DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Emergency Order No. 25, Notice No. 1]

Toledo, Peoria and Western Railway; Emergency Order To Prevent Operation of Trains on Railroad Bridge No. 29.11 of the Toledo, Peoria and Western Railway

The Federal Railroad Administration (FRA) of the United States Department of Transportation (DOT) has determined that public safety compels issuance of this Emergency Order requiring the Toledo, Peoria and Western Railway (TPW, a subsidiary of RailAmerica, Inc., to discontinue operation of trains or any railroad on-track equipment by anyone on a railroad bridge it owns spanning Prairie Creek (hereinafter designated as ''Bridge 29.11'') near the City of LaHogue, Illinois. The bridge shall remain out of service until it has been properly repaired and its capacity determined by a registered professional engineer licensed to practice in the State of Illinois who is technically proficient in the field of timber railroad bridge engineering.

Authority

Authority to enforce Federal railroad safety laws has been delegated by the Secretary of Transportation to the Federal Railroad Administrator. 49 CFR 1.49. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws, 49 U.S.C. 20101, 20103. FRA is authorized to issue emergency orders where an unsafe condition or practice ''causes an emergency situation involving a hazard of death or personal injury.'' 49 U.S.C. 20104. These orders may impose such ''restrictions and prohibitions * * * that may be necessary to abate the situation.'' (Ibid.)

Background

TPW, a common carrier, is a part of the general railroad system of transportation. The track segment in which the Bridge 29.11 is located extends approximately 180 miles from Peoria, Illinois to Logansport, Indiana.

TPW Bridge 29.11 crosses Prairie Creek at Mile Post 29.11, one-half mile east of LaHogue, Illinois. The bridge is approximately 100 feet north of County Road 1800N and one-half mile east of County Road 200E. Approximate geographic coordinates are 40°45′50.5″ North latitude and 88°04′46.4″ West longitude. There is no commercial water traffic on Prairie Creek.

TPW hauls mixed freight, including hazardous material, across the bridge. Current traffic levels are two trains per day, one each way, six days a week. Car weights are limited by TPW to 286,000 pounds.

Configuration of the Bridge

The bridge carries a single tangent main track. Its total length is 58 feet. It incorporates three Spans, numbered east to west as spans 1, 2 and 3. For reference in this and other documents relating to this Emergency Order, the bridge components are numbered from east to west and north to south, with the east end bent or abutment numbered as 0, and the north stringer in each span numbered as 1.

Superstructure

Spans 1 and 3 are timber pile trestle-type of approximately 13 feet in length. Span 2, approximately 30 feet in length, is of the deck plate girder design, with two built-up girders placed under this track.

Spans 1 and 3 each have eight timber stringers, 8 inches wide by 16 inches deep by 14 feet long. Four stringers are bolted together into each of two chords which are essentially centered under each rail. Span 2 is a 30 foot steel deck plate girder-type span two girders supporting the track.

Substructure

End bents 0 and 3 consist of five driven timber piles with a timber cap. Intermediate bents 1 and 2, which also support the steel girders of span 2, each have two rows of six driven timber piles. Each row of piles in bents 1 and 2 has a timber cap and one row of timber cross blocking above the caps. Above the cross blocking under the deck plate girder span are two transverse timbers laid side by side. Above the cross blocking under the timber spans there are three transverse timbers stacked on top of each other.

Track

Track ties rest directly on top of the stringers, and support in turn tie plates and the two continuously welded running rails, 112 pounds per yard. There are no rail joints on the bridge. A metal strap is attached to the top of the outside edge of the ties to maintain spacing.

