

STATE OF ILLINOIS



**ILLINOIS COMMERCE COMMISSION
TRANSPORTATION DIVISION / RAIL SAFETY SECTION**

Michael E. Stead

Rail Safety Program Administrator

(Filed in E-Docket and e-mailed to Judge O'Brien and as attached)

September 28, 2010

Joe O'Brien
Administrative Law Judge
Review and Examination
Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, IL 62701

RE: T02-0067 Granite City

Dear Judge O'Brien:

The attached Agreed Fifth Supplemental Order is respectfully submitted for your approval and submittal to the Commission.

The Agreed Order was drafted in coordination with the parties and TRRA. The attached Fifth Supplemental Order addresses the need for an extension of time to complete the Pontoon Road Bridge. Also discussed is the ability to permanently close the 20th Street crossing and the 22nd Street/NS Yard track crossing in advance of the bridge opening.

If you have any questions, or require additional information, please contact me at (312) 636-7760 or bvercruy@icc.illinois.gov.

Very truly yours,

A handwritten signature in cursive script that reads "Brian Vercruysse".

Brian Vercruysse
Senior Rail Safety Specialist

Enclosure

Certificate of Service

I, Brian Vercruysse, Senior Rail Safety Specialist for the Illinois Commerce Commission, hereby certify that the AGREED FIFTH SUPPLEMENTAL ORDER for T02-0067 was docketed on e-Docket and e-mailed to the parties listed below.

RAIL SAFETY SECTION STAFF
ILLINOIS COMMERCE COMMISSION

By: 
Brian Vercruysse, P.E.
Senior Rail Safety Specialist

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STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

City of Granite City, an Illinois municipal corporation	:	
Petitioner,	:	
	:	
v.	:	T02-0067
	:	
The Department of Transportation of the State of Illinois, for and	:	
in behalf of the People of the State of Illinois, Gateway Eastern	:	
Railway Company, Kansas City Southern Railway Company	:	
(Gateway Western Railway Company), Norfolk Southern Railway	:	
Company, and Union Pacific Railroad Company, Kansas City	:	
Southern Railway Company,	:	
Respondent.	:	
	:	
Terminal Railroad Association of St. Louis	:	
Intervener.	:	
	:	
Petition for an Order regarding a separation of grades and	:	
construction of an overpass at Pontoon Road, Granite City,	:	
Illinois, closing of the railway crossing at 22nd Street, an	:	
apportionment of costs thereof, including directing payment to be	:	
borne by the Grade Crossing Protection Fund, and other stated	:	
or requested relief.	:	

DRAFT AGREED FIFTH SUPPLEMENTAL ORDER

By the Commission:

On June 4, 2010, the City of Granite City (“City”) filed its verified Petition requesting a Supplemental Order allowing for an extension of time, to and including March 31, 2011, to complete the project. This was preceded by the City’s notification, dated May 26, 2010, to Staff of the Commission’s Rail Safety Section (“Staff”) that the City would be unable to complete the project by the ordered completion date of June 31, 2010.

PROCEDURAL HISTORY

On June 28, 2002, the City filed its initial Petition seeking approval for the construction of a highway overpass structure to carry Pontoon Road over Illinois Route 203 (Nameoki Road) and the tracks of the Norfolk Southern Railway Company (“NS”), Union Pacific Railroad Company (“UP”), Kansas City Southern Railway Company

("KCS"), and the Gateway Eastern Railway Company ("GWWE" or "KCS"), a subsidiary of the KCS. Included in the scope of work for the Pontoon Road bridge project, was the extension of Century Drive and subsequent closure of all of the grade crossings on 22nd Street, and necessary modifications to the 20th Street grade crossings. Various hearings, status meetings, and filings occurred, and numerous Orders were entered for the project. These previous activities and Orders are summarized in the Second Supplemental Order, approved by the Commission on February 6, 2008.

On February 6, 2008, the Commission entered its Second Supplemental Order requiring, among other things, that any warning device improvements at the 20th Street crossing that were not contemplated in the previous Orders were to be addressed by a separate Stipulated Agreement among the parties, including the Intervener Terminal Railroad Association of St. Louis, ("TRRA"). The TRRA maintains the existing automatic warning devices at the 20th Street crossing. Staff recommended that the preliminary division of cost for this work should be apportioned 95% to the GCPF and the remainder to the "Railroads" (excludes TRRA).

On June 11, 2008, Staff filed its Agreed Third Supplemental Order. In support of the filing, Staff also included revised plans for the Century Drive portion of the project. On June 25, 2008, the Commission entered its Third Supplemental Order, which authorized design modifications to the Century Drive Extension and the 20th Street grade crossings.

On August 13, 2008, the Commission entered its Amended Third Supplemental Order which clarified design modifications to the Century Drive Extension, as well as the 20th Street grade crossings, as authorized by the Commission's Third Supplemental Order issued on June 25, 2008.

On September 24, 2008, the Commission entered its Fourth Supplemental Order providing for the division of costs for rail and warning device work necessary at the relocated 20th Street crossing with the NS Yard track.

