

should also be directed to SBA's Office of Veterans Business Development at (202) 205-6773 or veteransbusiness@sba.gov. For more information on veteran owned small business programs, please visit www.sba.gov/veterans.

Dated: January 11, 2017.

Miguel J. L. Heureux,
SBA Committee Management Officer.

[FR Doc. 2017-00951 Filed 1-19-17; 8:45 am]

BILLING CODE 8025-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36075]

The Illinois State Toll Highway Authority—Petition for Declaratory Order

By petition filed on November 23, 2016, the Illinois State Toll Highway Authority (Tollway) seeks a declaratory order confirming that, in its effort to acquire permanent and temporary easements for the construction of five highway bridges over railroad tracks owned and operated by Soo Line Railroad Company, d/b/a Canadian Pacific Railway (CP) in Chicago, Ill., the Tollway's state law eminent domain authority is not preempted by federal law under 49 U.S.C. 10501(b). The Tollway seeks expedited consideration and has submitted a procedural schedule that provides for comment by CP as well as a period for public comment.

On December 9, 2016, CP filed a "limited reply" in opposition to the Tollway's request for a declaratory order and proposed procedural schedule. CP argues that the Tollway disregards the fact that the construction of the five highway bridges would lock the layout of the tollway into an alignment that goes across and through CP's Bensenville Yard. Therefore, CP asserts that the scope of this proceeding should be broadened to consider the ramifications that the Tollway's project would have on the Bensenville Yard. CP also requests that the Board allow limited discovery and proposes a procedural schedule that allows for discovery, CP's substantive reply, and public comment.¹ In the event the Board

¹ On December 21, 2016, the Tollway filed a motion for leave to file a surreply to CP's December 9, 2016 limited reply. On January 3, 2016, CP filed a motion for leave to file a reply to the Tollway's surreply. The Board will grant both motions and will consider the filings in the interest of compiling a more complete record. See *City of Alexandria, Va.—Pet. for Declaratory Order*, FD 35157 (STB served Nov. 6, 2008) (allowing reply to reply "[i]n the interest of compiling a full record"); *Denver & Rio Grande Ry. Historical Found.—Pet. for Declaratory Order*, FD 35496, slip op. at 3 (STB served Feb. 23, 2012).

were to disallow discovery, CP proposes an alternative procedural schedule, with replies due on February 23, 2017.

As discussed below, the Board will institute a proceeding to consider whether 49 U.S.C. 10501(b) preempts the Tollway's eminent domain authority to acquire the temporary and permanent easements needed to construct highway bridges over CP's rail tracks, as well as to consider the implications of the Tollway's prospective plans to cross or go through the Bensenville Yard.

Background

The construction of the Western Access Interchange, which involves the proposed construction of five highway bridges over CP's railroad tracks, is one stage of the Tollway's Elgin O'Hare Western Access Project (EOWA Project), a multi-stage project to improve the transportation infrastructure near O'Hare International Airport (O'Hare) by creating access to the western side of O'Hare. (Tollway Pet. 2; CP Reply 4.) The EOWA Project involves the construction of an east-west tollway (the Western Access Tollway) that approaches O'Hare from the west and a north-south tollway (the Western Bypass) that would connect I-90 north of O'Hare to I-294 south of O'Hare via the airport's western perimeter. (CP Reply 4.) The Tollway's petition pertains to the Western Access Interchange, which is the planned interchange between these two new tollways.

CP has requested that the Board broaden the scope of this proceeding to consider the southern leg of the Western Bypass, because "construction of the Western [Access] Interchange commits the Western Bypass to an alignment through Bensenville Yard," which is located immediately south of O'Hare and is CP's only rail yard in the Chicago Terminal. (CP Reply 9.) CP states that construction of the Western Access Interchange involves plans to build the highway bridges and a section of the southern leg of the Western Bypass to Irving Park Road, just north of the Bensenville Yard and that the Tollway has already commenced construction on a part of the tollway immediately south of the Bensenville Yard, from I-294 north to the yard's southwest property line. *Id.* Thus, CP argues that it is inevitable that the Tollway will seek to complete the Western Bypass through the Bensenville Yard.

