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Senior General Attorney, Law Department

December 20, 2012

233568  
233569

**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 Proceedings  
December 20, 2012  
Part of  
Public Record

**RE: 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 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. The Certificate of Service and Publication pursuant to 49 C.F.R. §1152.60(d) and 49 C.F.R. §1105.12 is attached to the petition. Also enclosed is a draft Federal Register notice pursuant to 49 C.F.R. §1152.60(c). UP and B&M are also seeking under 49 U.S.C. §10502 exemption from the Offer of Financial Assistance Provisions of 49 U.S.C. §10904 and Public Use Provisions of 49 U.S.C. §10905 for reasons of overriding public need.

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**FILED  
December 20, 2012  
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Surface Transportation Board  
Section of Administration  
December 20, 2012  
Page 2

Please file the Joint Petition for Exemption in Docket No. AB-33 (Sub-No. 306X) and Docket AB-1091X. Enclosed is a credit authorization voucher in the amount of \$13,000 for the filing fee.

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

U.S. Department of the Interior  
National Park Service  
Legislative & Congressional Affairs Office  
1849 C Street, N.W., Room 3309  
Washington, DC 20240

U.S. Department of Agriculture  
Chief of the Forest Service  
4<sup>th</sup> Floor N.W., Auditors Building  
14<sup>th</sup> Street & Independence Avenue, S.W.  
Washington, DC 20250

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

2012\_12\_20 STB Joint Petition for Exemption from 49 USC 10903 Requirements

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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

**UNION PACIFIC RAILROAD COMPANY  
PETITION FOR ABANDONMENT AND DISCONTINUANCE --  
In Cameron County, TX  
(Brownsville Subdivision)  
(B&M Bridge Line)**

**DOCKET NO. AB-1091X**

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

---

**COMBINED JOINT PETITION FOR EXEMPTION UNDER  
49 U.S.C. § 10502 AND APPLICABLE RULES**

**AND**

**REQUEST UNDER 49 U.S.C. § 10502 TO EXEMPT THE  
PROPOSED ABANDONMENTS AND DISCONTINUANCE  
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  
OF OVERRIDING PUBLIC NEED**

UNION PACIFIC RAILROAD COMPANY  
and  
BROWNSVILLE AND MATAMORAS BRIDGE COMPANY  
Mack H. Shumate, Jr.  
Senior General Attorney  
Union Pacific Railroad Company  
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Dated: December 20, 2012  
Filed: December 20, 2012

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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

**UNION PACIFIC RAILROAD COMPANY  
PETITION FOR ABANDONMENT AND DISCONTINUANCE --  
In Cameron County, TX  
(Brownsville Subdivision)  
(B&M Bridge Line)**

**DOCKET NO. AB-1091X**

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

---

**COMBINED JOINT PETITION FOR EXEMPTION UNDER  
49 U.S.C. § 10502 AND APPLICABLE RULES**

**AND**

**REQUEST UNDER 49 U.S.C. § 10502 TO EXEMPT THE  
PROPOSED ABANDONMENTS AND DISCONTINUANCE  
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  
OF OVERRIDING PUBLIC NEED**

**I. Introduction**

Union Pacific Railroad Company ("UP") and Brownsville and Matamoras Bridge Company ("B&M") file this combined joint petition for exemption from the requirements of 49 U.S.C §10903 in accordance with 49 U.S.C. §10502, the applicable Rules at 49 C.F.R. §1121 and 49 C.F.R. §1152, and the applicable Special Rules at 49 C.F.R. §1152.60 for exempt abandonments and discontinuance of two connecting lines of

railroad: that portion of UP's Brownsville Subdivision from Milepost 7.4 at Olmito Junction to Milepost 0.22 at Brownsville, Texas (the "UP's Brownsville Subdivision"), and the B&M's 0.8 mile B&M Bridge Line (the "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 B&M's Bridge at Brownsville (the "B&M Bridge") a total distance of 7.98 miles in Cameron County, Texas (collectively, the "Line"). UP and Mexico are the sole shareholders of B&M with each having a fifty percent (50%) interest in the company.

The proposed abandonments and discontinuance 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 the West Rail Project to the point where trains can operate over the new route is currently projected for the end of 2012. Upon completion, UP's train operations will shift to the new relocated route and BNSF Railway's trackage rights over the Line will also shift to the new relocated route.

The proposed abandonments and discontinuance will permit the City of Brownsville, Texas and Cameron County, Texas to fully realize the benefits of the West

Rail Project. The Environmental Assessment statement in the Federal Register dated June 25, 2004 at Page 35700, provides 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.

## **II. Petitioners' Background and Representatives**

UP has rail operations in the States of Arizona, Arkansas, Iowa, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming. B&M is a common carrier by railroad but does not perform railroad operations itself. B&M is owned by UP and Mexico on a 50/50 basis with UP being responsible for all of B&M's common carrier operations in the United States of America. The name, address and telephone number of UP's and B&M's representative in this matter is listed below:

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## **III. Line Description, Zip Code Information, and Map**

The proposed action involves UP's abandonment of a portion of UP's Brownsville Subdivision, the B&M's abandonment of the entirety of B&M's B&M Bridge Line and discontinuance of UP's operations on the B&M Bridge Line. The collective Line

proposed for abandonment includes the portion of the UP's Brownsville Subdivision from Milepost 7.4 near Olmito Junction to Milepost 0.22 in Brownsville, Texas, defined herein as UP's Brownsville Subdivision, and the 0.8 mile B&M Bridge Line from its connection with the UP's Brownsville Subdivision near UP Milepost 0.41 to the International border with Mexico located near the centerpoint of the B&M Bridge, all in Cameron County, Texas, a total distance of 7.98 miles in Cameron County, TX. A map of the Line is attached as **Attachment No. 1**. The Line is currently used solely for the overhead movement of UP and BNSF Railway traffic to and from Mexico. There is no local traffic.

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 (see **Attachment No. 2**) issued October 1, 2004. Presidential Permit 04-1 authorizes 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 new line and bridge (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 (see **Attachment No. 3**). Completion of the West Rail Project to the point where trains can operate over the new route is currently projected for the end of 2012. Upon completion, UP's train operations will shift to the new relocated route and BNSF Railway's trackage rights over the Line will also shift to the new relocated route.

The UP Brownsville Subdivision was originally constructed in 1904 by the St. Louis, Brownsville and Mexico Railway. The B&M Bridge Line was constructed in 1909, including the international bridge (the B&M Bridge) which was designed to handle both rail and vehicular traffic. A dedicated vehicular structure was built immediately adjacent to the original structure in 1997, at which time the 1909 structure became rail only. Both the UP and B&M portions of the Line are currently constructed with a mixture of 112 to 136 pound jointed and welded rail laid between 1991 and 2010. See **Attachment No. 1**.

The Line traverses U.S. Postal Service Zip Code 78520.

A map of the Line proposed for abandonment is attached hereto as **Attachment No. 1** and is hereby made a part hereof. Other rail lines in the area, principal highways and other roads are shown on the map.

#### **IV. Shipper Information**

The proposed abandonment will have no adverse effect on any rail served customers. There will be no increase in rail traffic, rail yard activity or truck traffic as a result of the proposed action. There will be no effect on regional or local transportation systems and patterns and no diversion of traffic to other transportation systems or modes.

After the proposed abandonment, the northern and eastern portions of the Brownsville area, including the Port of Brownsville, will continue to receive rail service from UP, BNSF Railway, and the Brownsville and Rio Grande International Railroad (BRGI). Ocean shipping is available at the Port of Brownsville. The Brownsville area is served by U.S. Highways 83, 77 and 281, and various state and local roads.

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 new 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.

#### **V. Reasons for the Abandonment and Discontinuance**

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 new 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 discontinuance 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 in principle that the UP right of way which makes up the UP's Brownsville Subdivision will be transferred to Cameron County, Texas and/or the City of Brownsville, Texas for Interim Trail Use. The City of Brownsville, Texas by letter to the Surface Transportation Board dated September 4, 2012 is seeking both a public use condition and is requesting Interim Trail Use on the Line (see **Attachment No. 4**). It is B&M's opinion that the B&M portion of the Line's right of way appears to be unsuitable for both public use and interim trail use. The B&M Bridge will remain under the ownership of B&M and the B&M Bridge may play some future role in the movement of motor vehicle traffic across the border between Mexico and the United States, similar to its function prior to 1997.

The proposed abandonments and discontinuance will permit the City of Brownsville, Texas and Cameron County, Texas 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 (see **Attachment No. 3**).

**VI. Reasonable Alternatives and Request for Exemption from Offer of Financial Assistance Provisions of 49 U.S.C. §10904 and Public Use Provisions of 49 U.S.C. § 10905**

There appears to be no reasonable alternative to the proposed abandonments and discontinuance. There are no shippers served by the Line.

In accordance with the Department of State's Environmental Assessment, eventual consummation of the proposed abandonments and discontinuance of the Line and relocation of railroad operations to the West Rail Project location is one of the main goals of the West Rail Project.

It is UP's opinion that the UP portion of the right of way included in the Line proposed for abandonment is suitable for public purposes including roads or highways, other forms of mass transportation, or energy production or transmission. It has been agreed in principle that the UP right of way which makes up the UP's Brownsville Subdivision will be transferred to Cameron County, Texas and/or the City of Brownsville, Texas for Interim Trail Use. It is B&M's opinion that the .08 mile right of way which makes up B&M portion of the Line is 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 motor vehicle traffic across the border between Mexico and the United States, similar to its function prior to 1997.

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. §10905. An exemption is typically granted when the right-of-way is needed for a valid public purpose, such as the use of the right-of-way for public passenger transportation purposes, and where, as here, there is no overriding public need for continued rail service on the Line for which abandonment authority is sought.<sup>1</sup>

## **VII. The Exemption Standards Have Been Met**

### **A. The Abandonment of Rail Lines and Discontinuance Service Requires an Exemption from 49 U.S.C. § 10903.**

Abandonment of rail lines and discontinuance of freight easements requires authorization and approval of the Board pursuant to 49 U.S.C. § 10903. However, 49 U.S.C. § 10502 requires the Board to exempt a transaction when it finds: (1) continued regulation is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. § 10101; and (2) either the transaction is of limited scope or Board regulation is not necessary to protect shippers from an abuse of market power. This petition by UP and

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<sup>1</sup> See Missouri Pacific Railroad Company – Abandonment and Discontinuance of Operations Exemption – 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), 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-1 (Sub-No. 226X) (ICC served July 14, 1989); and Iowa Northern Railway Company – Abandonment – In Blackhawk County, IA, Docket No. AB 284 (Sub-No. 1X) (ICC served April 1, 1988).

B&M for their respective proposed abandonments and discontinuance clearly satisfies the standards for exemption under 49 U.S.C. § 10502.

