

premium, in lieu of 20% of the bond premium.

The proposed increase in fees to Surety companies and small businesses will take effect on April 3, 2006.

SBA invites public comments on the above stated fee increase. Please clearly identify paper and electronic comments as "Public Comments on Fee Increases under the SBG Program," and send them to the contact person listed in the ADDRESSES section of the preamble.

**Authority:** 13 CFR 115.32(b) and (c) and 115.66.

**Frank Lalumiere,**

*Associate Administrator, Office of Surety Guarantees.*

[FR Doc. E6-2679 Filed 2-23-06; 8:45 am]

**BILLING CODE 8025-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34834]

#### State of Texas, Acting by and Through the Texas Department of Transportation—Acquisition Exemption—Union Pacific Railroad Company

The State of Texas, acting by and through the Texas Department of Transportation (TXDOT), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire the rights, title, and interest in certain personal and real property of a line of railroad from Union Pacific Railroad Company (UP). The line consists of a portion of the Bonham Subdivision extending between milepost 94.0 near Paris, and milepost 127.5 near Bonham, in Lamar and Fannin Counties, TX, a distance of approximately 33.5 miles.

The Board previously authorized the Fannin Rural Rail Transportation District (FRRTD), a political subdivision of the State of Texas, to acquire from UP and operate the above-described rail line through the offer of financial assistance process.<sup>1</sup> After having reached an agreement with UP for the sale of the line but before consummating the transaction, FRRTD sold its interests in the rail line to TXDOT. In consideration of FRRTD's agreement to sell its interests, TXDOT agreed to provide the funds to acquire the rail line from UP and to lease back the properties so that FRRTD, or its operator could perform freight rail service over the rail

<sup>1</sup> See *Union Pacific Railroad Company—Abandonment Exemption—In Lamar and Fannin Counties, TX*, STB Docket No. AB-33 (Sub-No. 163X) (STB served Aug. 19, 2003).

line.<sup>2</sup> The sale of the line by UP to TXDOT was consummated and closed on September 21, 2005.

TXDOT states that it will retain the residual common carrier obligation as part of its lease and operating agreement with FRRTD to ensure the viability of the corridor should FRRTD fail in its efforts to restore the line. TXDOT has filed this notice of exemption to cure its inadvertent failure to obtain prior Board approval of the sale to TXDOT rather than FRRTD.

The exemption authorized by this notice became effective on February 9, 2006 (7 days after the notice was filed).

TXDOT certifies that its projected revenues as a result of this transaction will not exceed those of a Class III rail carrier.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34834, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Richard H. Streeter, Barnes & Thornburg LLP, 750 17th Street, NW., Suite 900, Washington, DC 20006.

Board decisions and notices are available on our Web site at "<http://www.stb.dot.gov>."

Decided: February 15, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 06-1598 Filed 2-23-06; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34435]

#### Ameren Energy Generating Company—Construction and Operation Exemption—in Coffeen and Walshville, IL

By petition filed on February 5, 2004, Ameren Energy Generating Company (AEGC or petitioner), a wholly owned subsidiary of Ameren Corporation (Ameren), on behalf of itself and Coffeen and Western Railroad Company

<sup>2</sup> TXDOT states that an appropriate notice will be filed in the event an operator is hired by FRRTD.

(CWRC), its railroad subsidiary,<sup>1</sup> seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901, to allow the construction and operation of approximately 13 miles of rail line. The line would run between AEGC's Coffeen Power Plant near Coffeen, IL, and separate connections with the Union Pacific Railroad Company (UP) and BNSF Railway Company (BNSF) near Walshville, IL.

In a decision served on May 5, 2004, the Board instituted a proceeding under 49 U.S.C. 10502(b). On May 26, 2004, Norfolk Southern Railway Company (NS) filed a notice of appearance and initial comments, to which AEGC and CWRC replied on June 22, 2004.<sup>2</sup>

The Board's Section of Environmental Analysis (SEA) conducted an environmental review of the proposed construction and alternatives to the proposal. A detailed Environmental Assessment (EA), prepared by SEA, was issued for public review and comment on May 25, 2005. SEA then prepared a Post Environmental Assessment (Post EA) dated January 13, 2006. The Post EA considers all the comments received on the EA, reflects SEA's further independent analysis, and sets forth SEA's final recommended environmental mitigation.

