

SERVICE DATE – JULY 3, 2012

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 117 (Sub-No. 8X)

**Elgin, Joliet & Eastern Railway Co.—Abandonment Exemption—
In Grundy County, Ill.**

BACKGROUND

In this proceeding, Elgin, Joliet & Eastern Railway Company (EJ&E) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of an approximately 2.26-mile rail line in Grundy County, Illinois. The line extends between milepost 27.91 and milepost 30.17 near Morris, Illinois. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, EJ&E will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

The applicant submitted an Environmental Report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The applicant 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)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

EJ&E states that no freight service has been provided on the line since 1991. In more recent years, the line was utilized by a private firm to test track geometry equipment.² However, EJ&E states that this use ended on May 1, 2009. Accordingly, no local traffic has moved over the line for at least two years, and because the line is stub-ended, there is no overhead traffic on the line. In addition, the proposed abandonment would not adversely impact the development,

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 117 (Sub-No. 8X).

² Track geometry equipment measures gage, alignment and track surface.

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. If abandonment authority is granted in this proceeding, EJ&E plans to salvage rails, ties, and other track materials, and salvage would be performed within the right-of-way and via existing access routes. In addition, EJ&E indicates that it plans to convey the right-of-way to the Illinois Department of Natural Resources (ILDNR). The line is adjacent to the Goose Lake Prairie Nature Preserve and Goose Lake Prairie State Park, and ILDNR plans to use the right-of-way to connect those properties for the purpose of increasing the quality of wetland and migratory bird habitat.³

According to ILDNR, the following State-listed threatened and endangered species are present in the project area: American Bittern, Northern Harrier, Common Moorhen, King Rail, Blanding's Turtle, Regal Fritillary, Eryngium Stem Borer, Redveined Prairie Leafhopper, Ear-leafed Foxglove, Grass Pink Orchid, Narrow-leaved Sundew, and Slender Sandwort. However, ILDNR states that the proposed abandonment would allow improvement in migratory bird habitats and it fully supports the proposed abandonment. No mitigation regarding Illinois threatened or endangered species is recommended.

Based on information on the U.S. Fish and Wildlife Service's (USFWS) website, the federally-listed threatened Eastern prairie fringed orchid and federally-listed endangered Indiana bat are found in Grundy County and may be present in the project area.⁴ Due to the temporary nature of the proposed salvage activities and the plans to increase the quality of wetland and migratory bird habitat following the proposed abandonment, OEA believes that potential impacts to these species could be appropriately mitigated through consultation with the USFWS pursuant to Section 7 of the Endangered Species Act. Accordingly, OEA recommends that, prior to beginning salvage activities, EJ&E consult with USFWS to discuss potential impacts to any federally-listed threatened or endangered species that may occur in the vicinity of the line. We also recommend that the railroad report the results of this consultation to OEA in writing prior to the onset of salvage activities. Should any potential impacts be identified, we are recommending that EJ&E consult with OEA and USFWS to develop appropriate mitigation measures.

³ In 2008, the Board approved the acquisition of control of EJ&E by Canadian National Railway Company and Grand Trunk Corporation subject to numerous conditions. According to EJ&E, the conveyance of the right-of-way to ILDNR would satisfy, in part, Voluntary Mitigation Condition 104, which was adopted in Canadian National Railway Company and Grand Trunk Corporation—Control—EJ&E West Company, FD 35087 (STB served Dec. 24, 2008) at 72.

⁴ Illinois County Distribution, Federally Endangered, Threatened and Candidate Species, <http://www.fws.gov/midwest/endangered/lists/illinois-cty.html> (last visited June 18, 2012).

The U.S. Fish and Wildlife Service's Division of Realty reviewed the proposed project and submitted comments stating that USFWS does not own any land or interests in land in the vicinity of the proposed project. Accordingly, USFWS does not have any concerns regarding real estate matters.

The Natural Resources Conservation Service submitted a letter stating that the proposed abandonment would have no impact on prime agricultural land, and the National Geodetic Survey submitted comments stating that no geodetic survey markers are located in the area of the proposed abandonment. Accordingly, no mitigation regarding prime agricultural land or geodetic survey markers is recommended.

The U.S. Army Corps of Engineers' Rock Island District (Corps) determined that the proposed abandonment would not involve the discharge of fill material in waters of the United States. Therefore, a Corps permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344) would not be required. However, the Corps recommended that EJ&E consult with ILDNR's Office of Water Resources to determine whether a floodplain development permit is required for the proposed abandonment. Accordingly, we are recommending that, prior to commencement of any salvage activities, EJ&E consult with ILDNR's Office of Water Resources regarding the abandonment's potential impacts to floodplains and comply with the reasonable requirements of the Office of Water Resources to mitigate any potential impacts.

The Environmental Report states that there are no known hazardous waste sites or sites where known hazardous material spills have occurred on the right-of-way. Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is necessary.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts.

HISTORIC REVIEW

EJ&E served the Historic Report on the Illinois Historic Preservation Agency (the State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). There are no structures on the line that are 50 years old or older, and based on available information, the SHPO has submitted comments stating that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected by the proposed abandonment.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that no known historic properties listed in or eligible for inclusion in the National Register would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this EA,

which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.⁵ The database indicated that the following tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way for the proposed abandonment: Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Hannahville Indian Community, Michigan; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Prairie Band of Potawatomi Nation, Kansas; Sac and Fox Nation of Missouri in Kansas and Nebraska; Sac and Fox Nation, Oklahoma; and Sac and Fox Tribe of the Mississippi in Iowa. Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

CONDITIONS

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

1. Prior to commencement of any salvage activities, Elgin, Joliet & Eastern Railway Company (EJ&E) shall consult with the U.S. Fish and Wildlife Service's Rock Island Field Office (USFWS) to discuss the abandonment's potential impacts to federally-listed threatened or endangered species that may occur in the vicinity of the line. EJ&E shall report the results of this consultation to the Board's Office of Environmental Analysis (OEA) in writing. Should any potential impacts be identified, the railroad shall consult with OEA and USFWS to develop appropriate mitigation measures.
2. Prior to commencement of any salvage activities, Elgin, Joliet & Eastern Railway Company shall consult with Illinois Department of Natural Resources' Office of Water Resources regarding the abandonment's potential impacts to floodplains and comply with the reasonable requirements of the Office of Water Resources to mitigate any potential impacts.

CONCLUSIONS

Based on the information provided from all sources to date, OEA 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 not necessary.

⁵ Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited June 12, 2012).

Alternatives to the proposed abandonment would include denial (and therefore no change in operations and no salvage activities), 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 four-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.

TRAIL 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 regulations at 49 C.F.R. § 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 **one original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Stoebner, 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 117 (Sub-No. 8X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Christa Stoebner, the environmental contact for this case, by phone at (202) 245-0299, fax at (202) 245-0454, or e-mail at christa.stoebner@stb.dot.gov.

Date made available to the public: July 3, 2012.

Comment due date: July 18, 2012.

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

Attachment