

SURFACE TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS

STB Finance Docket No. 35237

**City of Davenport, IA – Construction and Operation Exemption –
in Scott County, IA**

January 28, 2010

TO: Rachel Campbell, Director
Office of Proceedings

FROM: Victoria Rutson, Chief 
Section of Environmental Analysis

RE: Review of Environmental Matters and Final Environmental
Recommendations in STB Finance Docket No. 35237

Cc: Joe Dettmar
Marc Lerner
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Review of Environmental Matters and Final Environmental Recommendations

OVERVIEW

The purpose of this document is to summarize the environmental review process and key environmental issues associated with the City of Davenport's proposal to construct and operate an approximately 2.8-mile rail line in southern Eldridge, northern Davenport, and an unincorporated area of Scott County, Iowa. The proposed project, known as the Eastern Iowa Industrial Center Rail Project, would provide freight rail service to the Eastern Iowa Industrial Center (EIIC), an industrial park located along Interstate 80. The purpose of the proposed project is to provide a rail connection between the EIIC and the Eldridge Line of the Iowa Chicago & Eastern Railroad (IC&E),¹ as well as to promote economic development in the area.

Prior to the Board's involvement, the U.S. Federal Highway Administration (FHWA) and the City of Davenport conducted a streamlined environmental review of the proposed project and released an Environmental Assessment (EA) titled "Eastern Iowa Industrial Center Railroad Extension in Davenport, Eldridge, and Scott County, Iowa" on March 17, 2008. The EA concludes that the proposed rail project would "have no significant adverse social, economic or environmental impacts." The Board's Section of Environmental Analysis (SEA) has independently reviewed the EA and agrees with its analysis and conclusions. Therefore, SEA has determined that the EA meets the standards for an adequate environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et. seq.*) (NEPA) and can be adopted, should the Board so decide.

In any decision granting the City of Davenport the authority to construct and operate the proposed rail line, SEA recommends that the Board: (1) adopt the EA for purposes of complying with NEPA and the Board's environmental rules; (2) approve construction and operation of the City of Davenport's preferred alternative; and (3) impose three of the four mitigation measures included in the FHWA's July 8, 2008 Record of Decision. SEA's recommendations are discussed in more detail below.

¹ The IC&E is a Class II railroad.

DESCRIPTION OF THE PROPOSED PROJECT

On July 21, 2009, the City of Davenport filed a petition with the Board seeking an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to construct an approximately 2.8-mile rail line in southern Eldridge, northern Davenport, and an unincorporated area of Scott County, Iowa. In an amendment filed on September 8, 2009, the City of Davenport clarified that it also seeks operation authority.²

The proposed rail line would begin at the IC&E Blackhawk Road crossing, then would curve to the west through Eldridge Industrial Park and Commercial Development, cross First Street into agricultural land, turn south through agricultural land, and would end at the EIIC. The line would consist of one set of tracks, except for two proposed turnouts at the beginning and the end of the proposed alignment. As stated above, the proposed project would provide freight rail service to the EIIC, a 300-acre industrial park located in the northeastern quadrant of the Interstate 80 and Northwest Boulevard interchange. The EIIC was developed to provide large industrial development sites³ ready for development with highway and rail access. At this time, there are five companies at the EIIC; these businesses include: Quad City Consolidated Freight, which moves parts and finished products for Deere & Company;⁴ PCT Engineering Systems, LLC, which primarily provides a custom engineering design and build service to converting and metal industries; MMS Thermal Processing, which specializes in vacuum carburizing; CML USA, Inc., which manufactures custom pipe bending equipment under the trademark name Ercolina; and Evolution Power Tools, which manufactures and assembles patented tools and associated products.

The City of Davenport anticipates that traffic on the proposed rail line would consist of two trains (one round trip) per week, and each train would have two to three rail cars. As industrial development in the area continues, train traffic would be expected to increase to a maximum of two trains (one round trip) per day for the foreseeable future. Goods to be shipped over the rail line would vary depending on the specific industries that may locate along the route but would likely consist of agricultural equipment, manufactured parts, and corn.

² The Board published a notice announcing the City of Davenport's petition for exemption on October 19, 2009.

³ For the purposes of this document, "large industrial development sites" are industrial development sites that are 20 acres or larger.

⁴ Deere & Company, collectively called John Deere, is the leading manufacturer of agricultural machinery.

ENVIRONMENTAL REVIEW PROCESS FOR THE PROPOSED RAIL LINE

Scoping

With the cooperation of the Iowa Department of Transportation (Iowa DOT), FHWA and the City of Davenport conducted a streamlined environmental review of the proposed rail project. As stated in the EA, appropriate Federal and state agencies were notified about the proposed project and the intent to conduct an environmental review on February 20, 2007. Local agencies were contacted on May 4, 2007. In addition, on November 8, 2007, the City of Davenport held a public information meeting, in order to provide interested parties with the opportunity to learn about the proposed project, meet with representatives from the City of Davenport and Iowa DOT, discuss questions about the project, and submit comments or concerns.

