

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35847

FORT BEND COUNTY TOLL ROAD AUTHORITY—ACQUISITION EXEMPTION—  
METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEX. (RIGHT TO  
RESTORE RAIL SERVICE OVER A RAILBANKED RIGHT-OF-WAY IN HARRIS, FORT  
BEND, AUSTIN, WHARTON, AND COLORADO COUNTIES, TEX.)

Decided: August 27, 2014

Fort Bend County Toll Road Authority (FBCTRA), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from Metropolitan Transit Authority of Harris County, Tex. (METRO), the right to restore rail service over a rail-banked right-of-way between the Bellaire Branch's milepost 20, approximately 2,020 feet east of the Harris County-Fort Bend County line, to milepost 61.2 near Eagle Lake, a distance of 41.2 miles in Harris, Fort Bend, Austin, Wharton, and Colorado Counties, Tex.

FBCTRA's notice of exemption is contingent upon a related notice of exemption becoming effective in Metropolitan Transit Authority of Harris County, Tex.—Acquisition Exemption—Union Pacific Railroad Company, Docket No. FD 35846, wherein METRO seeks to acquire from Union Pacific Railroad Company the right to restore rail service over a rail-banked right-of-way between milepost 3.48 near Bellaire Junction in Houston to milepost 61.2 near Eagle Lake, a distance of 57.72 miles, in Harris, Fort Bend, Austin, Wharton, and Colorado Counties, Tex. The related notice was served and published in the Federal Register on August 14, 2014 (79 Fed. Reg. 47,724), and is scheduled to become effective on August 28, 2014.

FBCTRA and METRO also filed a related joint petition to vacate and reissue a certificate of interim trail use (CITU) in Union Pacific Railroad Company—Abandonment—in Harris, Fort Bend, Austin, Wharton, and Colorado Counties, Tex., Docket No. AB 33 (Sub-No. 156), and notice of interim trail use (NITU) in Union Pacific Railroad Company—Abandonment Exemption—in Colorado and Wharton Counties, Tex., Docket No. AB 33 (Sub-No. 253X). In the joint petition, FBCTRA and METRO request that the Board: (1) reopen the two abandonment proceedings; (2) vacate the CITU in AB 33 (Sub-No. 156), under which METRO has been operating as trail user, with respect to a portion of the subject right-of-way; (3) vacate the NITU in AB 33 (Sub-No. 253X), under which METRO has been operating as trail user; (4) reissue a CITU in AB 33 (Sub-No. 156) to FBCTRA with respect to a portion of the subject right-of-way; and (5) reissue a NITU in AB 33 (Sub-No. 253X) to FBCTRA.

The joint petition and FBCTRA's notice appear to be related, and the joint petition raises issues regarding whether the width of the right-of-way that would remain rail banked would be sufficient to permit the reestablishment of rail service. The Board will consider that issue, and if necessary, will issue a decision requesting further information. Therefore, the publication of this notice and its effective date will be held in abeyance pending further order of the Board and Board consideration of this issue.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The publication of FBCTRA's notice of exemption and its effective date are held in abeyance pending further order of the Board.
2. This decision is effective on its date of service.

By the Board, Joseph Dettmar, Acting Director, Office of Proceedings.