After considering the entire record, including both the transportation aspects of the petition and the potential environmental issues, we will grant the requested exemption, subject to the environmental mitigation measures recommended in the Post EA, which are set forth in the Appendix.

### Background

Ameren's electric generating facilities provide energy services to 1.7 million electric customers and have a net generating capacity of more than 14,500 megawatts. The Coffeen Power Plant is a 900-megawatt facility and, at full capacity, can burn approximately 450 tons of coal to produce 6.7 million

<sup>1</sup> Through a wholly owned subsidiary, Ameren ERC, Inc., Ameren controls the Missouri Central Railroad Company (MCRR). See *Ameren Corporation—Control Exemption—Missouri Central Railroad Company*, STB Finance Docket No. 33805 (STB served Nov. 5, 1999). In addition, Ameren owns a 60% interest in Electric Energy, Inc. (EEI), an exempt wholesale generator with 1,087 megawatts of capacity. Through EEI, Ameren controls the Joppa & Eastern Railroad (JERR). Ameren has obtained authority to control MCRR, JERR, and CWRC. *Ameren Corporation—Control Exemption—Coffeen and Western Railroad Company*, STB Finance Docket No. 34498 (STB served May 10, 2004).

<sup>2</sup> By decision served July 9, 2004, the Board denied a motion filed June 2, 2004, by CWRC to strike as irrelevant and inappropriate NS's initial comments.

pounds of steam per hour. The plant annually receives approximately 2.5 million tons of coal, most of which comes via NS from the Monterey Mine near Macoupin, IL.

NS currently transports the coal south from the Monterey Mine toward St. Louis, MO, and then north to a connection with BNSF at Litchfield, IL. From Litchfield, NS operates via trackage rights on BNSF track southeast to Sorento, IL, where it returns to its own track again for the last 12 miles east to the Coffeen Power Plant. AEGC states that the final 12-mile stretch of track is an island of NS track because NS has abandoned the sections of track to the east and the west. According to petitioner, NS does not serve any other shippers on this segment.

AEGC states that, since 2003, the coal mine currently supplying coal to the Coffeen Power Plant has had occasional difficulties providing the tonnage that Ameren needs. This concern, along with Ameren's overall desire to lower fuel costs by maximizing the fuel source and transportation options at its plants, led Ameren to investigate rail service alternatives that would provide more flexible and reliable service from a broader range of coal mine origins.

AEGC states that Ameren considered various potential routes that might be available to connect the Coffeen Power Plant to the lines of both UP and BNSF, each of which has access to numerous coal mines throughout the West. One route (referred to here as Route A) would consist of an approximately 13-mile line that starts at Coffeen and travels southwest and roughly parallel to the NS track for approximately 1 mile. It would then cross the NS line and closely follow existing transmission lines until near its end, where it would fork into two short segments that connect to the separate lines of UP and BNSF, both of which are near Walshville.

A second route (referred to here as Route B) would require NS to voluntarily agree to sell, lease, or otherwise allow Ameren to use the existing 12-mile island track. AEGC would then construct a 5-mile rail line from a point near the end of NS's line at Sorento north to connections with UP and BNSF lines near Walshville. AEGC considers Route B preferable, but states that, if construction and operation of that line is not possible, it would construct and operate the longer Route A line instead. Either of the proposed rail lines would provide the Coffeen Power Plant with direct access to rail lines of both UP and BNSF.

AEGC states that Ameren would finance the construction of the line and

that CWRC would undertake the actual construction. The record indicates that CWRC might operate the line, or that Ameren might enter into a contract with another carrier to conduct the operations. In either case, the rail line would be operated as a common carrier rail line and other shippers could request service. AEGC states that, if another carrier were to operate the line, CWRC would retain a residual common carrier obligation to provide rail service.

AEGC states that the proposed build-out would increase competition by providing the Coffeen Power Plant with direct access to the services of two additional rail carriers. It explains that this increase in rail transportation options would increase the plant's fuel source options, thereby increasing plant reliability and decreasing the plant's total costs of operation. According to AEGC, this proposal is the kind of transaction that should qualify for an exemption from the prior approval requirements of 49 U.S.C. 10901. It notes that the ICC Termination Act of 1995<sup>3</sup> liberalized the public convenience and necessity (PC&N) test of section 10901 so that there is now a presumption that a proposed rail construction project should be approved.<sup>4</sup>

NS has not directly opposed the proposed construction. However, it has raised concerns about the use of the Board's summary class exemption procedures at 49 CFR 1150.31 when CWRC was authorized to become a common carrier.<sup>5</sup> NS does not specifically ask for revocation of the exemption in that proceeding, but states that it is "troubled" by CWRC's creation through the filing of a notice of exemption, and asks the Board to consider reviewing the class exemption procedures generally.