Detailed scrutiny by the Board under 49 U.S.C. § 10903 is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. § 10101. A petition for exemption will minimize both UP's and B&M's administrative expense and the cost, preparation and review associated with processing the proposed abandonments and discontinuance in a full application proceeding. A petition for exemption will expedite regulatory action and will reduce regulatory barriers to exit from the Line consistent with Sections 10101(2) and (7). A petition for exemption will foster sound economic conditions in the transportation industry consistent with Section 10101(5) by permitting UP to abandon a portion of UP's Brownsville Subdivision, the B&M's abandonment of the entirety of B&M's B&M Bridge Line and discontinuance of UP's operations on the B&M Bridge Line in that there is no longer a demand for local or overhead freight service on the Line.

The proposed abandonments and discontinuance is clearly a transaction of "limited scope." The Line is only 7.98 miles long and will have no recurring local traffic. In addition, regulation of these abandonments and discontinuance is not needed to protect shippers from an abuse of market power, in that there are no shippers remaining on the Line and because of the relocation of the rail operation to the new international rail bridge with Mexico approximately 15 river miles up the Rio Grande from the B&M Bridge, there is no known potential for freight rail activity on the Line.

There will be no adverse effect on shippers on the Line in that there have been no local shippers on the Line over the last two years and all future overhead traffic and potential local traffic in the area will be able to use the relocated line and the new

international rail bridge included in the West Rail Project. Therefore, the proposed abandonment will have no impact on the area transportation systems and patterns.

#### **VIII. Land Area, Federal Grant Information and Public Use**

The Line is located in the portion of UP's Brownsville subdivision from Milepost 7.4 at Olmito Junction to Milepost 0.22 at Brownsville, Texas and connects to B&M's Bridge Line which is 0.8 miles long and ends at the international border with Mexico at the centerpoint of the B&M Bridge.

The Line is located entirely in Cameron County, Texas and is currently used solely for the overhead movement of UP and BNSF Railway traffic to and from Mexico. There is no local traffic on 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 (see **Attachment No. 2**) issued October 1, 2004 which authorizes 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 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 (see **Attachment No. 4**). Completion of West Rail Project to the point where trains can operate over the new route is currently projected for the end of 2012. Upon completion, UP's train operations will shift to the new relocated route and BNSF Railway's trackage rights over the line will also shift to the new relocated route.

The right of way considered in this abandonment traverses a mix of residential, commercial, industrial and recreational areas in the western city limits and suburbs of Brownsville, Texas and is typically 100 feet in width. The topography is generally flat.

The proposed abandonment will permit the City of Brownsville, Texas and Cameron County, Texas to fully realize the benefits for 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 (see **Attachment No. 3**).

It is UP's opinion that the UP portion of the right of way included in the Line proposed for abandonment, the UP's Brownsville Subdivision, is suitable for public purposes including roads or highways, other forms of mass transportation, or energy production or transmission. It has been agreed in principal that the UP right of way which makes up the UP's Brownsville Subdivision will be transferred to Cameron County, Texas and/or the City of Brownsville, Texas for Interim Trail Use. It is B&M's opinion that the .08 mile right of way which make up the B&M portion of the Line is 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 motor vehicle traffic across the border between Mexico and the United States, similar to its function prior to 1997.

The Line proposed for abandonment contains only non-reversionary property. Based on UP's records, the Line does not contain federally granted right-of-way. Any documentation in the UP's possession related to the Line will be made available promptly to those requesting it.

#### **IX. Labor**

UP and B&M agree to the labor protection conditions imposed in abandonment proceedings as prescribed in Oregon Short Line R. Co. – Abandonment – Goshen, 360 ICC 91 (1979).

#### **X. Environmental and Historic Report**

The required environmental and historic information is contained in the Combined Environmental and Historic Report (the "CEHR") which was served on August 21, 2012. A copy of the CEHR notice and service list is attached hereto as **Attachment No. 5** and is hereby made a part hereof. The original of the CEHR was e-filed with the Honorable Cynthia T. Brown, Chief, Section of Administration, on August 21, 2012.

At this time, UP knows of no historic sites or structures or archeological resources on the UP's Brownsville Subdivision. UP believes that there is nothing in the scope of the project that merits historical comment and that any archeological sites within the scope of the UP's Brownsville Subdivision would have previously been disturbed during the construction and maintenance of the UP's Brownsville Subdivision.

UP engaged in written and verbal communication with the Texas Historical Commission ("THC") to provide THC with bridge pictures and other information about the Line and UP's and B&M's intentions after abandonment of the Line. The response of the THC is attached as **Attachment No. 6**. The THC agrees that no historic

properties are affected on the entirety of UP's Brownsville Subdivision portion of the Line covered by AB-32 (Sub-No. 306X). Regarding the B&M portion of the Line, the THC views the only property potentially affected as being the B&M Bridge.

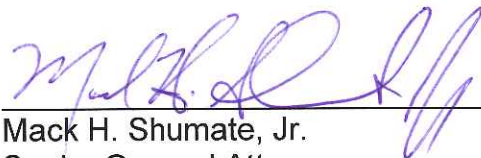
It is important to note that B&M has no intention to remove the B&M Bridge if abandonment authority is authorized. It is possible that the B&M Bridge, which currently has rails embedded in a road surface, will be modified and returned to limited vehicular use as an international border crossing location. As pointed out by the THC in its letter, any future plan to remove the B&M Bridge will involve consideration and analysis by several federal agencies. Therefore, the Section 106 process under the National Historic Preservation Act with regard to the B&M Bridge will be undertaken sometime in the future by B&M with the applicable federal agencies.

WHEREFORE, Union Pacific Railroad Company and Brownsville and Metamoras Bridge Company respectfully request for the reasons stated in this Combined Joint Petition for Exemption, that the Board find there is no overriding public need for continuing freight service on the Line and that the proposed abandonments and discontinuance are of very limited scope and will not constitute an abuse of market power. UP and B&M respectfully request that this Board issue a decision (1) exempting UP's discontinuance of UP's operation of the B&M Bridge Line; (2) exempting UP's abandonment and discontinuance of service on the portion of UP's Brownsville Subdivision from Milepost 7.4 near Olmito Junction, Texas to Milepost 0.22 at Brownsville, Texas; (3) exempting the B&M's abandonment of the 0.8 miles of rail line north of the international border with Mexico in Brownsville, Texas from the provisions of 49 U.S.C. §10903 and direct that the exemptions be effective on the date of the Board's decision, (4) granting that an exemption under 49 U.S.C. §10502 from the Offer of

Financial Assistance Provisions of 49 U.S.C. §10904 and from the Public Use Provisions of 49 U.S.C. §10905 is warranted in this matter in that the right-of-way which makes up the UP's Brownsville Subdivision and the B&M's B&M Bridge Line are needed for valid public use purposes by (a) the City of Brownsville, Texas and or the County of Cameron, Texas, with regard to the UP's Brownsville Subdivision and (b) the B&M with regard to the B&M Bridge and B&M Bridge Line and there is no other overriding public need for continued freight rail service on the subject Line; and (5) acknowledging that pursuant to 36 CFR 800, the regulations implementing the Section 106 conditions of the National Historic Preservation Act have been satisfied with regard to the portion of the Line referenced as the UP's Brownsville Subdivision. The B&M Bridge on the B&M Bridge Line while not scheduled for removal is owned and controlled by B&M and B&M will separately and independently undertake the Section 106 process under the National Historic Preservation Act for the B&M Bridge on the B&M Bridge Line with the applicable federal agencies.

Respectfully submitted,

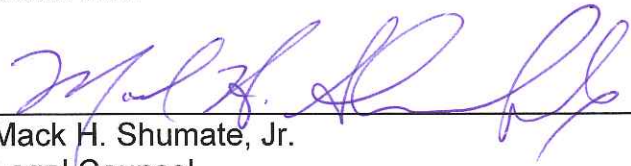
UNION PACIFIC RAILROAD COMPANY



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BROWNSVILLE AND MATAMORAS BRIDGE  
COMPANY



Mack H. Shumate, Jr.

Legal Counsel

Brownsville and Matamoros Bridge Company

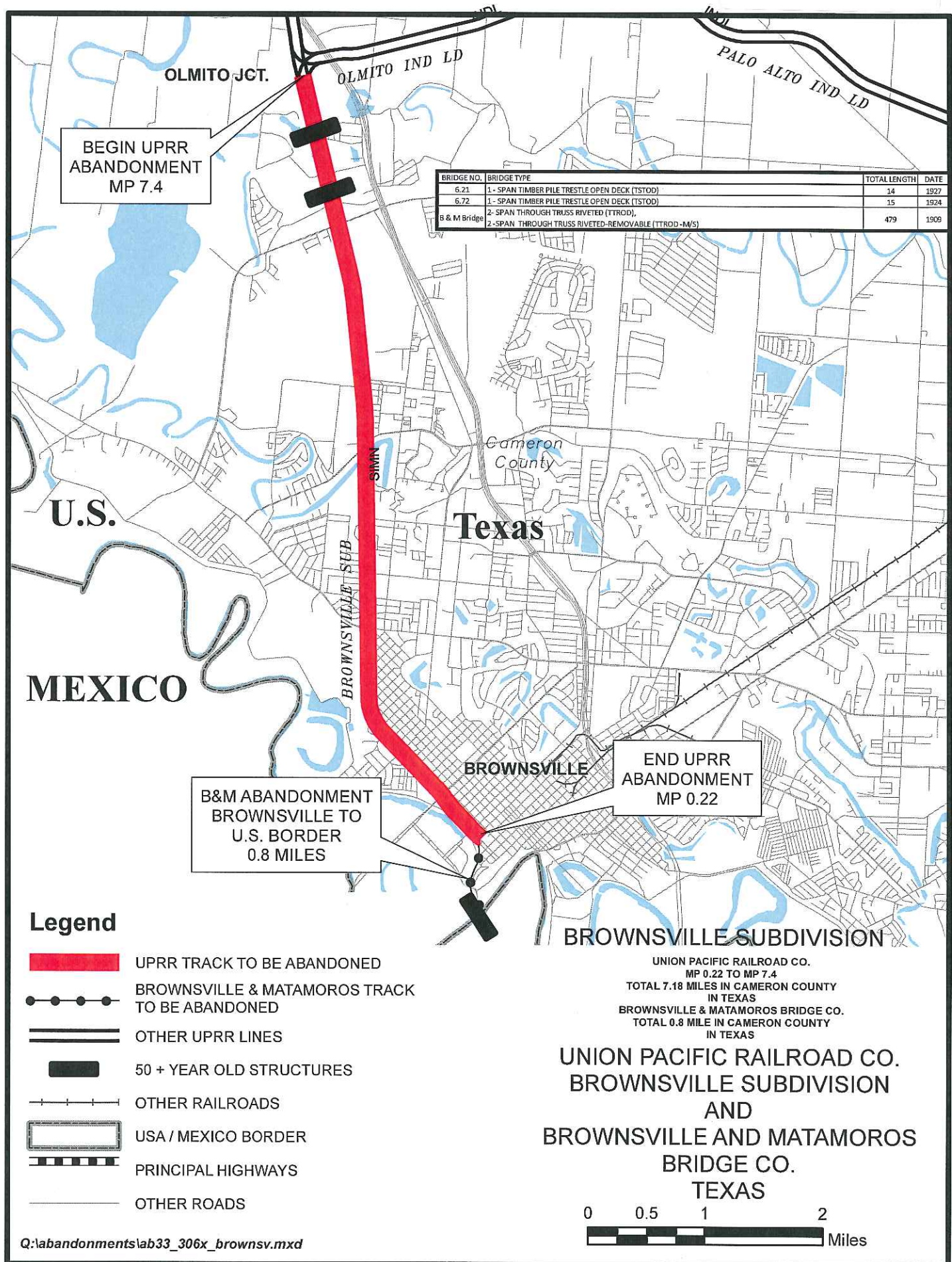
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AUTHORIZING THE COUNTY OF CAMERON, TEXAS,  
TO CONSTRUCT, OPERATE AND MAINTAIN AN  
INTERNATIONAL BRIDGE, ITS APPROACHES AND FACILITIES, AT THE  
INTERNATIONAL BOUNDARY BETWEEN  
THE UNITED STATES AND MEXICO

