

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

Finance Docket No. 35752

---

234775  
ENTERED  
Office of Proceedings  
September 9, 2013  
Part of  
Public Record

GRAFTON & UPTON RAILROAD COMPANY --  
PETITION FOR DECLARATORY ORDER

---

**MOTION OF GRAFTON & UPTON RAILROAD  
COMPANY FOR LEAVE TO FILE SUPPLEMENT  
TO PETITION FOR DECLARATORY ORDER**

James E. Howard  
70 Rancho Road  
Carmel Valley, CA 93924  
831-659-4112  
jim@jehowardlaw.com

Linda J. Morgan  
Nossaman, LLP  
1666 K Street, N.W.  
Suite 500  
Washington, DC 20006  
202-887-1400  
lmorgan@nossaman.com

Attorneys for Grafton &  
Upton Railroad Co.

Dated: September 9, 2013

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

Finance Docket No. 35752

---

GRAFTON & UPTON RAILROAD COMPANY --  
PETITION FOR DECLARATORY ORDER

---

**MOTION OF GRAFTON & UPTON RAILROAD  
COMPANY FOR LEAVE TO FILE SUPPLEMENT  
TO PETITION FOR DECLARATORY ORDER**

On July 24, 2013, Grafton & Upton Railroad Co. ("G&U") filed a Petition for Declaratory Order (the "Petition") requesting the Board to clarify that State and local permitting and preclearance statutes and regulations are preempted pursuant to 49 U.S.C. 10501 in connection with the transloading of liquefied petroleum gas ("propane") from railcars to trucks at G&U's yard in the Town of Grafton, Massachusetts (the "Town" or "Grafton"). On August 19, 2013, the Town filed a reply in opposition to the Petition, and on August 23, 2013, the Massachusetts Department of Fire Services filed a reply. By this Motion, for the reasons set forth below, G&U requests leave of the Board to file the Supplement to Petition of Grafton & Upton Railroad Company for Declaratory Order (the "Supplement") that is being submitted with this Motion.

In its Reply, the Town argued that G&U's new plan for the financing, construction and operation of the propane transloading yard lacked credibility and was not feasible. The Town insisted that the Board needed more detailed information concerning the termination of earlier agreements with certain entities involved in the propane business (identified as the "Propane Companies" in the Supplement). On August 14, 2013, or approximately 3 weeks after the filing of the Petition, G&U and the Propane Companies

concluded their negotiations and entered into several agreements confirming the fact that the Propane Companies were no longer involved in the project and that G&U would have the right to finance, construct and operate the transloading facility on its own. These agreements are attached to the Supplement.

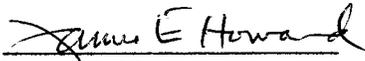
The Supplement provides information that was expressly described by the Town as being necessary for the Board's decision, but that was not available at the time that the Petition was filed. In providing this information, G&U reaffirms its position on related issues of feasibility and safety, as set forth in the Petition. The Supplement will not expand the scope of the issues before the Board in this proceeding, and the Board's acceptance of the Supplement will not prejudice other parties or delay the Board's decision.

G&U respectfully requests the Board to grant this Motion and to accept the filing of the Supplement. G&U asked the Town and the Department of Fire Services whether they would consent to the filing of the Supplement. The Town has refused to consent, while the Department of Fire Services consents to the filing but in so doing indicated that it may request an opportunity to respond.

[Remainder of page intentionally left blank.]

Respectfully submitted,

GRAFTON & UPTON  
RAILROAD CO.

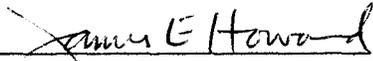
  
James E. Howard  
70 Rancho Road  
Carmel Valley, CA 93924  
831-659-4112

Linda J. Morgan  
Nossaman, LLP  
1666 K Street, N.W.  
Suite 500  
Washington, DC 20006  
202-887-1400

Dated: September 9, 2013

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing Motion for Leave to File Supplement to Petition for Declaratory Order to be served by sending copies by e-mail on September 9, 2013 to all parties on the service list.

  
\_\_\_\_\_  
James E. Howard