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Mack H. Shumate, Jr.
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August 21, 2012

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232816

E-FILE

The Honorable Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E. Street, S.W., Room #100
Washington, DC 20423-0001

ENTERED
Office of Proceedings
August 21, 2012
Part of
Public Record

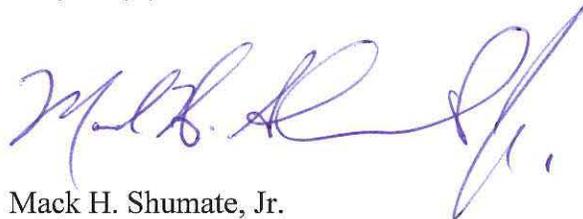
RE: Brownsville and Matamoras Bridge Company (B&M Bridge) and Union Pacific Railroad (UP) proposed joint notice of exemption for B&M Bridge to abandon its 0.8 mile of rail line north of the international border at Brownsville, TX, and for UP to discontinue its operation of the B&M Bridge line and to discontinue service on and to abandon its Brownsville Subdivision from milepost 7.4 near Olmito Junction to milepost 0.22 at Brownsville, TX; B&M Bridge Docket AB-1091X and UP Docket AB-33 (Sub-No. 306X).

Dear Ms. Brown:

Attached for filing in the above-referenced docket is Union Pacific Railroad Company and Brownsville and Matamoras Bridge Company's Combined Environmental and Historic Report" prepared pursuant to 49 C.F.R. § 1105.7 and § 1105.8, with a Certificate of Service, and a transmittal letter pursuant to 49 C.F.R. § 1105.11.

Union Pacific anticipates filing a Notice of Exemption to abandon the Line on or after September 10, 2012.

Very truly yours,



Mack H. Shumate, Jr.
Senior General Attorney

MHS:mml
Attachment

2012_08_21 Brownsville - Brown - Ltr - CEHR



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-33 (Sub-No. 306X)

**UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
In Cameron County, TX
(Brownsville Subdivision)**

DOCKET NO. AB-1091X

**BROWNSVILLE AND MATAMORAS BRIDGE COMPANY
-- ABANDONMENT EXEMPTION --
In Cameron County, TX
(B&M Bridge Line)**

Combined Environmental and Historic Report

UNION PACIFIC RAILROAD COMPANY

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Dated: August 21, 2012
Filed: August 21, 2012

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-33 (Sub-No. 306X)

**UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
In Cameron County, TX
(Brownsville Subdivision)**

**Docket No. AB1091X
BROWNSVILLE AND MATAMORAS BRIDGE COMPANY
-- ABANDONMENT EXEMPTION --
In Cameron County, TX
(B&M Bridge Line)**

Combined Environmental and Historic Report

Union Pacific Railroad Company ("UP") and the Brownsville and Matamoros Bridge Company ("B&M") submit this Combined Environmental and Historic Report ("EHR") pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, for an exempt abandonment of two connecting lines of railroad: UP's Brownsville Subdivision from Milepost 7.4 at Olmito Junction to Milepost 0.22 at Brownsville, and the B&M's 0.8 mile B&M 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 (the "Line"). The Line traverses U.S. Postal Service Zip Code 78520. UP and B&M anticipate that they will file a joint Notice of Exemption to abandon the Line on or after September 10, 2012. B&M is owned in

equal parts by UP and Mexico. The various government agency contacts described in this report were made by UP on behalf of both itself and B&M.

A map of the Line (**Attachment No. 1**), and UP's letter to federal, state and local government agencies (**Attachment No. 2**) are attached to this EHR. Responses received thus far to the letters are also attached.

ENVIRONMENTAL REPORT
49 C.F.R. §1105.7(e)

(1) Proposed action and alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

Response: The proposed action involves an exempt abandonment of a portion of UP's Brownsville Subdivision and the entirety of the rail line of the B&M. The Line proposed for abandonment includes the UP Brownsville Subdivision from Milepost 7.4 near Olmito Junction to Milepost 0.22 in Brownsville, and the 0.8 mile B&M Bridge Line from its connection with the UP Brownsville Subdivision near UP Milepost 0.41 to the International border with Mexico located near the centerpoint of the B&M Bridge, all in Cameron County, TX, a total distance of 7.98 miles in Cameron County, TX. A map of the Line is attached as **Attachment No. 1**. The Line is currently used solely for the overhead movement of UP and BNSF Railway traffic to and from Mexico. There is no local traffic.

The proposed action is tied to, and made possible by, the current construction of an entirely new line of railroad running from Olmito Junction to a new international rail bridge with Mexico located approximately 15 river miles up the Rio Grande from the B&M Bridge. The construction of the new line and bridge was authorized via

Presidential Permit 04-1 (attached as **Attachment No. 3**) issued October 1, 2004 “Authorizing the County of Cameron, Texas, to construct, operate, and maintain an international bridge, its approaches and facilities, at the international boundary between the United States and Mexico.” The Environmental Assessment for the project (commonly called “West Rail Project”), with its finding of No Significant Impact, was published by the Department of State in the Federal Register on June 25, 2004 (Please see **Attachment No. 4**). Completion of West Rail to the point where trains can operate over the new route is currently projected for the end of 2012. Once that occurs, train operations of UP will shift to the new route as will the current BNSF Railway trackage rights over the Line.

The proposed abandonment will permit the City of Brownsville and Cameron County to fully realize the benefits of the West Rail Project. The Environmental Assessment notes on Federal Register Page 35700 that, the West Rail Project is to enable, (1) Removal of the existing rail system from residential and downtown areas of Brownsville and Matamoros, thereby improving safety and reducing congestion and noise, (2) Elimination of at-grade road crossings, reducing air pollution from vehicles idling while awaiting passage of trains, and (3) Reduction in the community's immediate exposure to potential derailment-related Hazmat accidents and railcar explosions.