The Tollway states that, while its ultimate goal is to connect the Western Access Tollway to I-294, the current plan is for the Western Access Tollway to stop at Irving Park Road, north of the Bensenville Yard. (Tollway Pet. 30.) The

Tollway states that the phases involving the crossing of the Bensenville Yard are the last two phases of the entire EOWA Project, with construction projected to start no earlier than 2020. (Tollway Pet. 16-17, 30.) The Tollway asserts that CP's objections in this proceeding to these last phases of construction are premature, as the plans for these phases have not developed past the conceptual layout stage, and it would thus be impossible to determine whether the phases would unreasonably interfere with railroad operations. (Tollway Pet. 31.) The Tollway states that "if and when the Tollway elects to pursue this work and [CP] refuses to cooperate, the Tollway will return to the Board with a subsequent petition related to the Bensenville Yard issues." (Tollway Pet. 30.) The Tollway also notes that CP's argument for considering the impact on the Bensenville Yard has been dismissed as premature by the United States District Court for the Northern District of Illinois, see *Soo Line R.R. v. Ill. State Toll Highway Auth.*, Case No. 15-C-10328 (N.D. Ill. Mar. 29, 2016), and CP's appeal of the dismissal is currently pending before the United States Court of Appeals for the Seventh Circuit.

Discussion and Conclusions

The Board has discretionary authority under 5 U.S.C. 554(e) and 49 U.S.C. 1321² to issue a declaratory order to eliminate a controversy or remove uncertainty in a case that relates to the subject matter jurisdiction of the Board. The Board has broad discretion to determine whether to issue a declaratory order. See *Intercity Transp. Co. v. United States*, 737 F.2d 103 (D.C. Cir. 1984); *Delegation of Auth.—Declaratory Order Proceedings*, 5 I.C.C.2d 675 (1989). The Board may also provide guidance to assist other government agencies and courts in appropriate circumstances. See *U.S. Env'tl. Prot. Agency—Pet. for Declaratory Order*, FD 35803 (STB served Dec. 30, 2014); *Mid-Am. Locomotive & Car Repair, Inc.—Pet. for Declaratory Order*, FD 34599 (STB served June 6, 2005). In this case, it is appropriate to institute a proceeding so that the Board can address whether § 10501(b) preempts the Tollway's eminent domain authority to acquire the temporary and permanent easements needed to construct highway bridges over CP's tracks, as well as the potential implications of crossing or going through the Bensenville Yard. The

² The Surface Transportation Board Reauthorization Act of 2015, Public Law No. 114-110, recodified certain provisions of title 49, United States Code, redesignating 49 U.S.C. 721 as § 1321.

Tollway and CP have presented related issues that ultimately may be relevant to future construction plans and activities for the EOWA Project. Therefore, it is appropriate to institute a proceeding to provide guidance on the issues raised by both the Tollway and CP.

The Board will establish a procedural schedule for the filing of additional pleadings. The Tollway's petition will serve as its opening statement. CP's substantive reply and comments from other interested persons will be due by February 23, 2017. In its substantive reply, CP should provide an analysis that details the impact of the proposed construction projects on its rail operations. The Tollway and other interested parties may respond to CP's reply only on the issue of the potential crossing of the Bensenville Yard by March 16, 2017.

CP also requests that the Board allow for limited discovery on the Tollway's alternative alignment options, the Tollway's plans regarding the Bensenville Yard, and the basis of the Tollway's expert opinions. CP's request for discovery will be denied. The Board often does not provide for discovery in declaratory order proceedings.³ Nor is it apparent that discovery is necessary here. Alignment options for the tollway were analyzed and discussed in the Environmental Impact Statements for the EOWA Project, which are publicly available and which CP cites in its reply. (Tollway Surreply 4; CP Reply 8.) These Environmental Impact Statements also provide information regarding the Tollway's prospective plans for the Bensenville Yard.⁴ To the extent that CP wishes to challenge the Tollway's expert witness's findings on and observations of CP's rail operations, CP possesses the information on its own operations needed to call into question the bases for the expert witness's conclusions. For these reasons, the Board will not order discovery in this proceeding.

It is ordered:

1. A proceeding is instituted.
2. CP and other interested persons may file substantive replies to the Tollway's petition by February 23, 2017.
3. The Tollway and interested persons may file responses to CP's reply, limited to only the issue of the Bensenville Yard, by March 16, 2017.

³ See, e.g., *CSX Transp. Inc.—Pet. for Declaratory Order*, FD 33388 (Sub-No. 101), slip op. at 5 (STB served Aug. 27, 2008).

