

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 32984

HASTINGS INDUSTRIAL LINK RAILROAD COMPANY--CONSTRUCTION
AND OPERATION EXEMPTION--HASTINGS, NE

Decided: April 3, 1997

By decision served on December 10, 1996,¹ we conditionally exempted Hastings Industrial Link Railroad Company (HILR) under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to permit HILR to construct and operate a 1-mile line of railroad in Adams County, NE. The proposed line would begin at a point of interchange with the Union Pacific Railroad Company (UP), extend southward and eastward, cross a line of the Burlington Northern Railroad Company (BN) at grade, loop back in a northerly direction past Ag Processing, Inc.'s (AGP) ethanol manufacturing facility at Hastings, NE, connect with the AGP facility siding, and then extend north, east, and south through property intended to serve as an industrial park. 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.

Our Section of Environmental Analysis (SEA) approved retention of an independent third party consultant to prepare the appropriate environmental document under the direction, supervision, review, and approval of SEA.²

Subsequently, HILR requested SEA to waive the requirement of 49 CFR 1105.6(a) that SEA prepare an environmental impact statement (EIS) on the proposed rail line construction. After a site inspection by the independent third party consultant, and review of available information, SEA determined that it appeared that the proposed construction and operation would be unlikely to involve significant environmental impacts, and that an EA, rather than an EIS, was appropriate in this proceeding.

An EA, prepared by SEA, was served on January 24, 1997. Based on the information provided from all sources as of the date of the EA, SEA concluded that construction and operation of HILR's proposed rail line would not significantly affect the quality of the human environment if the mitigation measures set forth in Chapter 6, numbered paragraphs 1-16, of the EA were imposed.³ Comments on the EA were due on February 24, 1997. No comments were received.

We have considered the EA. We will adopt SEA's environmental analysis, which adequately addresses and identifies potential environmental impacts. We agree that the mitigation measures recommended by SEA, which are set forth in the Appendix to this decision, will adequately mitigate

¹ Notice was simultaneously published in the *Federal Register* at 61 FR 65103.

² By letter dated June 13, 1996, HILR requested SEA to approve the retention of Burns & McDonnell, of Kansas City, MO, as an independent third-party consultant, to work under SEA's direction to develop the appropriate environmental documentation for the proposed construction of the line. SEA informed HILR of its approval in a letter dated June 14, 1996. On the same date HILR requested SEA to waive the 6-month pre-filing notification requirement pursuant to 49 CFR 1105.10(a). By letter dated June 19, 1996, SEA, pursuant to 49 CFR 1105.10(c), granted HILR's request for waiver.

³ SEA considered two alternative alignments, Alternative A and B, in addition to a no-build alternative, and determined that none of the alternatives would have a significant impact on the environment. It found Alternative A to be the environmentally preferable route because that route has the fewest design and construction constraints.

the potential environmental effects discovered during the course of the environmental review, and we will impose them as a condition to the exemption. As no opposition or comments concerning the EA have been received, 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 December 10, 1996, is effective on the date of service of this decision, subject to the condition that HILR comply with the mitigation measures adopted in this decision with respect to the construction, operation and maintenance of the involved rail line.

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

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary

APPENDIX

MITIGATION MEASURES:

Land Use/Economic Development

1. HILR shall limit construction activities and vegetation clearing to the railroad right-of-way and construction laydown yards.
2. HILR shall consult with the District Soil Scientists of the U.S. Department of Agriculture, Natural Resource Conservation Service (NRCS) in Adams County for their recommendations to reduce impacts to prime farmland soils due to construction.
3. HILR shall submit a Farmland Conversion Impact Rating Form AD-1005 and a project location map to the local NRCS office.
4. HILR shall ensure that all construction debris is removed and disposed of in a proper and legal manner consistent with state and local disposal procedures.

Water Resources/Erosion Control

5. HILR shall implement an erosion and sedimentation control plan to minimize erosion during construction.
6. HILR shall submit detailed project plans to the U.S. Army Corps of Engineers (USCOE) Regulatory Office in Kearney, NE, for review of permit requirements. HILR shall obtain any necessary section 404 permit, as determined by the USCOE and prepare wetland determinations for individual landowners requesting them.

Biological Resources

7. HILR shall reseed the right-of-way outside the subgrade slope with grasses and other appropriate vegetation to minimize impacts on wildlife after construction is completed.

Air Quality

8. HILR shall use such control methods as spraying water on the construction areas to minimize fugitive dust emissions during construction.
9. HILR shall comply with all applicable Federal, state, and local regulations and recommendations regarding control of fugitive dust.

Noise

10. HILR shall maintain construction and maintenance vehicles in good working order with properly functioning mufflers to control emissions and noise.

Safety/Transportation

11. HILR shall inspect and maintain the rail line and right-of-way in accordance with Federal Railroad Administration (FRA) track safety standards.⁴
12. HILR shall coordinate relocation or modification of any area utilities with the owners of those utilities.

⁴ FRA track maintenance and inspection requirements are found in 49 CFR part 213.

13. HILR shall coordinate with BN and UP in scheduling train traffic to minimize the potential for train/train collisions.
14. HILR shall ensure that the U.S. Department of Transportation and any other applicable agency requirements for transporting hazardous materials are met.

Cultural Resources

15. HILR shall notify the Nebraska State Historical Society if any cultural resources are discovered during construction.

Hazardous Materials

16. HILR shall conform with all applicable Federal, state, and local laws and regulations regarding shipment of hazardous waste. Should a spill occur, HILR shall follow the appropriate emergency response procedures outlined in its Emergency Response Plan, and ensure the spill is cleaned up according to all applicable Federal, state, and local regulations.