By virtue of the authority vested in me as Under Secretary of State for Economic, Business, and Agricultural Affairs under Executive Order 11423, 33 Fed. Reg. 11741 (1968); as amended by Executive Order 12847 of May 17, 1993, 58 Fed. Reg. 29511 (1993), Executive Order 13284 of January 23, 2003, 68 Fed. Reg. 4075 (2003) and Executive Order 13337 of April 30, 2004, 69 Fed. Reg. 25299 (2004); the International Bridge Act of 1972 (86 Stat. 731; 33 U.S.C. § 535 et seq.); and Department of State Delegation of Authority number 118-1 of April 11, 1973; having considered the environmental effects of the proposed action in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. § 4321 et seq.) and other statutes relating to environmental concerns; having considered the proposed action in accordance with the National Historic Preservation Act (80 Stat. 917, 16 U.S.C. § 470f et seq.); and having requested and received the views of various of the federal departments and other interested persons; I hereby grant permission, subject to the conditions herein set forth, to the County of Cameron, Texas (hereinafter referred to as "permittee"), to construct, operate and maintain a new international railroad bridge (the proposed "Brownsville West Rail Bypass International Bridge"), at about mile 70.2 on the Rio Grande, west of Brownsville, Texas and approximately 15 miles from the existing B&M international rail bridge in downtown Brownsville.

\* \* \* \* \*

The term "facilities" as used in this permit means the bridge, its approaches and any land, structure or installations appurtenant thereto.

The term "United States facilities" as used in this permit means that part of the facilities in the United States.

This permit is subject to the following conditions:

Article 1. The United States facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions and requirements of this permit and any amendment thereof. This permit may be terminated at the will of the Secretary of State or the Secretary's delegate or may be amended by the Secretary of State or the Secretary's delegate at will or upon proper application therefore. The permittee shall make no substantial change in the location of the United States facilities or in the operation authorized by this permit until such changes have been approved by the Secretary of State or the Secretary's delegate.

Article 2. (1) The standards for, and the manner of, the construction, operation and maintenance of the United States facilities shall be subject to inspection and approval by the representatives of appropriate federal or state agencies. The permittee shall allow duly authorized officers and employees of such agencies free and unrestricted access to said facilities in the performance of their official duties.

(2) Approval of the United States Coast Guard in conformity with Section 5 of the International Bridge Act of 1972 (33 U.S.C. § 535c), by virtue of authority delegated from the Secretary of the Department of Homeland Security (DHS) to the Commandant, U.S. Coast Guard in DHS Delegation Number 0170.1, shall be obtained prior to initiation of construction.

Article 3. The permittee shall comply with all applicable federal and state laws and regulations regarding the construction, operation and maintenance of the United States facilities, and with all applicable industrial codes. The permittee shall obtain the requisite permits from the relevant Mexican authorities as well as from the relevant state and local government entities and relevant federal agencies.

Article 4. Upon the termination, revocation or surrender of this permit, and unless otherwise agreed by the Secretary of State or the Secretary's delegate, the United States facilities in the immediate vicinity of the international boundary shall be removed by and at the expense of the permittee within such time as the Secretary of State or the Secretary's delegate may specify, and upon failure of the permittee to remove this portion of the United States facilities as ordered, the Secretary of State or the Secretary's delegate may direct that possession of such facilities be taken and that they be removed at the expense of the permittee; and the permittee shall have no claim for damages by reason of such possession or removal.

Article 5. If, in the future, it should appear to the United States Coast Guard or the Secretary of Homeland Security (or the Secretary's delegate) that any facilities or operations permitted hereunder cause unreasonable obstructions to the free navigation of any of the navigable waters of the United States, the permittee may be required, upon notice from the United States Coast Guard or the Secretary of Homeland Security (or the Secretary's delegate), to remove or alter such facilities as are owned by it so as to render navigation through such waters free and unobstructed.

Article 6. This permit and the operation of the United States facilities hereunder shall be subject to the limitations, terms, and conditions issued by any competent agency of the United States Government, including but not limited to the United States Coast Guard, the Department of Homeland Security, the General Services Administration, and the United States Section of the International Boundary and Water Commission (USIBWC). This permit shall continue in force and effect only so long as the permittee shall continue the operations hereby authorized in exact accordance with such limitations, terms and conditions.

Article 7. When, in the opinion of the President of the United States, the national security of the United States demands it, due notice being given by the Secretary of State or the Secretary's delegate, the United States shall have the right to enter upon and take possession of any of the United States facilities or parts thereof; to retain possession, management or control thereof for such length of time as may appear to the President to be necessary; and thereafter to restore possession and control to the permittee. In the event that the United States shall exercise such right, it shall pay to the permittee just and fair compensation for the use of such United States facilities upon the basis of a reasonable profit in normal conditions, and the cost of restoring said facilities to as good condition as existed at the time of entering and taking over the same, less the reasonable value of any improvements that may have been made by the United States.

Article 8. Any transfer of ownership or control of the United States facilities or any part thereof shall be immediately notified in writing to the United States Department of State for approval, including identification of the transferee. In the event of such transfer of ownership or control, the permit shall remain in force and the United States facilities shall be subject to all the conditions, permissions, and requirements of this permit and any amendments thereof.

Article 9. (1) The permittee shall acquire such right-of-way grants or easements, permits and other authorizations as may become necessary and appropriate.

(2) The permittee shall save harmless and indemnify the United States from any claimed or adjudged liability arising out of the construction, operation or maintenance of the facilities.

(3) The permittee shall maintain the United States facilities and every part thereof in a condition of good repair for their safe operation.

Article 10. The permittee shall fund the removal of the Rail-Vehicle and Cargo Inspection Systems (VACIS) Gamma Ray machine at the existing B&M international rail bridge and its relocation and installation at the new international rail bridge crossing at a site mutually agreed upon by the permittee, the General Services Administration, and U.S. Customs and Border Protection (CBP) of the DHS. The permittee shall provide to CBP, at no cost to the federal government, facilities for the VACIS, to include office space for CBP personnel, restrooms, parking area, utilities, and an access road.

Article 11. (1) The permittee shall take all appropriate measures to prevent or mitigate adverse environmental impacts or disruption of significant archeological resources in connection with the construction, operation and maintenance of the United States facilities, including those mitigation measures set forth in the Final Environmental Assessment and in the Department's Finding of No Significant Impact (FONSI) dated June 18, 2004.

(2) Before beginning construction the permittee shall: conclude satisfactory arrangements with appropriate federal and state agencies that will provide the assurance to the USIBWC that the facilities will not in any way present an obstruction or deflection to the normal flows or flood flows designated by the USIBWC in the reach of the international part of the Rio Grande; acquire the appropriate permits and licenses from the USIBWC for crossing the levee; and, obtain the concurrence of the U.S. Commissioner of the USIBWC that the project is consistent with the terms of boundary and water treaties between the United States and Mexico and other international agreements in force.

Article 12. The permittee shall comply with the conditions of the Programmatic Agreement executed on 19 August 2004 between the Department of State, the Texas State Historic Preservation Officer, the Advisory Council on

Historic Preservation, and the Permittee. In addition, the permittee shall notify the Department of State and the Texas Historical Commission in the event historic or archaeological resources are discovered during the course of construction activity, and the permittee shall cease such construction activity in the immediate vicinity of those resources while preparing documentation required by Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f and Section 303 [formerly 4(f)] of the Department of Transportation Act, 49 U.S.C. 303, to address particular sites directly impacted by the project that are identified as requiring in situ preservation.

Article 13. The permittee shall comply with all agreed actions and obligations undertaken to be performed in the Application for a Presidential Permit, dated June 2003, in the Final Environmental Assessment, and in the FONSI, dated June 18, 2004. The Final Environmental Assessment includes the "Draft Environmental Assessment Document for the Proposed Brownsville-Matamoros West Rail Bypass Plan" dated June 2003, all comments submitted by agencies on that document, the responses to those comments, and all correspondence between agencies and the permittee addressing agencies' concerns.

Article 14. The permittee shall file with the appropriate agencies of the United States Government such statements or reports under oath with respect to the United States facilities, and/or permittee's actions in connection therewith, as are now or may hereafter be required under any laws or regulations of the United States Government or its agencies.

Article 15. The permittee shall not begin construction until it has obtained authorization for such construction from the Government of the United States and from the Government of Mexico through the exchange of diplomatic notes. The permittee shall provide written notice to the Department of State at such time as the construction authorized by this permit is begun, and again at such time as construction is completed, interrupted or discontinued.

Article 16. The new international rail bridge shall not be opened to rail traffic until the existing B&M international rail bridge in downtown Brownsville has been permanently closed to rail traffic and the VACIS relocated to the new international rail bridge crossing.

IN WITNESS WHEREOF, I, Alan Larson, Under Secretary of State for Economic,  
Business and Agricultural Affairs of the United States, have hereunto set my hand  
this 1<sup>st</sup> day of October, 2004 in the City of Washington, District of Columbia.

Alan Larson



35698

Federal Register / Vol. 69, No. 122 / Friday, June 25, 2004 / Notices

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-NASD-2004-091 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-NASD-2004-091. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-NASD-2004-091 and should be submitted on or before July 16, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority,<sup>7</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 04-14450 Filed 6-24-04; 8:45 am]  
BILLING CODE 8010-01-P

#### SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3586]

##### State of Ohio (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective June 18, 2004, the above numbered declaration is hereby amended to include Hocking, Mahoning, and Portage Counties as disaster areas due to damages caused by severe storms, and flooding occurring on May 18, 2004, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Pickaway, Ross, and Trumbull in the State of Ohio; and Mercer County in the Commonwealth of Pennsylvania may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 2, 2004, and for economic injury the deadline is March 3, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 21, 2004.