The UP Brownsville Subdivision was originally constructed in 1904 by the St. Louis, Brownsville and Mexico Railway. The B&M Bridge Line was constructed in 1909, including the international bridge, the B&M Bridge, which was designed to handle both rail and vehicular traffic. A dedicated vehicular structure was built immediately adjacent to the original structure in 1997, at which time the 1909 structure became rail only. Both the UP and B&M portions of the Line are currently constructed with a mixture of 112 to

136 pound jointed and welded rail laid between 1991 and 2010. See

Attachment No. 1.

The Line proposed for abandonment contains only non-reversionary property. Based on UP's records, the Line does not contain federally granted right-of-way. Any documentation in the UP's possession related to the Line will be made available promptly to those requesting it.

After the proposed abandonment, the northern and eastern portions of the Brownsville area, including the Port of Brownsville, will continue to receive rail service from UP, BNSF Railway, and the Brownsville and Rio Grande International Railroad (BRGI). Ocean shipping is available at the Port Of Brownsville. The Brownsville area is served by U.S. Highways 83,77 and 281, and various state and local roads.

No local rail traffic has moved over the Line during the past two years, and the overhead interchange traffic to and from Mexico will be relocated to the rail line and bridge included in the West Rail Project. No complaint regarding cessation of service has been filed, is pending, or has been ruled upon in favor of a complainant in at least two years.

(2) Transportation System. Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

Response: Given that the overhead traffic will be departing the Line upon completion of the West Rail Project , the proposed abandonment will have no impact on area transportation systems and patterns.

(3) Land Use.

(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such

agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by 49 C.F.R. §1105.9.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. §10905 and explain why.

Response:

In accordance with the Department of State's Environmental Assessment, eventual consummation of the proposed abandonments and relocation of railroad operations to the West Rail Project location is one of the main goals of the West Rail Project. It has been agreed that the UP right of way on the Line is to be transferred to Cameron County.

(ii) The Natural Resources Conservation Service ("NRCS") was contacted and its response is attached as **Attachment 5**. NRCS does not see an impact on any prime agricultural land.

(iii) The Line lies outside the coastal zone in Cameron County as mapped by the Texas General Land Office.

(iv) It is UP's opinion that the UP portion of the right of way included in the Line proposed for abandonment is suitable for public purposes including roads or highways, other forms of mass transportation, or energy production or transmission. UP intends to transfer the property to Cameron County and it is likely that the county and/or the City of Brownsville will express interest in trail use. It is B&M's opinion that the B&M portion of the Line right of way appears to be unsuitable for public

purposes including trail use. The B&M Bridge itself will remain under the ownership of the B&M Bridge Company and it may play some future role in the movement of vehicular traffic across the border between Mexico and the United States, similar to its function prior to 1997.

(4) Energy.

- (i) Describe the effect of the proposed action on transportation of energy resources.
- (ii) Describe the effect of the proposed action on recyclable commodities.
- (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.
- (iv) If the proposed action will cause diversions from rail to motor carriage of more than:
 - (A) 1,000 rail carloads a year, or
 - (B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

Response:

- (i) There are no effects on the transportation of energy resources.
- (ii) There are no effects on the movement of recyclable commodities.
moved over the Line.
- (iii) There will be no change in energy consumption from the proposed action.
- (iv) (A)(B) UP does not anticipate that there will be any rail-to-motor diversion.

(5) Air. (i) If the proposed action will result in either:

- (A) an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

(B) an increase in rail yard activity of at least 100% (measured by carload activity), or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. §10901 (or §10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

Response: UP does not anticipate any such effects.

(5) Air. (ii) If the proposed action affects a class 1 or nonattainment area under the Clean Air Act, and will result in either:

(A) an increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, or

(B) an increase in rail yard activity of at least 20% (measured by carload activity), or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. §10901 (or 49 U.S.C. §10505), or a case involving the reinstatement of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

Response: There will be no increase in rail traffic, rail yard activity, or truck traffic as a result of the proposed action.

(5) Air. (iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

Response: The proposed action will not affect the transportation of ozone depleting materials.

(6) Noise. If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

- (i) an incremental increase in noise levels of three decibels Ldn or more or
- (ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area and quantify the noise increase for these receptors if the thresholds are surpassed.

Response: Not applicable.

(7) Safety.

- (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).
- (ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.
- (iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

Response: (i) The proposed action will have no detrimental effects on public health and safety.

(ii) The proposed action will not affect the transportation of hazardous materials.

(iii) There are no known hazardous materials waste sites or sites where known hazardous material spills have occurred on or along the subject right-of-way.

(8) Biological Resources.

- (i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

Response: (i) The response of the U.S. Fish and Wildlife Service is attached as

Attachment No. 6. UP's response to the agency's letter is attached as

Attachment No. 7. The proposed abandonment is very unusual in that it involves a rail line now subject to heavy overhead rail traffic (recently up to four Mexican interchange trains per day with Mexico) and frequent maintenance, including active vegetation control and the continuous removal and replacement of track materials. Accordingly, a final removal of track material from the Line, especially if it follows immediately after the end of train operations, should not represent an event disruptive to area wildlife and vegetation. Even so, UP is agreeable to arranging for a nesting survey of migratory birds if, as is likely, a portion of salvage activities extends into the migratory bird nesting period of March through August.

(ii) The National Park Service has been contacted. To date, UP has not received a response.

(9) Water.

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. §1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. §1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

Response: (i) The U. S. Environmental Protection Agency Regional Office and the State of Texas have been contacted. To date no response has been received.

