

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34002

ALAMO NORTH TEXAS RAILROAD CORPORATION—CONSTRUCTION AND
OPERATION EXEMPTION—WISE COUNTY, TX

Decided: August 30, 2002

By decision served on November 16, 2001 (November 16 decision),¹ we conditionally granted an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 for Alamo North Texas Railroad Corporation (Alamo North) to construct and operate a 2.25-mile line of railroad in Wise County, TX, subject to our environmental review of the proposal. The proposed line will extend from a connection with the Union Pacific Railroad Company to Alamo North's quarry near Chico, TX, which is operated by Alamo North's parent company, Martin Marietta Materials Southwest, Ltd. We stated in the November 16 decision that, upon completion of the environmental review process, we would issue a final decision addressing the environmental impacts of the proposal and, if appropriate, make the exemption effective at that time.

An environmental assessment (EA) was prepared by our Section of Environmental Analysis (SEA) and served on April 12, 2002. 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 and operation of the rail line would not significantly affect the quality of the human environment, if the recommended mitigation measures set forth in Chapter 6 of the EA were imposed. Comments on the EA were due on May 10, 2002.

Comments were filed by: Alamo North; Federal Emergency Management Agency; L. H. Chaney Materials, Inc.; Texas Department of Transportation (TxDOT); Texas Natural Resource Conservation Commission; Texas Parks and Wildlife Department; and TXI Operations, LP (TXI).² After considering the comments to the EA, SEA recommended changes to mitigation measures Nos. 1 (biological resources), 3 (transportation), 8 (pipeline crossing), and 10 (land use). SEA also

¹ Notice was published in the Federal Register on November 16, 2001 (66 FR 57773).

² Alamo North submitted a reply to TXI's comments.

recommended new mitigation measures Nos. 4 (transportation) and 9 (stream crossing), based on TxDOT's recommendations, and new mitigation measure No. 13 (air pollution).³

We will adopt SEA's final recommended mitigation measures, as set forth in the Appendix to this decision, and impose them as a condition to the exemption. By letter filed on August 19, 2002, Alamo North states that it has no objection to the conditions recommended by SEA and wishes to commence construction of the line as soon as possible. Accordingly, we will allow the exemption, as conditioned, to 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.

It is ordered:

1. We adopt the mitigation measures set forth in the Appendix to this decision, and we impose them as a condition to the exemption granted in this proceeding.
2. The exemption conditionally approved in the November 16 decision is made final and effective on September 13, 2002, subject to the condition that Alamo North comply with the mitigation measures adopted in this decision.
3. This decision is effective on September 13, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams
Secretary

³ Because of SEA's new recommendations, all of its recommended mitigation measures have been renumbered. See Appendix.

APPENDIX

ENVIRONMENTAL MITIGATION MEASURES:

Biological Resources

1. Alamo North shall avoid the potential for harassment of black-capped vireo by scheduling construction activities outside of the vireo nesting and breeding season, which generally runs from March through August. However, if construction is to occur between March and August, in accordance with the recommendations of the U.S. Department of the Interior, Fish and Wildlife Service (FWS), Alamo North shall retain a qualified biologist to check action areas for the presence of suitable vireo habitat. If suitable habitat is discovered, Alamo North shall contact the appropriate office of FWS in Texas to discuss the need to conduct presence/absence surveys.
2. Alamo North shall consult with Celeste Brancel-Brown of the Texas Parks and Wildlife Department (TPWD) prior to construction regarding known locations and potential adverse impacts to sensitive species and natural communities near the proposed project area. Based on additional recommendations of TPWD, Alamo North shall:
 - (a) Minimize clearing of riparian vegetation to the greatest extent possible and use enhanced erosion control measures to reduce potential of sedimentation into water bodies associated with culverts. Revegetation plans for the disturbed areas shall include the use of site-specific native plant species that have high erosion control as well as high value for wildlife. Replacement of lost vegetation along the water bodies, especially trees and brush species, shall occur at a 2:1 ratio.
 - (b) Construct the proposed railroad in a manner that minimizes the disturbance to existing vegetation. In particular, the line shall be routed to minimize the removal of mature trees or brush in the area. Revegetation efforts at any staging areas and other disturbed areas not directly associated with the actual railroad operations shall emphasize establishment of native trees, grasses, and leguminous forbs. Enhancement of existing native grasses or prairie remnants shall be assisted by the reseeding of exposed areas with a mixture of native grasses and limited mowing practices.

Transportation

3. In the event that County Road CR 1539 remains open, Alamo North shall consult with Wise County and install appropriate grade crossing safety devices prior to initiating rail operations.

4. Based on the recommendations of the Texas Department of Transportation (TxDOT), Alamo North shall take appropriate measures to create a safety buffer in case of derailment, where the rail line parallels FM 2952.

Stream Crossing

5. Based on the recommendations of the U.S. Army Corps of Engineers (Corps), Alamo North shall make every attempt to restore the natural contours at the Village Creek crossing to preserve existing ground elevations and flow path. No above ground fill shall be placed within the 100-year floodplain.
6. Based on the recommendations of the Corps, Alamo North shall reseed the area around Village Creek with natural vegetation as soon as it is practicable to allow for permanent stabilization.
7. Alamo North shall abide by all terms and conditions of Corps Nationwide Permit 14.
8. For any changes along the proposed route that encroach into the 100-year floodplain, Alamo North shall comply with Federal Emergency Management Agency regulations and shall coordinate these changes with the local floodplain administrator.
9. Based on the recommendations of TxDOT, Alamo North shall consult with TxDOT and prepare a maintenance and irrigation plan that allows sufficient time for successful establishment of vegetation along Village Creek (especially during the hot and dry summer months).

Pipeline Crossing

10. After developing construction plans for rail-pipeline crossings, and prior to beginning construction, Alamo North shall provide the construction plans to the owners of each of the pipelines along the right-of-way and provide them with adequate opportunity (no less than one week) to raise safety concerns. If the pipeline owners raise safety concerns, Alamo North shall work with the pipeline owners to incorporate appropriate measures that address the safety concerns into the construction plans and shall carry out those measures during construction activities.

Erosion Control

11. Alamo North shall consult with the U.S. Environmental Protection Agency and the Texas Natural Resource Conservation Commission prior to construction, prepare a storm water pollution prevention plan to mitigate storm water runoff impacts, and apply for coverage under the general storm water construction permit from the appropriate agency.

Land Use

12. Where construction of the proposed rail line would cause unavoidable property severance, Alamo North shall negotiate with TXI Operations, LP, and any other affected landowner, and provide reasonable access (including the construction of a private rail crossing that can accommodate typical “haul units”) to the severed property.

Air Pollution

13. Alamo North’s construction contractors shall use standard dust mitigation techniques to control dust and particulate emissions generated during construction activities.