

File

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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DOCKET NO. 0710-N-160-R

RE: IN THE MATTER OF THE PETITION OF HONORABLE SEBASTIAN N. GIULIANO, MAYOR, CITY OF MIDDLETOWN AND WILLIAM CORVO, WHITE ROCK HOLDING ASSOCIATES, LLC TO ESTABLISH A PRIVATE, AT GRADE RAILROAD CROSSING ON THE LAUREL TRACK OF THE PROVIDENCE AND WORCESTER RAILROAD COMPANY OVER THE CITY OF MIDDLETOWN'S PROPOSED MAINTENANCE ACCESS DRIVE, ADJACENT TO RIVER ROAD, IN THE CITY OF MIDDLETOWN, CONNECTICUT.

FINAL DECISION

April 18, 2008

I. INTRODUCTION

A. Petitioner's Proposal

By petition dated March 2, 2008, the Mayor of the City of Middletown, Honorable Sebastian N. Giuliano and White Rock Holding Associates, LLC (hereinafter "petitioners"), request authority to establish a new private railroad/highway at-grade crossing, over the City of Middletown's proposed maintenance access drive, adjacent to River Road on the Laurel Running Track of the Providence and Worcester Railroad Company, pursuant to Connecticut General Statutes Sections 13b-292. The crossing is requested to provide vehicular access to proposed water collector wells to be sited on the westerly embankment of the Connecticut River.

B. Hearing

A public hearing on this petition was held, pursuant to Connecticut General Statutes Sections 13b-18, 13b-292 and 4-177 et seq., at the administrative offices of the Connecticut Department of Transportation, 2800 Berlin Turnpike, Newington, Connecticut on April 15, 2008.

Notice of the petition and hearing to be held thereon was given to the petitioner and to such other parties as deemed necessary by the department. Legal notice to the public was given by publication in the Middletown Press, a newspaper having circulation in the area of concern.

The hearing on this matter was conducted by a hearing officer, designated by the Commissioner of Transportation, pursuant to Connecticut General Statutes Section 13b-17.

C. Appearances

The City of Middletown, 245 DeKoven Drive, Middletown, Connecticut and White Rock Holding Associates, LLC, 90 Industrial Park Road, Middletown, Connecticut, appeared through Thomas Balskus, P.E., Project Manager, Milone & Macbroom, Inc., 99 Realty Drive, Cheshire, Connecticut.

The department appeared through Stephen P. Curley, Rail Officer 2, with the Office of Rail, Rail Regulatory and Compliance Unit, 50 Union Avenue, New Haven, Connecticut.

No other appearances were entered on the record, nor was there opposition presented to the petition.

II. FINDINGS OF FACT:

1. The State of Connecticut is the owner of the subject railroad and the Providence and Worcester Railroad is the operator of said railroad.
2. The petitioners' proposal seeks to establish a private at-grade railroad crossing over the City of Middletown's proposed access drive.
3. The subject crossing is on the Laurel Running Track of the Providence and Worcester Railroad.
4. The Laurel Running Track is currently inactive and there are no plans to reactivate the line in the near future.
5. The proposed private at-grade crossing will provide vehicular access to water collector wells, which are to be installed on the westerly embankment of the Connecticut River.
6. The estimated costs of construction of the proposed private at-grade crossing will be approximately \$100,000 and the petitioner seeks to begin construction in May 2008 and estimates completion of the crossing in May 2009.
7. Providence and Worcester Railroad will construct the crossing, including the installation of the crossing surface, and the petitioners will bear the costs of construction by way of a railroad force account agreement.
8. The petitioners will install pavement markings and signing at the railroad/highway at-grade crossing.
9. The petitioners will be responsible for the maintenance of the pavement markings and signing at the railroad/highway at-grade crossing.
10. The Department of Transportation Office of Rail, Rail Regulatory and Compliance Unit is in support of the petition, if the private railroad/highway at-grade crossing is constructed and maintained within certain recommendations.
11. The proposed private railroad/highway at-grade crossing is necessary for the economic welfare of the community.
12. No opposition to the proposed crossing was presented at the hearing.

III. CONCLUSIONS OF LAW

The Department of Transportation has jurisdiction over, and is responsible for, all aspects of the planning, development, maintenance and improvement of transportation, including rails, within the State of Connecticut in accordance with Connecticut General Statutes Section 13b-2 and 13b-3.

Moreover, General Statutes Section 13b-292(a) provides, in pertinent part:

For the purposes of this section, private crossing means any private way, private drive or any facility other than a public highway for the use of pedestrians, motor vehicles or other types of conveyances, which crosses at grade any railroad track. No private crossing shall be established, except that the Commissioner of Transportation may authorize the establishment of a private crossing if it is deemed necessary for the economic welfare of the community but only after imposing specific requirements for the protection of persons using the crossing. The cost of meeting such protection requirements shall be borne by the party requesting such private crossing or the town, city or borough in which such crossing is located may, in its discretion, assume all or part of such cost.

