

EO - 2487



Re: Questions concerning CSXT - L&I Contract

Vicki Rutson to: Richardson, Nancy

Cc: David Navecky

01/29/2015 05:55 PM

From: Vicki Rutson/STB
To: "Richardson, Nancy" <Nancy.Richardson@mail.house.gov>
Cc: David Navecky/STB@STB

Nancy, Dave and I have tried to respond to your questions as clearly and directly as we could. We're not positive that we've succeeded, though. If there's anything that isn't clear, please let us know. I'll be out tomorrow and Monday but back in on Tuesday. I can be reached at (202) 245-0295 and Dave can be reached at (202) 245-0294. I've cc'd Dave on this email so you have both our email addresses.

Regards,

Vicki (and Dave)

Victoria Rutson
Director
Office of Environmental Analysis
Surface Transportation Board

-To gain approval of a given contract, the applicants' only requirement is to submit it before the Surface Transportation Board – correct? Do they require approval from another agency as well? STB then decides if an EA or an EIS is warranted, and will issue draft, supplemental and final EAs to address any issues that they discover?

As the agency with economic regulatory authority over freight railroads, the STB does have sole authority over CSXT and L&I's joint use application. But several other agencies (EPA, US Fish and Wildlife Service, US Army Corps of Engineers, among others) were involved in the STB's environmental review process. And should the STB decisionmakers approve this proposal, CSXT and L&I will have to comply with the regulations of several other agencies. For example, they will have to obtain a Clean Water Act permit from the Army Corps of Engineers for the replacement of the Flatrock River Bridge near Columbus.

-For this case, should the mayors' involvement have happened much earlier in the process? Is there a specific reason that may or may not have occurred?

The mayors have been very effective in making us aware of the concerns of their communities. We knew right from the start of the environmental analysis--the site inspection-- that the L&I Rail Line operates in proximity to numerous communities and that safety, vehicular delay, emergency vehicle access, and noise would need to be assessed in the EA.

-Additionally, are EAs the only documents STB looks at in determining whether this contract is approved or not? Sending a letter to STB would in effect accomplish what?

The decisionmakers at the STB are the two Board members, Chairman Miller and Vice Chairman

Begeman. They are looking at the Draft EA, Supplemental EA, and Final EA, and also the comments submitted from all commenters, as well as the legal filings from several communities, shippers, business development interests, and the railroad. The legal filings are posted on the Board's website at www.stb.dot.gov under "filings" and Docket Number FD 35523. The environmental documents are all set forth in the EAs for this case.

The mayors have made the concerns of their communities clear--Dave and I have briefed both the Chairman and the Vice Chairman to ensure that they are fully informed before any decision is made.

-If after the Final EA is issued and more information regarding the environmental impact comes to light, can another supplemental EA be issued?

Yes, that does happen occasionally when information or new circumstances not available at the time the EA was prepared comes to light. It also happens when the proposed action changes so much that the potential for new environmental impacts results. The rules for when to prepare a supplement can be found at 40 C.F.R. 1502.9(c), the regulations of the President's Council on Environmental Quality implementing the National Environmental Policy Act.

-Can STB make a decision that mandates certain safety features? Or, is this something the rails are required to provide on their own, in collaboration with the communities

The owner of the road being crossed by the rail line--state, county, or local municipality--is responsible for identifying the need for additional protection and paying for that protection. For grade separations, the cost to the railroads set by states, typically 5 or 10%. INDOT receives Federal grants that allow it to upgrade 20-25 grade crossings statewide per year. But with 6000 total public at grade crossings in Indiana, only a small number can be upgraded using INDOT funds each year. In past cases before the STB, some rail applicants have voluntarily agreed to fund some grade crossing protection improvements, including gates and lights. The STB always encourages rail applicants to enter into negotiated agreements with communities because the mitigation offered in such agreements can often go beyond what the STB can impose. In one recent case, the STB required Canadian National Railway to pay 68% and 76% of two grade separated crossings in two suburban Chicago communities where train traffic would increase to 35+ trains per day.

-Lastly, are infrastructure solutions a cost to be shared with the railroads, their communities, and the state department of transportation?

As discussed above, grade crossing protections (flashing lights, gates) are typically paid for by the owner of the road. For grade separations, state and federal monies typically cover 90-95% with the railroad typically paying 5-10%. But as also noted above, negotiating with the rail applicant can result in agreements that can benefit all parties.

"Richardson, Nancy" Hi Vicki - I just have a few questions about t...

01/29/2015 10:03:05 AM

From: "Richardson, Nancy" <Nancy.Richardson@mail.house.gov>
To: "Vicki.Rutson@stb.dot.gov" <Vicki.Rutson@stb.dot.gov>
Date: 01/29/2015 10:03 AM
Subject: Questions concerning CSXT - L&I Contract

Hi Vicki –

I just have a few questions about the CSX Transportation and L&I Contract that we have been discussing – most recently from the conference call last Friday. If you would have time to address them, that would be most beneficial to us.

-To gain approval of a given contract, the applicants' only requirement is to submit it before the Surface Transportation Board – correct? Do they require approval from another agency as well? STB then decides if an EA or an EIS is warranted, and will issue draft, supplemental and final EAs to address any issues that they discover?

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-Lastly, are infrastructure solutions a cost to be shared with the railroads, their communities, and the state department of transportation?

Thanks so much for your assistance, and your help thus far. It is greatly appreciated!
Nancy

Nancy Richardson
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Congressman Todd Young (IN-09)
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