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SERVICE DATE – JULY 10, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-1033X

MURRAY-CALLOWAY ECONOMIC DEVELOPMENT CORPORATION—
ABANDONMENT EXEMPTION—IN MARSHALL AND CALLOWAY COUNTIES, KY

Decided: July 9, 2009

Murray-Calloway Economic Development Corporation (EDC) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 7.34-mile line of railroad, between milepost 30, near Hardin, Marshall County, KY, and milepost 37.34, near Murray, Calloway County, KY. Notice of the exemption was served and published in the Federal Register on April 22, 2009 (74 FR 18434-35). The exemption became effective on May 22, 2009.

By decision served on May 21, 2009 (May 2009 decision), the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA) and the exemption was made subject to the conditions that EDC shall: (1) consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers; (2) prior to commencement of any salvage activities, (a) consult with the United States Army Corps of Engineers (Corps) regarding its requirements; (b) if applicable, comply with the reasonable requirements of the Corps; and (c) report the results of these consultations in writing to SEA; and (3) (a) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places (National Register) until the section 106 process of the National Historic Preservation Act (NHPA), 16 U.S.C. 470f (section 106 process), has been completed; (b) report back to SEA regarding any consultations with the Kentucky Heritage Council (SHPO) and the public; and (c) not file its consummation notice or initiate any salvage activities related to abandonment (including removal of track and ties) until the section 106 process has been completed and the Board has removed this condition.

By letter filed on June 17, 2009, EDC requests removal of the section 106 historic preservation condition imposed in the May 2009 decision. EDC attaches to its request correspondence from the SHPO stating that while some or all of the bridges and culverts located on the right-of-way have the potential for listing in the National Register, it does not believe that the undertaking as proposed will impact them in an adverse way. Accordingly, it has determined that the project as proposed will have no adverse effect on historic properties. SHPO also states that, provided no changes to the project are made that impact structures over 50 years of age, no further consultation with SHPO will be required.

Pursuant to the section 106 regulations of the NHPA, and following consultation with the SHPO and the public, SEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. Therefore, based on the information provided, SEA recommends that the section 106 historic preservation condition imposed in the May 2009 decision be removed.

Accordingly, the proceeding will be reopened and the previously imposed condition will be removed. The other two conditions remain in effect.¹

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

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the section 106 historic preservation condition imposed in the May 2009 decision is removed.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary

¹ These conditions are self-executing and are not a barrier to consummation of this abandonment.