Herbert L. Mitchell,  
Associate Administrator for Disaster Assistance.

[FR Doc. 04-14538 Filed 6-24-04; 8:45 am]  
BILLING CODE 8025-01-P

#### SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3594]

##### State of Wisconsin

As a result of the President's major disaster declaration on June 19, 2004, I find that Columbia, Dodge, Fond du Lac, Jefferson, Kenosha, Ozaukee and Winnebago Counties in the State of Wisconsin constitute a disaster area due to damages caused by severe storms and flooding occurring on May 19, 2004, and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of

<sup>7</sup> 17 CFR 200.30-3(a)(12).

business on August 18, 2004 and for economic injury until the close of business on March 21, 2005 at the address listed below or other locally announced locations:

U.S. Small Business Administration,  
Disaster Area 2 Office, One Baltimore  
Place, Suite 300, Atlanta, GA 30308

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Adams, Calumet, Dane, Green Lake, Juneau, Marquette, Milwaukee, Outagamie, Racine, Rock, Sauk, Sheboygan, Walworth, Washington, Waukesha, Waupaca and Waushara in the State of Wisconsin; and Lake and McHenry counties in the State of Illinois.

The interest rates are:

|                                                                                         | Percent |
|-----------------------------------------------------------------------------------------|---------|
| For Physical Damage:                                                                    |         |
| Homeowners with credit available elsewhere .....                                        | 5.750   |
| Homeowners without credit available elsewhere .....                                     | 2.875   |
| Businesses with credit available elsewhere .....                                        | 5.500   |
| Businesses and non-profit organizations without credit available elsewhere .....        | 2.750   |
| Others (including non-profit organizations) with credit available elsewhere .....       | 4.875   |
| For Economic Injury                                                                     |         |
| Businesses and small agricultural cooperatives without credit available elsewhere ..... | 2.750   |

The number assigned to this disaster for physical damage is 359406. For economic injury the number is 9ZJ800 for Wisconsin; and 9ZJ900 for Illinois.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 21, 2004.

Herbert L. Mitchell,  
Associate Administrator for Disaster Assistance.

[FR Doc. 04-14535 Filed 6-24-04; 8:45 am]  
BILLING CODE 8025-01-P

#### DEPARTMENT OF STATE

[Public Notice 4750]

##### Finding of No Significant Impact and Summary Environmental Assessment; Brownsville/Matamoros West Rail Relocation Project—Cameron County, TX

The proposed action is to issue a Presidential Permit to Cameron County, Texas (the "Sponsor"), for the Brownsville/Matamoros West Rail

Relocation Project ("West Rail Project"), which will include the construction, operation and maintenance of an international rail bridge across the Rio Grande River from Brownsville, Texas to Matamoros, Mexico.

## I. Background

The Department of State is charged with the issuance of Presidential Permits for the construction of international bridges between the United States and Mexico under the International Bridge Act of 1972, 33 U.S.C. 535 *et seq.*, and Executive Order 11423, 33 FR 11741 (1968), as amended by Executive Order 12847 of May 17, 1993, 58 FR 29511 (1993), Executive Order 13284 of January 23, 2003, 68 FR 4075 (2003), and Executive Order 13337 of April 30, 2004, 69 FR 25299 (2004).

A draft environmental assessment of the proposed West Rail Project was prepared by Raba-Kistner Consultants, Inc. and HNTB, Inc. on behalf of the Presidential Permit applicant, Cameron County, Texas, under the guidance and supervision of the U.S. Department of State (the "Department"). The Department placed a notice in the Federal Register (68 FR 141 (July 23, 2003)) regarding the availability for inspection of Cameron County's permit application and related documents. No comments were received in response to this notice.

Consistent with its regulations for the implementation of the National Environmental Policy Act ("NEPA") and in the context of its responsibilities with respect to Presidential permits, the Department has conducted its own, independent review of the draft environmental assessment. Numerous Federal and non-Federal agencies have also independently reviewed the draft environmental assessment, offered comments and/or qualifications, and approved or accepted the draft environmental assessment. These "cooperating agencies" are: the Department of Commerce, the Department of Defense (U.S. Army Corps of Engineers), the Department of Homeland Security (Bureau of Customs and Border Protection, the Federal Emergency Management Agency, and the United States Coast Guard), the Department of Health and Human Services (Food and Drug Administration), the Department of the Interior (Fish and Wildlife Service), the Department of Justice, the Department of Transportation (the Surface Transportation Board, Federal Highway Administration, Federal Railway Administration), the Department of State, the Environmental Protection Agency, the Council of Environmental

Quality, the General Services Administration, the International Boundary and Water Commission, the State of Texas, Texas Parks and Wildlife Department, the Texas Historical Commission, and the Texas Commission on Environmental Quality. All comments received by these cooperating agencies were responded to directly by the Sponsor or Raba-Kistner Consultants, Inc., including by expanding the analysis contained in the draft environmental assessment and/or through the development of appropriate mitigation measures.

The Sponsor has worked closely with the Federal and state agencies that have participated in the environmental assessment to address their concerns about the possible environmental impacts of this project. The results of Cameron County's meetings and other contacts with agencies were recorded in correspondence and described in the draft environmental assessment and addenda. After examining six alternatives rail routes, Cameron County ultimately proposed the preferred alignment that sought to minimize direct and indirect impacts to the human environment and that represented lower design and construction costs. The draft environmental assessment, as amended and supplemented, together with the comments submitted by Federal and state agencies, responses to these comments, and all correspondence between the agencies and the Sponsor addressing the agencies' concerns, constitute the final environmental assessment.

Based on the final environmental assessment, including mitigation measures that Cameron County has or is prepared to undertake, information developed during the review of Cameron County's application and comments received from Federal and state agencies, and the Department's independent review of that assessment, the Department has concluded that issuance of the Presidential Permit authorizing construction, operation and maintenance of the West Rail Bypass and international railway bridge would not have a significant impact on the quality of the human environment within the United States. Accordingly, a Finding of No Significant Impact ("FONSI") is adopted and an environmental impact statement will not be prepared, in accordance with the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, Council of Environmental Quality Regulations, 40 CFR 1501.4 and 1508.13, and with Department of State Regulations, 22 CFR 161.8(c).

## II. Summary Environmental Assessment

### A. The Proposed Project

Cameron County, Texas has applied to the Department for a Presidential permit authorizing the relocation of the Union Pacific Railroad (UPRR) line approximately 6 miles west of the City of Brownsville, Texas and the construction of a new international rail bridge approximately 15 river miles upstream of an existing rail bridge, which together constitute the West Rail Relocation Project. A single rail line will be constructed from the existing rail junction adjacent to U.S. Highway 77/83 and run to the Rio Grande River. It will claim a minimum right of way of 100 feet. Union Pacific Railroad (UPRR) will assume control of the new rail line once construction has been completed. UPRR will maintain operating rights to the new rail line in the United States. It is anticipated that, upon completion of the project, the Sponsor will request the Department of State to transfer the permit to the B&M Bridge Company, which will take over ownership of the U.S. portion of the international rail bridge.

The West Rail project involves the construction of a new international rail bridge that will pass over International Boundary and Water Commission (IBWC) levees and the Rio Grande River and into Matamoros, Tamaulipas, Mexico. The single-track bridge will span the Rio Grande River's floodway located between the flood control levees of the U.S. and Mexican sections of land managed by the IBWC. The proposed bridge will be located approximately at Rio Grande River Mile 71.7 and have a total span of 2,940 linear feet. The length of the U.S. portion of the bridge is approximately 840 feet. The bridge design will include a vertical clearance above the levees in accordance with IBWC requirements.

The rail bridge design, structure, and construction will adhere to UPRR engineering standards. An approach embankment will terminate at the north right of way of U.S. Highway 281 and lie into the abutment of the international rail bridge. The bridge will cross U.S. Highway 281 at a minimum elevation of 16.5 feet and continue over the IBWC levee and the Rio Grande River. Provisions for future widening of U.S. Highway 281 will be included in the design. A geotechnical study will determine the necessary bridge foundations and spacing of the columns for each pier. Schematics reflect the design flood elevation based on a flood flow of 20,000 cubic feet per second for this reach of the river. In addition, an 8

fact 3 inch, curved, chain-linked fence will be constructed at the edges of the bridge's superstructure to prevent pedestrian falls and illegal immigration. There will be no illumination under the bridge. Gate controls across the bridge will also be included. Land areas below the bridge will be replanted according to United States Fish and Wildlife Service (USFWS) specifications.

The engineering design phase will include hydraulic studies of the Rio Grande River that will be completed upon the issuance of a Presidential Permit. The hydraulic studies will assess the hydraulic impact of the bridge on the river flow and the impact of a potential relocation of the levee in Mexico to a location nearer to the river and will be presented to the U.S. and Mexican sections of the IBWC for review.

As the project involves the construction of an international rail bridge, the Department of Homeland Security has been consulted regarding border control and inspection needs. The Department of Homeland Security and the General Services Administration have outlined guidelines for the construction of all facilities related to the West Rail project, and Cameron County has agreed to adhere to the criteria in these guidelines.

The West Rail Project offers several advantages to communities of Brownsville and throughout Cameron County, which include improvements to the general human environment:

- Removal of the existing rail system from residential and downtown areas of Brownsville and Matamoros, thereby improving safety and reducing congestion and noise.
- Elimination of at-grade road crossings, reducing air pollution from vehicles idling while awaiting passage of trains.
- Creation of improved transportation corridors to handle traffic volumes more efficiently and allow for the redevelopment of the city's downtown area.
- Greater competitiveness, given the reduction in rail freight travel time between Brownsville and Monterrey, Mexico by approximately 2½ hours and the elimination of heavy traffic conditions at peak travel times.
- Facilitation of expected economic growth in the Brownsville area.
- Reduction in the community's immediate exposure to potential derailment-related Hazmat accidents and railcar explosions.

#### B. Alternatives Considered

In its review, the Department considered 6 alternatives described in detail in the draft environmental assessment and in a summary fashion below:

1. (The Project) Originates at the rail intersection adjacent to U.S. Highway 77/83, proceeds west, just north of the Resaca de la Palma wildlife refuge, turns south, passing 2,000 feet west of the World Birding Center, and crosses U.S. Highway 281 and the Rio Grande River.

2. Originates at the rail intersection adjacent to U.S. Highway 77/83, proceeds west, circumnavigating the Resaca de la Palma wildlife refuge further to the north than Alternative 1. The route then turns south, passing 2,000 feet west of the World Birding Center and crosses U.S. Highway 281 and the Rio Grande River.

3. Originates at the rail intersection adjacent to U.S. Highway 77/83 and continues west, north of the Resaca de la Palma wildlife refuge, proceeds an additional 3 miles, then turns south, crossing U.S. Highway 281 and the Rio Grande River.

