

M A N I T O B A) Order No. 147/03
)
THE HIGHWAYS PROTECTION ACT) October 9, 2003

BEFORE: G. D. Forrest, Chairman
S. Proven, Member

AN APPEAL BY THE DEPARTMENT OF
TRANSPORTATION AND GOVERNMENT SERVICES IN
THE MATTER OF HIGHWAY TRAFFIC BOARD PERMIT
NO. 175-03 - ACCESS DRIVEWAYS - PROVINCIAL
TRUNK HIGHWAY NUMBER 5 IN THE RURAL
MUNICIPALITY OF STE. ROSE ISSUED TO THE
DAUPHIN CONSUMERS CO-OPERATIVE LTD.

APPEARANCES:

Mr. E. Christiansen, P.Eng. Director, Highway Planning and Design
Branch (the Appellant) Department of
Transportation and Government Services
(Highways)

Mr. R. Nichol Senior Access Management Analyst,
Highway Planning and Design

Mr. C. Lund Technical Services Engineer, West
Central Region

Mr. J. Van Donlen Representing Dauphin Consumers Co-
operative Ltd.

Mr. T. Hooley Federated Co-op

Background

An Application was made to The Highway Traffic Board (the HTB) by Dauphin Consumers Co-operative Ltd. (the Co-op or Permittee) for two (2) access driveways to property located in the S.W. ¼ of Section 3, Township 24, Range 15 West, in the Rural Municipality of Ste. Rose and along Provincial Trunk Highway No 5 (PTH 5).

The HTB issued Permit No. 175-03 allowing two (2) access driveways to be located 163.5 and 291.5 meters respectively north of Tucker Street.

By letter dated August 27, 2003 from the Director of Highways Planning and Design to The Public Utilities Board (the Board), Permit No. 175-03 was appealed to the Board.

The evidence in this appeal was taken by the Board on a Hear and Report basis by Board Member S. Proven at a public hearing held at 10:00 a.m., Tuesday, September 16, 2003, in the offices of the Rural Municipality of Ste. Rose, in the community of Ste. Rose du Lac, Manitoba.

A summary of the major points raised by the Department of Transportation and Government Services (Highways), the Appellant, is as follows:

1. Highways advised that PTH 5 is a 2 lane high-speed rural highway (100 km/h) and carries relatively high traffic volumes of approximately 1500 - 2400 vehicles

per day near the subject property. Approximately 10% of the traffic is truck traffic. Summer traffic increases by 11 - 16%.

2. The desirable spacing for low volume infrequently used agricultural/field driveways along highways such as PTH 5 is 800 metres whereas the minimum spacing is 400 metres. The proposed accesses are only 128 metres apart which is unacceptable for a high/speed, higher volume highway such as PTH 5.
3. In summary, Highways disagreed with the HTB's decision and appealed the decision for the following reasons:
 - The approved access driveways do not conform with the Department's policy for this class of highway.
 - The addition of two direct connections onto PTH 5 for a commercial operation is inappropriate for this class of highway.
 - The potential impact on highway safety due to the speed limit of 100 km/h and the relatively high traffic volume on PTH 5.
 - The precedent for access spacing that will be established for other land owners and commercial operations on PTH 5.
 - The property has adequate/satisfactory access to PTH 5 via an internal street system that was created when the property was subdivided.
 - The Department is aware of traffic issues on PTH 5 in both the vicinity of Ste. Rose du Lac to the north of this property as well as in the area of

the Ste. Rose Auction Mart which is approximately 400 metres to the south.

4. Highways consistently recommends against new access driveways in such circumstances, and promotes the rationalization of driveways through internal street systems.

5. Highways noted that a completed Functional Study for the PTH 5 and 68 intersection shows the future realignment of PTH 5 to the west of its present location making the "old" PTH 5 a service road to the relocated highway. Highways submitted that until such time as the improvements are in place the status quo should be maintained and the subject property should continue to obtain access to PTH 5 through the existing internal street system. The Department suggested the relocation of Tucker Street further north as a possible solution.

Highways submitted that the HTB erred in granting access given the importance of PTH 5, the existing internal street system and the history of traffic issues in the vicinity of the PTH 5 and PTH 68 intersection and recommended that the permit be quashed.

A summary of the major points raised by the Permittee, the Co-op, is as follows:

1. The subject property is owned by the Co-op and there is ample room for the proposed development.

The Co-op has exhausted efforts in finding suitable property in Ste. Rose for a Cardlock facility.

2. The Cardlock facility ties in well with the existing business, and should help to attract more development in the area. Ste. Rose and the surrounding area need a Cardlock and the proposal is fully supported by the Rural Municipality of Ste. Rose.
3. The Co-op submitted that Cardlocks require good highway access to be successful and noted that there were no obstructions to visibility on this portion of the highway.
4. The Co-op submitted that the existing access to the property (Tucker Street) is not suitable for a Cardlock development as it would require all traffic to go through the Agro site which it submitted is inconvenient and unsafe.
5. The Co-op noted that it was willing to share the proposed northern access with another business being developed, minimizing further access requirements. The Co-op also noted that future plans could turn that portion of the highway into an access road.
6. The Co-op submitted that the expected traffic volume using their service is approximately 20 vehicles per day. The Co-op noted the closure of the Cargill Agro Site and the subsequent fall in traffic and submitted the addition of the Cardlock would do no more than increase traffic

levels in the area to slightly higher than they have already been in the past.

Board Findings

The Board fully accepts the importance of PTH 5 in the area, the need to preserve, to the extent possible, highway safety along its entire route. The Board notes that a Functional Study for the PTH 5 and 68 Intersection area is complete and may result in this portion of the highway functioning as a service road sometime in the future. The Board, however, is not prepared to base its decision on an event likely to occur at an unspecified time in the future putting at risk the safety of all motorists in the interim.

The Board is of the view that direct access to the Cardlock from PTH 5 would significantly compromise the safety of all motorists using this portion of PTH 5 given the speed limit of 100 km/h, and the spacing of accesses being significantly less than the desired spacing for lower classes of highways.

The Board is of the opinion that until such time as PTH 5 is relocated the existing access to the industrial site on Tucker Street is the most suitable and safe access to the site. The Board notes the position of the Co-op that with the closure of the Cargill site the addition of the Cardlock would increase traffic levels in the area to slightly higher than they have already been in the past. The Board also notes the support for the project by the Rural Municipality of Ste. Rose as indicated by the Co-op and the offer by the Co-op to share a common access

