

UNION PACIFIC RAILROAD
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Mack H. Shumate, Jr.
Senior General Attorney, Law Department

September 25, 2012

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ENTERED

Office of Proceedings

September 25, 2012

Part of

Public Record

The Honorable Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E. Street, S.W., Room #100
Washington, DC 20423-0001

RE: Brownsville and Matamoras Bridge Company (B&M Bridge) and Union Pacific Railroad (UP) proposed joint notice of exemption for B&M Bridge to abandon its 0.8 mile of rail line north of the international border at Brownsville, TX, and for UP to discontinue its operation of the B&M Bridge line and to discontinue service on and to abandon its Brownsville Subdivision from milepost 7.4 near Olmito Junction to milepost 0.22 at Brownsville, TX; B&M Bridge Docket AB-1091X and UP Docket AB-33 (Sub-No. 306X)

**PETITION UNDER 49 U.S.C. § 10502 TO EXEMPT THE PROPOSED
ABANDONMENT, DISCONTINUANCE OF OPERATIONS AND
DISCONTINUANCE OF SERVICE FROM THE OFFER OF FINANCIAL
ASSISTANCE PROVISIONS OF 49 U.S.C. § 10904 FOR REASONS THAT
THE TRANSACTION IS OF LIMITED SCOPE AND THE RIGHT-OF-WAY
IS NEEDED FOR A VALID PUBLIC PURPOSE AND THERE IS NO
OVERRIDING PUBLIC NEED FOR CONTINUED RAIL SERVICE ON
THE LINE FOR WHICH ABANDONMENT AUTHORITY IS SOUGHT**

Dear Ms. Brown:

Pursuant to 49 U.S.C. §10502, Union Pacific Railroad Company ("UP") hereby submits this Petition under 49 U.S.C. § to exempt the proposed abandonment, discontinuance of operations and discontinuance of service from the offer of financial assistance provisions of 49 U.S.C. § 10904 for reasons that the transaction is of limited scope and the right-of-way is needed for a valid public purpose and there is no overriding public need for continued rail service on the Line for which Abandonment Authority is sought.

Sincerely,



Mack H. Shumate, Jr.
Senior General Attorney

MHS:sf
Attachment
cc: Service List
2012_09_25 Brownsville – Brown – Ltr –Petition to Exempt



CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Petition, Discontinuance of Operations and Discontinuance of Service in Docket No. AB-33 (Sub-No. 306X), the Brownsville Subdivision in Cameron County, Texas was served by First Class U.S. Mail, postage prepaid, on the 25th day of September, 2012, on the following parties:

State Clearinghouse (or alternate)

Denise S. Francis
Director, State Grants Team
Governor's Office of Budget and Planning
P.O. Box 12428
Austin, Texas 78711

Environmental Protection Agency (Regional Office):

U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

Texas State Historical Association

1155 Union Circle #311580
Denton, TX 76203-5017

Texas Historical Commission

Mailing Address:

P.O. Box 12276
Austin, TX 78711-2276

Physical Address:

1511 Colorado
Austin, TX 78701

U.S. Fish and Wildlife

500 East McCarty Lane
San Marcos, Texas 78666-1024

Cameron County Administrator

Pete Sepulveda, Jr.
1100 E. Monroe St.-Dancy Building
Second Floor
Brownsville, TX 78520

**U.S. Army Corps of Engineers
Fort Worth District**

P.O. Box 17300
Fort Worth, TX 76102

**U.S. Army Corps of Engineers
Regulatory Field Office**

5151 Flynn Parkway, Suite 306
Corpus Christi, TX 78411-4318

**National Park Service
(Regional Office)**

Planning and Compliance Office
Texas Division of Economic Development
1011 San Jacinto
Austin, TX 78701

**US National Resources Conservation
Services**

2315 W. Hwy 33, Rm 103
San Benito, TX 78586-4666

**Communications and Outreach Branch,
NOAA, N/NGS12**

National Geodetic Survey,
SSMC3 #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

Dated this 25th day of September, 2012.



Mack H. Shumate, Jr.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-33 (Sub-No. 306X)

**UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
In Cameron County, TX
(Brownsville Subdivision)**

DOCKET NO. AB-1091X

**BROWNSVILLE AND MATAMORAS BRIDGE COMPANY
-- ABANDONMENT EXEMPTION --
In Cameron County, TX
(B&M Bridge Line)**

**PETITION, DISCONTINUANCE OF OPERATIONS
AND DISCONTINUANCE OF SERVICE**

Mack H. Shumate, Jr.
Senior General Attorney
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Fax: 877-213-4433
mackshumate@up.com

Dated: September 25, 2012
Filed: September 25, 2012

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-33 (Sub-No. 306X)

**UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
In Cameron County, TX
(Brownsville Subdivision)**

DOCKET NO. AB-1091X

**BROWNSVILLE AND MATAMORAS BRIDGE COMPANY
-- ABANDONMENT EXEMPTION --
In Cameron County, TX
(B&M Bridge Line)**

**PETITION, DISCONTINUANCE OF OPERATIONS
AND DISCONTINUANCE OF SERVICE**

The Board has authority under 49 U.S.C §10502 to exempt the proposed abandonment from the Offer of Financial Assistance provisions of 49 U.S.C. §10904. An exemption is typically granted when the right-of-way is needed for a valid public purpose and there is no overriding public need for continued rail service on the Line for which abandonment authority is sought.¹

