



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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DOCKET NO. 2002-1-RR

RE: IN THE MATTER OF THE PETITION OF SAFETY-KLEEN
SYSTEMS, INC. TO ESTABLISH A PRIVATE AT-GRADE
RAILROAD CROSSING AT 120 FORBES AVENUE, IN THE CITY
OF NEW HAVEN, CONNECTICUT.

FINAL DECISION

MARCH 6, 2020

I. INTRODUCTION

A. Petitioner's Proposal

By petition dated November 11, 2020, Mr. Jesse Langer on behalf of Safety-Kleen Systems, Inc. (hereinafter "petitioners"), requested authority to establish a new private railroad/highway at-grade crossing, at 120 Forbes Avenue, New Haven, Connecticut, pursuant to Connecticut General Statutes Sections 13b-292(d).

Safety-Kleen Systems, Inc. is proposing two new railroad spur tracks off Providence and Worcester Railroad Company's Belle Dock Industrial Track. The spur tracks will traverse through Safety-Kleen's driveway thereby creating a need for a new at-grade crossing. The proposed construction of the railroad spur tracks and the at-grade crossing will be governed by the provisions and standards of the American Railway Engineering and Maintenance of Way Association.

B. Hearing

A public hearing on this petition was held, pursuant to Connecticut General Statutes Sections 13b-292 and 4-177 et seq., at the administrative offices of the Connecticut Department of Transportation, 2800 Berlin Turnpike, Newington, Connecticut on March 3, 2020.

Notice of the petition and the 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 on the departments website.

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

Mr. Jesse Langer, an attorney with Updike, Kelly & Spellacy, P.C., represented Safety-Kleen Systems, Inc. Attorney Langer's address is 8 Frontage Road, East Haven, Connecticut 06512.

Also appearing in support of the petition were David Paquette, Director of Engineering for Safety-Kleen, Rich Domschine, Terminal Manager for Safety-Kleen and Christopher Guzzi, Director of Sales and Marketing for Providence & Worcester Railroad.

The department appeared through Stephen P. Curley, Supervising Rail Officer,

with the Bureau of Public Transportation.

II. FINDINGS OF FACT:

1. The petitioner seeks to establish a private crossing at 120 Forbes Avenue at the property of Safety-Kleen in New Haven, Connecticut.

2. The petitioner's mission is to create a safer, cleaner environment through the treatment, recycling and disposal of hazardous materials.

3. The petitioner is seeking to establish two new railroad spur tracks off Providence and Wooster Railroad Company's Belle Dock Industrial Track, which will cross the Safety-Kleen driveway.

4. The petitioner has a contract with ECC Corporation to construct the spur lines.

5. The purpose of the railroad spur tracks is to be able to store rail cars with used oil for later transport to refineries.

6. The petitioner will contract out the crossing improvement work and will be responsible for paying for and maintaining the crossing improvements.

7. All work at the crossing is to be governed by the standards and specifications of the American Railway Engineering and Maintenance of Way Association, the Manual on Uniform Traffic Control Devices and the Regulations of the Connecticut Office of State Traffic Administration.

8. The warning devices at the proposed crossing include various signage such as a stop sign (exiting site only), private crossing signs (entering and exiting the site) and an Emergency Notification Sign (ENS) (entering and exiting the site).

9. The Department of Transportation Bureau of Public Transportation is in support of the petition, if the private railroad/highway at-grade crossing is constructed and maintained within certain Department of Transportation recommendations.

10. There are many benefits to approving the crossing including reducing truck travel, increasing employment, increasing the tax base and enhancing the economic welfare of the community.

11. The frequency of use of these spur lines would be between two and four times per week.

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-3 and 13b-4.

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. The provisions of this section shall not apply to a private crossing used by a railroad company in connection with its operation or for access to its facilities.

In this case, the evidence shows that the petitioners seek to establish a private railroad/highway at-grade crossing to allow for construction of two railroad spur lines which will streamline their operations by reducing truck traffic and allowing storage of their collected chemicals in rail cars which will be used to transport the product.

The evidence of record also shows that the proposed private crossing is necessary for the economic welfare of the community in addition to providing increased employment and the local tax base.

IV. ORDER

Based on the evidence of record and pursuant to Connecticut General Statutes Section 13b-292(d), the petition of the Safety-Kleen Systems, Inc. is hereby approved.

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

1. The petitioner, Safety-Kleen Systems, Inc. shall establish a private railroad/highway at-grade crossing at the City of New Haven at 120 Forbes Avenue as shown on **Exhibits 7 & 8**.

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 **Exhibit 1**.

3. The petitioner shall bear the cost of construction and maintenance of the proposed railroad/highway at-grade crossing and installation of the crossing surface and signage pursuant to Connecticut General Statute Section 13b-292.

4. The installation of signage 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 **Exhibits 9-12**.

5. Upon completion of the crossing upgrade, the petitioners shall contact the Department of Transportation's Bureau of Public Transportation for inspection of the railroad/highway at-grade crossing **Exhibit 1**.

6. The railroad/highway at-grade crossing shall not be operational until the railroad/highway at-grade crossing has been approved by said Bureau of Public Transportation.

7. 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 Bureau of Public Transportation 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 6th day of March 2020.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Judith Almeida
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Administrative Law Unit
Bureau of Finance and Administration