## Discussion and Conclusions

### *Rail Transportation Analysis*

The construction and operation of railroad lines require prior Board authorization, either through issuance of a certificate under 49 U.S.C. 10901 or, as requested here, by granting an exemption under 49 U.S.C. 10502 from the formal application procedures of section 10901. Under section 10502, we

<sup>3</sup> Pub. L. No. 104-88, 109 Stat. 803 (1995).

<sup>4</sup> Under 49 U.S.C. 10901, we must authorize the construction and operation of a new line "unless the Board finds that such activities are inconsistent with the public convenience and necessity."

<sup>5</sup> *Coffeen and Western Railroad Company—Lease and Operation Exemption—Near Coffeen, IL*, STB Finance Docket No. 34497 (STB served May 10, 2004). By that notice, CWRC obtained an exemption to lease from AEGC and operate approximately 0.2 miles of rail line near Coffeen, IL.

must exempt a proposed rail line construction from the detailed application procedures of section 10901 when we find that: (1) Those procedures are not necessary to carry out the rail transportation policy (RTP) of 49 U.S.C. 10101; and (2) either (a) the proposal is of limited scope, or (b) the full application procedures are not necessary to protect shippers from an abuse of market power.

Here, based on the information provided, we conclude that detailed scrutiny of the proposed construction and operation under 49 U.S.C. 10901 is not necessary to carry out the RTP, and that therefore the proposed construction project is appropriate for handling under the exemption process. The proposed rail line will increase the rail transportation options available to Ameren and its subsidiaries, as well as other area shippers, and thus will enable shippers to realize the benefits of increased railroad competition [49 U.S.C. 10101(1) and (4)]. Moreover, exempting the proposed construction and operation from 49 U.S.C. 10901 will reduce the need for Federal regulation, ensure the development of a sound transportation system with effective competition among rail carriers, foster sound economic conditions, and reduce regulatory barriers to entry [49 U.S.C. 10101(2), (4), (5), and (7)]. Nothing in the record indicates that the proposal would adversely affect other aspects of the RTP.

Use of the formal application procedures here is not necessary to protect shippers from an abuse of market power. Rather, the proposed rail line will provide the area with additional transportation options and enhanced competition. Given our finding regarding the lack of need for shipper protection, we need not determine whether the transaction is limited in scope.

NS does not oppose this build-out proposal. Nor is there any evidence on the transportation related aspects of this case suggesting that the construction proposal does not qualify for our exemption procedures or is otherwise improper. NS has expressed concerns about the procedure by which CWRC was authorized to become a common carrier in a different proceeding. However, this proceeding is not the appropriate vehicle for reevaluating our procedures in that case or our class exemption procedures generally. Consequently, we see no need on this record to address NS's concerns further.<sup>6</sup>

<sup>6</sup> We will not, as requested by NS (June 14, 2004 response at 8-9), make CWRC's authorization to be

### Environmental Analysis

In reaching our decision, we have also analyzed the environmental impacts associated with this construction proposal by fully considering the EA, Post EA, and the entire environmental record. Based on the environmental record, we have also assessed the two alternative routes that could be constructed and what environmental mitigation to impose.

#### 1. The Requirements of NEPA

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321–43, requires Federal agencies to examine the environmental effects of proposed Federal actions and to inform the public concerning those effects. *Baltimore Gas & Elec. Co. v. Natural Resources Defense Council*, 462 U.S. 87, 97 (1983). Under NEPA and related environmental laws, we must consider significant potential beneficial and adverse environmental impacts in deciding whether to authorize a railroad construction as proposed, deny the proposal, or grant it with conditions (including environmental mitigation conditions). The purpose of NEPA is to focus the attention of the government and the public on the likely environmental consequences of a proposed action before it is implemented, in order to minimize or avoid potential adverse environmental impacts. *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 371 (1989). While NEPA prescribes the process that must be followed, it does not mandate a particular result. *Mid States Coalition for Progress v. STB*, 345 F.3d 520, 533–34 (8th Cir. 2003). Thus, once the adverse environmental effects have been adequately identified and evaluated, we may conclude that other values outweigh the environmental costs. *Robertson v. Methow*, 490 U.S. 332, 350–51 (1989).

