

SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

September 5, 2003

Thomas F. McFarland, P.C.
208 South LaSalle Street
Suite 1890
Chicago, Illinois 60604-0204

RE: STB Finance Docket No. 34395, City of Peoria, Illinois, d/b/a Peoria,
Peoria Heights & Western Railroad – Construction Exemption – in Peoria
County, IL and

STB Docket No. AB 858X, City of Peoria, Illinois, d/b/a Peoria, Peoria
Heights & Western Railroad – Abandonment Exemption – in Peoria
County, IL

Dear Mr. McFarland:

This responds to your letter dated August 12, 2003, proposing an alternative environmental review process for a proposed rail line construction and operation by the City of Peoria, d/b/a Peoria, Peoria Heights & Western Railroad (PPHW). PPHW plans to seek authority from the Surface Transportation Board (Board) to construct approximately 1800 feet of new rail line over land that the City of Peoria owns or over which it has an easement. The proposed new rail line would connect two segments of rail line currently owned by PPHW. Specifically, you request that the Board's Section of Environmental Analysis (SEA) permit PPHW to submit to SEA a Preliminary Draft Environmental Assessment (PDEA) in lieu of the environmental and historic report required under 49 CFR 1105.7 and 1105.8 when filing an application, petition, or notice of exemption seeking construction authority from the Board.

Based on our discussions with you during a teleconference call on August 4, 2003, SEA concurs with your request to submit a PDEA. The PDEA will serve as an administrative draft for SEA, which is responsible for the preparation of an Environmental Assessment (EA).¹ SEA will independently review the PDEA, and include appropriate recommendations to the Board to mitigate potential environmental impacts. SEA will then issue an EA (based upon the PDEA) for

¹Because PPHW proposes to construct a connecting track over land owned by the connecting railroad, this action requires SEA to prepare an Environmental Assessment pursuant to the Board's environmental rules at 49 CFR 1105.6(b)(1). If, during the environmental review process, it becomes clear that potentially significant adverse environmental effects that could not be adequately mitigated would result from this project, SEA would then be required to prepare an Environmental Impact Statement.

public review and comment. Following the public review and comment period, SEA will prepare a Post-Environmental Assessment containing SEA's final recommendations to the Board.

The regulations of the Council on Environmental Quality (CEQ) at 40 CFR 1506.5(b) specifically contemplate that an agency may permit an applicant to prepare an EA. The agency, however, must make its own evaluation of the environmental issues and take responsibility for the scope and content of the EA. Therefore, as stated above, SEA will perform an independent verification and evaluation of the environmental analysis, including any proposed mitigation measures.

The environmental review process you propose should avoid duplicative efforts by PPHW and SEA. These efforts toward efficiency are not in lieu of SEA's ultimate responsibility for the environmental document. The extent to which the PDEA will be adopted by SEA as the Draft EA will be determined after it is submitted to and reviewed by SEA. Moreover, in the event that issues of unforeseen complexity arise, PPHW should be prepared to enter into a third party contractor agreement with SEA and an appropriate contractor who would assist SEA to the extent needed.

If you have any questions or concerns, please feel free to contact me or Troy Brady of my staff by phone at (610) 793-4301 or email at Troy.Brady@stb.dot.gov.

Sincerely,

Victoria Rutson
Chief
Section of Environmental Analysis