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May 19, 2015

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ENTERED  
Office of Proceedings  
May 19, 2015  
Part of  
Public Record

The Honorable Cynthia T. Brown  
Chief, Section of Administration  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20024

Re: STB Finance Docket No. 35847, *Fort Bend County Toll Road Authority--Acquisition Exemption-- Metropolitan Transit Authority of Harris County, Texas's Right to Restore Service over Rail Banked Right-of-Way in Harris, Fort Bend, Austin, Wharton, and Colorado Counties, Texas*

Dear Ms. Brown:

Enclosed please find Fort Bend County Toll Road Authority's Motion to Withdraw Verified Notice of Exemption in the above-referenced proceedings.

Very truly yours,

Thompson Coburn LLP

By   
Thomas Sean McGowan

Enclosure

cc: Metropolitan Transit Authority of Harris County, Texas  
Attn: Alva Trevino, General Counsel  
1900 Main St.  
Houston, TX 77002

Union Pacific Railroad Company  
1400 Douglas Street  
Omaha, NE 68179  
Attn: Counsel's Office

The Honorable Cynthia T. Brown  
Page 2

Mach H. Shumate, Jr.  
Law Department  
Union Pacific Railroad Company  
101 North Wacker Drive  
Chicago, IL 60606

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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Fort Bend County Toll Road	)	
Authority – Acquisition Exemption –	)	
Metropolitan Transit Authority	)	
of Harris County, Texas’s Right to Restore Rail	)	Finance Docket No. 35847
Service over Rail Banked	)	
Right-of-Way in Fort Bend,	)	
Austin, Wharton, and Colorado	)	
Counties, Texas	)	

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**MOTION TO WITHDRAW  
VERIFIED NOTICE OF EXEMPTION**

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Attorneys for Fort Bend County Toll  
Road Authority

Dated: May 19, 2015

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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Fort Bend County Toll Road	)	
Authority – Acquisition Exemption –	)	
Metropolitan Transit Authority	)	
of Harris County, Texas’s Right to Restore Rail	)	Finance Docket No. 35847
Service over Rail Banked	)	
Right-of-Way in Fort Bend,	)	
Austin, Wharton, and Colorado	)	
Counties, Texas	)	

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**MOTION TO WITHDRAW  
VERIFIED NOTICE OF EXEMPTION**

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Fort Bend County Toll Road Authority (FBCTRA), a non-carrier, submits this motion to withdraw, without prejudice, (Motion) the Verified Notice of Exemption (Notice of Exemption) that it filed in this docket pursuant to 49 C.F.R. § 1150.31. In support of this Motion, FBCTRA states as follows:

On July 29, 2014, FBCTRA filed its Notice of Exemption in order to acquire from the Metropolitan Transit Authority of Harris County, Texas (METRO) the right to restore rail service (restoration right) over a rail banked right-of-way for the line 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, in Colorado County, Texas, a distance of 41.2 miles in Harris, Fort Bend, Austin, Wharton, and Colorado Counties, Texas (the Subject ROW).”<sup>1</sup>

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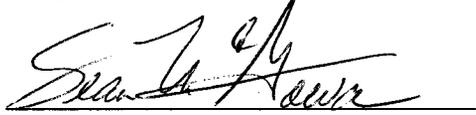
<sup>1</sup> **Note:** FBCTRA recently learned that this description, as initially referenced in the *Joint Petition to Vacate and Reissue CITU and NITU*, dated July 29, 2014 at pp. 4 and 5 filed in STB Dockets AB-33 (Sub-No. 156) and AB-33 (Sub-No. 253X), and the *Clarification*, dated November 10, 2014 at p. 4 filed in STB Dockets AB-33 (Sub-No. 156), AB-33 (Sub-No. 253X), FD 35846, and FD 35847, is incorrect. A more accurate description is as follows: “milepost 20.42 on the Harris County-Fort Bend County line, to milepost 61.2 near Eagle Lake, in Colorado County, Texas, a distance of 40.78 miles in Fort Bend, Austin, Wharton, and Colorado Counties, Texas (the Subject ROW).”

FBCTRA's request for an exemption was contingent upon the Board's issuance of an exemption to METRO in Finance Docket No. 35846. METRO's exemption became effective on August 28, 2014.

Prior to filing the Notice of Exemption, METRO and FBCTRA executed an interlocal agreement (Interlocal Agreement). The Interlocal Agreement provided for the transfer of ownership and control of the Subject ROW (i.e., milepost 20.42 through milepost 61.2) and assignment of the trail use agreement for the Subject ROW to FBCTRA in order to provide for the development of transportation projects. In the Interlocal Agreement, METRO and FBCTRA pledged to cooperatively maintain the Subject ROW for future rail transit use. Because a non-carrier's acquisition of restoration rights over a rail banked right-of-way requires an exemption from 49 U.S.C. § 10901 under 49 C.F.R. § 1150.31, *et seq*, FBCTRA filed the Notice of Exemption in order to acquire the restoration rights over the Subject ROW from METRO.

As discussions for the transportation projects have moved forward, FBCTRA has determined that acquisition of the restoration rights over the Subject ROW is not necessary for its purposes at this time, and FBCTRA no longer seeks to obtain such restoration rights from METRO. Therefore, FBCTRA now requests that the Board grant its Motion to withdraw the Notice of Exemption without prejudice to its ability to seek such authorization at a later time should it determine that such restoration rights are necessary or required.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sean McGowan", written over a horizontal line.

Sean McGowan

Kathleen E. Kraft

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Attorneys for Fort Bend County Toll  
Road Authority

Dated: May 19, 2015

**Certificate of Service**

I hereby certify that on May 19, 2015, I served a copy of the foregoing Motion to

Withdraw Verified Notice of Exemption on the following:

**By first class mail, postage prepaid and electronic mail:**

Metropolitan Transit Authority of Harris County, Texas  
Attn: Alva Trevino, General Counsel  
1900 Main St.  
Houston, TX 77002

**By first class mail, postage prepaid:**

Union Pacific Railroad Company  
1400 Douglas Street  
Omaha, NE 68179  
Attn: Counsel's Office

**By first class mail, postage prepaid and electronic mail:**

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