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SERVICE DATE - NOVEMBER 27, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33731

ELLIS COUNTY RURAL RAIL TRANSPORTATION DISTRICT—CONSTRUCTION AND
OPERATION EXEMPTION—ELLIS COUNTY, TX

Decided: November 20, 2000

By decision served on February 15, 2000, we conditionally exempted Ellis County Rural Rail Transportation District (Rail District) under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to construct and operate a 4.8-mile line of railroad in Ellis County, TX. In that decision, we stated that, upon completion of the environmental review, we would issue another decision addressing the environmental impacts and, if appropriate, make the exemption effective.

An environmental assessment (EA) prepared by our Section of Environmental Analysis (SEA) was served on April 24, 2000. Based on the information provided from all sources as of the date of the EA, SEA concluded that construction and operation of Rail District's proposed rail line would not significantly affect the quality of the human environment if the mitigation measures set forth in Chapter 7 of the EA were imposed. Comments on the EA were due on May 24, 2000.

Comments were filed by the Texas Governor's Office of Budget and Planning, the Texas Natural Resource Conservation Commission (TNRCC), the Texas Parks and Wildlife Department (TPWD), and the U.S. Fish and Wildlife Service (USFWS). After considering the comments to the EA, SEA recommended changes to the listing of the status of three endangered species, as suggested by USFWS, and modified the conditions concerning the conservation of water resources in response to the comments of USFWS, TPWD, and TNRCC. As a result, the number of conditions pertaining to water resources has been increased from 6 to 13 and the conditions have been renumbered.

We will adopt the environmental mitigation measures, as modified and recommended by SEA, and as set forth in the Appendix to this decision, and impose them as a condition to the exemption. We will allow the exemption, as conditioned, to become effective immediately.

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 decision served on February 15, 2000, is effective on the date of service of this decision, subject to the condition that Rail District comply with the mitigation measures adopted in this decision with respect to the construction, operation and maintenance of the involved rail line.

3. The decision is effective on the date of service.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams
Secretary

APPENDIX

ENVIRONMENTAL MITIGATION MEASURES:

Land Use

1. The Rail District shall grant private crossings or construct access roads if necessary to maintain access to property severed by the proposed right-of-way.
2. The Rail District shall develop any borrow sites related to the proposed rail construction in accordance with all applicable environmental regulations.
3. The Rail District shall require its construction contractor to dispose of all waste material generated during construction in accordance with applicable Federal, state, and local regulations.
4. Should hazardous wastes be encountered in the project area during the proposed construction, the Rail District shall handle and dispose of such wastes in accordance with applicable Federal, state, and local regulations.

Water Resources

5. The Rail District shall design all drainageway crossing structures to pass a 100-year flood.
6. The Rail District shall notify the Midlothian community floodplain administrator to ensure that the proposed rail construction is in compliance with Midlothian's Flood Hazard Prevention Ordinance/Court Order.
7. The Rail District shall design and construct all culverts to minimize potential pooling of water upslope of the culvert or scouring of the downstream channel. The Rail District shall obtain from the Texas Parks and Wildlife Department any required permit for culvert construction.
8. The Rail District shall construct the rail line in a way to maintain current drainage patterns as much as possible.
9. The Rail District shall prepare a Storm Water Pollution Prevention Plan using Texas Department of Transportation Best Management Practices and shall require its construction contractor to abide by its provisions.

10. The Rail District shall adhere to the provisions of the general nationwide-14 permit issued by the U.S. Army Corps of Engineers in conjunction with the proposed rail line construction.
11. The Rail District shall require its construction contractor to adhere as closely as feasible in the rail construction to the Texas Parks and Wildlife Department's Guidelines for Construction and Clearing within Riparian Areas.
12. The Rail District shall require its construction contractor to limit soil disturbance to those areas necessary for the proposed rail line construction and to minimize clearing of the riparian vegetation as much as possible.
13. The Rail District shall require its construction contractor to make slight adjustments in the route alignment to avoid impacting moderate-aged to mature-aged trees at stream crossings wherever it can feasibly be done.
14. The Rail District shall require its construction contractor to utilize hand clearing of riparian areas to avoid scarification of the soil by heavy equipment.
15. The Rail District shall require its construction contractor to use enhanced erosion control measures to reduce the potential for sedimentation into the streams.
16. The Rail District shall require its construction contractor to promptly reseed or revegetate disturbed areas after earthwork construction activities are completed using site-specific native plant species with high erosion control and high value for wildlife. The plants to be used shall be drawn from the listing developed by the Texas Parks and Wildlife Department.
17. For right-of-way maintenance, the Rail District shall use only contractors trained in herbicide application and shall require those contractors to follow label directions in applying herbicides. The Rail District shall also require those contractors to use only herbicides registered for such use with the U.S. Environmental Protection Agency and to follow all applicable state regulations regarding use of those herbicides.

Transportation

18. The Rail District shall equip all of the at-grade crossings on the proposed line with flashing lights and gates to minimize the potential for train-vehicular accidents.
19. The Rail District shall construct the grade-separated crossing at U.S. 287 and U.S. 67 in accordance with Texas Department of Transportation requirements.
20. The Rail District shall coordinate at-grade crossing construction with the Texas Department of Transportation, the City of Midlothian, Ellis County, and Emergency Management Services in order to minimize traffic delay during crossing construction.

Air Quality

21. The Rail District shall require its construction contractor to water construction areas as necessary to suppress dust.

Cultural Resources

22. In the event intact archaeological deposits are uncovered during the proposed construction, work shall cease in the immediate area and the Texas Historical Commission shall be consulted.