



1925 S. Meridian Rd
Rockford IL 61102-2397
Phone: (815) 962-0653
Fax: (815) 962-0022

Email: wbfmanager@live.com
www.winnebago-boonefarmbureau.org

Great Lakes Basin

Contrary to reports in the media, Great Lakes Basin (GLB) has not filed a petition or application with the Surface Transportation Board (STB) to approve its proposed approximately 280 mile rail line that would create a freight bypass around Chicago. Under 49 U.S.C. 10901(c), the STB must approve a proposal to construct or operate a rail line unless the STB finds that such activities are inconsistent with the "public convenience and necessity" (a broad public interest standard under which the STB weighs the transportation need or benefits against any kind of harm likely to result). The STB evaluates whether there is a public demand or need for the proposed service; whether the applicant is financially able to undertake the construction and provide rail service; and whether the proposal is in the public interest and will not unduly harm existing services. GLB may seek an exemption from the detailed application procedures of 49 U.S.C. 10901 which the STB must exempt if it finds that: (1) those procedures are not necessary to carry out the rail transportation policy; and either (a) the proposed project is of limited scope, or (b) the full application procedures are not necessary to protect shippers from an abuse of market power. See 42 U.S.C. 10502. Again, GLB has not filed an application or petition for exemption from the formal application process. If GLB seeks and the STB grants a petition for exemption from the formal application process, the STB may issue a conditional grant of authority, subject to consideration of the environmental impacts raised in the environmental review process required by the National Environmental Policy Act (NEPA).

According to the STB's Office of Environmental Analysis (OEA) a Notice of Intent to prepare an Environmental Impact Statement (EIS) will be published in the Federal Register and sent to potentially affected stakeholders. The ILFB and impacted County Farm Bureaus will receive a copy of the Notice of Intent. The Notice of Intent to prepare an EIS which is known as "scoping" enables the OEA to determine the scope of work for the EIS, after it provides opportunities for public participation and consultation with appropriate federal, state, and local agencies and other government entities. According to the OEA, the Notice of Intent may be published within the next 2 weeks and public meetings should be scheduled approximately 3 weeks thereafter. Landowners, who cannot participate in the public meetings, may also submit written comments on the GLB project page the STB will launch on its website. The scoping process can take anywhere from a few months to several years to complete.

At the conclusion of the scoping process, a Draft EIS is prepared that analyzes in detail the potential environmental impacts of the proposed construction, considers alternatives to the applicant's proposal, and makes recommendations for environmental mitigation. After the Draft EIS is issued, the STB will set up meetings for the public to have an opportunity to provide comments and input on the Draft EIS. The public has at least 45 days to comment on the Draft EIS and a 60 day comment period is common. Landowners will have the opportunity to comment on the Draft EIS during public meetings or by submitting comments on the GLB

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project page on the STB website. After the close of the comment period, a Final EIS will be issued that responds to the public comments, presents the results of any further environmental analysis, and incorporates final environmental mitigation recommendations. The STB then considers both the entire environmental record, and the record on the transportation issues, in deciding whether to authorize the construction as proposed, deny the proposal, or grant it with conditions, including environmental conditions and the requirement that the railroad use an environmentally preferable route or routes. See 49 CFR 1105.10(a), (f).

At this point in the process it is premature for landowners to negotiate with GLB for any easements or allow access to their property for surveying purposes. GLB does not have the right to conduct surveys on landowners' property for the proposed rail line. In addition, it has come to our attention that GLB asserts that if the STB approves the rail line, then GLB may exercise quick take eminent domain authority. We have reviewed the Eminent Domain Act, including 735 ILCS 30/25-7-103.9 which allows a rail carrier to exercise quick take subject to the terms and conditions set forth in Section 18c-7501 of the Illinois Vehicle Code. GLB's project does not meet the conditions set forth in Section 18c-7501 and does not have quick take authority under our Eminent Domain Act. In fact, no rail carrier has exercised quick take under Section 30/25-7-103.9 of the Eminent Domain Act.

Please review the links below which provide short summaries of the processes described above and information about the GLB project.

Summary of STB Process for new railroad construction projects:

https://www.stb.dot.gov/stb/public/resources_construct.html

Summary of Environmental Review Process before the STB:

<https://www.stb.dot.gov/stb/docs/Environmental%20Review%20Process.pdf>

Hyperlink for the STB Docket which has the filings submitted to the STB:

<http://www.greatlakesbasin.net/#!Surface-Transportation-Board/eim8/5678b1960cf2ee60dd7206d5>

Link for Great Lakes Basin project website:

www.greatlakesbasin.net<<http://www.greatlakesbasin.net/>>

Link to Key Cases before the STB: https://www.stb.dot.gov/stb/environment/key_cases.html

Laura Harmon, Senior Counsel
Office of the General Counsel
Illinois Agricultural Association and Affiliated Entities
1701 Towanda Avenue
Bloomington, IL 61702