



EO-2809

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

July 5, 2016

Jay Johnson
Venable LLP
575 Seventh Street NW
Washington, DC 20004

Re: Docket No. FD 35952, Great Lakes Basin Transportation, Inc. —
Authority to Construct and Operate a Rail Line in Indiana, Illinois, and
Wisconsin; Information Request #1

Dear Mr. Johnson:

As you know, Great Lakes Basin Transportation, Inc. (GLBT) is seeking authority from the Surface Transportation Board (Board) to construct and operate a new rail line that would, according to GLBT, enable through rail traffic to bypass Chicago and provide more consistent and decreased travel times in the Midwest region. The proposed rail line would extend approximately 278 miles from southern Wisconsin, through Illinois to northwestern Indiana.

It has been two months since the Board's Office of Environmental Analysis (OEA) met with members of the public and other stakeholders at scoping meetings in Wisconsin, Illinois, and Indiana. We held these meetings to share information with and to receive information from stakeholders on the GLBT proposal. To date, we have received more than 3500 scoping comments. Commenters raise many concerns about environmental impacts that could occur if the proposed route were to be approved by the Board. In addition, commenters suggest other alternative alignments that they say should be examined as part of the Board's environmental review. According to commenters, these alternative alignments could minimize some of the potential environmental impacts of GLBT's proposed rail line construction. The alternatives include using underutilized rail routes and existing transportation corridors that, in the commenters' view, could minimize impacts to farms, homes, and businesses that would result from construction of the GLBT's proposed route.

Additional alternatives must be developed for consideration before OEA can issue the Final Scope of Study for the Environmental Impact Statement (EIS). At the heart of an EIS is the consideration of alternatives. See, e.g., Citizens Against Burlington, Inc. v. Busey, 938 F.2d 190, 194 (D.C. Cir. 1991); 40 CFR 1501.2(c). In addition to the route initially proposed by an applicant when the EIS process begins, the Board's EISs typically evaluate a number of potential alternative alignments and more minor route variations, as well as the No-Action (no-build) Alternative. Even if the applicant continues to prefer its original alignment, when environmental concerns are raised during scoping regarding potential environmental impacts of an applicant's preferred alignment, the applicant often develops alternative alignments to avoid environmentally-sensitive areas, proposes different routes that would use existing rail corridors, or suggests variations to its proposed route that could potentially be used for the project. When

developing potential routing alternatives and alignments, it is important that an applicant explain in detail how the alternative was decided upon and why other alternatives that might have been considered earlier were rejected. Environmental review is expedited where alternatives are developed and adequately explained early in the process. The early development of potential alternatives assures that there is ample opportunity for public comment and reduces the need to supplement environmental documents that have already been prepared to encompass new alternative(s).

Neither the regulations of the President's Council on Environmental Quality nor applicable case law requires a specific number of alternatives (or alternative alignments) to consider in EISs. Rather, Federal agencies must ensure that the range of alternatives considered is broad enough that options that might protect or even enhance the environment are not foreclosed. This means that a reasonable range of alternatives must be analyzed to meet the Board's obligations under the National Environmental Policy Act (NEPA). See 40 CFR 1502.14(c). See also questions 1, 2, and 3 of [NEPA's 40 Most Asked Questions](#). The number of alternatives comprising a reasonable range depends on the nature of the proposal and the facts in each case. We have had a few rail line construction cases in which various factors limited alternatives. For example, a proposed rail construction (FD 31989, The Elk River Railroad, Inc.—Construction Exemption—Clay and Kanawha Counties, West Virginia) would have operated on a slim tract of land between a mountain and a river. The topography of the area simply made it impossible for more than one alternative (in addition to the No-Action alternative) to be considered. For proposals involving longer lines without geographical or similar limitations, it is customary for applicants to develop more than one potential alignment and a number of route variations, and to explain how those alternatives were developed and why other alternatives would not be reasonable and feasible for the particular case.

According to your "Great Lakes Basin Route Narrative" submitted on March 7, 2016, GLBT began the process of designing a route in 2011. There are a few minor route variations mentioned in the discussion of each segment of the proposed route, but the variations are then dismissed for reasons only briefly outlined in the Narrative. Other than these variations, the Narrative presents only one alignment. There is no explanation in the information GLBT has provided to date to explain whether GLBT considered other potential alignments and variations and why they might have been rejected. Studies or other support for any such conclusions also has not been provided. Based on the information available to date on GLBT's proposal, it appears that consideration of one alignment may not allow the Board to meet its obligations under NEPA in this case.

