority to impose a condition that would require the railroad to hire a specific salvage contractor to conduct salvage operations. Therefore, OEA cannot recommend the imposition of a condition that would respond to Webster County's comment regarding the hiring of a specific salvage contractor. OEA has not received comments from Union or Crittenden Counties but has included all 4 counties in the service list for this proceeding so they may receive a copy of the EA.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this EA to the following agencies for review and comment: USFWS; USACE; NRCS; DEP; National Park Service; U.S. Environmental Protection Agency; Kentucky Department of Natural Resources; Kentucky Department of Fish and Wildlife Resources; Kentucky Transportation Cabinet; Kentucky Energy and Environmental Cabinet; Union County; Webster County; Crittenden County; and Caldwell County.

HISTORIC REVIEW

WKRL served the historic report on the Tourism, Arts and Heritage Cabinet, Kentucky Heritage Council (State Historic Preservation Office or SHPO) pursuant to 49 C.F.R. § 1105.8(c). In response to the historic report, the SHPO stated in a July 7, 2010 letter to the railroad that it needed additional information regarding 3 historic properties described in the historic report located within the second segment (between Milepost 0.00 at Blackford and Milepost 3.8 at Pyro Wye and between Milepost 3.8 and Milepost 8.5 at Clay) of the proposed abandonment. The sites consist of an old mine and associated buildings, a former locomotive shop, and a bridge at Blackford. However, in a follow-up January 3, 2011 letter to the railroad, the SHPO stated that upon close examination of pictures of the 3 sites included in the historic report, the old mine and associated buildings as well as the locomotive shop do not appear to be eligible for listing on the National Register but that it has insufficient information to provide a definitive assessment regarding the eligibility of the bridge at Blackford.

As the Section 106 process of the National Historic Preservation Act has yet to be completed, OEA therefore recommends a condition that requires WKRL to retain its interest in and take no steps to alter the historic integrity of the bridge at Blackford within the project right-of-way (Area of Potential Effect) that may be eligible for listing in the National Register 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."](http://www.stb.dot.gov/stb/environment/preservation.html)

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify any federally recognized tribes that may have ancestral connections to the project.³ The database indicated that the following tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the Area of Potential Effect). The tribes are: the Peoria Tribe of Indians of Oklahoma; the Miami Tribe of Oklahoma; the Delaware Nation; and the Eastern Band of Cherokee Indians. Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

³ Native American Consultation Database, <http://home.nps.gov/nacd/> (last visited January 11, 2011).

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. Prior to commencement of any salvage activities, the Western Kentucky Railway, LLC (WKRL) shall consult with the United States Army Corps of Engineers (USACE) regarding its requirements and, if applicable, shall comply with the reasonable requirements of the USACE.
2. WKRL shall consult with the U.S. Department of Commerce, 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.
3. WKRL shall retain its interest in and take no steps to alter the historic integrity of the bridge at Blackford (between Milepost 0.00 at Blackford and Milepost 3.8 at Pyro Wye and between Milepost 3.8 and Milepost 8.5 at Clay) within the project right-of-way (the Area of Potential Effect) that may be 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. WKRL shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the Tourism, Arts and Heritage Cabinet, Kentucky Heritage Council (State Historic Preservation Office) and the public. WKRL 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, OEA concludes that, as currently proposed and if the recommended mitigation is imposed, abandonment of the line will 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 rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public

use condition (49 C.F.R. § 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 of 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 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC 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 Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 449 (Sub-No. 3X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at woodd@stb.dot.gov.

Date made available to the public: February 1, 2011.

Comment due date: February 16, 2011.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment