

There is No Legitimate Need for an Environmental Study Great Lakes Basin Transportation is Not an Honest Business Plan

Great Lakes Basin Transportation (GLBT) is a house of cards. Its chief promoter has absolutely no experience with the most complex transportation system in the world – America’s rail network. While a rail consultant has been brought into the management team, this person also does not have any direct experience with the fundamentals of the business plan being proposed.

But more important, GLBT is abusing the approval process and has intentionally put forward an intellectually dishonest proposal that is designed to prevent anyone from effectively challenging it, because there are no concrete details. The executives behind this attempt to snooker the public, investors, railroads, and *Surface Transportation Board* (STB).

GLBT are making a mockery of the approval process. What they are proposing is a shape-shifting creature in railroad form. When they need to impress people that there is a need for another Chicago railroad bi-pass, then GLBT proclaims they will handle 110 trains a day. When there are approval hearings, the shape-shifting GLBT then publicly states that 110 trains per day is far too many and the number is potentially 16 per day and could be fewer.

To impress people that the railroad will be built to the highest standards, avoid grade-crossings, and utilize the latest railroad technology for efficiency and safety, GLBT proclaims that the initial investment will be \$8 billion dollars and that they have investors’ lined-up. When called out on the absurdity of this excessive capitalization that an operating railroad will never be able to repay, then they state that the \$8 billion dollar figures they have repeated over-and-over are misleadingly and “are nowhere near that number.”

GLBT also admitted after 2 hearings last week that they do not have willing investors for the project. They have no financial commitments needed to develop, build, and implement their railroad. They do not even have any railroads supporting GLBT.

GLTB has been unclear and inconsistent as to whether their right of way will be 200 feet wide including a 50 foot wide right of way for unrelated potential profit-making unrelated infrastructure or whether they are actually demanding a 250 foot wide right of way. The length of the line and its approximate placement continues to change. GLBT’s latest story is that there will be a connection in swampland east of Milton with *Wisconsin and Southern* (WSOR). Initially, the proposal began in Illinois and then this was moved to a connection with WSOR in swampland west of Janesville near Brodhead.

GLBT has now adopted a curiously circuitous route that is longer and much-less direct than what was originally revealed. Evidently, they know that obtaining their right-of-way through key Illinois counties like DeKalb was not going to happen. Likewise, it makes little sense that the earlier route from the west side of Winnebago County to Boone County was changed to stay out of Winnebago – again, a sign that GLBT knows that they cannot win a fight with at least one powerful landowner there, because the proposed railroad serves no legitimate need.

These objectively demonstrable facts alone demand that STB halt the approval process immediately. There cannot be hearings when GLBT has intentionally misled the public and STB itself. There cannot be meaningful hearings until GLBT puts forth a consistent and rational proposal. There cannot be an environmental study until there is a legitimate plan that more-precisely identifies GLBT's route. Details matter.

GLBT's shape-shifting railroad has none. No one can come to these hearings with specific factual objections, because GLTB does not have a consistent plan. They dismiss legitimate concerns by adopting constantly changing routes, rail volumes, costs, and anything else. How can STB hold legitimate hearings when there is no real plan? How can STB allow the approval process to begin? Please stop enabling GLBT's charade.

Setting aside the many intellectually dishonest aspects before us today, the only way this project can happen is if eminent domain laws, never created to enrich a few business interests with risky and dubious schemes, are abused to allow GLBT to coerce landowners to sell their property. There is no need for any environmental studies when the plan has no details, the management dishonestly changes the plan to pretend concerns are irrelevant, and there is no legal process to coerce landowners to sell via eminent domain.

But let's assume for a moment that somehow GLBT corrupts the process and is allowed to unjustly bully landowners with its shape-shifting proposal. There still can be no legitimate application of eminent domain, because even when given the benefit-of-the-doubt, the GLBT business plan that is irrational and serves no real purpose. There is no need for an environmental study of any type based on the sketchy and constantly-changing GLBT proposal.

It doesn't matter why GLB has been unable to put together a workable and consistent business plan for their multi-billion dollar for-profit enterprise. Given it was only after 2 hearings were held last week that GLBT denied the scope of the project in-terms of finance and traffic volume, STB can only conclude that it has been the intent of GLBT to mislead, distract, and misdirect attention from the only issue that counts:

In its current form, GLBT's railroad is not needed, is not supported by the rail industry, cannot be adequately capitalized, will not generate reported freight volumes, cannot meet its fixed-costs, and cannot lawfully acquire its right-of-way via eminent domain.

Whether this is because of a lack-of understanding, incompetence, or outright fraud does not matter. The *Surface Transportation Board* and the approval process exists specifically to protect the environment, the public, the transportation industry, and investors from these types of boondoggles. There are 2 compelling issues, both of which GLBT fails to address, which demand that STB immediately halt this travesty being misrepresented as a Chicago rail bypass.

1. There is no need for the railroad GLBT is proposing. Railroads serving Chicago will not re-route 25% of rail carloads onto an extremely overcapitalized third-party line, short-hauling themselves. The system of rails in place for almost 150 years continues to work.

2. GLBT is being simultaneously misrepresented as a bridge route and a short-line. It cannot be both. There are no traffic studies that indicate GLBT will originate or terminate any carloads. It is disingenuous that GLBT continues to tell farmers with adjacent properties that they will have an option to load rail cars with their products. GLBT management knows this. Individual farmers have not shipped directly on railroads since the late 1800s! The connecting lines that would be needed to move individual farmer's carloads to points off GLBT do not want this traffic and will not provide acceptable levels of service on "loose-car" or even small groups of cars.

Before proceeding with an environmental study, it is reasonable and necessary to consider that GLBT's contradicting statements, shifting plans, and irrational economic justifications are intentional. They know that if they revealed details of this railroad, it could not stand up to scrutiny. This alone should force STB to stop this fiasco and not allow an unneeded environmental study.

If GLBT wants to build a legitimate railroad, they need to identify relatively specific route, legal plans to obtain the right-of-way, accurate and documentable traffic volumes, a verifiable breakdown of commodities that will be hauled, partnerships with local communities for emergency contingencies, and precise plans for non-railroad uses additional lands the seek along their right-of-way. Until then, STB has no choice but to tell GLBT that their shape-shifting fantasy is not a business plan and it does not merit serious consideration.

Hearings on moving forward with environmental studies gives false credibility to this potentially fraudulent enterprise and will be misrepresented by GLBT as STB bestowing legitimacy on their inadequate proposal. GLBT is falsely hiding behind claims of "non-disclosure agreements" and proprietary trade secrets to keep the public and STB uninformed as to what their proposal is actually designed to do.

There are many reasons to immediately deny GLBT's proposal. Let's look at the 2 most compelling reasons to immediately stop GLBT, because it is clearly not a project that can be completed within applicable laws, cannot document a need to exist, does not have the rail industry's support, cannot raise enough capital to finance construction, and will not be able to operate and cover construction cost let alone earn a profit.

Eminent Domain Cannot Be Lawfully Used

The right of a government or its agent to take private property for public use, with payment of compensation, is based on the principle that a legitimate and compelling need exists that is in the public's interest to resolve. While proposals to abuse this legal doctrine are becoming common with private for-profit enterprises misrepresenting themselves as government "agents", GLBT certainly does not qualify as an agent acting on behalf of a government.

It also has failed to demonstrate a need that is in the public interest to resolve and cannot demonstrate that, if built, it can meaningfully change anything. With no lawful ability to coerce landowners with eminent domain claims, this project will not go forward and there is no need for

an environmental study. More importantly, GLBT refuses to provide any data or evidence of any type to support wild claims that they will run 110 trains per day. This is more than 11,000 carloads daily. In fact, this claim is so absurd that, even though it has been recently and repeatedly thrown around, last week GLBT had to admit such statements were wildly false.

Even if we accept that GLBT is somehow an “agent” for a government body, which it clearly is not, it would still be their burden of proof to document a compelling need, a rational business plan, specific details of how that plan could be implemented, and traffic studies to identify the volume and commodities that would be handled. No one can justly and legally claim that anything put forward by GLBT to-date serves the public interests with a workable business model. In fact, last week GLBT management directly admitted they cannot make the proposal initially presented to STB work.

At best, their business plan is naive and impossible. No honest, accurate, and complete assessment of environmental impacts can be made, because the GLBT proposal does not contain consistent, accurate, and legitimate details. However, even if we accept GLBT faulty and now admittedly greatly misleading projection that they will divert 25% of rail traffic around Chicago, it becomes clear that typical payments of \$20,000 per acre to landowners is grossly inadequate compensation.

If GLBT can raise billions and billions of dollars for this pie-in-the-sky endeavor, and they have now admitted they cannot, the principle of eminent domain does not allow private business interests to coerce landowners to accept purchase offers that do not even begin to approach the value of the completed project for which they are being unjustly taken. In summary:

1. GLTB has failed to demonstrate there is a need for any environmental study as they do not have a serious business plan.
2. The use of Eminent Domain to “condemn” property for assignment to a private multi-billion dollar business is an unjust, unfair, and illegal use of this type of statute and established law.
3. GLBT has had years to prepare a business plan, line up on-line shippers, document the need for their proposal with legitimate traffic studies, and earn the public support of the rail industry and potential investor.

GLBT has not submitted a reasonable proposal that merits consideration by STB. There is no need, given the inadequacy of what GLBT has submitted, for an environmental study. STB has no choice but to deny this application and must do so immediately.

GLBT's Proposal is Inadequate, Unrealistic, Unworkable, and Potentially Fraudulent

It is not rational to assume that, after years of planning and discussion, GLBT still cannot objectively demonstrate why it is necessary to have an environmental study. GLBT still cannot identify how it will successfully raise money to capitalize an \$8 billion dollar railroad and then earn money diverting 25% of Chicago rail traffic.