During the scoping process, concerns were raised about the following: impacts to drainage on farmlands and roads in the area of the proposed project; impacts to land access; the quality of road crossings and warning devices that would be installed as part of the proposed project; commodities to be shipped over the proposed rail line and potential hazardous spills; the possible annexation of the project area into the City of Davenport; and whether agricultural land in the proposed project area would be rezoned for industrial use.

In addition, the following comments were submitted: 1) the U.S. Army Corps of Engineers (Corps) stated that a Section 404 permit would be required for the proposed crossing of Crow Creek;⁵ 2) the Bi-State Regional Commission and the Greater Davenport Redevelopment Corporation expressed support for the proposed project; 3) the Natural Resources Conservation Service stated that there were no wetlands evident along the proposed rail corridor; 4) the Iowa Department of Cultural Affairs (State Historic Preservation Office) stated that the proposed project area had the potential to contain archaeological resources that might be considered eligible for listing in the National Register of Historic Places (National Register) and recommended a Phase I archaeological survey prior to construction;⁶ 5) the Iowa Department of Natural Resources' Conservation and Recreation Division found no site-specific records of rare or significant natural communities that would be impacted by the proposed project but

⁵ The City of Davenport submitted an application for a 404 permit on December 5, 2007. Following a review of the application and proposed box culvert construction in Crow Creek, the Corps determined that the proposed project did not fall under its jurisdiction and no further review was required.

⁶ To determine whether any structures or archaeological sites within the Area of Potential Effects were eligible for the National Register, a Phase I Cultural Resources survey was conducted in March 2007. The survey identified two archaeological sites within the Area of Potential Effects or APE; however, neither site was found to be eligible for the National Register. The SHPO concurred with this determination on April 19, 2007.

stated that any construction activity that would disturb more than one acre would require a National Pollutant Discharge Elimination System permit; 6) the City of Eldridge expressed concerns regarding the quality of road crossings and warning devices that would be installed as part of the proposed project, as well as concerns about drainage; 7) the U.S. Environmental Protection Agency did not have any concerns regarding the proposed project; and 8) the Federal Aviation Administration (FAA) stated that the City of Davenport would need FAA approval before selling property located at the Davenport Municipal Airport and expressed concern that the proposed project could negatively impact the extension of an airport runway. All comments and concerns were considered and addressed in the EA.

Alternatives

Other sites with established rail access were considered for the EIIC. However, according to the City of Davenport, these other sites did not offer the availability of water and sewer systems or the flat topography of the current EIIC site. Alternatives considered for the proposed rail project are briefly discussed below.

The City of Davenport's proposed rail line is the Preferred Alternative. It would realign approximately 1,654 linear feet of IC&E track and would extend a total of 2.8 miles west and south to the EIIC. As stated above, the Preferred Alternative would begin at the IC&E Blackhawk Road crossing, then would curve to the west through Eldridge Industrial Park and Commercial Development, cross First Street into agricultural land, turn south through agricultural land, and would end at the EIIC. The line would consist of one set of tracks, except for two proposed turnouts at the beginning and the end of the proposed alignment. A crossing would be required over Crow Creek, and this crossing would consist of five cell box culverts approximately 53 feet in length. In addition, the proposed rail line would require four at-grade crossings.

Another alternative, located further south than the Preferred Alternative, was eliminated from consideration as a potential alignment early in the review process because that alternative would have crossed the clear zone of both runways at Davenport Municipal Airport and would have restricted any future expansion of the runways.⁷

Under the No Action Alternative, the proposed rail line would not be constructed, and current land uses and activities would continue as they exist today. Land in the project area would continue to be used for industrial or agricultural purposes, and there would be no changes to Crow Creek. Accordingly, the No Action Alternative would have fewer initial environmental impacts, such as impacts from land acquisition and the need for floodplain management. However, if economic development continues in the area, then shipping goods by rail would result in fewer air emissions compared with shipping the same amount of freight by truck. In addition, because the No Action

⁷ The Preferred Alternative has been approved by the Airport Commission and would not interfere with future expansions of the airport.

Alternative would not resolve the need for rail service to the EIIC, it would not meet the purpose and need of this proposed project.

Environmental Assessment

The EA was issued on March 17, 2008, and notification of the availability of the EA was forwarded to Federal, state, and local agencies on March 28, 2008.⁸ In the EA, FHWA and the City of Davenport evaluated the potential environmental impacts that the proposed rail line could have in the following areas: property owners and land use, including property used as farmland; water quality, drainage issues and floodplain management; cultural resources; air quality; noise; safety issues, including hazardous materials; area transportation; and cumulative impacts.