Consistent with 40 C.F.R. § 1506.5(a), I am writing to ask your assistance in providing OEA with the following information:

1. On October 15, 2015, GLBT provided OEA with an alternative alignment for the proposed rail line construction. Subsequently, in a letter of on March 7, 2016, GLBT provided OEA with several items that they determined relevant to the proposed project: (1) a kmz file that shows GLBT's revised alignment for the proposed rail line; (2) a narrative that describes the alignment in detail, and explains why alternative alignments were not preferred; (3) and Excel spreadsheet that contains further information about the

specific features of the alignment, including road and rail crossings; and (4) a Power Point presentation that graphically represents the features of the alignment.

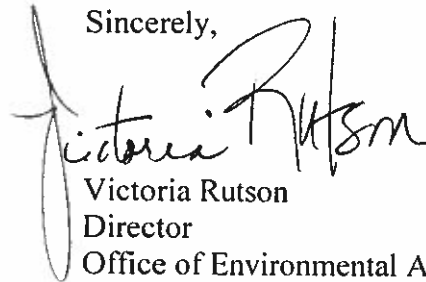
Please identify and explain the methodology and criteria used to determine the general placement of the October 15, 2015 and March 7, 2016 alternative alignments within the broader geographic region, including a description of geographic boundaries and environmental considerations. For example, the alignments are located approximately 30 to 50 miles south and west of Chicago. Were any routes or corridors closer to Chicago (e.g., 25 miles outside the city) or further from Chicago (e.g., 75 to 150 miles outside the city) considered? If none were considered, please explain why. If other general routes or corridors were considered but dismissed from further consideration, please provide maps and explain the rationale for their dismissal and identify the criteria used in this evaluation.

2. The “Great Lakes Basin Route Narrative” reviews GLBT’s original proposed and revised alternative alignments in 10-mile segments and includes a discussion of “Route Alternatives Considered” for each 10-mile alternative alignment segment. For each 10-mile alternative alignment segment that was considered but discarded, identify the dismissed alternative alignment by segment and specify the rationale and criteria used to dismiss it. For example, on page 11 of the Narrative, GLBT states that it “considered three alignments to cross the Illinois River from the south and four alignments from the north.” Identify each of the six dismissed alternative alignments and specify the environmental and engineering rationale for their dismissal. Repeat this exercise for all dismissed 10-mile alternative alignment segments along the entire length of the proposed rail line.
3. Provide maps and shape files for all the alternative alignments considered, including those that were dismissed by GLBT.
4. Detail and map the impediments between MP 180.00 to MP 190.00 discussed in the Narrative that resulted in GLBT dismissing the alternative alignment west of Rockford (which would have resulted in the proposed rail line ending near Brodhead, WI).
5. Were alternative alignments that could entail the use of existing rail corridors, either alone or in combination with new rail line construction, considered by GLBT? If not, using rail engineering standards, develop alternatives that consider these options. If you believe that such options are neither reasonable nor feasible, please explain.
6. Were other locations and sizes of the proposed railport near Manteno considered? If yes, identify the other locations and sizes that were considered and specify why they were dismissed and what criteria were used to conduct this evaluation.
7. Provide a list of any GIS layers used during your development and consideration of alternative alignments. Please provide the source of each GIS layer, including web-site links where available.

8. Using rail engineering standards, develop rail alternatives consistent with your purpose and need that minimize impacts to farms, homes, and businesses. If you believe that you are unable to do so, please explain why.

Thank you for your assistance in this matter. Please feel free to contact me or Ken Blodgett of my staff at 202-245-0305 or by email at blodgettk@stb.dot.gov, if you have any questions. I would appreciate two copies of your response, one sent to Ken Blodgett and one sent to Alan Summerville of ICF International, our independent third-party consultant. We look forward to receiving this information at your earliest convenience, but no later than August 29, 2016.

Sincerely,

A handwritten signature in black ink that reads "Victoria Rutson". The signature is written in a cursive style with a large, looping initial "V".

Victoria Rutson
Director
Office of Environmental Analysis

Attachment

cc: Kathryn Floyd