4. (a), (b). Both Alternatives 4a and 4b originate at the rail intersection adjacent to U.S. Highway 77/83 and proceed south between the Resaca de la Palma refuge and the Cameron County Irrigation District Main Reservoir. At this point, Alternative 4a continues over U.S. Highway 281 and the Rio Grande River. Alternative 4b turns and proceeds west, south of the World Birding Center, along the same alignment as Alternative 1, crossing U.S. Highway 281 and the Rio Grande River.

5. Originates at the rail intersection adjacent to U.S. Highway 77 and proceeds north to the town of Rancho Viejo using existing rail lines. North of Rancho Viejo, the route turns southwest, then due south, and proceeds across U.S. Highway 281 and the Rio Grande River. This route abuts the western boundary of the World Birding Center.

6. The "No Build" Alternative: The international rail bridge is a common design element to all of the considered alternatives, other than the "No Build" alternative.

Alternative 2 was viewed as not preferred because it required approximately 51 additional acres of prime farmland. It would further require two grade separations for the future Merryman Road, a major street on the Brownsville thoroughfare plan.

Alternative 3 was viewed as not preferred because it would require the acquisition of additional acreage of prime farmlands (approximately 96 acres), a grade separation at the future FM

1421, a skewed overpass crossing at U.S. Highway 281, increased international bridge length (total of 0.19 miles), the displacement of 4–5 residential structures, the bisection of a residential community, and the location of 132 residences within 1,000 feet of the proposed rail line.

Both Alternatives 4a and 4b were viewed as not preferred for the reasons stated below. Alternative 4a, with a railroad embankment on the west side of the Cameron County Irrigation District main reservoir, would require, at minimum, sheet piling along the west side of the reservoir for approximately 2,100 linear feet. A geotechnical analysis may reflect the need to complete bridging along a greater section of the reservoir. The pilings, estimated to reach depths of 50 feet below grade surface, would add costs of approximately \$3.15 million to the project in addition to the costs of installing the embankment, ballast, and rail tracks. The alignment would continue south across U.S. Highway 281 and bisect the Riverbend Subdivision and the Villa Nueva Community. The U.S. Highway 281 overpass would add approximately \$5 million, according to the Texas Department of Transportation. From U.S. Highway 281 the rail line would proceed with a vertical rise of 15 feet over the IBWC levee and remain elevated across the floodway leading to the Rio Grande River. This segment across the floodway would add approximately \$12 million. Construction of this alternative would encroach on the eastern boundary of the World Birding Center. The Texas Parks and Wildlife Department (TPWD) has opposed this route.

Alternative 4b would require, at minimum, sheet piling along the west side of the Cameron County Irrigation District main reservoir for approximately 2,100 linear feet. A geotechnical analysis may reflect the need to complete bridging along a greater section of the reservoir. The pilings, estimated to reach depths of 50 feet below grade surface, would add costs of approximately \$3.15 million to the project in addition to the cost of installing the embankment, ballast, and rail tracks. Rail bridges over U.S. Highway 281 and New Carmen Road would include approximately 2,750 feet of additional railroad bridge compared to Alternative 1 at an additional cost of \$5.5 million. The international rail bridge between the IBWC levee and the river would be the same as that constructed under Alternative 1. An additional bridge may be required for the Resaca crossing south of the Las Palmas Wildlife Management Area.

Construction of this alternative would also encroach on the eastern boundary of the World Birding Center. The TPWD has opposed Alternative 4b. Cameron County identifies another major difficulty with this alternative is the diagonal crossing of privately owned land parcels between U.S. Highway 281 and the wildlife management area.

Alternative 5 was not viewed as a preferred alternative because it would involve increased travel time of trains from one switching yard to another, required construction of two more overpasses, and would bring the rail line with 1,000 feet of a significant number of homes.

Alternative 6, the "No Build" alternative, would leave the existing rail system in place and achieve none of the described project objectives. Potential industrial and commercial growth associated with the West Rail Project would be curbed as the area would lack a safer, more direct route to the major transportation corridor. At-grade rail/roadway safety crossing issues would remain, as would traffic delays and idling times for traffic and their associated emissions. Such emissions are currently contributing to the degradation of air quality. Train noise in the downtown Brownsville area would persist.

None of the above alternatives provided avoidance or mitigation of any of the unavoidable impacts attributable to the selected project, and in addition, created higher costs in terms of land usage and overall costs. For this reason, the Department concluded that these options were not preferred alternatives.

### III. Summary of the Assessment of the Potential Environment Impacts Resulting From the Proposed Action

The final environmental assessment provides detailed information on the environmental effects of the construction and use of the alternatives described above, including the proposed project. The proposed project was determined to be the preferred alternative, in view of the lower construction costs and the low extent of community and environmental impact as compared to the other alternatives.

On the basis of the final environmental assessment, the Department reached the following conclusions on the impact of construction of the railway bypass and bridge at the proposed location:

**Farmlands:** The proposed project requires the acquisition of approximately 46 acres of farmland that may be considered prime farmland under the Farmland Protection Policy Act, 7 U.S.C. 4201, *et seq.* The amount

of farmland acquired does not include acreage to be negotiated with the USFWS for the construction of a buffer zone north of the World Birding Center, the dimensions of which have been determined through consultation with the U.S. Fish and Wildlife Service. The proposed project requires one at-grade crossing at New Carmen Road. Right-of-way at this crossing will be secured by Cameron County, should an overpass at this site be desired in the future.

**Wetlands:** Given appropriate mitigation measures agreed to by the Sponsor and coordination with appropriate Federal and state agencies, the Department expects the proposed project's impact on wetland areas to be negligible. Specific wetland impacts will be influenced by the final bridge design selected for the several areas where the relocation project will traverse waterways, such as the Resaca del Rancho Viejo, Resaca de la Palma, and the Rio Grande. All wetland issues will be coordinated with the appropriate federal and state agencies, as outlined below. The construction plans will include a storm water runoff protection plan to eliminate the introduction of exotic weedy species. Much of the proposed route, according to the National Wetlands Inventory (NWI), falls within upland agricultural areas. The final environmental assessment estimates a total of 0.33 acres of wetlands will be impacted by this project.

The project crosses two resacas (Resaca del Rancho Viejo and Resaca de la Palma). Both are normally filled with water and may fall under the jurisdiction of the U.S. Army Corps of Engineers (USACE). The project will also cross various drainage and irrigation ditches. As described in the final environmental assessment, wetland delineation will be conducted as necessary in support of a Section 404 permit issued pursuant to the Clean Water Act, 33 U.S.C. 1251, *et seq.*, in accordance with USACE and Department of the Army specifications.

As the project enters the engineering design phase, mitigation measures regarding the impact on vegetative and aquatic habitats falling within the project area—such as affected areas of the Resaca Rancho Viejo and Resaca de la Palma—will be developed. This step will involve coordination with the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the Texas Parks and Wildlife Department to not only protect defined jurisdictional wetlands but also to secure necessary permits for crossing these areas.

**Floodplains, Floods, and the River Channel:** While the rail line and

international bridge will cross portions of an identified 100-year shallow floodplain, negative impacts to the floodplain are not expected.

The design for the international rail bridge requires a 15 feet elevation above the floodplain of the Rio Grande River with bents located in the floodplain itself. The bents are not expected to impede the free flow of floodwater within the river or its levees. Flood levels should remain unchanged.

The railway approach to the international bridge will be at grade level. The design is anticipated to include free flow box culverts and/or bridges at resacas and irrigation crossings. These features should not impede the free flow of floodwaters. The design will include proper slope drainage and free flow of waters off the railway surface to be directed toward natural drainage gradients.

The project is not expected to require dredging, tunneling, or trenching. Should the design call for the installation of bridge bents in the river's channel, a temporary cofferdam may be used. Once the bent installation is finished, all non-native materials in the channel will be promptly removed.

**Air Quality:** While project-related activities, which may include, but are not limited to, construction, demolition, repair, or rehabilitation, are expected to create higher levels of dust and airborne particles and involve additional exhaust emitted from machinery and trucks, these impacts are expected to only be short-term and should pose no significant impact upon general air quality. Moreover, the project will include best management practices (BMP) to mitigate fugitive dust emissions throughout the construction process. For dust control, timely application of water will be used as necessary, or as excessive emissions are produced.

The West Rail Project lies within the Brownsville-Laredo Intrastate Air Quality Control Region (AQCR 213), which is in attainment of National Air Quality Standard air pollutants. Therefore, the Texas Commission on Environment Quality (TCEQ) in a letter dated March 21, 2003 contained in Appendix D of the Environmental Assessment indicated that no special measures need to be taken in regards to this project other than standard dust mitigation techniques by the construction contractors.

**Listed, Threatened, and Endangered Species:** Several listed and endangered species could potentially be impacted by the project. To mitigate these impacts, the Department expects the Sponsor to comply with a series of

recommendations from the USFWS and the TPWD.

Two species of federally protected cats, the ocelot and the jaguarundi, are found in the general project region along with one bird species, the Northern aplomado falcon, and two plant species, the Texas Aycenia and the South Texas Ambrosia. Surveys of the project site, however, found that vegetation there is less dense than in areas typically occupied by those species. Therefore, their regular presence within the immediate project area is considered unlikely. In addition to federally listed species, 15 state-listed, threatened, or endangered species may use portions of the project route because of the presence of potentially suitable habitat.

In letters contained in Appendix C of the environmental assessment and in subsequent correspondence, the USFWS and TPWD made a number of recommendations with which Cameron County has agreed to comply. These include replanting with native species disturbed areas of vegetation and trees, fulfillment of the World Birding Center Revegetation Mitigation Plan (Appendix L of the draft Environmental Assessment), a monitoring program with annual reports to USFWS on fulfillment of Revegetation Mitigation Plan, use of specific train operating procedures to minimize train noise, and ownership by Cameron County in perpetuity of the buffer zones and Right of Ways for the rail line and placement in the deeds for these areas restricted conditions regarding future clearing, construction and development. Additionally a qualified biologist, as provided for in the draft environmental assessment, will survey the project area prior to construction to determine if state and federally-listed, threatened, or endangered species are present. If encountered, these species will be relocated to avoid any direct impact. Record of exotic species removed from the area will be documented, as requested by the Texas Parks and Wildlife Department. In light of the Migratory Bird Treaty Act and population decline of many migratory bird species, the Department expects that precautions will be taken throughout the construction process to avoid or minimize the loss of critical vegetation during migratory bird's general nesting season from March through September. In conformance with the Act, a survey will be conducted to identify nesting sites and species prior to construction near the Resaca de la Palma refuge, thus avoiding inadvertent destruction of nests, eggs, etc.

**Habitat and Vegetation:** The construction phase will cause some loss of habitat and clearing of vegetation. Approximately 18 acres of wooded and scrub vegetation will be cleared, particularly along the Resaca de la Palma wildlife refuge where mature mesquite, huisache, and spiny hackberry trees will be removed throughout the 100 foot right of way. The use of defoliating agents and/or herbicides is not anticipated.