On June 4, 2010, the City filed its Petition requesting an extension of time from June 31, 2010, to March 31, 2011, to complete the project.

On June 16, 2010, June 21, 2010, and June 28, 2010, the NS, UP, and KCS respectively, filed Responses indicating no objection to the City's request for an extension of time.

On September 28, 2010, Staff filed a Response indicating no objection to the City's June 4, 2010, Petition. Also, included with Staff's filing was an Agreed Fifth Supplemental Order, the terms of which are acceptable to all Parties and Intervener, TRRA.

PETITIONER, RESPONDENTS, INTERVENER, & STAFF POSITION

The City was delayed in its efforts to complete the bridge due to three basic reasons: 1) above normal precipitation levels in 2009 reduced the number of work days available for completion of the project by 17%; 2) unanticipated subsurface issues discovered during construction of the foundation of the bridge component of the project necessitated a redesign of the foundation, delaying construction by five months in 2009; and 3) a six month delay at the project start in 2008 due to the complexities with constructing the temporary Pontoon Road rail crossing, and relocating utilities.

The City is currently working on the superstructure elements of the Pontoon Road Bridge over the tracks of the KCS, UP, and NS. This includes final beam placement and pouring of the bridge deck. The City anticipates that all bridge work and approach roadway work will be complete by March 31, 2011.

As required by the Commission's Orders, the City has completed the Century Drive extension portion of the project, and the NS has completed the surface and warning device work at the relocated 20th Street Yard track crossing.

At the 20th Street crossing with the tracks of the NS, UP, KCS, and TRRA, roadway modifications have been completed on the west approach such that no vehicles can access the crossing. Similarly, on the east approach, the NS has removed the crossing surfaces on its mainline tracks and the City has erected temporary barricades. Intervener, TRRA, which has jurisdiction of the warning devices, with approval from Staff has removed the equipment for use at other locations. To provide for the permanent closure, the City will complete curb modifications and install permanent barricades on the east approach.

With the Century Drive extension complete, the City, NS, and Staff agree that the 22nd Street crossing of the NS Industry track may be permanently closed prior to the completion of the Pontoon Road Bridge. To allow for the permanent closure, the City will install permanent barricades and signs on the crossing approaches. The NS will remove the crossing surfaces and approach pavement at the 22nd Street crossing.

For both closures, the City has also initiated the formal roadway vacation process, and will notify the Parties, Intervener, and Staff when this is complete so that the Federal Railroad Administration's and Commission's databases may be updated to reflect the permanent closure of the crossings.

COMMISSION STAFF ANALYSIS AND CONCLUSION

Staff is of the opinion that the City's request for an extension of time, to and including March 31, 2011, is reasonable and should be approved. Staff also concurs that the 20th Street crossings of the tracks of the NS, UP, KCS, and TRRA and the 22nd Street crossing of the NS Yard track may be permanently closed prior to the completion of the Pontoon Road Bridge.

COMMISSION FINDINGS AND CONCLUSIONS

The Commission, having given due consideration to the entire record herein, finds that:

- 1) The Commission has jurisdiction of the parties and Intervener TRRA hereto and the subject matter herein;
- 2) The recitals of fact as set forth in the prefatory portion of this Fifth Supplemental Order are true and correct and are hereby adopted as findings of fact;
- 3) The completion date of the project should be extended to March 31, 2011;
- 4) In accordance with previous Commission Orders, the City has completed the Century Drive extension portion of the project;
- 5) The permanent closure of the 20th Street crossing with the tracks of the NS, UP, KCS, and TRRA should be completed within 90days of this of this Order;
- 6) The permanent closure of the 22nd Street crossing with the NS Yard/Industry track should be completed within 90 days of this Order;
- 7) The City should provide written notice to the parties when the roadway vacation is complete;
- 8) All other terms and conditions of the Orders entered to date in this Docket should remain in full force and effect except as herein modified.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the completion date for the project herein shall be March 31, 2011.

IT IS FURTHER ORDERED that permanent closure of the 20th Street crossing of the tracks of the NS, UP, KCS, and TRRA (designated as crossing AAR/DOT #'s 328 048M, 294 469A, 294 469A, 480 327V, and 803 088U) shall be completed within 90 days of the date of this Order.

IT IS FURTHER ORDERED that permanent closure of the 22nd Street crossing of the NS Yard/Industry track (designated as AAR/DOT #328 047F) shall be completed within 90 days of the date of this Order.

IT IS FURTHER ORDERED that all other terms and conditions of the previous Orders entered by the Illinois Commerce Commission in this Docket shall remain in full force and effect except as herein modified.

IT IS FURTHER ORDERED that the Commission or its Administrative Law Judge reserves the right to deny Petitions for Supplemental Orders and Requests for Extension of Time, if the reason(s) supporting the request is (are) insufficient or where it appears the person has not made a good faith effort to complete the project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS FURTHER ORDERED that subject to Sections 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission, subject to Administrative Review Law.

By Order of the Commission this th day of October, 2010.

MANUEL FLORES
ACTING CHAIRMAN