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January 23, 2013

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VIA E-FILE

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

ENTERED
Office of Proceeding
January 23, 2013
Part of Public
Record

RE: Amendment to Combined Joint Petition for Exemption for Union Pacific Railroad Company ("UP") to discontinue its operation of the B&M Bridge Line, as hereinafter defined, and to abandon and discontinue service on a portion of UP's Brownsville Subdivision from milepost 7.4 near Olmito Junction, TX to milepost 0.22 at Brownsville, TX (the "Brownsville Subdivision") and for Brownsville and Matamoras Bridge Company ("B&M") to abandon B&M's 0.8 mile of rail line north of the international border with Mexico, at Brownsville, TX (The "B&M Bridge Line"); UP Docket AB-33 (Sub-No. 306X) and B&M Docket AB - 1091X.

AND

Request under 49 U.S.C. §10502 to exempt this proposed Combined Joint Petition for UP's discontinuance of UP's operations of the B&M Bridge Line and to abandon and discontinue service on a portion of UP's Brownsville Subdivision and for Exemption to abandon B&M's B&M Bridge Line from the Offer of Financial Assistance Provisions of 49 U.S.C. 10904 and the Public Use Provisions of 49 U.S.C. §10905 for reasons that such exemption from said provisions will not adversely impact the ability to carry out the transportation policy of 49 U.S.C. §10101, that the transaction is of limited scope and that the right of way is needed for a valid public purpose and overriding public need.

Dear Ms. Brown:

Pursuant to 49 U.S.C. §10502, Union Pacific Railroad Company ("UP") hereby submits by eFiling the following Amendment to Joint Petition for Exemption for UP to discontinue its operation of the B&M Bridge Line and to abandon and discontinue service on a portion of the Brownsville Subdivision and for Brownsville and Matamoras Bridge Company ("B&M") to abandon the B&M Bridge Line. It has been brought to the attention of the UP by the Board's Office of Proceedings that the portion of the proposed abandonment and discontinuance for overhead service on that portion of the UP's Brownsville Subdivision beginning at Milepost 7.4 near Olmito Junction to Milepost 0.22 in Brownsville, Texas for rail traffic moving to and from the B&M from the UP's connection with B&M near Milepost 0.41 over the B&M Bridge to the International Border with Mexico near the centerpoint of the B&M Bridge a distance of 0.8 miles, is in fact not being abandoned nor discontinued by UP but rather is being relocated to an entirely new line of railroad running from a point near Olmito Junction at Milepost 7.4 to the



new international rail bridge with Mexico located approximately 15 river miles up the Rio Grande from the B&M Bridge as more specifically depicted on the print attached hereto as Exhibit "A" and hereby made a part hereof.

It is clear from the public notice in FR Doc. 04-14468, June 25, 2004 that the Presidential Permit to Cameron County, Texas for the Brownsville/Matamores West Rail Relocation Project ("West Rail Project") is for the relocation of the railroad crossing between the United States of America and the Country of Mexico from the B&M Bridge to the West Rail Project. This includes the relocated railroad line for such rail traffic as depicted on Exhibit A.

This relocation of UP's railroad operations from the B&M Bridge to the West Rail Project is neither an extension nor addition of UP's lines of railroad nor its operations but rather a relocation of such line and the operations thereover. In point of fact, BNSF's trackage rights over the Line are also being relocated to the relocated line which makes up the West Rail Project. See *City of Detroit v. Canadian National Railway Company*, *St. Clair Tunnel Company, Grand Trunk Corporation, Grant Truck Western Railroad, Inc., and Grand Trunk Western Railroad Company*, FD No. 32243 decided November 12, 1993 and *Texas & Pacific Ry. Co. v. Gulf, Colorado & Santa Fe Ry. Co.*, 270 U.S. 266 (1925)

Based on the facts and the prior court and Board decisions as presented above, Union Pacific respectfully requests that:

1. The Combined Joint Petition for Exemption be amended to include that, the relocation of the railroad operations over the UP's Brownsville Subdivision to the West Rail Project is neither an extension of nor an addition to UP's operations but is rather a relocation of UP's current operations to and from the border with the Country of Mexico.
2. The portion of the Combined Joint Petition for Exemption for authority for abandonment and discontinuance of local service on the portion of UP's Brownsville Subdivision from Milepost 7.4 near Olmito Junction, TX to Milepost 0.22 at Brownsville, TX (defined as the "Brownsville Subdivision"), is properly before the Board.
3. The portion of the Combined Joint Petition for Exemption for authority for abandonment of B&M's 0.8 mile of rail line north of the international border with Mexico, at Brownsville, TX defined as the "B&M Bridge Line", is properly before the Board

Based on the foregoing, the Combined Joint Petition for Exemption remains intact as filed. This Amendment seeks acknowledgement from the Board by decision that the relocation of that portion of UP's current operations on the Brownsville Subdivision to the West Rail Project is a relocation of such operation and not an extension nor addition to UP's operations.

Surface Transportation Board
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Sincerely,



Mack H. Shumate, Jr.
Senior General Attorney

MHS:dro
Attachment

cc: (w/enclosures)
MTMCTEA
Military Surface Deployment & Distribution Command
Transportation Engineering Agency
ATTN: SDTE – SA
(Railroads for National Defense)
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357

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National Park Service
Legislative & Congressional Affairs Office
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Washington, DC 20240

U.S. Department of Agriculture
Chief of the Forest Service
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2012_01_23 STB Joint Petition for Exemption from 49 USC 10903 Requirements