Cameron County, throughout the project, has coordinated closely with USFWS and TPWD on the re-vegetation of disturbed areas. As a consequence, mitigation efforts will include the revegetation of areas along the project route and the creation of a buffer zone between the railway and the Resaca de la Palma refuge. North of the refuge, the County will implement the "World Birding Center Revegetation Mitigation Plan, Appendix L of the draft environmental assessment, to minimize noise and visual impacts and create further bio-diversity in regards to the future World Birding Center. This plan calls for the creation of a 13-acre mitigation area sited 30 ft north of Lower Rio Grande National Wildlife Refuge (LRGV-NWR). This mitigation area will include approximately a 6.5-acre vegetative area and an approximately 6.5 acre clear zone. The Mitigation Plan seeks to increase diversity in the current cultivated land by the addition of woody deciduous tree and shrub diversity, and improve the visual aesthetics of the project and reduce its noise impact. The area encompassed by the mitigation plan and the railway right-of-way will remain under the ownership of Cameron County, and that deed restriction as far as clearing, construction and future development will be filed with the County Clerk to remain in perpetuity.

**Potential Land Use Conflicts:** The Department examined long- and short-term concerns relating to land use and determined that the project will be consistent with defined land usage. The proposed project requires the least acreage and minimizes impact to the land, compared to other alternatives, and largely avoids community and residential areas. The draft environmental assessment notes that roughly 75% of the land falling within the project area has already been altered by human activities. Development and construction phases of the project are expected to alter land forms and will temporarily modify the natural drainage pattern throughout the project area.

Land types to be used in this project include levee areas of the Rio Grande River, scrubland, and farmland. The

project should not cause significant impact to the levee area or agricultural lands. Access to agricultural land will remain open.

Projected acquisitions include private land. No relocations or displacement of homes or businesses will be necessary. The acquisition of private lands will be limited to the requirements of the project, such as the 100 to 300 foot right of way for the railway, the international rail bridge, and any roadway overpasses. Upon completion of the project, lands acquired through the project will be transferred to Union Pacific Railroad (UPRR).

Alteration of land and the removal of vegetation are not expected to affect erosion within the general project area greater than any similar construction project. Measures will be adopted as fully as possible throughout the construction period to minimize erosion, including undertaking construction in dry seasons and completion of Storm Water Pollution Prevention Plan, compliance with requirements imposed by the U.S. Army Corps of Engineers and other agencies, returning disturbed lands to their previous contours, and revegetation efforts. The TPWD has issued recommendations to moderate erosion, including the use of weed free hay bales and silt screens to prevent siltation into wetlands, which the Sponsor has committed to undertake.

**Historical and Archeological Resources:** A survey conducted by Anthony and Brown Consulting and approved by the Texas Historical Commission indicates that no archeological or historical sites will be impacted by the proposed project. One archeological site, 41CF185, was found, but it is completely destroyed and is neither eligible for the National Register of Historic Places nor for designation as a State Archeological Landmark. No evidence of buried prehistoric sites was found.

Cameron County made a "reasonable and good faith" effort to identify Native American groups that may have historical ties to the area and to invite these groups to participate in the consultation process, in accordance with the Native American Graves Protection and Repatriation Act, Executive Order 12875, and the Advisory Council for Historic Preservation. Using the Native American Consultation Database, maintained by the Department of the Interior, no federally recognized Native American groups were identified.

**Water Quality:** Significant impacts to current water supply and use are not anticipated, nor are adverse effects to

the interbasin transfer of ground water. Impacts to the quality of storm water run off, surface water, and ground water will be minimal.

**Noise:** The Department identified two broad categories of noise resulting from the proposed project: short-term construction-related noise and longer-term noise associated with passing trains and horn blasts. The proposed project is located within a sparsely populated area of Cameron County (the draft environmental assessment notes only two residential structures within 1,000 feet of the construction). However, portions of the Resaca de la Palma wildlife refuge and World Birding Center may be affected by noise related to rail traffic, but those impacts are not expected to be significant and will be minimized by implementation of the World Birding Center Revegetation Mitigation Plan.

While levels of construction noise will vary according to the nature of the construction work in progress, such noise is expected to be short term and will not exceed noise limits imposed by federal, state, and local laws and ordinances.

Noise resulting from rail traffic is not expected to have a significant impact on the surrounding environment, including the Resaca de la Palma wildlife refuge and the World Birding Center. A horn noise analysis conducted for the New Carmen Road at-grade crossing indicates that horn noise will not have any impact on the surrounding environment, as defined by the FTA (Federal Transit Administration).

Similarly, interim criteria for the threshold of disturbance for birds established by the FTA will not be exceeded either by regular train traffic or by train horns.

While a USFWS standard for peak hour noise will be slightly exceeded, the impact is not expected to be significant since the noise level will not exceed the USFWS limit 200 feet from the tracks and highway noise in the area frequently is recorded well above the USFWS peak hour noise level. Noise impacts will also be minimized by a ban against trains idling on the tracks, and maintenance of minimum speed of trains passing through the area of approximately 40 mph.

It should be noted that the proposed project will reduce noise levels along the existing corridor significantly, an important benefit for the higher numbers of homes located on the existing corridor.

**Environmental Justice/Socio-Economic Concerns:** In accordance with Executive Order 12898 of February 11, 1994, the project is not expected to have

a disproportionate impact on the minority or low-income communities in the immediate vicinity of the project, in view of the location of the project and the sparsely-populated nature of the land.

**Energy Requirements and Conservation Potentials:** The construction of the proposed project should be considered as a short-term use of the environment during which energy and labor will be expended. This energy cost will, in the long-term, be offset by reduced vehicle congestion in downtown Brownsville and the more efficient movement of commerce and cargo between the United States and Mexico.

**Any Irreversible and Irrecoverable Commitment of Resources:** The project has not involved irreversible and irretrievable commitment of resources.

**Health and Safety:** The project should contribute to the health and safety of the Brownsville community through lessening vehicle emissions, reducing the potential for vehicle-train collisions at existing at-grade crossings, and minimizing the potential for the railroad accidents in densely-populated areas involving hazardous materials.

**Cumulative Impacts:** The Department also considered cumulative environmental impacts resulting from the project.

As stated above, the proposed project will improve the quality of life for city and area residents by (a) the relocation of rail lines outside the Brownsville; (b) the reduction of vehicle waiting times and improvement of air quality in the downtown sections of the city; (c) the reduced impact of train noise to city residents; (d) the diversion of the transport of hazardous cargo from downtown Brownsville to less populated areas outside the city; and, (e) the elimination of numerous at-grade crossings.

Environmental disruption throughout the construction process and in the operation of the rail line will be minimized through appropriate mitigation measures, discussed above, and coordination between Cameron County with Federal and state agencies such as the IBWC, USACE, USFWS, and TPWD in the development and implementation of those mitigation measures.

#### IV. Conclusion: Analysis of the Final Environmental Assessment

On the basis of the final environmental assessment, information developed during the review of the Cameron County's application and environmental assessment, and comments received, a Finding of No

Significant Impact ("FONSI") is adopted and an environmental impact statement will not be prepared.

The Final Environmental Assessment prepared by the Department addressing this action is on file and may be reviewed by interested parties at the Department of State, 2201 C Street NW, Room 4258, Washington, DC (Attn: Mr. Dennis Linskey, Tel 202-647-8529).

Dated: June 18, 2004.

Dennis Linskey,

Coordinator, U.S.—Mexico Border Affairs, Office of Mexican Affairs, Department of State.

[FR Doc. 04-14468 Filed 6-24-04; 8:45 am]

BILLING CODE 4710-28-P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[Docket No. OST-2004-18488]

### Notice of Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary.

ACTION: Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Department of Transportation's (DOT) intention to request extension of a previously approved information collection.

**DATES:** Comments on this notice must be received by August 24, 2004.

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number OST-2004-18488 by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

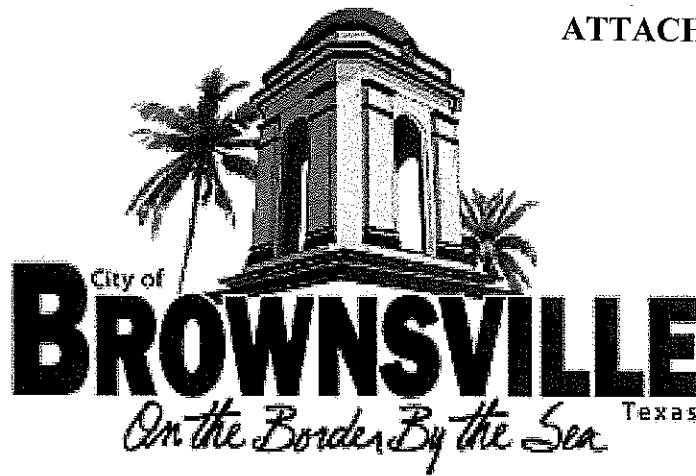
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information

Mark Sossi  
City Attorney

ATTACHMENT 4



September 4, 2012

Anna K. Quinlan, Secretary  
Surface Transportation Board  
1925 "K" Street, NW  
Washington, D.C. 20423-0001

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

**CERTIFIED MAIL No.: 7011 2970 0001 9164 3115**

*Re: Petition for Issuance of Public Use Condition, Interim Condition and for  
Railbanking for two proposed abandoned connecting lines of railroad.*

- (1) Union Pacific Railroad (Union Pacific Brownsville Subdivision  
from Milepost 7.4 at Olmito Junction to Milepost 0.22 at  
Brownsville, Texas and UP Docket AB-33 (Sub-No. 306x).*
- (2) Brownsville and Matamoros Bridge Company 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. (hereinafter  
referred to as "The Line") and more specifically described in  
B&M Bridge Docket AB-1091X (Sub-No. 306x).*

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**Office of the City Attorney**

1001 E. Elizabeth St., Suite 234 • Brownsville, Texas • 78520  
Phone: (956) 548-6011 • Fax (956) 546-4291

RECEIVED  
SEP 25 2012  
LAW DEPARTMENT  
UNION PACIFIC RR CO.

**Mark Sossi**  
**City Attorney**

Dear Secretary Quinlan;

This request is filed on behalf of the City of Brownsville, Texas, a Texas Home Rule Municipality (hereinafter referred to as "Proponent") interested in an issue regarding transportation and natural resources,

Proponent requests the issuance of a Public Use Condition, an Interim Trail Use Condition, and Railbanking, rather than an outright abandonment authorization for the entire length of railway to be abandoned by the Brownsville and Matamoros Bridge Company (B&M Bridge) and the Union Pacific Railroad as set forth in B&M Bridge Docket AB-1091X and UP Docket AB-33 (Sub-No. 306x); or as set forth as follows:

"Union Pacific Brownsville Subdivision from Milepost 7.4 at Olmito Junction to Milepost 0.22 at Brownsville and Brownsville and Matamoros Bridge Company Bridge Line from its connection to Union Pacific's Brownsville Subdivision near Union Pacific 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"). (B&M Bridge Docket AB-1091X and UP Docket AB-33) (Sub-No. 306x)."

