

Mark Sossi
City Attorney



SEP 25 2012
10:00 AM
CITY OF BROWNSVILLE

September 19, 2012

FILED IN MAIL

Anna K. Quinlan, Secretary
Surface Transportation Board
1925 "K" Street, NW
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

The Honorable Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E. Street
Washington, DC 20423-0001

SEP 25 2012

Part of
Public Record

CERTIFIED MAIL No.: 7011 2970 0001 9164 3207

*Re: Petition for Issuance of Public Use Condition, Interim Condition and for
Ruilbanking for two proposed abandoned connecting lines of railroad.*

(1) *Union Pacific Railroad (Union Pacific Brownsville Subdivision from Milepost 7.4 at Olmito Junction to Milepost 0.22 at Brownsville, Texas and UP Docket AB-33 (Sub-No. 306x).* 233033

(2) *Brownsville and Matamoros Bridge Company Bridge Line from its connection to UP's Brownsville Subdivision near UP milepost 0.41 to the International Border with the Country of Mexico (Mexico) located near the centerpoint of the B&M Bridge at Brownsville, a total distance of 7.98 miles in Cameron County, Tx. (hereinafter referred to as "The Line") and more specifically described in B&M Bridge Docket AB-1091X (Sub-No. 306x).* 233034

Office of the City Attorney

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Dear Secretary Quinlan;

This request is filed on behalf of the City of Brownsville, Texas, a Texas Home Rule Municipality (hereinafter referred to as "Proponent") interested in an issue regarding transportation and natural resources,

Proponent requests the issuance of a Public Use Condition, an Interim Trail Use Condition, and Railbanking, rather than an outright abandonment authorization for the entire length of railway to be abandoned by the Brownsville and Matamoros Bridge Company (B&M Bridge) and the Union Pacific Railroad as set forth in B&M Bridge Docket AB-1091X and UP Docket AB-33 (Sub-No. 306x); or as set forth as follows:

"Union Pacific Brownsville Subdivision from Milepost 7.4 at Olmito Junction to Milepost 0.22 at Brownsville and Brownsville and Matamoros Bridge Company Bridge Line from its connection to Union Pacific's Brownsville Subdivision near Union Pacific milepost 0.41 to the International Border with the Country of Mexico (Mexico) located near the centerpoint of the B&M Bridge at Brownsville, a total distance of 7.98 miles in Cameron County, Tx. ("The Line"). (B&M Bridge Docket AB-1091X and UP Docket AB-33) (Sub-No. 306x)."

"The Line" traverses the United States Postal Service ZIP code 78520. Union Pacific Railroad ("UP") and the Brownsville & Matamoros Bridge Company have given notice that they will file notice of exemption to abandon the line on or after September 10, 2012.

1) Request for Public Use Condition

Proponent asks the Surface Transportation Board (STB) to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

- A. *An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment except for public use on reasonable terms.* Justification for this condition is that the corridor would make an excellent recreational trail, and conversion of the property to trail use is in accordance with local plans. In addition, the corridor provides important wildlife habitat and green space, and its preservation as a bicycle commuter/recreation trail is consistent with that end. The time period sought is 180 days from the effective date of the abandonment authorization. The City of Brownsville needs this much time to assemble or to review title information, complete a trail plan, commence negotiations with the carrier, and solicit program funding through local and state transportation sources or private interests.
- B. *An order barring removal or destruction of potential trail-related structures such as any bridges, trestles, culverts and tunnels.* The justification for this condition is that any such structures which might exist on "The Line" would have considerable value for recreational trail purposes. The time period

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requested is 180 days from the effective date of the abandonment authorization for the same reasons as indicated immediately above.

2) Request for Interim Trail Use

The City of Brownsville would show that the railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, the City also proposes the following:

**STATEMENT OF WILLINGNESS TO ASSUME
FINANCIAL RESPONSIBILITY**

- A. In order to establish interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 CFR §1152.29, the City of Brownsville, Texas is willing to assume full responsibility for the management of and for any legal liability arising out of the transfer or use of the line and would indemnify the railroad against any potential liability, and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by and operated by B&M Bridge Company and Union Pacific Railroad.
- B. The property known as "The Line" is actually two connecting lines of railroad which extend from (1) the Union Pacific Brownsville Subdivision, from Milepost 7.4 at Olmito Junction to Milepost 0.22 at Brownsville, and (2) the Brownsville & Matamoros Bridge Company Bridge Line, from its connection to UP's Brownsville Subdivision near the UP milepost 0.41 to the International Border with the Country of Mexico (Mexico) located near the centerpoint of the B&M Bridge at Brownsville, a total distance of 7.98 miles in Cameron County, Tx. (the line). (B&M Bridge Docket AB-1091X and UP Docket AB-33(Sub-No. 306x). The right of way is part of the line proposed for abandonment in STB Docket number
- C) A map depicting the right-of-way is attached.

The City of Brownsville acknowledges that use of the right-of-way is subject to its continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

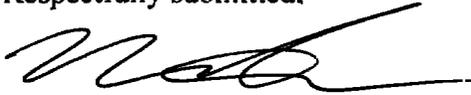
By my signature below, I certify service upon Union Pacific Railroad, 101 North Wacker Drive. Room 1920 Chicago Illinois 60606-1718 and on the Brownsville & Matamoros Bridge Company at 1399 Mexico Blvd. Brownsville, Texas 78522 by U.S. Mail, postage pre-paid, first class, this 30th day of August, 2012.

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Mark Sossi
City Attorney

Respectfully submitted,



Mark Sossi
City Attorney
For the City of Brownsville, Texas

CC

Mayor Tony Martinez
City of Brownsville,
POBox 911, City Hall
1001 East Elizabeth
City of Brownsville, Texas

Union Pacific Railroad
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606-1718

Brownsville & Matamoros Bridge Company
1300 Mexico Blvd.
Brownsville, TX 78522

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Certificate of Service

The undersigned hereby certifies that a copy of the foregoing Petition for Issuance of Public Use Condition, Interim Condition and for Railbanking for two proposed abandoned connections of UP Docket AB-33 (Sub-No. 306x) and B&M Bridge Docket AB-1091X (Sub-No. 306x) was served by First Class US Mail postage prepaid on the 4th day of September, 2012 on the following parties

Union Pacific Railroad
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606-1718

Brownsville & Matamoros Bridge Company
1300 Mexico Blvd.
Brownsville, TX 78522

Cameron County Administrator
Pete Sepulveda Jr. 110 E. Monroe St. Dancy Building
Second Floor
Brownsville, Texas 78520

Dated this 4th day of September 2012

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