A public hearing was held on April 28, 2008, at the Blong Technology Center in the Eastern Iowa Industrial Center in Davenport, Iowa, and approximately eight people attended the public hearing. In addition, letters were received from the U.S. Army Corps of Engineers, U.S. Department of Agriculture's Natural Resource Conservation Service; Surface Transportation Board; Federal Aviation Administration; and a group of local property owners. The major issues raised in response to the EA included: concern over loss of land access that could result from the proposed construction of the rail line; concern regarding who would be responsible for maintaining the right-of-way, in order to prevent chemicals associated with farming from leaching into the drainage way; and the need to file with the Board for licensing authority to construct the proposed rail line under 49 U.S.C. 10901.

FHWA Record of Decision

On July 8, 2008, FHWA issued its Record of Decision and Finding of No Significant Impact. In the Record of Decision, FHWA stated that, based on the analysis in the EA, the proposed rail project will not have any significant impact on the human and natural environment.

Mitigation Measures

FHWA concluded in its Record of Decision that construction and operation of the proposed rail line would not result in significant environmental impacts. However, FHWA imposed four conditions that would reduce or minimize any potential impacts:

- The Airport Layout Plan showing the rail alignment and the Agreement between the City of Davenport and the Davenport Airport Commission need to be amended and submitted to the Federal Aviation Administration (FAA). The City of Davenport is also required to submit

⁸ Public availability of the document was published in the *Quad City Times* on March 31, 2008, and interested parties were invited to submit comments on the EA before April 30, 2008.

and receive approval of a Notice of a Proposed Construction or Alteration for Objects Affecting Navigable Airspace to the FAA. This is due to the railroad crossing safety zones for two runways at the Davenport Municipal Airport.

- The City of Davenport will need to apply and receive approval for the National Pollutant Discharge Elimination System through the Iowa Department of Natural Resources for the disturbance of more than one acre of land.
- The City of Davenport will need to file for the authority to construct a new rail line with the Surface Transportation Board. The Surface Transportation Board will need [to] adopt the Environmental Assessment that has been prepared by the City of Davenport in conjunction with the Iowa Department of Transportation and the Federal Highway Administration.
- New Right of Way for this project will be acquired in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended.

Should the City of Davenport's petition be approved, SEA recommends that the Board impose all of the above-listed mitigation measures, with the exception of the condition requiring the City of Davenport to file for authority with the Board, since that condition has now been fulfilled.

BOARD'S ROLE UNDER NEPA AND ADOPTION OF THE EA

NEPA requires Federal agencies to examine the potential environmental effects of their proposed actions and to inform the public concerning those effects. The purpose of NEPA is to focus the attention of the agency and the public on the likely environmental consequences of a proposed action, in order to minimize or avoid potential negative environmental impacts. However, NEPA does not mandate a particular result. Once the adverse environmental effects have been adequately identified and evaluated, the agency can conclude that other benefits outweigh the environmental cost.

Under NEPA, the Board must consider the potential environmental impacts of its action before deciding whether to approve a new rail line. The Board's regulations for implementing NEPA at 49 CFR 1105 are consistent with the President's Council on Environmental Quality (CEQ) regulations at 40 CFR 1500. CEQ strongly encourages agencies to reduce paperwork and duplication of efforts, and one of the methods identified by CEQ to accomplish these goals is adopting the environmental documents prepared by other agencies. Accordingly, pursuant to 40 CFR 1506.3, the Board may adopt FHWA's EA as its own since the action analyzed by the FHWA is substantially the same as that being proposed by the City of Davenport.

On behalf of the Board, SEA carefully reviewed the EA and conducted an independent assessment of the proposed rail project. This review included a site visit on August 18, 2009. In addition, on October 26, 2009, the EA and FHWA's Record of

Decision were made available to agencies, tribes, the public and other interested parties for a 30-day public comment period.⁹ The deadline for submitting comments was November 30, 2009, and SEA has not received any comments. Therefore, SEA concludes that the information in the record is adequate and no supplemental or additional environmental review is required.

Based on all available information, SEA concludes that the EA adequately assesses the environmental impacts of the proposed action and meets the Board's responsibilities under NEPA. SEA also concurs with FHWA's selection of the proposed rail line as the Preferred Alternative. Accordingly, SEA recommends that the Board: adopt the EA in any decision granting the City of Davenport the authority to construct and operate the proposed rail line; approve construction and operation of the City of Davenport's Preferred Alternative; and impose the conditions set forth above.

⁹ See 74 Fed. Reg. 55085-55086.