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SERVICE DATE - SEPTEMBER 27, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34395

CITY OF PEORIA, IL, D/B/A PEORIA, PEORIA HEIGHTS & WESTERN RAILROAD—
CONSTRUCTION OF CONNECTING TRACK EXEMPTION—IN PEORIA COUNTY, IL

Decided: September 24, 2004

On February 3, 2004, the City of Peoria, IL, d/b/a Peoria, Peoria Heights & Western Railroad (PPHW) filed a verified notice of exemption under 49 CFR 1150.36 to construct approximately 1,800 feet of connecting track in Peoria, Peoria County, IL, over land that it owns or over which it has an easement for railroad purposes. The track to be constructed would connect a 1.9-mile segment of track that the City of Peoria (the City) purchased from Union Pacific Railroad Company with an 8.29-mile segment of track known as the Keller Branch that the City acquired from the Chicago, Rock Island & Pacific Railroad Company. Notice of the filing was served and published in the Federal Register (69 FR 8263) on February 23, 2004. The notice stated that, upon completion of the environmental review process, a final decision would be issued addressing the environmental impacts of the proposal and, if appropriate, making the exemption effective at that time.

An environmental assessment (EA), prepared by the Board's Section of Environmental Analysis (SEA), was served on March 9, 2004. 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 PPHW's proposed connecting track would not significantly affect the quality of the human environment if the mitigation measures recommended in the EA were imposed. Comments to the EA were due on April 8, 2004.

Comments were filed by: U.S. Fish and Wildlife Service, Rock Island District (FWS); U.S. Army Corps of Engineers, Rock Island District (COE); U.S. Environmental Protection Agency, Region 5 (EPA); Illinois Department of Transportation (IL-DOT); and the Tri-County Regional Planning Commission (TCRPC). After considering the comments to the EA, SEA prepared a Post EA in which it recommends 12 environmental mitigation measures, and 6 additional voluntary mitigation measures related to a proposed new highway/rail at-grade crossing at University Street that PPHW has agreed to implement.

As explained in the Post EA, FWS, COE, and TCRPC concurred with SEA's conclusions in the EA. However, EPA and IL-DOT raised certain environmental concerns.

In general, IL-DOT concurred that, with the implementation of SEA's recommended mitigation measures, the proposed construction would result in minimal impact on the state's

highway system. In response to IL-DOT's concerns that a projected increase in traffic on Allen Road might necessitate the need for crossing gates at the North Allen Road highway/rail at-grade crossing, SEA undertook additional analysis of potential traffic-related impacts to North Allen Road, considering the projected year 2021 increase in average daily traffic on Allen Road and its proposed five-lane widening. Based on the results of this additional analysis, SEA concluded that the proposal would not result in any adverse traffic-related impacts on Allen Road and that, therefore, imposing a requirement for the installation of crossing gates is not warranted.

Because the property immediately north of the proposed rail construction is landscaped with prairie grasses, EPA requested that portions of exposed soil resulting from the proposed construction be revegetated with those grasses. In addition, because there is a possibility of encountering threatened and/or endangered species during construction, EPA suggested that, under section 7 of the Endangered Species Act, 16 U.S.C. 1531, a consultation should be undertaken with the FWS. In the Post EA, SEA concurred with EPA's request that disturbed areas should be reseeded with native prairie grasses, but disagreed that a section 7 consultation is warranted. SEA noted that the FWS, in a letter dated April 29, 2004, had concurred with SEA's determination that the project, as proposed, is not likely to adversely affect any of the listed endangered and/or threatened species.

EPA also suggested that, if the existing driveway located approximately 200 feet from the proposed new University Street highway/rail at-grade crossing is to be relocated, any potential impacts from this relocation should be evaluated. However, in the Post EA, SEA concluded that additional review of a potential driveway relocation at this point had not been shown to be warranted. The right-of-way is bounded on each side by businesses, is zoned for industrial and business use, and is consistent with the City of Peoria's Comprehensive Land Use Plan which should allay any concern. In addition, any driveway relocation, if it were to occur, would be subject to applicable state and local regulations and ordinances.

After reviewing the environmental record, we agree with SEA's conclusion that the environmental analysis in the EA and the Post EA is adequate, that, with the recommended mitigation, the construction and operation of the proposed connecting track would have no potentially significant environmental effects, and that preparation of a full environmental impact statement is not required. Accordingly, we will adopt SEA's final recommended environmental mitigation measures with some minor editorial changes, as set forth in the Appendix to this decision, and impose them as a condition to this exemption.