(ii) UP is in follow up consultation with the United States Army Corps of Engineers Corpus Christi office regarding the need for any permits under Section 404 or the need to address any affects on wetlands or flood plains and will notify the Board of the outcome of those discussions.

(iii) UP does not anticipate that there will be any requirements for Section 402 permits.

(10) Proposed Mitigation. Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Response: There are no known adverse environmental impacts.

HISTORIC REPORT
49 C.F.R. §1105.8(d)

(1) A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action:

Response: See **Attachment No. 1.**

(2) A written description of the right-of-way (including approximate widths to the extent known), and the topography and urban and/or rural characteristics of the surrounding area:

Response: The right of way considered in this abandonment traverses a mix of residential, commercial, industrial and recreational areas in the western city limits and suburbs of Brownsville, Texas and is typically 100 feet in width. The topography is generally flat.

(3) Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area:

(4) The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations to the extent such information is known:

Response to (3) and (4): There are no structures 50 years old or older.

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:

Response: See UP's response to question (1) in the Environmental Report for a brief history and description.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic:

Response: UP does not have any relevant documentation.

(7) An opinion (based on readily available information in the UP's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities):

Response: UP engaged in written and verbal communication with the Texas Historical Commission ("THC") to provide THC with bridge pictures and other information about the Line and UP's and B&M's intentions after abandonment of the Line. The response of the THC is attached as **Attachment No. 8**. The THC agrees that no historic properties are affected on the entirety of UP's Brownsville Subdivision portion of the Line covered by AB-32 (Sub-No. 306X). Regarding the B&M portion of the Line, the THC views the only property affected as being the B&M Bridge.

It is important to note that B&M has no intention to remove the B&M Bridge if abandonment authority is authorized. It is possible that the B&M Bridge, which currently has rails embedded in a road surface, will be modified and returned to limited vehicular use as a border crossing location. As pointed out by the THC in its letter, any future

plan to remove the B&M Bridge will involve consideration and analysis by several federal agencies. Therefore, the Section 106 process under the National Historic Preservation Act will be undertaken sometime in the future by B&M with the federal agencies and not UP.

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

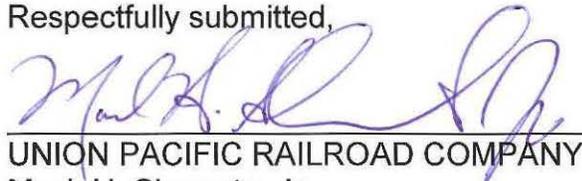
Response: UP does not have any such readily available information.

(9) Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified non-railroad owned properties or groups of properties immediately adjacent to the railroad right-of-way. Photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the locations and type of the site (i.e., prehistoric or native American):

Response: Not applicable.

Dated this 21st day of August, 2012.

Respectfully submitted,



UNION PACIFIC RAILROAD COMPANY
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Chicago, Illinois 60606
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Combined Environmental and Historic Report in Docket No. AB-33 (Sub-No. 306X), the Brownsville Subdivision in Cameron County, Texas was served by First Class U.S. Mail, postage prepaid, on the 21st day of August, 2012, on the following parties:

State Clearinghouse (or alternate)

Denise S. Francis
Director, State Grants Team
Governor's Office of Budget and
Planning
P.O. Box 12428
Austin, Texas 78711

**Environmental Protection Agency
(Regional Office):**

U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

Texas State Historical Association

1155 Union Circle #311580
Denton, TX 76203-5017

U.S. Fish and Wildlife

500 East McCarty Lane
San Marcos, Texas 78666-1024

Cameron County Administrator

Pete Sepulveda, Jr.
1100 E. Monroe St.-Dancy Building
Second Floor
Brownsville, TX 78520

U.S. Army Corps of Engineers

Fort Worth District
P.O. Box 17300
Fort Worth, TX 76102

**National Park Service
(Regional Office)**

Planning and Compliance Office
Texas Division of Economic
Development
1011 San Jacinto
Austin, TX 78701

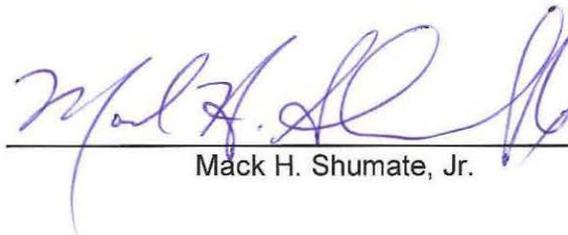
**US National Resources Conservation
Services**