#### 2. The Environmental Review Process

As noted above, in this case an EA was issued for public review and comment on May 25, 2005. In the EA, SEA preliminarily concluded, based on the information provided from all sources as of the date of the EA, as well as its independent analysis, that the construction and operation of AEGC's proposed rail line (using either Route A

or Route B) would have no significant environmental impacts if the mitigation measures recommended in the EA were imposed. Prior to completion of the EA, AEGC had voluntarily proposed extensive environmental mitigation measures for the proposed project. SEA preliminarily recommended that we impose this mitigation, and some additional environmental conditions, on any decision granting the petition for exemption.

Comments on the EA were filed by: NS; the Illinois Environmental Protection Agency (IEPA); the United States Environmental Protection Agency, Region 5 (USEPA); the Natural Resources Conservation Service (NRCS); and the U.S. Fish and Wildlife Service (USFWS). AEGC replied to some of the comments. After considering the comments to the EA and the reply, SEA prepared a Post EA, dated January 13, 2006, in which it revised some of the mitigation recommended in the EA.<sup>7</sup> Specifically, SEA recommended the addition of the following mitigation: Mitigation measure 52, which addresses permitting requirements from IEPA; mitigation measure 50, which addresses Best Management Practices to prevent soil erosion; mitigation measure 28, which concerns drainage and potential erosion; mitigation measure 29, which addresses Best Management Practices for long-term maintenance of culverts and bridges; and mitigation measure 23, which imposes a 3-year mitigation monitoring and management program. Additionally, SEA recommends modifying its previously recommended mitigation measure 14, which concerns retention of woody debris and mulching. Finally, the Post EA states that the Illinois Historic Preservation Agency has completed its review under section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, and has concluded that no historic properties would be affected by the proposed project. Accordingly, SEA recommends that the mitigation measure that pertains to that process (former mitigation measure 47) not be imposed.

SEA determined that, with its final recommended mitigation, neither Route A nor Route B would have significant environmental impacts. However, SEA designated Route B as environmentally preferable, because it would require only about 4.6 miles of new rail line construction, compared to Route A's

approximately 13 miles of new line construction.

#### 3. Our Conclusions on the Environmental Issues

After carefully reviewing the entire environmental record, we adopt all of SEA's analysis and conclusions, including those not specifically discussed here. We are satisfied that SEA took the requisite "hard look" at potential environmental impacts and accurately identified and independently evaluated the potential environmental effects associated with the project.

With respect to alternatives, we identify Route B as the preferred alternative, because it would be shorter. But we also find that petitioner may construct Route A, because, as the analysis in the EA and Post EA demonstrates, construction and operation of either alternative would have no significant environmental impacts with SEA's final recommended mitigation conditions, all of which we will impose. A list of all of our conditions, including both the voluntary mitigation developed by petitioner and SEA's own mitigation recommendations, is set forth in the Appendix to this decision.

#### Other Matters

Finally, AEGC has requested that, if we grant its requested exemption, we should also revoke the exemption to the extent necessary to summarily issue a PC&N certificate in order to facilitate a potential crossing mentioned in its petition for exemption. Under 49 U.S.C. 10901(d), the Board may order a rail carrier to allow another constructing carrier to cross its property "[w]hen a certificate has been issued \* \* \*," so long as the construction and operation of the crossing do not materially interfere with the crossed carrier's operations and the crossed carrier is compensated. *Keokuk Junction Ry. Co. v. STB*, 292 F.3d 884 (D.C. Cir. 2002). However, in a construction exemption proceeding, the Board only issues a section 10901 certificate in response to a petition to cross. See *The Burlington Northern and Santa Fe Railway Company—Petition for Declaration or Prescription of Crossing, Trackage, or Joint Use Rights*, STB Finance Docket No. 33740 (STB served May 13, 2003). AEGC has not filed a petition to cross, but merely states that it "may need to seek crossing authority." It would therefore be premature to issue a section 10901 certificate at this time.

