



Surface Transportation Board
Washington, D.C. 20423-0001

Office of the General Counsel

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Meeting under Section 5, STB Reauthorization Act

July 19, 2017

Present: Members Begeman, Elliott, and Miller

Members' Staff: James Boles, Onika Williams, Janie Sheng, Brian O'Boyle
Agency Staff : Craig Keats, Rachel Campbell, Vicki Rutson, Scott Zimmerman,
Phillis Johnson-Ball, Jonathon Binet, Lisa Novins, Carolyn Chachkin, Diana
Wood

ENTERED
Office of Proceedings
January 31, 2018
Part of
Public Record

Topic: FD 32760, *UP/SP Merger (Mission Rail)*

Summary of the Matters Discussed, Prepared by General Counsel Craig Keats:

At this meeting staff briefed Board Members on a petition by BNSF Railway Company (BNSF) and Mission Rail Industrial Park, LLC (MRIP) (jointly, Petitioners) for enforcement of the Board's decision in *Union Pacific Corp.—Control & Merger—Southern Pacific Rail Corp (Decision No. 44)*, 1 S.T.B. 233 (1996). Petitioners ask the Board to direct Union Pacific Railroad Company (UP) to allow BNSF to provide rail service to Mission Rail Park (the Park) via certain track owned by UP. The track at issue was built on a UP-owned right-of-way by a non-carrier shipper in the Park. Under an Industry Track Agreement (ITA) with UP, the shipper transferred the track to UP after it was built. Petitioners claim that BNSF is entitled to provide (and the Park to receive) service pursuant to the conditions imposed in *Decision No. 44* and the 2002 Restated and Amended Settlement Agreement (RASA), which the Board approved in its review of the UP/Southern Pacific merger proceeding.

Staff briefed the Members on the following matters:

- Discussion of the rail line, mileposts, and switching district;
- The terms of the RASA, including “at” a “2-to-1 point” and “on” a “Trackage Rights Line”;
- The Board's prior decisions in a related exemption proceeding, *Union Pac. R.R. Co.—Operation Exemption—In Bexar & Wilson Counties, Tex.*, STB Docket No. FD 35776;
- The indicia of excepted versus common carrier track.