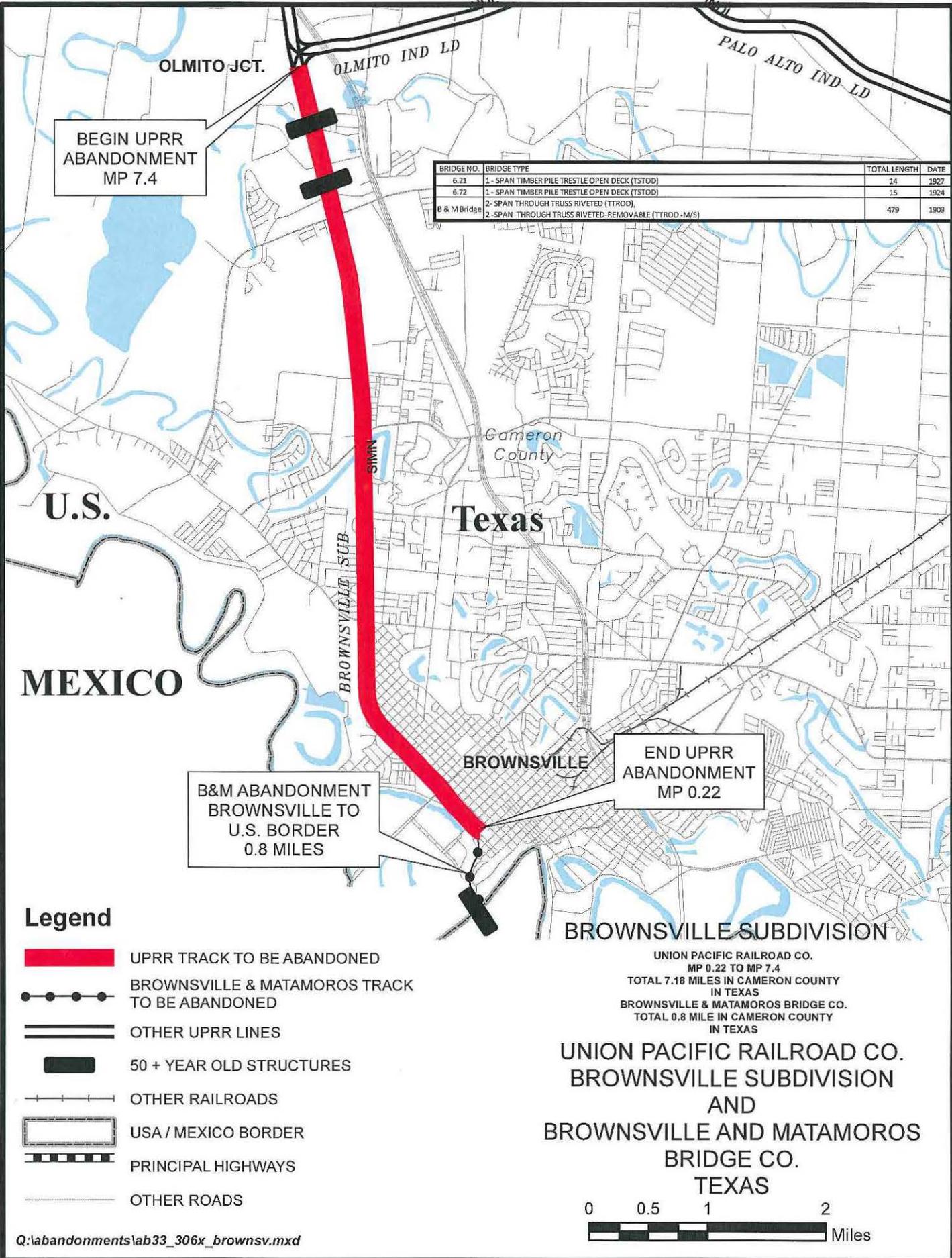
2315 W. Hwy 33, Rm 103
San Benito, TX 78586-4666

**Communications and Outreach
Branch, NOAA, N/NGS12**

National Geodetic Survey,
SSMC3 #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

Dated this 21st day of August, 2012.


Mack H. Shumate, Jr.





November 10, 2011

State Clearinghouse (or alternate)

Denise S. Francis
Director, State Grants Team
Governor's Office of Budget and Planning
P.O. Box 12428
Austin, Texas 78711

Environmental Protection Agency(Regional Office):

U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

Texas State Historical Association

1155 Union Circle #311580
Denton, TX 76203-5017

U.S. Fish and Wildlife

500 EAST MCCARTY LANE
SAN MARCOS, TEXAS 78666-1024

Cameron County Administrator

Pete Sepulveda, Jr.
1100 E. Monroe St.-Dancy Building
Second Floor
Brownsville, TX 78520

U.S.F Army Corps of Engineers

Fort Worth District
P.O. Box 17300
Fort Worth, TX 76102

National Park Service (Regional Office)

Planning and Compliance Office
Texas Division of Economic Development
1011 San Jacinto
Austin, TX 78701

US National Resources Conservation Services

2315 W HWY 83 RM 103
SAN BENITO, TX 78586-4666

Communications and Outreach Branch, NOAA, N/NGS12

National Geodetic Survey, SSMC3 #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

Re: Brownsville and Matamoras Bridge Company (B&M Bridge) and Union Pacific Railroad (UP)proposed joint notice of exemption for B&M Bridge to abandon its 0.8 mile of rail line north of the international border at Brownsville, TX, and for UP to discontinue its operation of the B&M Bridge line and to discontinue service on and to abandon its Brownsville Subdivision from milepost 7.4 near Olmito Junction to milepost 0.22 at Brownsville, TX; B&M Bridge Docket AB-1091X and UP Docket AB-33 (Sub-No. 306X).

To Whom It May Concern:

Brownsville and Matamoras Bridge Company (B&M Bridge) and Union Pacific Railroad (UP) plan to propose a joint notice of exemption for B&M Bridge to abandon its 0.8 mile of rail line north of the international border at Brownsville, TX, and for UP to discontinue its operation of the B&M Bridge line and to discontinue service on and to abandon its Brownsville Subdivision from milepost 7.4 near Olmito Junction to milepost 0.22 at Brownsville, TX. A map of the proposed track abandonment shown in black and red is attached.

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 40 C.F. R. Part 1105.7, this is to request your assistance in identifying any potential effects of this action as indicated in the paragraphs below. We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide us with a written response that can be included in an Environmental Report, which will be sent to the STB.

LOCAL AND/OR REGIONAL PLANNING AGENCIES. State whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

U. S. SOIL CONSERVATION SERVICE. State the effect of the proposed action on any prime agricultural land.

U. S. FISH AND WILDLIFE SERVICE (And State Game And Parks Commission, If Addressed). State (1) whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects, and, (2) whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

STATE WATER QUALITY OFFICIALS. State whether the proposed action is consistent with applicable Federal, State or Local water quality standards. Describe any inconsistencies.

