

UNION PACIFIC RAILROAD
1400 Douglas Street, Stop 1580
Omaha, Nebraska 68179

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Jeremy M. Berman Assistant General Attorney

234983

October 18, 2013

Via UPS Overnight

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20024

FILED
OCT 21 2013
SURFACE
TRANSPORTATION BOARD

Re: STB Docket No. FD 35776; Union Pacific Railroad Company-- Operation Exemption -- In Bexar and Wilson Counties, TX

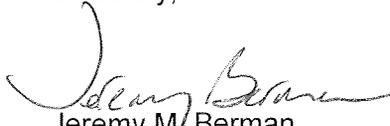
Dear Ms. Brown

Enclosed for filing in the above proceeding are the following:

1. An original and ten (10) copies of a Verified Notice of Exemption and Caption Summary (Exhibit 3 to the Notice).
2. A CD containing a copy of the filing in Word format.
3. A payment form in the amount of \$1,900.00 for the filing fee required by 49 C.F.R. § 1002.2(f).

Please indicate receipt of the enclosed materials by stamping and returning the extra copy of this letter in the self-addressed, stamped envelope enclosed for this purpose.

Sincerely,


Jeremy M. Berman

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Office of Proceedings

OCT 21 2013

Part of
Public Record

FEE RECEIVED

OCT 21 2013

SURFACE
TRANSPORTATION BOARD



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 35776

**UNION PACIFIC RAILROAD COMPANY
-- OPERATION EXEMPTION --
IN BEXAR AND WILSON COUNTIES, TX**

VERIFIED NOTICE OF EXEMPTION

FILED

OCT 21 2013

**SURFACE
TRANSPORTATION BOARD**

Union Pacific Railroad Company
Mack H. Shumate, Jr.
Jeremy M. Berman
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-4735

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**SURFACE
TRANSPORTATION BOARD**

Dated: October 18, 2013
Filed: October 21, 2013

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 35776

**UNION PACIFIC RAILROAD COMPANY
-- OPERATION EXEMPTION --
IN BEXAR AND WILSON COUNTIES, TX**

VERIFIED NOTICE OF EXEMPTION

Union Pacific Railroad Company (“UP”) submits this Verified¹ Notice of Exemption, pursuant to 49 C.F.R. § 1150.31 *et seq.*², for exemption to operate as a rail common carrier over approximately 7,391 feet of track between Milepost 16.1 and Milepost 17.5 in Bexar and Wilson Counties, Texas (the “Line” or the “Rockport Lead”). A map of the Line is attached hereto as Exhibit 1.

The Line lies entirely within a right-of-way formerly occupied by a line of railroad that was abandoned by UP’s predecessor, the Southern Pacific Transportation Company, in 1994. *Southern Pacific Transportation Company; Abandonment Exemption; in Bexar, Karnes, and Wilson Counties, TX*, Docket No. AB-12 (Sub-No. 163X) (decided April 20, 1994). Following abandonment, the track and ties were removed but UP retained ownership of the right-of-way. Since abandonment, the right-of-way has not been used for any non-rail purposes.

¹ See Verification of Eric O. Watkins, attached hereto as Exhibit 2.

² UP submits this Notice pursuant to the exemption for operations under section 10901 found in 49 C.F.R. § 1150.31(a). As the facts contained herein demonstrate, the authority sought by this Notice qualifies for this exemption. *See e.g. BNSF Railway Company--Acquisition and Operation--State Of South Dakota*, STB Finance Docket No. 34794 (served December 19, 2005); *Burlington Northern Railroad Company--Acquisition and Operation Exemption--South Dakota Railroad Authority*, STB Finance Docket No. 32017 (decided March 27, 1992).

In 2012, UP was approached by a potential customer, Frac Resources, LP, interested in reinstating rail service on the Line. To facilitate rail service to its desired location on the Line, Frac Resources constructed the 7,391 feet of track needed to reach its facility.³ As plans for rail service developed, the parties determined that the best course of action was for UP to operate the Line as a rail common carrier due primarily to the potential for additional customers on the Line. To this end, UP purchased the track from Frac Resources.⁴

The operating authority sought by UP does not require the preparation of an Environmental Report under 49 C.F.R. § 1105.6(c)(2)(i) because UP's operations will not exceed the thresholds set forth in 49 C.F.R. § 1105.7(e) (4) or (5). A Historical Report is likewise not required for this type of exemption under 49 C.F.R. § 1105.8(a) and (b)(1). UP's operation of the Line will have no impact on rail labor and no employees will be adversely affected by this exemption.

Correspondence concerning this proceeding should be directed to:

Jeremy M. Berman
Union Pacific Railroad
1400 Douglas St., STOP 1580
Omaha, Nebraska 68179
402-544-4735
jmberman@up.com

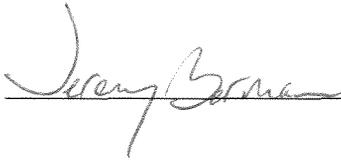
A caption summary to appear in the Federal Register is attached hereto as Exhibit 3.

³ Frac Resources is not a rail common carrier and did not intend to operate the track as a rail common carrier. Therefore Board authority was not needed to construct the track. *United Transp. Union-Illinois Legislative Bd. v. Surface Transp. Bd.*, 183 F.3d 606, 614 (7th Cir. 1999).

⁴ At the time of UP's purchase, the track was properly classified either as exempt track pursuant to 49 U.S.C. § 10906 or a private track outside the Board's jurisdiction. Thus, Board authority was not needed for UP to purchase the track. In the event that the Board determines otherwise, UP asks that this Notice be deemed amended to include retroactive authority to acquire the track in addition to operating authority over the track. UP has not begun operations and is seeking operating authority because it plans to operate the track as a rail common carrier.