In this case, the evidence shows that the petitioners seek to establish a private railroad/highway at-grade crossing to allow for vehicular traffic over a proposed access road, adjacent to River Road, in the City of Middletown. The evidence of record shows that the road to be established is a private road. The road will have restricted access to unauthorized personnel. Further, the evidence shows that the proposed private crossing is necessary for the economic welfare of the community.

IV. ORDER

Based on the evidence of record and pursuant to Connecticut General Statutes Section 13b-292, the petition of the City of Middletown and White Rock Holding Associates, LLC is hereby approved.

The private railroad/highway at-grade crossing shall be established, subject to the following safety measures, conditions and orders:

1. The petitioners, City of Middletown and White Rock Holding Associates, LLC, shall establish a private railroad/highway at-grade crossing at the City of Middletown's proposed access drive, adjacent to River Road, in the City of Middletown as shown on the referenced plan entitled "COLLECTOR WELL ACCESS ROAD – SITE PLAN, RIVER ROAD COLLECTOR WELLS, CITY OF MIDDLETOWN WHITE ROCK HOLDINGS LLC" Sheet 1 of 5, March 13, 2008 (labeled and hereinafter referred to as "**Exhibit 1**").

2. The construction of the proposed railroad/highway at-grade crossing, including the installation of the crossing surface, shall be governed by the most recent provisions of the American Association of State Highway and Transportation Officials, and in accordance with the standards and specifications of the Association of American Railroads and the American Railway Engineering Association.

3. The petitioners shall bear the cost of construction, and by way of a railroad force account agreement with the petitioners, the Providence and Worcester Railroad Company will construct the proposed railroad/highway at-grade crossing and install the crossing surface.

4. The petitioners shall be responsible for the maintenance of the railroad/highway at-grade crossing.

5. The installation of pavement markings and signing at the railroad/highway at-grade crossing shall be in accordance with the "Manual on Uniform Traffic Control Devices," and the "Minimum Standards for Traffic Control Devices at Private Railroad Crossings", as issued by the Department's Rail Regulatory and Compliance Unit, and as shown on the referenced plan entitled "COLLECTOR WELL ACCESS ROAD – RAILROAD CROSSING PLAN, RIVER ROAD COLLECTOR WELLS, CITY OF MIDDLETOWN WHITE ROCK HOLDINGS LLC" Sheet 4 of 5, March 13, 2008 (labeled, and hereinafter referred to as "**Exhibit 2**").

6. The pavement markings and signing at the railroad/highway at-grade crossing will be installed by the petitioners. The petitioners shall be responsible for the maintenance of the pavement markings and signing at the railroad/highway at-grade crossing.

7. The petitioners shall provide and maintain 240 feet of clear sight line, based upon the maximum train speed (10 mph) for Class 1 track, in each direction, for both approaches of the railroad/highway at-grade crossing.

8. The petitioners shall install and maintain, fencing along each side of the proposed access road, as shown on Exhibit 1.

9. The petitioners shall install gates that prohibit unauthorized vehicles on the proposed access road, as shown on Exhibit 1.

10. The petitioners shall consummate a license agreement with the State of Connecticut allowing the petitioners to enter upon State of Connecticut right-of-way at the railroad/highway at-grade crossing.

11. Upon completion of the construction of the proposed access road and railroad/highway at-grade crossing, the petitioners shall contact the Department of Transportation's Rail Regulatory and Compliance Unit for inspection of the railroad/highway at-grade crossing.

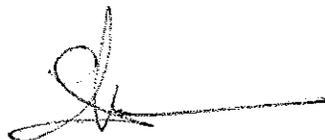
12. The railroad/highway at-grade crossing shall not be operational until the railroad/highway at-grade crossing has been approved by said Rail Regulatory and Compliance Unit.

13. Should the subject section of the Laurel Running Track be reactivated, the petitioners shall be financially responsible for any additional traffic control measure(s) at the railroad/highway at-grade crossing, as deemed necessary by the Department of Transportation.

14. At the completion of the construction of said private railroad/highway at-grade crossing, and within sixty days (60) days of the approval by the Rail Regulatory and Compliance Unit, the Rail Regulatory and Compliance Unit shall provide, for this docket file, written confirmation indicating that the all orders issued herein have been met by the petitioners.

Dated at Newington, Connecticut, on this 18th day of April, 2008.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Laila A. Mandour
Staff Attorney III
Administrative Law Unit
Bureau of Finance and Administration