U. S. ARMY CORPS OF ENGINEERS. State (1) whether permits under Section 404 of the Clean Water Act (33 U.S. C. § 1344) are required for the proposed action and (2) whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

U. S. ENVIRONMENTAL PROTECTION AGENCY AND STATE ENVIRONMENTAL PROTECTION (OR EQUIVALENT AGENCY). (1) Identify any potential effects on the surrounding area, (2) identify the location of hazardous waste sites and known hazardous material spills on the right-of-way and list the types of hazardous materials involved, and (3) state whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action.

Thank you for your assistance. Please send your reply to the undersigned.

Sincerely,



Colleen K. Graham, Paralegal
Union Pacific Railroad
1400 Douglas St., Stop 1580
Omaha, NE 68179
(w) 402-544-1643
cgraham@up.com

Enclosures (s): Map

AUTHORIZING THE COUNTY OF CAMERON, TEXAS,
TO CONSTRUCT, OPERATE AND MAINTAIN AN
INTERNATIONAL BRIDGE, ITS APPROACHES AND FACILITIES, AT THE
INTERNATIONAL BOUNDARY BETWEEN
THE UNITED STATES AND MEXICO

By virtue of the authority vested in me as Under Secretary of State for Economic, Business, and Agricultural Affairs under Executive Order 11423, 33 Fed. Reg. 11741 (1968); as amended by Executive Order 12847 of May 17, 1993, 58 Fed. Reg. 29511 (1993), Executive Order 13284 of January 23, 2003, 68 Fed. Reg. 4075 (2003) and Executive Order 13337 of April 30, 2004, 69 Fed. Reg. 25299 (2004); the International Bridge Act of 1972 (86 Stat. 731; 33 U.S.C. § 535 et seq.); and Department of State Delegation of Authority number 118-1 of April 11, 1973; having considered the environmental effects of the proposed action in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. § 4321 et seq.) and other statutes relating to environmental concerns; having considered the proposed action in accordance with the National Historic Preservation Act (80 Stat. 917, 16 U.S.C. § 470f et seq.); and having requested and received the views of various of the federal departments and other interested persons; I hereby grant permission, subject to the conditions herein set forth, to the County of Cameron, Texas (hereinafter referred to as "permittee"), to construct, operate and maintain a new international railroad bridge (the proposed "Brownsville West Rail Bypass International Bridge"), at about mile 70.2 on the Rio Grande, west of Brownsville, Texas and approximately 15 miles from the existing B&M international rail bridge in downtown Brownsville.

* * * * *

The term "facilities" as used in this permit means the bridge, its approaches and any land, structure or installations appurtenant thereto.

The term "United States facilities" as used in this permit means that part of the facilities in the United States.

This permit is subject to the following conditions:

Article 1. The United States facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions and requirements of this permit and any amendment thereof. This permit may be terminated at the will of the Secretary of State or the Secretary's delegate or may be amended by the Secretary of State or the Secretary's delegate at will or upon proper application therefore. The permittee shall make no substantial change in the location of the United States facilities or in the operation authorized by this permit until such changes have been approved by the Secretary of State or the Secretary's delegate.

Article 2. (1) The standards for, and the manner of, the construction, operation and maintenance of the United States facilities shall be subject to inspection and approval by the representatives of appropriate federal or state agencies. The permittee shall allow duly authorized officers and employees of such agencies free and unrestricted access to said facilities in the performance of their official duties.

(2) Approval of the United States Coast Guard in conformity with Section 5 of the International Bridge Act of 1972 (33 U.S.C. § 535c), by virtue of authority delegated from the Secretary of the Department of Homeland Security (DHS) to the Commandant, U.S. Coast Guard in DHS Delegation Number 0170.1, shall be obtained prior to initiation of construction.

Article 3. The permittee shall comply with all applicable federal and state laws and regulations regarding the construction, operation and maintenance of the United States facilities, and with all applicable industrial codes. The permittee shall obtain the requisite permits from the relevant Mexican authorities as well as from the relevant state and local government entities and relevant federal agencies.

Article 4. Upon the termination, revocation or surrender of this permit, and unless otherwise agreed by the Secretary of State or the Secretary's delegate, the United States facilities in the immediate vicinity of the international boundary shall be removed by and at the expense of the permittee within such time as the Secretary of State or the Secretary's delegate may specify, and upon failure of the permittee to remove this portion of the United States facilities as ordered, the Secretary of State or the Secretary's delegate may direct that possession of such facilities be taken and that they be removed at the expense of the permittee; and the permittee shall have no claim for damages by reason of such possession or removal.

Article 5. If, in the future, it should appear to the United States Coast Guard or the Secretary of Homeland Security (or the Secretary's delegate) that any facilities or operations permitted hereunder cause unreasonable obstructions to the free navigation of any of the navigable waters of the United States, the permittee may be required, upon notice from the United States Coast Guard or the Secretary of Homeland Security (or the Secretary's delegate), to remove or alter such facilities as are owned by it so as to render navigation through such waters free and unobstructed.

Article 6. This permit and the operation of the United States facilities hereunder shall be subject to the limitations, terms, and conditions issued by any competent agency of the United States Government, including but not limited to the United States Coast Guard, the Department of Homeland Security, the General Services Administration, and the United States Section of the International Boundary and Water Commission (USIBWC). This permit shall continue in force and effect only so long as the permittee shall continue the operations hereby authorized in exact accordance with such limitations, terms and conditions.

Article 7. When, in the opinion of the President of the United States, the national security of the United States demands it, due notice being given by the Secretary of State or the Secretary's delegate, the United States shall have the right to enter upon and take possession of any of the United States facilities or parts thereof; to retain possession, management or control thereof for such length of time as may appear to the President to be necessary; and thereafter to restore possession and control to the permittee. In the event that the United States shall exercise such right, it shall pay to the permittee just and fair compensation for the use of such United States facilities upon the basis of a reasonable profit in normal conditions, and the cost of restoring said facilities to as good condition as existed at the time of entering and taking over the same, less the reasonable value of any improvements that may have been made by the United States.