¹ See Missouri Pacific Railroad – Abandonment and Discontinuance of Operations – In Houston, Harris County, TX, Docket No. AB-3 (Sub No. 139X) et al., (STB Decision served December 31, 1996). Proposed abandonment exempted from §§10904 and 10905); Southern Pacific Transportation Company – Discontinuance of Service Exemption – In Los Angeles County, CA, Docket No. AB-12 (Sub-No. 172X),

Union Pacific Railroad Company ("UP") and the Brownsville and Matamoros Bridge Company ("B&M") will be filing a Joint Notice of Exemption for an exempt abandonment of two connecting lines of railroad: UP's Brownsville Subdivision from Milepost 7.4 at Olmito Junction to Milepost 0.22 at Brownsville, and the B&M's 0.8 mile B&M Bridge Line from its connection to UP's Brownsville Subdivision near UP milepost 0.41 to the International Border with the Country of Mexico ("Mexico") located near the centerpoint of the B&M Bridge at Brownsville, a total distance of 7.98 miles in Cameron County, TX (the "Line").

The proposed action is tied to, and made possible by, the current construction of an entirely new line of railroad running from Olmito Junction to a new international rail bridge with Mexico located approximately 15 river miles up the Rio Grande from the B&M Bridge. The construction of the new line and bridge was authorized via Presidential Permit 04-1 issued October 1, 2004 "Authorizing the County of Cameron, Texas, to construct, operate, and maintain an international bridge, its approaches and facilities, at the international boundary between the United States and Mexico." The Environmental Assessment for the project (commonly called "West Rail Project"), with its finding of No Significant Impact, was published by the Department of State in the Federal Register on June 25, 2004. Completion of West Rail to the point where trains can operate over the new route is currently projected for the end of 2012. Once that occurs, train operations of UP will shift to the new route as will the current BNSF Railway trackage rights over the Line.

et al., (ICC served December 23, 1994); Missouri Pacific Railroad Company – Abandonment – In Harris County, TX, Docket No. AB-3 (Sub-No. 105X) (ICC served December 22, 1992); Chicago & North Western Transportation Company – Abandonment Exemption – In Blackhawk County, IA, Docket No. AB-284 (Sub-No. 1X (ICC served April 1, 1988)).

The proposed abandonment will permit the City of Brownsville and Cameron County to fully realize the benefits of the West Rail Project. The Environmental Assessment notes on Federal Register Page 35700 that, the West Rail Project is to enable, (1) Removal of the existing rail system from residential and downtown areas of Brownsville and Matamoros, thereby improving safety and reducing congestion and noise, (2) Elimination of at-grade road crossings, reducing air pollution from vehicles idling while awaiting passage of trains, and (3) Reduction in the community's immediate exposure to potential derailment-related Hazmat accidents and railcar explosions.

No local rail traffic has moved over the Line during the past two years, and the overhead interchange traffic to and from Mexico will be relocated to the rail line and bridge included in the West Rail Project. No complaint regarding cessation of service has been filed, is pending, or has been ruled upon in favor of a complainant in at least two years.

In accordance with the Department of State's Environmental Assessment, eventual consummation of the proposed abandonments and relocation of railroad operations to the West Rail Project location is one of the main goals of the West Rail Project. It has been agreed that the UP right of way on the Line is to be transferred to Cameron County. It is likely that the county and/or the City of Brownsville will express interest in trail use. It is B&M's opinion that the B&M portion of the Line right of way appears to be unsuitable for public purposes including trail use. The B&M Bridge itself will remain under the ownership of the B&M Bridge Company and it may play some future role in the movement of vehicular traffic across the border between Mexico and the United States, similar to its function prior to 1997.

WHEREFORE, (1) in that the right-of-way which makes up the UP portion of the Line will be acquired by Cameron County and/or the City of Brownsville, Texas and is needed for a valid public use and purpose, and (2) in that a central premise of the West Rail relocation project is that there is no overriding public need of the Line for the purpose of providing common carrier freight service by the railroad for public convenience and necessity, Union Pacific Railroad Company respectfully requests the Board issue a decision granting that an exemption under 49 U.S.C. §10502 from the Offer of Financial Assistance Provisions of 49 U.S.C. §10904 is warranted in this matter.

Respectfully submitted,

A handwritten signature in black ink, reading "Mack H. Shumate, Jr." with a stylized, cursive script.

Mack H. Shumate, Jr.
Senior General Attorney
Union Pacific Railroad Company
101 N. Wacker Drive, Room 1920
Chicago, IL 60606
Tel: 312.777.2055
mackshumate@up.com

Dated: September 25, 2012

AB-306X/2012_09_25 – Petition-Discontinuance of Service.doc

VERIFICATION

STATE OF NEBRASKA)

COUNTY OF DOUGLAS)

) ss:
)

I, RAYMOND E. ALLAMONG, JR., Senior Manager Rail Line Planning of Union Pacific Railroad Company, declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing document and that its assertions are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this verification on behalf of Union Pacific Railroad Company.

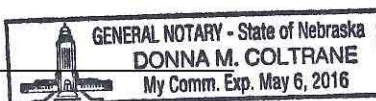
Dated at Omaha, Nebraska, this 21st day of August, 2012.


Raymond E. Allamong, Jr.

SUBSCRIBED AND SWORN TO
before me this 21st day of
August, 2012.


Notary Public

My Commission expires: _____



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1155 Union Circle #311580
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500 East McCarty Lane
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P.O. Box 17300
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5151 Flynn Parkway, Suite 306
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Dated this 25th day of September, 2012.



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