

**NORTHWEST TENNESSEE REGIONAL PORT AUTHORITY
RAILROAD CONSTRUCTION PROJECT**

Summary. The Northwest Tennessee Regional Port Authority (“Petitioner”), a public agency and political subdivision in the State of Tennessee, seeks Board approval to construct a new line of railroad (“the Line”), approximately 5.5 miles between the connection with the Tennken Railroad and Petitioner’s existing port facility located at Cates Landing on the Mississippi River in Lake County, TN. Petitioner believes the railroad line is essential to the port’s ability to attract traffic and to be competitive with other in-land river ports. Once constructed the Line would also serve a new industrial part about 3 miles from the Tennken Railroad connection and 2.5 miles from the Port.

Petitioner believes that the railroad construction project (“the Project”) has few environmental and historic challenges. The right of way would traverse open farm land a substantial distance from any homes, shopping areas, schools, tourist attractions, and hospitals. The area is largely undeveloped and flat, devoid of any unique land forms, significant wetlands, waterways, historic structures, and Indian tribal areas and cultural resources. The area population is very low. The Line would cross no more than one or perhaps two lightly travelled roads.

The port facility completed in the Summer of 2013 was the subject of an Environmental Assessment by the US Army Corps of Engineers (“USACE”) which found no significant environmental impacts. A copy of USACE’s report is

being furnished to the Office of Environmental Assessment (“OEA”) as part of Petitioner’s briefing book. Petitioner hopes that the OEA can reference that FONSI as part of its analysis thereby minimizing the amount of work that Petitioner’s independent environmental consultant would need to perform.

The project. As noted above, Petitioner’s port is a comparatively new facility located along the Mississippi River. It is unique in that it has the only developable land between the confluence of the Mississippi and Ohio Rivers on the north and the deep water draft at Baton Rouge, LA, on the south that does not need levee protection nor is in an elevated bluff. But the port facility is disadvantaged by its lack of rail access. The proposed railroad construction would remedy that defect by connecting the port with a line of railroad owned by the Tennken Railroad, a class III common carrier short line railroad that connects Dyersburg with Hickman, TN. Dyersburg is the location of Tennken’s only current connection with the national railroad system, the Chicago-to-New Orleans mainline of the Canadian National Railroad (former Illinois Central). The connection with the Tennken Railroad would be near Tiptonville, TN, a community of approximately 4,500 people. Aside from providing rail access to the port facility, Petitioner’s railroad would serve a new industrial park, Lake County

Industrial Park,¹ slightly more than halfway (3.0 miles) from the Tennken Railroad interchange. This aspect of the project is significant for its job creation potential as the area has significant unemployment.

Petitioner believes that its proposed railroad would be a “line of railroad” as the Board construes that term and would require a license to construct and operate under 49 U.S.C. 10901. Petitioner expects to “hold out” to provide rail service to the public at large, the test for common carriage under Board precedent, although it may contract out day-to-day operations to a short line railroad. Regardless of the nature of the line (“spur” versus “line of railroad”), Petitioner believes that Board authorization is required for construction under the agency’s *Effingham* line of cases. Petitioner will assemble the necessary right of way by purchasing land (about 70 acres will be required) from adjacent owners and, if necessary, through condemnation as a common carrier railroad. Petitioner represents that the entire railroad project will cost about \$11 to \$13 million to complete and is being funded by a combination of TIGER grant funds and funds appropriated by the State of Tennessee.

Environmental and historic impacts. Petitioner believes that construction of the line will have very few, if any, environmental and historic impacts. The area

¹ The park would be built in three phases starting with an initial 345-acre facility on the east side of the rail corridor. Phase two would be located on the west side of the corridor. Phase three would be located closer to the connection with the Tennken Railroad and on both sides of the rail corridor.

population is very low and there are no residences, tourist attractions, shopping areas, schools, and hospitals along or even near the right of way. The only major source of population along the Line would be a state prison located near the proposed industrial park. The line would cross only one or two lightly used roads at grade. These roads would serve the proposed industrial park and the port facility and would not be likely to be traversed by the population at large. While the Line is located a substantial distance from any US or US interstate highways, the State is building a new Two-Lane “Super Highway” as an extension of state highway 22 to serve the port facility. That road would run parallel to and about 2,000 feet from the Line. The nearest population center is Tiptonville, about 3 air miles from the railroad right of way. Other communities such as Wynnburg (population 43) and Ridgely (population about 1,800) are 5 to 10 air miles away. Accordingly, the land use and safety impacts should be very minimal.

The book furnished by the Petitioner to the OEA contains a proposal to undertake an environmental analysis by a consulting firm, Ensafé, as well as the aforementioned EA prepared by the USACE. Ensafé apparently had submitted a proposal to perform environmental work for the Petitioner but has not, as best I can ascertain, performed any work on this project. I don’t know if that would disqualify it as being eligible to serve as the independent environmental consultant for this project.

The Ensafé proposal summarizes USACE's findings of no significant environmental impact. As relevant here, Ensafé found that the affected properties are agricultural in nature and have "limited" habitat value. While the EA reports the presence of bald eagles and interior least terns as endangered species within Lake County, the associated Biological Assessment did not identify any such species within the proposed harbor areas or apparently along the rail corridor. Although the EA identified farm wetlands east and west of the rail corridor, none would appear to be affected by the rail line. Nor did the EA find any active or inactive hazardous waste sites. The Ensafé report noted that the Line would cross several small streams and would parallel a drainage channel for the agricultural properties and that the installation of several culverts and drain pipes would be required. Ensafé recommended a desktop review of potential Federally-listed threatened and endangered species. Finally as to archeological and cultural resources, the Ensafé report noted that USACE had performed such an assessment as part of its EA. Ensafé advised that it does not anticipate that such resources would significantly affect the routing, construction, or operation of the Line but that any Historic Report should comprise a "table-top" review of potential cultural resources southeast of the port/industrial area.

My conclusion is that there are few issues requiring any sort of extensive environmental study or even Board-imposed mitigation measures. After meeting

with the OEA to discuss the project, Petitioner will submit a waiver of the provisions of 49 CFR 1105.10(a) for a six months pre-filing notice along with a request to use an Environmental Assessment instead of an Environmental Impact Statement as the vehicle for the OEA's analysis of this project. We will promptly select the third party environmental consultant and seek the required approval.