Article 8. Any transfer of ownership or control of the United States facilities or any part thereof shall be immediately notified in writing to the United States Department of State for approval, including identification of the transferee. In the event of such transfer of ownership or control, the permit shall remain in force and the United States facilities shall be subject to all the conditions, permissions, and requirements of this permit and any amendments thereof.

Article 9. (1) The permittee shall acquire such right-of-way grants or easements, permits and other authorizations as may become necessary and appropriate.

(2) The permittee shall save harmless and indemnify the United States from any claimed or adjudged liability arising out of the construction, operation or maintenance of the facilities.

(3) The permittee shall maintain the United States facilities and every part thereof in a condition of good repair for their safe operation.

Article 10. The permittee shall fund the removal of the Rail-Vehicle and Cargo Inspection Systems (VACIS) Gamma Ray machine at the existing B&M international rail bridge and its relocation and installation at the new international rail bridge crossing at a site mutually agreed upon by the permittee, the General Services Administration, and U.S. Customs and Border Protection (CBP) of the DHS. The permittee shall provide to CBP, at no cost to the federal government, facilities for the VACIS, to include office space for CBP personnel, restrooms, parking area, utilities, and an access road.

Article 11. (1) The permittee shall take all appropriate measures to prevent or mitigate adverse environmental impacts or disruption of significant archeological resources in connection with the construction, operation and maintenance of the United States facilities, including those mitigation measures set forth in the Final Environmental Assessment and in the Department's Finding of No Significant Impact (FONSI) dated June 18, 2004.

(2) Before beginning construction the permittee shall: conclude satisfactory arrangements with appropriate federal and state agencies that will provide the assurance to the USIBWC that the facilities will not in any way present an obstruction or deflection to the normal flows or flood flows designated by the USIBWC in the reach of the international part of the Rio Grande; acquire the appropriate permits and licenses from the USIBWC for crossing the levee; and, obtain the concurrence of the U.S. Commissioner of the USIBWC that the project is consistent with the terms of boundary and water treaties between the United States and Mexico and other international agreements in force.

Article 12. The permittee shall comply with the conditions of the Programmatic Agreement executed on 19 August 2004 between the Department of State, the Texas State Historic Preservation Officer, the Advisory Council on

Historic Preservation, and the Permittee. In addition, the permittee shall notify the Department of State and the Texas Historical Commission in the event historic or archaeological resources are discovered during the course of construction activity, and the permittee shall cease such construction activity in the immediate vicinity of those resources while preparing documentation required by Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f and Section 303 [formerly 4(f)] of the Department of Transportation Act, 49 U.S.C. 303, to address particular sites directly impacted by the project that are identified as requiring in situ preservation.

Article 13. The permittee shall comply with all agreed actions and obligations undertaken to be performed in the Application for a Presidential Permit, dated June 2003, in the Final Environmental Assessment, and in the FONSI, dated June 18, 2004. The Final Environmental Assessment includes the "Draft Environmental Assessment Document for the Proposed Brownsville-Matamoros West Rail Bypass Plan" dated June 2003, all comments submitted by agencies on that document, the responses to those comments, and all correspondence between agencies and the permittee addressing agencies' concerns.

Article 14. The permittee shall file with the appropriate agencies of the United States Government such statements or reports under oath with respect to the United States facilities, and/or permittee's actions in connection therewith, as are now or may hereafter be required under any laws or regulations of the United States Government or its agencies.

Article 15. The permittee shall not begin construction until it has obtained authorization for such construction from the Government of the United States and from the Government of Mexico through the exchange of diplomatic notes. The permittee shall provide written notice to the Department of State at such time as the construction authorized by this permit is begun, and again at such time as construction is completed, interrupted or discontinued.

Article 16. The new international rail bridge shall not be opened to rail traffic until the existing B&M international rail bridge in downtown Brownsville has been permanently closed to rail traffic and the VACIS relocated to the new international rail bridge crossing.

IN WITNESS WHEREOF, I, Alan Larson, Under Secretary of State for Economic, Business and Agricultural Affairs of the United States, have hereunto set my hand this 1st day of October, 2004 in the City of Washington, District of Columbia.

Alan Larson

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-NASD-2004-091 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-NASD-2004-091. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-NASD-2004-091 and should be submitted on or before July 16, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority,⁷
 Margaret H. McFarland,
Deputy Secretary.
 [FR Doc. 04-14450 Filed 6-24-04; 8:45 am]
 BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3586]

State of Ohio (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective June 18, 2004, the above numbered declaration is hereby amended to include Hocking, Mahoning, and Portage Counties as disaster areas due to damages caused by severe storms, and flooding occurring on May 18, 2004, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Pickaway, Ross, and Trumbull in the State of Ohio; and Mercer County in the Commonwealth of Pennsylvania may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is August 2, 2004, and for economic injury the deadline is March 3, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 21, 2004.
 Herbert L. Mitchell,
Associate Administrator for Disaster Assistance.
 [FR Doc. 04-14536 Filed 6-24-04; 8:45 am]
 BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3594]

State of Wisconsin

As a result of the President's major disaster declaration on June 19, 2004, I find that Columbia, Dodge, Fond du Lac, Jefferson, Kenosha, Ozaukee and Winnebago Counties in the State of Wisconsin constitute a disaster area due to damages caused by severe storms and flooding occurring on May 19, 2004, and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of

⁷ 17 CFR 200.30-3(a)(12).