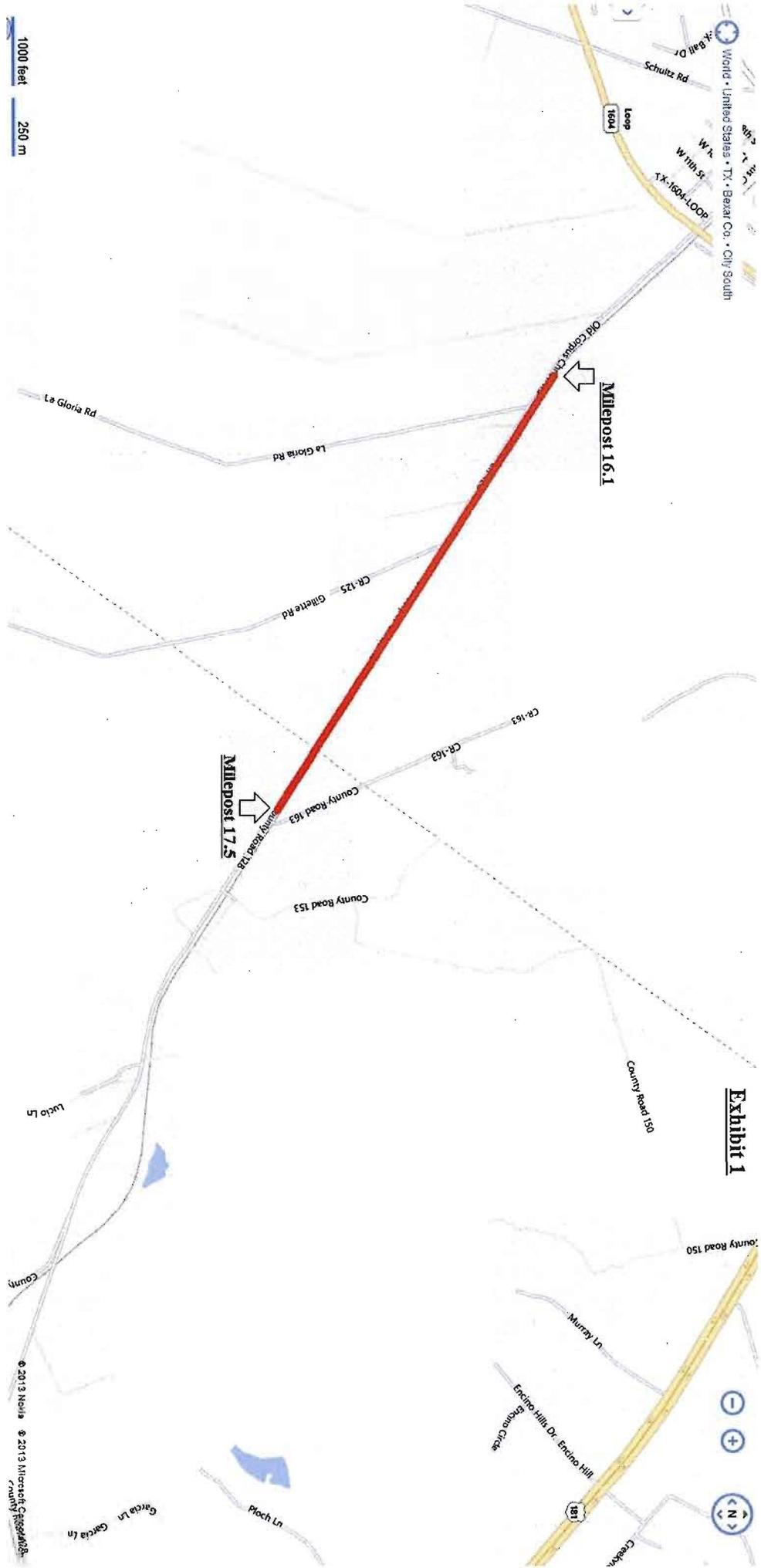
Respectfully submitted,

Union Pacific Railroad Company

By:  _____

Mack H. Shumate, Jr.
Jeremy M. Berman
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-4735
(402) 501-3773 (Facsimile)

Exhibit 1



VERIFICATION

STATE OF Texas)
COUNTY OF Harris) ss:

I, Eric O. Watkins, Regional Director Network and Industrial Development for Union Pacific Railroad Company, declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing document and that its assertions are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this Verification on behalf of Union Pacific Railroad Company.

Executed on October 16th, 2013

Eric O. Watkins
Eric O. Watkins

SUBSCRIBED AND SWORN TO
before me this 16th day
of October, 2013

Rhonda D Krueger
Notary Public

My Commission Expires: 04-13-14



SURFACE TRANSPORTATION BOARD

Notice of Exemption

Docket No. FD 35776

**Union Pacific Railroad Company
-- Operation Exemption --
In Bexar and Wilson Counties, TX**

Union Pacific Railroad Company has filed a notice of exemption to operate a line of railroad between milepost 16.1 and milepost 17.5 in Bexar and Wilson Counties, Texas. This operating authority will be effective on November 21, 2013 and operations under this exemption will begin on or after that date.

This notice is filed under 49 C.F.R. §§ 1150.31 et seq. If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Petitions to stay must be filed no later than November 14, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35776, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Jeremy M. Berman, Union Pacific Railroad, 1400 Douglas St., STOP 1580, Omaha, Nebraska 68179, 402-544-4735, jmberman@up.com.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV”

Decided November __, 2013,

By the Board, Rachel D. Campbell, Director, Office of Proceedings