

SERVICE DATE - LATE RELEASE NOVEMBER 29, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33759

PRAIRIE CREEK AND CONNECTING RAILWAY, INC.--
CONSTRUCTION AND OPERATION EXEMPTION--IN CEDAR RAPIDS, IA

Decided: November 29, 1999

On September 21, 1999, Prairie Creek and Connecting Railway, Inc. (PCCR), filed a petition for exemption under 49 U.S.C. 10502 from the requirements of 49 U.S.C. 10901 to construct a line of railroad, approximately one mile in length, from an interchange with the Union Pacific Railroad Company to the facilities of Archer-Daniels-Midland Company (ADM) in Cedar Rapids, IA.¹ On September 29, 1999, Cedar Rapids and Iowa City Railway Company (CRANDIC)² filed under seal a motion to deny the petition or, in the alternative, to extend the time for filing a response.³ In a request filed on October 5, 1999, PCCR sought an extension of time to reply to CRANDIC's motion to deny the petition.⁴ On October 8, 1999, the United Transportation Union (UTU) filed a motion to deny PCCR's petition.⁵ In a decision served October 7, 1999, the due date for PCCR's reply was extended to November 9, 1999. On November 9, 1999, PCCR filed a reply to CRANDIC's motion and UTU's motion.⁶

¹ PCCR also proposed serving other industries on the line to be constructed.

² The proposed line had two alternative alignments, either of which would cross CRANDIC's line.

³ CRANDIC sought an extended discovery and comment period. CRANDIC also filed a motion for a protective order under 49 CFR 1104.14, which it served along with a redacted copy of its motion to deny or extend, on PCCR. In a decision served October 8, 1999, CRANDIC's motion for a protective order was granted, and a modified version of the protective order, reflecting an agreement between the parties, was imposed.

⁴ PCCR noted that it had received only a redacted copy of the motion.

⁵ The Brotherhood of Maintenance of Way Employes and the Chicago Central and Pacific Railroad Company filed letters in support of CRANDIC's motion. The International Association of Machinists and Aerospace Workers filed a notice of its intent to participate in this proceeding. The City of Cedar Rapids expressed interest in the consideration of environmental issues.

⁶ Inasmuch as UTU's motion essentially reflected CRANDIC's motion and was filed after PCCR's extension request, PCCR's reply will be considered timely as to UTU's motion.

In a motion filed on November 19, 1999, and served on all parties, PCCR requests leave to withdraw its petition for exemption without prejudice. It states that PCCR, ADM and CRANDIC have come to an agreement that obviates the need to continue this proceeding. The withdrawal of the petition for exemption renders the motions of CRANDIC and UTU moot.⁷ In view of the withdrawal, the proceeding will be discontinued without prejudice.

It is ordered:

1. The request to withdraw the petition for exemption is granted and the proceeding is discontinued without prejudice.
2. CRANDIC's motion and UTU's motion are dismissed as moot.
3. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

⁷ On November 23, 1999, CRANDIC and UTU filed a joint reply in support of PCCR's motion to withdraw.