business on August 18, 2004 and for economic injury until the close of business on March 21, 2005 at the address listed below or other locally announced locations:

U.S. Small Business Administration,
 Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Adams, Calumet, Dane, Green Lake, Juneau, Marquette, Milwaukee, Outagamie, Racine, Rock, Sauk, Sheboygan, Walworth, Washington, Waukesha, Waupaca and Waushara in the State of Wisconsin; and Lake and McHenry counties in the State of Illinois.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.750
Homeowners without credit available elsewhere	2.875
Businesses with credit available elsewhere	5.500
Businesses and non-profit organizations without credit available elsewhere	2.750
Others (including non-profit organizations) with credit available elsewhere	4.875
For Economic Injury	
Businesses and small agricultural cooperatives without credit available elsewhere	2.750

The number assigned to this disaster for physical damage is 359406. For economic injury the number is 9ZJ800 for Wisconsin; and 9ZJ900 for Illinois.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 21, 2004.
 Herbert L. Mitchell,
Associate Administrator for Disaster Assistance.
 [FR Doc. 04-14535 Filed 6-24-04; 8:45 am]
 BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice 4750]

Finding of No Significant Impact and Summary Environmental Assessment; Brownsville/Matamoros West Rail Relocation Project—Cameron County, TX

The proposed action is to issue a Presidential Permit to Cameron County, Texas (the "Sponsor"), for the Brownsville/Matamoros West Rail

Relocation Project ("West Rail Project"), which will include the construction, operation and maintenance of an international rail bridge across the Rio Grande River from Brownsville, Texas to Matamoros, Mexico.

I. Background

The Department of State is charged with the issuance of Presidential Permits for the construction of international bridges between the United States and Mexico under the International Bridge Act of 1972, 33 U.S.C. 535 *et seq.*, and Executive Order 11423, 33 FR 11741 (1968), as amended by Executive Order 12847 of May 17, 1993, 58 FR 29511 (1993), Executive Order 13284 of January 23, 2003, 68 FR 4075 (2003), and Executive Order 13337 of April 30, 2004, 69 FR 25299 (2004).

A draft environmental assessment of the proposed West Rail Project was prepared by Raba-Kistner Consultants, Inc. and HNTB, Inc. on behalf of the Presidential Permit applicant, Cameron County, Texas, under the guidance and supervision of the U.S. Department of State (the "Department"). The Department placed a notice in the *Federal Register* (68 FR 141 (July 23, 2003)) regarding the availability for inspection of Cameron County's permit application and related documents. No comments were received in response to this notice.

Consistent with its regulations for the implementation of the National Environmental Policy Act ("NEPA") and in the context of its responsibilities with respect to Presidential permits, the Department has conducted its own, independent review of the draft environmental assessment. Numerous Federal and non-federal agencies have also independently reviewed the draft environmental assessment, offered comments and/or qualifications, and approved or accepted the draft environmental assessment. These "cooperating agencies" are: the Department of Commerce, the Department of Defense (U.S. Army Corps of Engineers), the Department of Homeland Security (Bureau of Customs and Border Protection, the Federal Emergency Management Agency, and the United States Coast Guard), the Department of Health and Human Services (Food and Drug Administration), the Department of the Interior (Fish and Wildlife Service), the Department of Justice, the Department of Transportation (the Surface Transportation Board, Federal Highway Administration, Federal Railway Administration), the Department of State, the Environmental Protection Agency, the Council of Environmental

Quality, the General Services Administration, the International Boundary and Water Commission, the State of Texas, Texas Parks and Wildlife Department, the Texas Historical Commission, and the Texas Commission on Environmental Quality. All comments received by these cooperating agencies were responded to directly by the Sponsor or Raba-Kistner Consultants, Inc., including by expanding the analysis contained in the draft environmental assessment and/or through the development of appropriate mitigation measures.

The Sponsor has worked closely with the Federal and state agencies that have participated in the environmental assessment to address their concerns about the possible environmental impacts of this project. The results of Cameron County's meetings and other contacts with agencies were recorded in correspondence and described in the draft environmental assessment and addenda. After examining six alternatives rail routes, Cameron County ultimately proposed the preferred alignment that sought to minimize direct and indirect impacts to the human environment and that represented lower design and construction costs. The draft environmental assessment, as amended and supplemented, together with the comments submitted by Federal and state agencies, responses to these comments, and all correspondence between the agencies and the Sponsor addressing the agencies' concerns, constitute the final environmental assessment.

Based on the final environmental assessment, including mitigation measures that Cameron County has or is prepared to undertake, information developed during the review of Cameron County's application and comments received from Federal and state agencies, and the Department's independent review of that assessment, the Department has concluded that issuance of the Presidential Permit authorizing construction, operation and maintenance of the West Rail Bypass and international railway bridge would not have a significant impact on the quality of the human environment within the United States. Accordingly, a Finding of No Significant Impact ("FONSI") is adopted and an environmental impact statement will not be prepared, in accordance with the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, Council of Environmental Quality Regulations, 40 CFR 1501.4 and 1508.13, and with Department of State Regulations, 22 CFR 161.8(c).

II. Summary Environmental Assessment

A. The Proposed Project

Cameron County, Texas has applied to the Department for a Presidential permit authorizing the relocation of the Union Pacific Railroad (UPRR) line approximately 6 miles west of the City of Brownsville, Texas and the construction of a new international rail bridge approximately 15 river miles upstream of an existing rail bridge, which together constitute the West Rail Relocation Project. A single rail line will be constructed from the existing rail junction adjacent to U.S. Highway 77/83 and run to the Rio Grande River. It will claim a minimum right of way of 100 feet. Union Pacific Railroad (UPRR) will assume control of the new rail line once construction has been completed. UPRR will maintain operating rights to the new rail line in the United States. It is anticipated that, upon completion of the project, the Sponsor will request the Department of State to transfer the permit to the B&M Bridge Company, which will take over ownership of the U.S. portion of the international rail bridge.

