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SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36186

TEXAS RAILWAY EXCHANGE LLC—CONSTRUCTION AND OPERATION
EXEMPTION—GALVESTON COUNTY, TEX.

Docket No. FD 36186 (Sub-No. 1)

PETITION OF TEXAS RAILWAY EXCHANGE LLC FOR ISSUANCE OF A
CROSSING ORDER PURSUANT TO 49 U.S.C. § 10901(d)

Decided: August 5, 2019

On November 21, 2018, in Docket No. FD 36186, Texas Railway Exchange LLC (TREX) filed a petition for an exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10901 to construct and operate approximately one-half mile of rail line in Galveston County, Tex. (the Line), to provide Texas International Terminals Ltd. with a direct connection to BNSF Railway Company.

By decision served on February 15, 2019, the Board instituted a proceeding under 49 U.S.C. § 10502(b). The Board's Office of Environmental Analysis (OEA) issued a Draft Environmental Assessment (EA) on February 22, 2019. After considering the public comments received in response to the Draft EA, OEA issued the Final EA on May 2, 2019, recommending various conditions to avoid, minimize, or mitigate the potential environmental impacts of the proposed construction and operation.

On February 22, 2019, TREX filed a petition (Crossing Petition) in Docket No. FD 36186 (Sub-No. 1) for issuance of an order pursuant to 49 U.S.C. § 10901(d) to allow the proposed Line to cross tracks owned by Union Pacific Railroad Company (UP). On June 18, 2019, UP replied, stating that it consents to the issuance of the crossing order and that it is prepared to negotiate with TREX the terms of operations and the amount of payment. On June 28, 2019, TREX filed a rebuttal, asserting that UP's consent establishes that TREX has fully satisfied the Board's § 10901(d) standards.

Counsel for TREX has indicated to OEA that TREX is considering modifying the type of crossing to be used in crossing UP's tracks.¹ TREX will be directed file an update on the status of any discussions with UP on that issue by August 15, 2019.

It is ordered:

1. TREX is directed to file, by August 15, 2019, a report updating the Board on the status of discussions with UP regarding possible modification of the proposed crossing configuration.
2. This decision is effective on its date of service.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

¹ See TREX Environmental Correspondence ECT No. EI-26530, Tex. Ry. Exch. LLC—Constr. & Operation Exemption—Galveston Cty., Tex., FD 36186, available at [https://www.stb.gov/ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/9AFCA5DC4909EE548525843B0067A284/\\$File/EI-26530.pdf?OpenElement](https://www.stb.gov/ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/9AFCA5DC4909EE548525843B0067A284/$File/EI-26530.pdf?OpenElement).