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SERVICE DATE – AUGUST 26, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34117

PEMISCOT COUNTY PORT AUTHORITY — CONSTRUCTION EXEMPTION —
PEMISCOT COUNTY, MO

Decided: August 25, 2003

By decision served on July 2, 2002 (July 2002 decision),¹ a conditional exemption was granted under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 for Pemiscot County Port Authority (Pemiscot) to construct an approximately 5-mile line of railroad between milepost 213.32 at Hayti, and milepost 217.22 at Pemiscot's existing intermodal port facility located on the Mississippi River between Hayti and Caruthersville, in Pemiscot County, MO. The July 2002 decision 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) was prepared by the Board's Section of Environmental Analysis (SEA) and served on May 7, 2003. In the EA, SEA preliminarily concluded, based on its review of the information available at the time and its independent analysis, that the proposed construction of the rail line would not significantly affect the quality of the human environment, if the 25 recommended mitigation measures set forth in Chapter 5 of the EA were imposed. Comments to the EA were due on June 6, 2003. No comments to the EA were filed.

The Board will adopt the analysis and conclusions in the EA and SEA's final recommended mitigation measures, as set forth in the Appendix to this decision, and impose them as a condition to the exemption. Accordingly, the exemption, as conditioned, will become effective 10 days from the service date of this decision.

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

¹ Notice was published in the Federal Register on July 2, 2002 (67 FR 44498).

It is ordered:

1. The mitigation measures set forth in the Appendix to this decision are adopted, and will be imposed as a condition to the exemption granted in this proceeding.
2. The exemption conditionally approved in the July 2002 decision is made final and effective on September 5, 2003, subject to the condition that Pemiscot comply with the mitigation measures adopted in the Appendix to this decision.
3. This decision is effective September 5, 2003.

By the Board, Chairman Nober.

Vernon A. Williams
Secretary

APPENDIX

ENVIRONMENTAL MITIGATION MEASURES:

Transportation and Safety

1. The Pemiscot County Port Authority (Pemiscot) shall submit detailed plans and specifications to the Missouri Department of Transportation for approval prior to construction.
2. Pemiscot shall coordinate at-grade crossing construction with the Missouri Department of Transportation and Pemiscot County to minimize traffic delay during crossing construction. Pemiscot shall use appropriate signs and barricades to control traffic during construction.
3. Pemiscot shall develop internal emergency response plans for construction to allow for agencies and individuals to be notified in case of an emergency. Pemiscot shall provide the emergency response plans to appropriate state and local entities.
4. Pemiscot shall install, at its sole cost, active rail/highway grade warning devices consisting of pole and cantilever mast mounted flashing lights and gates at routes identified by the Missouri Department of Transportation, subject to the approval and permitting by the Missouri Department of Transportation. These routes may include the intersection of 3rd and Lee Streets, Missouri Route 84 in Hayti, State Highway J, Missouri Route D, and Missouri Route 84 in Pemiscot County.
5. Pemiscot shall install, at its sole cost, the necessary signage, lighting, and safety warnings for all unsignalized at-grade crossings as required by the Missouri Department of Transportation. These at-grade crossings may include 2nd and East Grant Streets, North 4th Street, East Madison Street, Lincoln Street, East Main Street, and Broadway.
6. Pemiscot shall install, at its sole cost, the necessary signage, lighting, and safety warnings for all unsignalized at-grade crossings across unimproved farm access roads.
7. Pemiscot or its designated contractor shall obtain permission for, and scheduling of, lane restrictions, road closures, and detour approvals, in coordination with the appropriate public transportation agency. Pemiscot 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.

8. Pemiscot shall consider maintenance of emergency response capabilities and school bus schedules in planning and executing the necessary road work. Pemiscot would station equipment so that any total closures would be minimized, allowing the disturbed areas to be quickly restored for passage by emergency vehicles.
9. Pemiscot shall implement an inspection and maintenance program to minimize the potential for derailments. To ensure that proper procedures are in place in the event of a spill, Pemiscot shall develop a spill prevention and emergency response plan.
10. Pemiscot shall enter into an agreement with the Missouri Department of Transportation that specifies the responsibility of each party concerning the maintenance and repair of equipment and crossings.

Land Use

11. Pemiscot shall ensure that all areas disturbed by project-related construction activities which are not located on the railroad's property (such as access roads, haul roads, crane pad and borrow pits) are promptly restored as closely to their original condition, as is practical, following conclusion of project-related construction activities at that site.

Geologic Resources

12. Pemiscot and its construction contractors shall abide by generally accepted industry construction practices to add fill and stabilize slopes.
13. Pemiscot shall, upon completion of the construction project, ensure that all exposed soil slopes and surfaces would be vegetated as appropriate to create stable slopes.

Biological Resources

14. Pemiscot shall use appropriate Best Management Practices to control erosion, runoff, surface instability during construction, and silt and sedimentation control, which may include seeding fiber mats, straw mulch, plastic lined slope drains, silt fences, re-seeding of cleared areas, and other appropriate erosion control devices. Once the track is constructed, Pemiscot shall establish vegetation on the embankment slope to provide permanent cover and prevent erosion. If erosion develops, Pemiscot shall take steps to develop other appropriate erosion control procedures.

Water Resources

15. Pemiscot shall obtain all necessary Federal, state, and local permits if construction activities require the alteration of wetlands, or other water bodies or if these activities would cause soil or other material to wash into these water resources. Pemiscot shall use appropriate techniques to minimize impacts to wetlands and water bodies.
16. Pemiscot shall disturb the smallest area practicable around any waterway.
17. Pemiscot shall obtain the necessary General Permit for Land Disturbance Surface from the Missouri Department of Natural Resources, Water Pollution Control Program.
18. Pemiscot shall obtain the necessary storm water permit from the Missouri Department of Natural Resources, Water Pollution Control Program.
19. Pemiscot shall ascribe to post-construction mitigation measures as described in their storm water permit, such as regrading and re-vegetation to return the undeveloped areas to pre-construction conditions.
20. In instances in which Pemiscot or its contractors need to apply herbicides for right-of-way maintenance, Pemiscot shall ensure the use of staff or contractors trained in herbicide application and shall require the following of label directions in applying herbicides and shall limit the amount potentially entering waterways. Pemiscot shall require the use only of herbicides regulated for such uses with the Environmental Protection Agency and follow all state regulations that requires their use.
21. As agreed to by Pemiscot, it shall comply with mitigation requirements contained in the existing Nationwide Permit 3 issued by the U.S. Army Corps of Engineers and issued by the Missouri Department of Natural Resources (Permit number 98-003-0730, issued June 3, 1998). It shall also comply with mitigation requirements contained in any additional permits (e.g., Nationwide Permit 14) issued by the U.S. Army Corps of Engineers and issued by the Missouri Department of Natural Resources.

Air Quality

22. Pemiscot shall comply with all applicable Federal, state, and local regulations regarding the control of fugitive dust. Fugitive dust emissions created during construction shall be minimized by using such control methods as water spraying, installation of wind barriers, and chemical treatment.

23. Pemiscot shall maintain construction equipment to minimize air emissions.

Noise

24. Pemiscot shall control temporary noise from construction equipment through the use and maintenance of appropriate muffler systems on machinery.
25. Pemiscot shall comply with the Federal Rail Administration regulations (49 CFR Part 210) that establish decibel limits for train operations and locomotive noise standards.