"The Line" traverses the United States Postal Service ZIP code 78520. Union Pacific Railroad ("UP") and the Brownsville & Matamoros Bridge Company have given notice that they will file notice of exemption to abandon the line on or after September 10, 2012.

**1) Request for Public Use Condition**

Proponent asks the Surface Transportation Board (STB) to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

- A. *An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms.* Justification for this condition is that the corridor would make an excellent recreational trail, and conversion of the property to trail use is in accordance with local plans. In addition, the corridor provides important wildlife habitat and green space, and its preservation as a bicycle commuter/recreation trail is consistent with that end. The time period sought is 180 days from the effective date of the abandonment authorization. The City of Brownsville needs this much time to assemble or to review title information, complete a trail plan, commence negotiations with the carrier, and solicit program funding through local and state transportation sources or private interests.
- B. *An order barring removal or destruction of potential trail-related structures such as any bridges, trestles, culverts and tunnels.* The justification for this condition is that any such structures which might exist on "The Line" would

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**Office of the City Attorney**

1001 E. Elizabeth St., Suite 234 • Brownsville, Texas • 78520  
Phone: (956) 548-6011 • Fax (956) 546-4291

**Mark Sossi**  
**City Attorney**

have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reasons as indicated immediately above.

**2) Request for Interim Trail Use**

The City of Brownsville would show that the railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, the City also proposes the following:

**STATEMENT OF WILLINGNESS TO ASSUME  
FINANCIAL RESPONSIBILITY**

- A. In order to establish interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 CFR §1152.29, the City of Brownsville, Texas is willing to assume full responsibility for the management of and for any legal liability arising out of the transfer or use of the line and would indemnify the railroad against any potential liability, and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by and operated by B&M Bridge Company and Union Pacific Railroad.
- B. The property known as "The Line" is actually two connecting lines of railroad which extend from (1) the Union Pacific Brownsville Subdivision, from Milepost 7.4 at Olmito Junction to Milepost 0.22 at Brownsville, and (2) the Brownsville & Matamoros Bridge Company Bridge Line, from its connection to UP's Brownsville Subdivision near the 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). (B&M Bridge Docket AB-1091X and UP Docket AB-33(Sub-No. 306x). The right of way is part of the line proposed for abandonment in STB Docket number
- C) A map depicting the right-of-way is attached.

The City of Brownsville acknowledges that use of the right-of-way is subject to its continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon Union Pacific Railroad, 101 North Wacker Drive, Room 1920 Chicago Illinois 60606-1718 and on the Brownsville & Matamoros Bridge Company at 1399 Mexico Blvd. Brownsville, Texas 78522 by U.S. Mail, postage pre-paid, first class, this 30th day of August, 2012.

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**Office of the City Attorney**

1001 E. Elizabeth St., Suite 234 • Brownsville, Texas • 78520  
Phone: (956) 548-6011 • Fax (956) 546-4291

**Mark Sossi**  
**City Attorney**

Respectfully submitted,



Mark Sossi  
City Attorney  
For the City of Brownsville, Texas

CC

Mayor Tony Martinez  
City of Brownsville,  
POBox 911, City Hall  
1001 East Elizabeth  
City of Brownsville, Texas

Union Pacific Railroad  
101 North Wacker Drive, Room 1920  
Chicago, Illinois 60606-1718

Brownsville & Matamoros Bridge Company  
1300 Mexico Blvd.  
Brownsville, TX 78522

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**Office of the City Attorney**

1001 E. Elizabeth St., Suite 234 • Brownsville, Texas • 78520  
Phone: (956) 548-6011 • Fax (956) 546-4291

**Mark Sossi**  
**City Attorney**

Certificate of Service

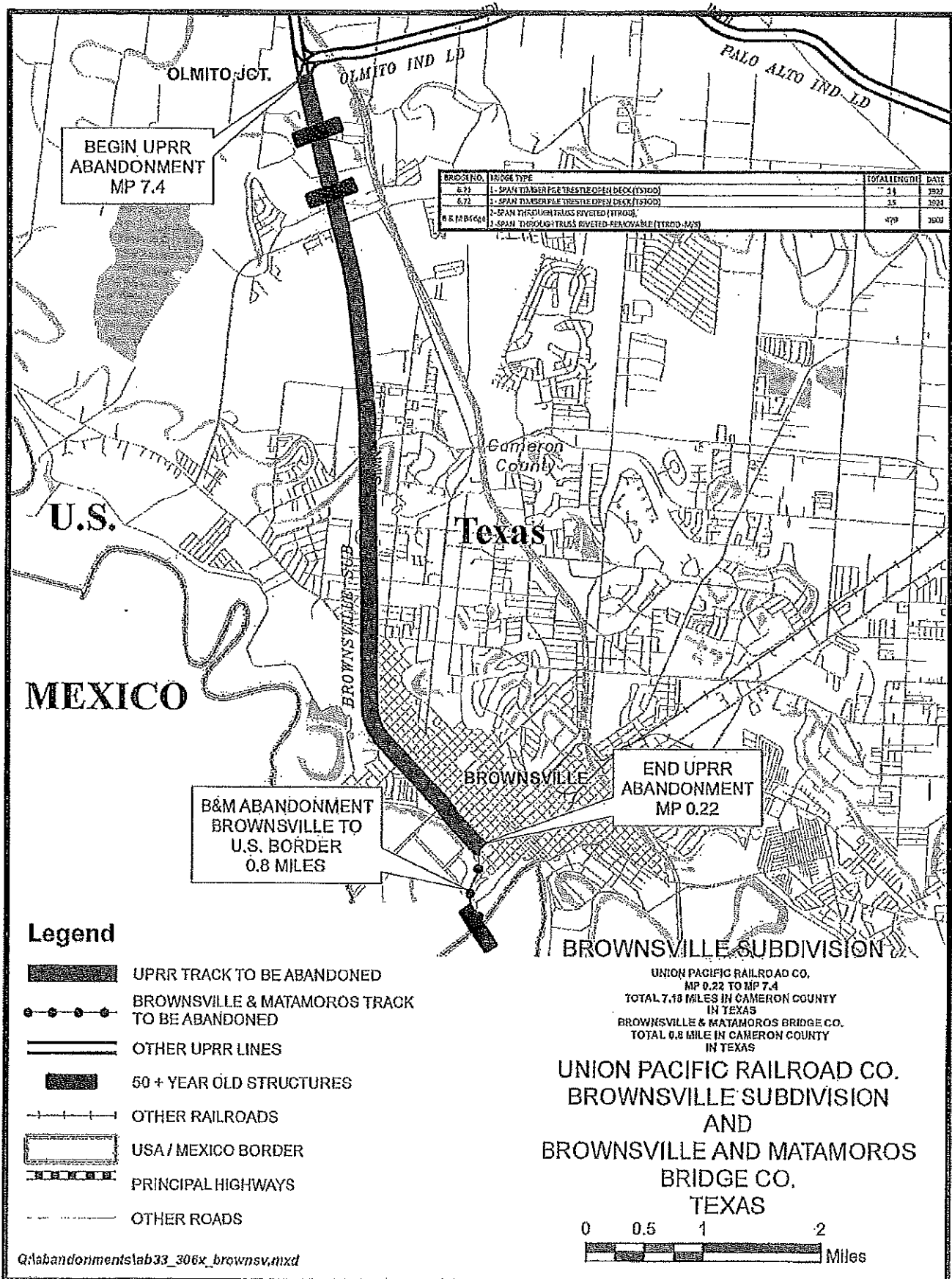
The undersigned hereby certifies that a copy of the foregoing Petition for Issuance of Public Use Condition, Interim Condition and for Railbanking for two proposed abandoned connections of UP Docket AB-33 (Sub-No. 306x) and B&M Bridge Docket AB-1091X (Sub-No. 306x) was served by First Class US Mail postage prepaid on the 4<sup>th</sup> day of September, 2012 on the following parties

Union Pacific Railroad  
101 North Wacker Drive, Room 1920  
Chicago, Illinois 60606-1718

Brownsville & Matamoros Bridge Company  
1300 Mexico Blvd.  
Brownsville, TX 78522

Cameron County Administrator  
Pete Sepulveda Jr. 110 E. Monroe St. Dancy Building  
Second Floor  
Brownsville, Texas 78520

Dated this 4th day of September 2012



**ATTACHMENT 5**

August 21, 2012

**TO: SEE ATTACHED SERVICE LIST**

**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).**

To whom it may concern:

On or after September 10, 2012, Union Pacific Railroad Company ("UP") and Brownsville and Matamoras Bridge Company ("B&M Bridge") expect to be filing with the Surface Transportation Board ("STB" or "Board") a joint Notice of Exemption seeking authority to abandon B&M Bridge's 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 (collectively the "Line"). Attached is a Combined Environmental and Historic Report which describes the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

Union Pacific is providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis (SEA) at the following address, and refer to the above-referenced Docket Number:

Surface Transportation Board  
Section of Environmental Analysis (SEA)  
395 East Street, S.W., Room #100  
Washington, DC 20423-0001  
Telephone No.: (202) 927-6211

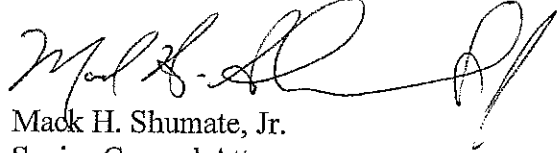
Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to our representative) would be appreciated within three (3) weeks.

August 21, 2012

Page 2

Your comments will be considered by the Board in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact our representative directly. UP's representative in this matter is Mack H. Shumate, Jr., who may be contacted by telephone at (312) 777-2055 or by mail at 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

Yours very truly,

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.", followed by a stylized flourish.

Mack H. Shumate, Jr.  
Senior General Attorney

Attachment

Docket No. AB-33 (Sub-No. 306X)  
Docket No. AB-1091X

**SERVICE LIST**

**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

**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

AB-33 (Sub-No. 310X)\Service List.doc



TEXAS HISTORICAL COMMISSION  
*real places telling real stories*

13 June 2012

Colleen K. Graham  
Law Department  
Union Pacific Railroad  
1400 Douglas Street, Stop 1580  
Omaha NE 68179

Re: *Project review under Section 106 of the National Historic Preservation Act of 1966*  
*UPRR abandonment in Brownsville and at Brownsville & Matamoros Bridge, Brownsville, Cameron County, Texas (STB)*

Dear Ms. Graham,

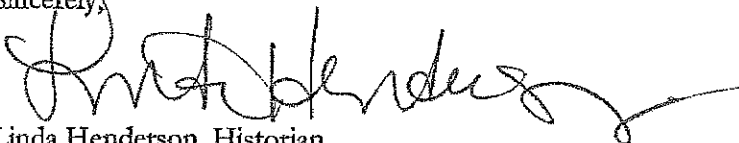
Thank you for your correspondence about the above-mentioned project. Since receiving it, we have been in communication with Ray Allamong in your Union Pacific (UPRR) office, discussing in particular the historic Brownsville & Matamoros International Bridge (B&M Bridge). This letter serves as official comment from Texas' State Historic Preservation Officer, the Executive Director of the Texas Historical Commission (THC).