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. The environmental mitigation measures set forth in the Appendix to this decision are adopted and imposed as a condition to the exemption granted in this proceeding.
2. The exemption conditionally approved in the February 23, 2004 notice is granted, subject to the condition that PPHW comply with the mitigation measures adopted in this decision as set forth in the Appendix.
3. This decision is effective October 7, 2004.

By the Board, Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.

Vernon A. Williams
Secretary

APPENDIX

ENVIRONMENTAL MITIGATION MEASURES:

1. The City of Peoria, d/b/a Peoria, Peoria Heights & Western Railroad (PPHW) shall consult with the Illinois Department of Transportation and Peoria County prior to installation of the University Street highway/rail at-grade crossing in order to minimize traffic delay during at-grade crossing construction.
2. PPHW shall consult with the Illinois Commerce Commission and the Illinois Department of Transportation regarding its proposed voluntary mitigation measures and the selection of appropriate highway/rail at-grade warning protection and shall report the results of this consultation to SEA.
3. PPHW, or its designated contractor, shall consult with the appropriate public transportation agencies prior to the scheduling of lane restrictions or road closures, as well as detour approvals, that occur as a result of construction of its rail line. PPHW, or its designated contractor, shall be responsible for the cost of all permits, detours, coordination with local officials and agencies, and public notifications related to temporary lane restrictions or road closures.
4. PPHW shall take appropriate steps to minimize impacts to emergency response vehicles and school buses when planning and executing the necessary road work in connection with project-related construction activities.
5. PPHW shall ensure that all areas disturbed by project-related construction activities that are not located on the railroad's property (such as access roads, haul roads, etc.) are promptly restored as closely to their original condition as possible following conclusion of project-related construction activities at that site.
6. PPHW shall consult with the appropriate Federal, state, and local agencies with regard to implementation of techniques to minimize impacts to wetlands and water bodies that may occur as a result of project-related construction activities.
7. If PPHW uses contractors to apply herbicides to maintain its right-of-way, it shall use only contractors trained in herbicide application and shall require those contractors to follow label directions in applying herbicides. PPHW shall require contractors to use only herbicides regulated for such uses with the U.S. Environmental Protection Agency and follow all applicable regulations governing the use of these herbicides.

8. PPHW shall use Best Management Practices to control erosion, runoff, and surface instability during project-related construction activities.
9. PPHW shall take appropriate measures to eradicate noxious or non-native weeds and reseed areas disturbed by project-related construction activities with native prairie grasses.
10. PPHW shall consult and comply with all applicable Federal, state, and local regulations regarding the control of fugitive dust emissions created during project-related construction activities.
11. PPHW shall control temporary noise from equipment used during project-related construction activities through the use and maintenance of muffler systems on machinery.
12. If PPHW discovers any archaeological remains or other cultural resources during construction activities, it shall immediately cease work, contact the Illinois Historic Preservation Agency regarding appropriate measures to protect the resource, and inform SEA of the discovery.
13. As agreed to by PPHW with respect to the proposed new highway/rail at-grade crossing at University Street, PPHW shall install an appropriate Highway-Rail Grade Crossing sign, commonly identified as the Crossbuck sign, on each University Street approach.
14. As agreed to by PPHW with respect to the proposed new highway/rail at-grade crossing at University Street, PPHW shall install appropriate signage designed to provide adequate warning to drivers on the northwest, northeast, and southwest driveways onto University Street that they will quickly encounter a highway-rail grade crossing on University Street after making the turn.
15. As agreed to by PPHW with respect to the proposed new highway/rail at-grade crossing at University Street, if vehicular traffic volumes on University Street increase, PPHW shall consult with the appropriate agency or agencies regarding whether the northeast driveway should be relocated to the north so as to provide a minimum of 200 feet of distance from the centerline of the proposed railroad crossing.
16. As agreed to by PPHW with respect to the proposed new highway/rail at-grade crossing at University Street, PPHW shall consult with the appropriate agency or agencies to determine whether installation of an active control device at the proposed University Street crossing is warranted to improve public safety.
17. As agreed to by PPHW with respect to the proposed new highway/rail at-grade crossing at University Street, PPHW shall install appropriate signage designed to provide adequate

warning to drivers turning left from the northeast driveway onto North Allen Drive that they will encounter a highway-rail grade crossing after making the turn.

18. As agreed to by PPHW with respect to the proposed new highway/rail at-grade crossing at University Street, PPHW shall consult with the appropriate agency or agencies to determine whether installation of a traffic control device on the northeast driveway prior to its intersection with North Allen Drive is warranted.