Is this why, after hearing have started, they now state that all previous claims about train volumes of 110 per day are wildly inaccurate? GLBT is recklessly and negligently promoting a new railroad based on constantly-changing and inaccurate assumptions and promises that reasonably appear to be intentionally false. No rail construction of this magnitude has happened in America for more than 100 years! There is very good reason for this.

But before we look at possible motives for what increasingly appears to be a dishonest, fraudulent business proposal, we need to look at the history of rail development in the United States. It is not by happenstance that the term “robber baron” was created during the era of America’s rail development. STB cannot move forward with an environmental study if the preponderance of evidence suggests GLBT is promoting a potentially fraudulent scheme to enrich company insiders – a scheme with no legitimate transportation purpose.

Virtually all rail development in America was accomplished through fraudulent promotion and construction schemes where promoters extracted quick and large profits up-front. Construction contractors, usually directly or indirectly tied to each railroad promoter, then exploited remaining capital to take excessive profits with inadequate and often fraudulent construction practices. Once virtually every one of today’s rail corridors were completed, the operating railroad was burdened with a capital structure that was impossible to maintain and service.

Rail operations are not profitable under massive bonds and other debt instruments. Historically, rail operators could not invest in safety technology and environmental-friendly practices, because their first duty was to repay bloated and impossible financial burdens. Each and every surviving railroad today is comprised of predecessors that promoters, developers, and construction interests immediately drove into bankruptcy. Usually, politically-connected inside interests exploited this situation to purchase bankrupt rail lines for pennies-on-the-dollar.

In the 21st Century, we have seen this type of financial fraud over-and-over again; but since there has not been any significant railroad development in over 100 years, the largest financial frauds, scams, and failures have primarily been in energy, banking & financial services, airlines, and telecommunications sectors. But 100-plus years ago, these types of massive financial crimes were exclusively committed by railroad promoters and developers.

In-fact, after the Revolutionary War, in the year 1783, the United States was skeptical of and distrusted all corporate interests. The American Revolution was actually fought against the largest corporation of its day, *Dutch East India Company*, a charter trading company established in 1602 owned and controlled by the British Crown.

It took almost 100 years for Americans to accept the legitimacy of corporate business structures and this only happened when the amazing technology and promises of rail transportation became feasible. This new railroad development, however, was vastly more capital-intensive than any other business at the time. This is why Americans began to grudgingly accept corporate structures – it is a tool to raise huge amounts of investment capital.

Initially, raising capital via corporate structures was done via charters that not only demanded corporations document how they would serve the public interests, but also demanded that continuing to objectively serve those same public interest was necessary to continue operating

under corporate charters. Over time, the purpose of corporate charters has been warped. Serving the public interest is no longer part of a charter.

A series of legal precedents have twisted corporate charters to require no more than serving the interests of investors. This is why American railroad development was accomplished by massive business fraud, incidents where directly or indirectly, the public is stuck with expenses while promoters, major investors, executives, and insiders earn profits beyond avarice.

There are 2 types of lies:

1. **Lies of commission**, where false statements are made by individuals that should and do know better than to directly misstate or misrepresent facts or intentions.
2. **Lies of omission**, where critical information is intentionally left off the record so that the truth cannot be known.

GLBT is guilty of both types of lies and STB must immediately stop any further action on this rail project. The entire process of these hearings is a charade, because GLBT has made sure that the record is full of wildly inaccurate, contradictory, and unjustifiable claims that cannot be fact-checked. No one can accurately assess environmental impacts of this proposed rail line because GLBT has chosen to make this impossible.

Perhaps more importantly, GLBT's management misuses non-disclosure agreements and claims of proprietary business information to make it impossible for anyone to actually know what the true purpose of their railroad is. Last week, management even admitted that key statements being made to promote this sham were entirely inaccurate. The STB process of approval is being flagrantly abused.

There can be no honest and meaningful hearing process until GLBT is compelled to put objective facts and the sources for this information on record. To date, they have failed to do this. In fact, they have intentionally done the opposite. STB must acknowledge this and not allow what increasingly can be demonstrated to be a house of cards, which will enable financial fraud, to move forward with environmental studies.

Both GLBT and STB need to stop pretending that there is any legitimacy to move forward at this time. STB cannot allow itself to be hijacked, coopted to create distractions with grandiose schemes and claims that cannot be verified. There can be no environmental impact studies until GLBT puts forward a detailed, fully-sourced, and open plan. It is a travesty of justice to even allow these hearing to continue when the only parties with inside information refuse to bring any facts to the table.

If STB proceeds with a environmental studies based on the wholly inaccurate and inadequate information before us today, it will be making a serious mistake. If STB continues to falsely lend unwarranted creditability to what reasonably appears to be nothing less than a multi-billion dollar con, the Federal Government will be complicit with these shenanigans.

I urge everyone to remember, the very purpose of STB and its the approval process is to protect the public, the transportation industry, investors, and the environment. GLBT has miserably failed to earn any further consideration.