FRA Activity Related to the Bridge

On August 8, 2006, two FRA Bridge Safety Specialists, on FRA Chief Inspector and a TPW Track Foreman observed the bridge. The serious bridge conditions and a track defect (warp) on the bridge were noted and discussed with the TPW Track Foreman. FRA determined that the warp condition on the bridge was caused by deteriorated and crushing stringers. On August 11, 2006, an FRA Bridge Safety Specialist discussed the condition of this bridge with TPW's Roadmaster. A conference call was held on August 31, 2006, with FRA, TPW, and RailAmerica officials specifically to discuss bridge conditions on the TPW and TPW's bridge management program. During this call, the condition of this bridge was discussed. TPW and RailAmerica officials agreed to immediately repair this and other bridges. On October 31, 2006, an FRA Bridge Safety Survey Report of the TPW was sent to TPW and RailAmerica officials. The condition of this bridge was shown on page 4 of that report.

An FRA Bridge Safety Specialist conducted an observation of the bridge on December 13, 2006, after notifying TPW several days in advance of his plans. TPW elected not to accompany the FRA specialist during that observation, which was conducted from below the bridge. The FRA observation of the bridge on December 13, 2006, revealed no evidence of repairs to the bridge or the track since the initial bridge observation on August 8, 2006. The condition of the bridge on December 13, 2006, enumerated below, is the basis for FRA to issue this Emergency Order.

Condition of the Bridge

The FRA observation of Bridge 29.11 on December 13, 2006, revealed the following conditions:

Span 1:
- Stringer 1—West end is hollow, decayed and crushing with horizontal cracking.
- Stringer 2—West end is hollow and decayed.
- Stringer 3—West end is decayed.
- Stringer 4—Horizontal shear crack entire length. West end is hollow, decayed and crushing.
- Stringer 5—Horizontal shear crack entire length. West and is hollow, decayed and crushing.
- Stringer 6—West end is hollow and decayed.
- Stringer 7—West end is hollow and decayed.
- Stringer 8—Stringer has failed.

Span 3:
- Stringer 1—West end is crushing severely with multiple horizontal cracks. East end hollow.
- Stringer 2—East end hollow
- Stringer 3—West end of the stringer appears to be crushing. East end hollow.
- Stringer 4—Horizontal shear crack

entire length. West end is crushing. East end hollow.
Stringer 5—West end hollow with numerous horizontal cracks. East end hollow.
Stringer 6—East end hollow.
Stringer 7—East end hollow.
Stringer 8—West end hollow, decayed and crushing with horizontal cracks.

In span 1, a vertical gap of approximately .75 inches exists between the south rail and the tie plates, and a vertical gap of 1.25 inches exists between the track ties and stringer 8 at the southwest corner of the span.

Span 1 was observed while a westbound mixed freight train crossed the bridge at approximately 10 miles per hour. Vertical deflection of stringer 8 was measured at mid-span by attaching a tape measure to the stringer and referencing the movement against a fixed object near the ground. Several loaded cars each caused a deflection of approximately 1.25 inches. A deflection measurement was not taken while the locomotive was on the span. Significant vertical deflection was also observed but not measured in span 3.

Many of the cross blocks in bents 1 and 2 have various degrees of decay and voids. The timber under the west end of the stringers in span 1 has split lengthwise with approximately one-quarter of the timber broken off.

Evaluation of Bride Conditions

Using the live load deflection measurements in span 1 and by observing deterioration, crushing, and distress of the stringers in spans 1 and 3, FRA has determined that TPW's Bridge 29.11 is in imminent danger of catastrophic failure under a train at any time.

Failure of the bridge under load could have very serious consequences. The bridge failure could cause the train to fall into the creek below, seriously injuring any railroad employees on the train and any other persons in the vicinity of Prairie Creek. A derailment could block the creek resulting in widespread flooding in the immediate area. Locomotive diesel fuel or hazardous materials in the train could cause severe environmental damage to Prairie Creek and the Iroquois River into which it eventually flows.

Finding and Order

FRA has concluded that any future railroad use of Bridge 29.11 on the Toledo, Peoria and Western Railway poses an imminent and unacceptable threat to public and employee safety. The past failure of the Toledo, Peoria and Western Railway to voluntarily remove the bridge from service and perform proper repairs persuades FRA that the agency cannot rely upon the cooperation of the railroad to protect public safety in relation to the Bridge 29.11. I find that these unsafe conditions create an emergency situation involving a hazard of death or injury to persons.