⁴ See Elgin O'Hare-West Bypass Study: Tier Two Final Environmental Impact Statement (Oct. 2012), § 3.4.2. The Final Environmental Impact Statements are available on the Illinois Department of Transportation's Web site at <http://apps.dot.illinois.gov/fileexplorer/?search=environment/Elgin-Ohare%20final%20EIS>.

4. CP's request for limited discovery is denied.

5. The Tollway's motion for leave to file a surreply is granted.

6. CP's motion for leave to file a reply to the Tollway's surreply is granted.

7. Notice of the Board's action will be published in the **Federal Register**.

8. This decision is effective on its service date.

Decided: January 17, 2017.

By the Board, Rachel D. Campbell,
Director, Office of Proceedings.

Kenyatta Clay,
Clearance Clerk.

[FR Doc. 2017-01379 Filed 1-19-17; 8:45 am]

BILLING CODE 4915-01-P

TENNESSEE VALLEY AUTHORITY

Environmental Impact Statement— Transmission System Vegetation Management Program

AGENCY: Tennessee Valley Authority.
ACTION: Notice of intent.

SUMMARY: The Tennessee Valley Authority (“TVA”) intends to prepare an Environmental Impact Statement (“EIS”) to address the management of vegetation on its transmission system. In order to ensure that electric service to the public is not disrupted by outages on its transmission lines, TVA must control the vegetation on about 260,000 acres of the rights of way (“ROW”) for those lines. This EIS will programmatically consider the impacts of vegetation management activities on approximately 17,000 miles of transmission line.

DATES: Comments on the scope of the EIS must be received on or before March 20, 2017.

ADDRESSES: Written comments on the scope of the EIS should be sent to Anita E. Masters, Tennessee Valley Authority, 1101 Market Street, BR 4A, Chattanooga, Tennessee 37402. Comments also may be submitted online at tva.com/nepa or by email to aemasters@tva.gov.

FOR FURTHER INFORMATION CONTACT: For further nepa information, contact Anita Masters, 1101 Market Street BR 4A, Chattanooga, TN 37402, aemasters@tva.gov. For information on current row maintenance practices, see TVA's Transmission Web page (<https://www.tva.gov/Energy/Transmission-System/Right-of-Way-Maintenance>).

SUPPLEMENTARY INFORMATION: This notice is provided in accordance with the regulations promulgated by the Council on Environmental Quality (40 CFR parts 1500 to 1508) and TVA's procedures implementing the National

Environmental Policy Act (NEPA) (<https://www.tva.com/Environment/Environmental-Stewardship/Environmental-Reviews/NEPA-at-TVA>.)

TVA Power System and ROW Maintenance

TVA is a federal agency and instrumentality of the United States created by and existing pursuant to the TVA Act of 1933. Its broad mission is to foster the social and economic welfare of the people of the Tennessee Valley region and to promote the proper use and conservation of the region's natural resources. One component of this mission is the generation, transmission, and sale of reliable and affordable electric energy.

TVA operates the nation's largest public power system, producing approximately four percent of all of the electricity in the nation. TVA provides electricity to most of Tennessee and parts of Virginia, North Carolina, Georgia, Alabama, Mississippi, and Kentucky. Currently, it serves more than nine million people in this seven-state region. The TVA Act requires the TVA power system to be self-supporting and operated on a non-profit basis and directs TVA to sell electricity at rates as low as are feasible. TVA receives no taxpayer funding, deriving virtually all of its revenues from sales of electricity.

Most of the electricity is generated on the TVA system from 3 nuclear plants, 8 coal-fired plants, 9 simple-cycle combustion turbine plants, 7 combined-cycle combustion turbine plants, 29 hydroelectric dams, a pumped-storage facility, a methane-gas cofiring facility, a diesel-fired facility, non-TVA owned facilities under power purchase agreements, and various small solar photovoltaic facilities. The electricity generated by these resources is transmitted along high-voltage transmission lines to TVA business customers and local power companies. The local power companies then distribute the electricity to end users such as residents, business owners, and public entities like school systems and hospitals. Distribution lines are owned and operated by local power companies and are the power lines typically seen along streets in neighborhoods.

TVA transmission lines are high-voltage (46-kilovolts or more, with 161-kilovolt most common) and typically have three conductors (wires) suspended from large structures (towers or tall poles) in ROWs that are cleared of buildings and tall vegetation. In most cases, transmission line ROWs vary in width from about 75 feet to 200 feet, with the width increasing with the voltage of the line. Most of TVA's ROWs