#### Conclusion

We find, after weighing the various transportation and environmental

a common carrier contingent upon the approval and construction of the proposed build-out. CWRC has already obtained the authority to be a common carrier in STB Finance Docket No. 34497. The additional authority granted to CWRC here, to operate the rail line proposed here, could only be exercised if this line is built; thus, there is no need to make this new operating authority contingent upon construction of the rail line.

<sup>7</sup>To the extent SEA's final recommended mitigation measures would affect AEGC's voluntary mitigation measures, AEGC agreed to SEA's recommended revisions.

concerns and considering the entire record, that the petition for exemption should be granted and that petitioner may build either Route A or Route B, subject to compliance with the environmental mitigation listed in the Appendix to this decision.

As conditioned, this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

#### *It is ordered*

1. Under 49 U.S.C. 10502, the Board exempts AEGC's construction and CWRC's operation of the above-described line from the prior approval requirements of 49 U.S.C. 10901.

2. The Board adopts the environmental mitigation measures set forth in the Appendix to this decision, and imposes them as a condition to the exemption granted in this proceeding.

3. AEGC's motion to revoke the exemption to the extent necessary to issue a PC&N certificate is denied.

4. Notice will be published in the **Federal Register** on February 24, 2006.

5. Petitions to reopen must be filed by March 16, 2006.

6. The decision is effective on March 26, 2006.

By the Board, Chairman Buttrey and Vice Chairman Mulvey.

**Vernon A. Williams,**  
*Secretary.*

## **Appendix**

### **AEGC'S Voluntary Mitigation Measures**

AEGC voluntarily proposes to incorporate the following mitigation measures into the proposed project.

#### *Transportation and Traffic Safety*

1. AEGC shall install, at its sole cost, the necessary signage, lighting, and safety warnings for all at-grade crossings as approved and permitted by the Illinois Commerce Commission (Routes A and B).

2. AEGC agrees to install, at its sole cost, flashers/gates at County Road 9/Panama Avenue to elevate safety at this grade crossing as requested by the Bond County Engineer (Route B only).

3. In order to minimize delays of vehicular traffic during construction of the road crossings, AEGC shall schedule the work so that construction of the roadway approaches would be completed before construction work within the roadway occurs (Routes A and B).

4. To the extent applicable, AEGC shall require the track contractor to pre-build track panels for the grade crossings (Routes A and B).

5. AEGC shall place detour signs and detour traffic around work sites as applicable. At least one month before road crossing construction would begin, AEGC shall notify and provide information to the nearest fire department and emergency

response units and notify the County, Illinois Commerce Commission and Illinois Department of Transportation of the planned roadway construction schedule (Routes A and B).

6. To the maximum extent feasible, AEGC shall construct the proposed grade crossings during the summer months when school is out of session. If road crossing construction cannot occur during the summer months, AEGC shall, at least one month before road crossing construction is scheduled to begin, notify and provide information to the applicable school districts regarding the days and times that road construction is planned. AEGC shall consider school bus schedules in planning and executing the necessary road work (Routes A and B).

7. AEGC shall coordinate with NS, as necessary, regarding construction of the proposed Route A crossing of NS in order to prevent construction activities from interfering with NS operations over its line (Route A only).

8. AEGC shall coordinate with NS, as necessary, to prevent rail operations over the proposed Route A crossing of NS from interfering with NS operations over its line (Route A only).

9. AEGC shall make reasonable efforts to identify all utilities that are reasonably expected to be materially affected by the proposed construction within the right-of-way. AEGC shall work with each utility to determine the appropriate project-related modification needed, if any, and enter into an agreement regarding the same, if necessary. AEGC shall pay all project-related costs associated with these modifications or adjustments (Routes A and B).

10. AEGC shall ensure that the contractor it selects to perform all maintenance and inspections shall do so in compliance with Federal Railroad Administration (FRA) standards. AEGC shall also ensure that its contractor uses practices recommended by American Railway Engineering and Maintenance of Way Association for project-related construction (Routes A and B).

11. AEGC shall limit the maximum train speed on Route A to 45 mph and on Route B to 40 mph (Routes A and B).

#### *Land Use*

12. AEGC shall work with farmers and ranchers to remedy actual damage to crops, pastures, or rangelands caused by project-related construction (Routes A and B).