THC staff led by Linda Henderson reviewed the materials and past coordination related to the bridge and the West Rail Bypass project as part of developing an understanding of the bridge's eligibility for listing in the National Register of Historic Places (NRHP) and any previous proposals for its future preservation. Based on the information we have been provided, for the abandonment of the rail line north of but excluding the bridge, we agree with the finding of "No Historic Properties Affected." The only remaining coordination needed relates to the bridge, and although we understand that the bridge is to remain intact, we need more information to complete our review.

The B&M Bridge is eligible under Criterion A for Transportation and Criterion C for Engineering. Because it is an international crossing over the Rio Grande, representatives from the US Department of State, US Army Corps of Engineers, International Boundary and Water Commission, US Customs & Border Protection should be contacted early in the coordination process to ensure efficient communication related to Section 106 coordination for abandonment of the bridge.

Thank you again for working with our office to identify and protect the state's irreplaceable historic and cultural resources. Please contact us with any questions: [linda.henderson@thc.state.tx.us](mailto:linda.henderson@thc.state.tx.us) or 512/463-5851.

Sincerely,



Linda Henderson, Historian

For:

Mark Wolfe, State Historic Preservation Officer

Cc: Victoria Rutson, Federal Preservation Officer, Surface Transportation Board  
Mary Torres, Chair, Cameron County Historical Commission  
Kitty Henderson, Historic Bridge Foundation



### **CERTIFICATE OF SERVICE AND PUBLICATION**

The undersigned hereby certifies that a copy of the foregoing Combined Joint Petition for Exemption in Docket No. AB-33 (Sub-No. 306X) by Union Pacific Railroad Company and Docket No. AB-1091X by Brownsville and Matamoros Bridge Company was served on the date indicated below by mailing a copy, first class mail postage prepaid to the following:

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

U.S. Department of the Interior  
National Park Service  
Legislative & Congressional Affairs Office  
1849 C Street, N.W., Room 3309  
Washington, DC 20240

U.S. Department of Agriculture  
Chief of the Forest Service  
4<sup>th</sup> Floor N.W., Auditors Building  
14<sup>th</sup> Street & Independence Ave., S.W.  
Washington, DC 20250

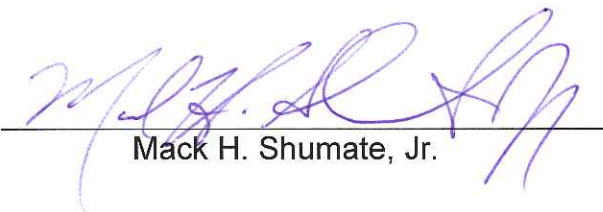
Denise S. Francis  
Director, State Grants Team  
Governor's Office of Budget and Planning  
P.O. Box 12428  
Austin, TX 78711

The undersigned further certifies that a Notice of Intent to Discontinue Rail Service and Abandon Rail Line was published one time in the County where the Line is located as follows:

| <b>County</b> | <b>Newspaper</b>   | <b>Date</b>       |
|---------------|--------------------|-------------------|
| Cameron       | Brownsville Herald | December 18, 2012 |

The above newspaper is generally circulated in the county where the rail line is located. The Notice as published was in the form prescribed by the Board for a Petition for Exemption at 49 C.F.R. 1105.12. Proofs of Publication are attached hereto and hereby made a part hereof.

Dated this 20th day of December, 2012.

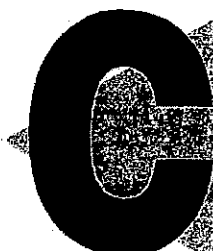
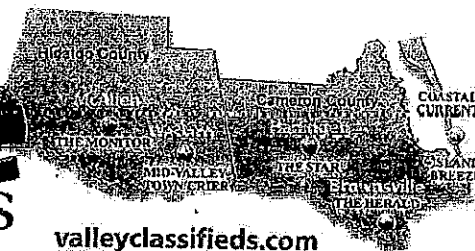


Mack H. Shumate, Jr.

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# wide S I F I E D S

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TUESDAY, DECEMBER 18, 2012

1-866-572-SELL

## NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE AND ABANDON RAIL LINE

UNION PACIFIC RAILROAD COMPANY ("UP") and the BROWNSVILLE AND MATAMORAS BRIDGE COMPANY ("B&M") give notice that on or after December 19, 2012, they intend to file with the Surface Transportation Board ("Board"), Washington, D.C. 20423, a combined Joint Petition for Exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, et seq., permitting UP and B&M to abandon and discontinue service upon 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 located near the center point of the B&M Bridge at Brownsville, a total distance of 7.98 miles in Cameron County, TX. The lines of railroad traverse United States Zip Code 78520. The UP docket for this joint proceeding is No. AB-33 (Sub-No. 306X) and the B&M docket for this joint proceeding is No. AB-1091X.

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the joint petition for exemption. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Office of Environmental Analysis (OEA), Surface Transportation Board, 395 E Street, SW, Washington, DC 20423, or by calling OEA at (202) 245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use and offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, SW, Washington, DC 20423 [see 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representatives [see 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0238. Copies of any comments or requests for conditions should be served on UP's and B&M's representative: Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606, (312) 777-2055.

12/18/12

956-412-7733  
Info: TX88506 to 56654or leave message  
Info: TX88438 to 56654

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## CLERICAL

### THE MONITOR

#### Receptionist / Switchboard Operator

The Monitor is currently accepting applications for a part-time receptionist/switchboard operator. Some of the responsibilities include handling multiple switchboard phone lines, sorting incoming mail, processing mail with mail sorter and postage machine, ordering supplies, and performing other administrative duties as assigned.

The successful candidate will possess excellent communication skills both written and verbal. Must have experience handling multiple phone lines, be multi-tasked and Microsoft proficient.

Qualified candidates can submit a resume to: Darla Garcia  
darla@themonitor.com  
or 1400 E. Nolana, McAllen, Texas  
No phone calls please  
Equal Opportunity Employer

Info: TX88785 to 56654

### THE MONITOR

#### Advertising Retail Sales Manager

The Monitor in McAllen, TX is seeking an Advertising Retail Sales Manager to lead a territory team of sales executives. This position will drive and grow revenue by identifying sales opportunities, executing sales strategies, and coaching sales executives in order to meet print, online, and niche goals. The desired candidate would possess strong analytical, creative, strategic thinking and sales skills. An innovative mindset and strong leadership skills are critical.

The candidate will demonstrate sales success at all levels including building relationships both within and outside our organization. The candidate should have experience in directing the sales process across multiple platforms, forecasting and budgeting revenues.

Responsibilities will include, but are not limited to:

- Planning, organizing, and developing creative ideas and sales strategies for print and online advertising.
- Produce monthly sales reports, weekly forecasts and understand competitive research and media reports.
- Develops, Mentors and coaches an active sales team of 10-15 full time sales professionals; creating a challenging, motivating environment that drives business and profitability.
- Establishing individual and team goals.
- Conduct weekly sales meetings, highlighting training topics, concerns, recognitions and accomplishments.
- Performs other duties as assigned.

## Qualifications:

- Minimum 3-5 years experience managing a team of outside sales professionals.
- Detail and process oriented with excellent written and verbal communications skills.
- Strong computer skills: proficient in Microsoft Office (Word, Excel, and PowerPoint).
- Able to solve conflict; maintain confidentiality; keeps emotions under control; remain open to others ideas and be willing to try new things.
- Ability to manage difficult or emotional customer service situations and

102 Bid Notices

102 Bid Notices

102 Bid Notices

102 Bid Notices

"INVITATION TO BID"

**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.

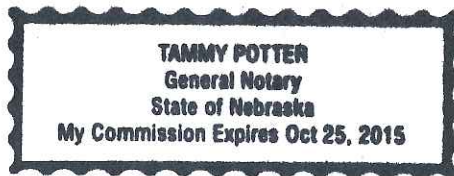
Dated at Omaha, Nebraska, this 11th day of December, 2012.

Raymond E. Allamong, Jr.  
Raymond E. Allamong, Jr.

SUBSCRIBED AND SWORN TO  
before me this 11th day of  
December, 2012.

Tammy Potter  
Notary Public

My Commission expires: Oct 25, 2015

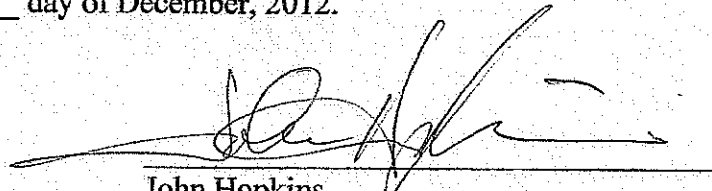


**VERIFICATION**

STATE OF TEXAS            )  
                                          ) ss:  
COUNTY OF HARRIS        )

I, JOHN HOPKINS, President and Chief Operating Officer of Brownsville and Matamoras Bridge 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 Brownsville and Matamoras Bridge Company.

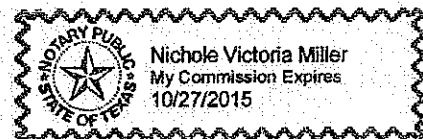
Dated at Houston, Texas, this 17 day of December, 2012.

  
John Hopkins

SUBSCRIBED AND SWORN TO BEFORE  
me this 17 day of December, 2012.

  
Notary Public

My Commission expires: 10-27-2015



DRAFT FEDERAL REGISTER NOTICE  
[49 C.F.R. § 1152.60(c)]

STB No. AB-33 (Sub-No. 306X) and STB No. AB-1091X  
Notice of Combined Joint Petition for Exemption to Abandon or  
To Discontinue Service

On December 20, 2012, Union Pacific Railroad Company ("UP") and Brownsville Matamoras Bridge Company ("B&M") filed with the Surface Transportation Board, Washington, D.C. 20423, a Combined Joint Petition for Exemption for 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 (the "Brownsville Subdivision") and for 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"). The Brownsville Subdivision and the B&M Bridge Line are collectively referred to as (the "Line"). The Line traverses U.S. Postal Service Zip Code 78520. The proceeding has been docketed as No. AB-33 (Sub-No. 306X) and AB-1091X. There are no agency stations on the Line.

The Line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected as required by 49 U.S.C. 10903(b)(2).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

All interested persons should be aware that following abandonment of rail service and salvage of the Line, the Line may be suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR Part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.