Accordingly, pursuant to the authority of 49 U.S.C. 20104 delegated to me by the Secretary of Transportation (49 CFR 1.49), it is ordered that the Toledo, Peoria and Western Railway Company shall discontinue, and shall not permit, the operation of trains or any railroad on-track equipment over its Bridge 29.11 while this emergency Order remains in effect.

Relief

The Toledo, Peoria and Western Railway may obtain relief from this Emergency Order by providing the Federal Railroad Administrator with a report of inspection and evaluation of repairs, indicating to FRA's satisfaction that Bridge 29.11 has been acceptably repaired. The report shall be prepared and sealed by a registered professional engineer who is licensed to practice in the State of Illinois and is technically proficient in the field of timber railroad bridge engineering. The report shall state that the capacity of the entire bridge to carry safely railroad cars and locomotives has been restored. The configuration and weights of the loads for which the determination has been made shall be stated in the report, together with all calculations upon which that determination is based. The engineer's evaluation shall include a calculation of the capacity of every load-bearing member of each span in Bridge 29.11. The original of the engineer's report, bearing the embossed imprint of the seal of the engineer, shall be provided to the Regional Administrator of FRA's Region 4 before the report will be considered by FRA. Upon FRA's approval of the engineer's assessment of the bridge restoration, and following an inspection by FRA in which the agency finds the bridge properly repaired to safe condition, the Administrator will rescind this Emergency Order.

Penalties

Any violation of this order shall subject the person committing the violation to a civil penalty of up to $27,000, 49 U.S.C. 21301, 28 U.S.C. 2461, and *see* 69 FR 30591. FRA may, through the Attorney General, also seek injunctive relief to enforce this order. 49 U.S.C. 20112.

Effective Date and Notice to Affected Persons

The Emergency Order shall take effect at 12:01 a.m. (CST) on December 15, 2006, and apply to all operations of trains or railroad on-track equipment on Bridge 29.11 on or after that time. Notice of this Emergency Order will be provided by publishing it in the **Federal Register.** Copies of this Emergency Order will be sent by mail or facsimile prior to publication to Mr. Buford Hunter, General Manager, Toledo, Peoria and Western Railway, 1990 East Washington Street, East Peoria, Illinois, 61611; Mr. Joe Spirk, Chief Engineer-Central Business Unit of Rail America; and Mr. Scott Linn, Senior Vice President-Asset Management of RailAmerica, 5300 Broken Arrow Sound, NW., Boca Raton, Florida 33487; the Association of American Railroads; and the American Short Line and Regional Railroad Association.

Review

Opportunity for formal review of this Emergency Order will be provided in accordance with 49 U.S.C. 20104(b) and section 554 of Title 5 of the United States Code. Administrative procedures governing such review are found at 49 CFR part 211. *See* 49 CFR 211.47, 211.71, 211.73, 211.75, and 211.77.

Issued in Washington, DC, on December 14, 2006.

Joseph H. Boardman,

Administrator.

[FR Doc. 06–9788 Filed 12–15–06; 2:56 pm]

BILLING CODE 4910–06–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance: Date and Location of Public Hearings

By public notice published on December 8, 2006 (71 FR 71237), The Federal Railroad Administration (FRA) announced the receipt of a petition from BNSF Railway and Norfolk Southern Railway, two Class I Railroads, for a waiver of compliance from certain provisions of Title 49 Code of Federal Regulations (CFR) Part 232 *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment*, to begin implementation of Electronically Controlled Pneumatic (ECP) brake technology. In the notice, FRA stated that the facts appear to warrant a public hearing. (The petition is identified as Docket FRA–2006–26435.)

A public hearing is hereby set for 1 p.m.–6 p.m. on Tuesday, January 16,