13. AEGC shall negotiate with affected landowners to provide private crossings, where appropriate, to minimize severance impacts (Routes A and B).

14. AEGC shall ensure all construction debris is disposed of in a proper and legal manner consistent with all applicable Federal, state, and local disposal procedures. To the maximum extent feasible, AEGC shall ensure that woody debris resulting from right-of-way clearing activities during rail line construction is left on-site in forested areas as wildlife habitat. Regarding woody debris that cannot be left on-site, AEGC shall take reasonable steps to mulch the trees for residential or community use within the project area (Routes A and B).

15. AEGC shall limit construction activities and vegetation clearing to the proposed right-

of-way, to the extent possible (Routes A and B).

16. Should any land not owned by AEGC be directly disturbed by project-related construction, AEGC shall restore such areas to their original condition, as may be reasonably necessary, upon completion of project-related construction (Routes A and B).

17. AEGC's project-related construction vehicles, equipment, and workers shall not access work areas by crossing residential properties without the permission of the property owners (Routes A and B).

18. AEGC shall coordinate with the Illinois Department of Transportation regarding any agreement needed for the crossing of the state-owned land near Illinois Route 127 (Route A only).

#### *Geology/Soils*

19. AEGC shall limit ground disturbance to only the areas necessary for project-related construction activities (Routes A and B).

20. AEGC shall commence reclamation of disturbed areas as soon as practicable after project-related construction ends along a particular stretch of rail line. The goal of reclamation shall be the rapid and permanent reestablishment of native ground cover on disturbed areas (Routes A and B).

21. During project-related construction, AEGC shall take reasonable steps to ensure that contractors use fill material appropriate for the project area (Routes A and B).

#### *Water Resources/Wetlands*

22. AEGC shall require its construction contractor to utilize Best Management Practices, to include:

a. Practices to reduce erosion and sedimentation that could occur as a result of construction, including along slopes and in channels (Routes A and B);

b. Disturbance of the smallest area possible around water resources (Routes A and B);

c. Reseeding of areas as soon as practicable to prevent erosion (Routes A and B);

d. If necessary, use of seeding fiber mats, straw mulch, plastic lined slope drains, and silt dikes (Routes A and B);

e. Use of native species where practicable for revegetation (Routes A and B);

f. Development of a spill prevention plan prior to construction, including measures to be taken in case any spills occur (Routes A and B);

g. Maintaining construction and maintenance vehicles in good working order (Routes A and B);

h. Daily inspections of all equipment for any fuel, lube oil, hydraulic, or antifreeze leaks. If leaks are found, the contractor shall immediately remove the equipment from service and repair or replace it and remediate the spill (Routes A and B);

i. Practices to control turbidity and disturbance to bottom sediments during project-related construction of the proposed Coffeen Lake crossing (Route A only).

23. AEGC shall implement a monitoring and management program covering a minimum of three years to ensure that mitigation activities are successful (Routes A and B).

24. AEGC shall develop a bridge maintenance plan in compliance with FRA regulations (Routes A and B).

25. Culvert construction in streams with significant water flow that could not be barricaded shall have a by-pass channel cut adjacent to the site to accommodate "normal" flow conditions (Routes A and B).

26. Culvert construction in streams not having significant flow and that could be barricaded shall have a pump(s) set up to pass the water through the placement/construction site (Routes A and B).

27. Erosion control measures at culvert construction sites shall remain in place until the permanent culvert construction process is completed (Routes A and B).

28. AEGC shall ensure drainage and evaluate potential erosion concerns that may arise downstream of structures installed across the drainageways (Routes A and B).

29. AEGC shall use Best Management Practices for long-term maintenance of culverts and bridges along the proposed rail line (Routes A and B).

30. AEGC shall construct the proposed rail line in such a way as to maintain current drainage patterns to the extent practicable (Routes A and B).

31. Where appropriate, AEGC shall work with farmers on any drainage issues which might arise (Routes A and B).

32. AEGC shall prohibit project-related construction vehicles from driving in or crossing streams at other than established crossing points (Routes A and B).

33. AEGC shall coordinate with the U.S. Army Corps of Engineers, Illinois Department of Natural Resources and Illinois Environmental Protection Agency regarding the appropriate wetland mitigation (Routes A and B).

34. AEGC shall construct all project-related drainage crossing structures to pass a 100-year flood and AEGC shall coordinate with the Illinois Department of Natural Resources to ensure the new floodplain crossings are appropriately designed to minimize impacts (Routes A and B).

35. For wells located within the proposed right-of-way but outside the grading limits, AEGC shall cap or otherwise close those wells in accordance with state regulations (Routes A and B).

36. AEGC shall require that appropriate vegetation control measures are followed and that herbicides applied during right-of-way vegetation control procedures are approved by USEPA for such purposes (Routes A and B).

37. AEGC shall require that the company conducting vegetation control procedures is licensed to do so (Routes A and B).

38. In order to prevent the potential disbursement of sprayed substances to adjacent drainageways and wetlands, AEGC shall require that herbicide spraying not be undertaken on days with high winds and that on marginally windy days, an additive may be used to minimize any potential impact (Routes A and B).

#### *Biological Resources*

39. The proposed Route A crossings of Lake Fork, Shoal Creek, and Bearcat Creek shall be bridged, thereby reducing potential

impacts to the river otter habitat (Route A only).

40. The culvert crossing at Grove Branch on Route B shall be sized to minimize any impacts to the river otter habitat (Route B only).

41. The proposed culverts at Stream 19 and other intermittent streams shall be sized to minimize any natural resource impacts (Routes A and B).

#### *Air Quality*

42. AEGC shall follow Federal, state, and local regulations regarding the control of fugitive dust emissions. This may include spraying water, applying a magnesium chloride treatment, placing tarp covers on vehicles, and installing wind barriers, if necessary (Routes A and B).

43. AEGC shall work with its contractors to make sure that construction and maintenance equipment is properly maintained and that mufflers and other required pollution-control devices are in working condition in order to limit construction-related air emissions (Routes A and B).

44. AEGC shall require its construction contractor to obtain the necessary burning permits to dispose of vegetation and other debris cleared from the proposed rail right-of-way (Routes A and B).

#### *Noise and Vibration*

45. AEGC shall work with its construction contractor to minimize, to the extent practicable, construction-related noise disturbances near any residential areas (Routes A and B).

46. AEGC shall require its construction contractor to maintain project-related construction and maintenance vehicles in good working order with properly functioning mufflers to control noise (Routes A and B).

47. AEGC shall use continuously welded rail and rail lubricants, as practicable, on the newly constructed line in order to reduce wheel/rail wayside noise (Routes A and B).

48. AEGC shall require, as practicable, its contractor(s) to comply with FRA regulations that establish decibel limits for train operations and locomotive noise standards (Routes A and B).

#### **Additional Mitigation**

49. AEGC shall comply with any reasonable stream/wetland mitigation that may be required as part of its project-related permit applications to the U.S. Army Corps of Engineers, Illinois Department of Natural Resources, and Illinois Environmental Protection Agency under the Clean Water Act (Routes A and B).

50. As site-specific erosion and sediment control and other Best Management Practices plans are developed, AEGC shall provide copies of these plans to NRCS (Routes A and B).

51. As requested by USFWS, in order to avoid impacting the Indiana bat, AEGC shall ensure that any project-related tree clearing activities in Bond County not occur during the period of April 1 to September 30. If tree-clearing during this time period cannot be avoided, AEGC shall consult with USFWS prior to tree clearing regarding the necessity

of conducting mist net surveys to determine if Indiana bats are present. AEGC shall report the outcome of these consultations with the USFWS to SEA (Route B only).

52. AEGC shall coordinate with the Illinois Environmental Protection Agency to obtain any permits required from that agency (Routes A and B).

[FR Doc. E6-2655 Filed 2-23-06; 8:45 am]

BILLING CODE 4915-01-P

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Form 5452

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5452, Corporate Report of Nondividend Distributions.

**DATES:** Written comments should be received on or before April 25, 2006 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-3179, or through the Internet at ([Larnice.Mack@irs.gov](mailto:Larnice.Mack@irs.gov)).

#### **SUPPLEMENTARY INFORMATION:**

*Title:* Corporate Report of Nondividend Distributions.

*OMB Number:* 1545-0205.

*Form Number:* 5452.

*Abstract:* Form 5452 is used by corporations to report their nontaxable distributions as required by Internal Revenue Code section 604(d)(2). The information is used by IRS to verify that the distributions are nontaxable as claimed.

*Current Actions:* There are no changes being made to Form 5452 at this time.