The West Rail project involves the construction of a new international rail bridge that will pass over International Boundary and Water Commission (IBWC) levees and the Rio Grande River and into Matamoros, Tamaulipas, Mexico. The single-track bridge will span the Rio Grande River's floodway located between the flood control levees of the U.S. and Mexican sections of land managed by the IBWC. The proposed bridge will be located approximately at Rio Grande River Mile 71.7 and have a total span of 2,940 linear feet. The length of the U.S. portion of the bridge is approximately 840 feet. The bridge design will include a vertical clearance above the levees in accordance with IBWC requirements.

The rail bridge design, structure, and construction will adhere to UPRR engineering standards. An approach embankment will terminate at the north right of way of U.S. Highway 281 and tie into the abutment of the international rail bridge. The bridge will cross U.S. Highway 281 at a minimum elevation of 16.5 feet and continue over the IBWC levee and the Rio Grande River. Provisions for future widening of U.S. Highway 281 will be included in the design. A geotechnical study will determine the necessary bridge foundations and spacing of the columns for each pier. Schematics reflect the design flood elevation based on a flood flow of 20,000 cubic feet per second for this reach of the river. In addition, an 8

feet 3 inch, curved, chain-linked fence will be constructed at the edges of the bridge's superstructure to prevent pedestrian falls and illegal immigration. There will be no illumination under the bridge. Gate controls across the bridge will also be included. Land areas below the bridge will be replanted according to United States Fish and Wildlife Service (USFWS) specifications.

The engineering design phase will include hydraulic studies of the Rio Grande River that will be completed upon the issuance of a Presidential Permit. The hydraulic studies will assess the hydraulic impact of the bridge on the river flow and the impact of a potential relocation of the levee in Mexico to a location nearer to the river and will be presented to the U.S. and Mexican sections of the IBWC for review.

As the project involves the construction of an international rail bridge, the Department of Homeland Security has been consulted regarding border control and inspection needs. The Department of Homeland Security and the General Services Administration have outlined guidelines for the construction of all facilities related to the West Rail project, and Cameron County has agreed to adhere to the criteria in these guidelines.

The West Rail Project offers several advantages to communities of Brownsville and throughout Cameron County, which include improvements to the general human environment:

- Removal of the existing rail system from residential and downtown areas of Brownsville and Matamoros, thereby improving safety and reducing congestion and noise.
- Elimination of at-grade road crossings, reducing air pollution from vehicles idling while awaiting passage of trains.
- Creation of improved transportation corridors to handle traffic volumes more efficiently and allow for the redevelopment of the city's downtown area.
- Greater competitiveness, given the reduction in rail freight travel time between Brownsville and Monterrey, Mexico by approximately 2½ hours and the elimination of heavy traffic conditions at peak travel times.
- Facilitation of expected economic growth in the Brownsville area.
- Reduction in the community's immediate exposure to potential derailment-related Hazmat accidents and railcar explosions.

B. Alternatives Considered

In its review, the Department considered 6 alternatives described in detail in the draft environmental assessment and in a summary fashion below:

1. (The Project) Originates at the rail intersection adjacent to U.S. Highway 77/83, proceeds west, just north of the Resaca de la Palma wildlife refuge, turns south, passing 2,000 feet west of the World Birding Center, and crosses U.S. Highway 281 and the Rio Grande River.

2. Originates at the rail intersection adjacent to U.S. Highway 77/83, proceeds west, circumnavigating the Resaca de la Palma wildlife refuge further to the north than Alternative 1. The route then turns south, passing 2,000 feet west of the World Birding Center and crosses U.S. Highway 281 and the Rio Grande River.

3. Originates at the rail intersection adjacent to U.S. Highway 77/83 and continues west, north of the Resaca de la Palma wildlife refuge, proceeds an additional 3 miles, then turns south, crossing U.S. Highway 281 and the Rio Grande River.

4. (a), (b). Both Alternatives 4a and 4b originate at the rail intersection adjacent to U.S. Highway 77/83 and proceed south between the Resaca de la Palma refuge and the Cameron County Irrigation District Main Reservoir. At this point, Alternative 4a continues over U.S. Highway 281 and the Rio Grande River. Alternative 4b turns and proceeds west, south of the World Birding Center, along the same alignment as Alternative 1, crossing U.S. Highway 281 and the Rio Grande River.

5. Originates at the rail intersection adjacent to U.S. Highway 77 and proceeds north to the town of Rancho Viejo using existing rail lines. North of Rancho Viejo, the route turns southwest, then due south, and proceeds across U.S. Highway 281 and the Rio Grande River. This route abuts the western boundary of the World Birding Center.

6. The "No Build" Alternative: The international rail bridge is a common design element to all of the considered alternatives, other than the "No Build" alternative.

Alternative 2 was viewed as not preferred because it required approximately 51 additional acres of prime farmland. It would further require two grade separations for the future Merryman Road, a major street on the Brownsville thoroughfare plan.

Alternative 3 was viewed as not preferred because it would require the acquisition of additional acreage of prime farmlands (approximately 96 acres), a grade separation at the future FM

1421, a skewed overpass crossing at U.S. Highway 281, increased international bridge length (total of 0.19 miles), the displacement of 4-5 residential structures, the bisection of a residential community, and the location of 132 residences within 1,000 feet of the proposed rail line.

Both Alternatives 4a and 4b were viewed as not preferred for the reasons stated below. Alternative 4a, with a railroad embankment on the west side of the Cameron County Irrigation District main reservoir, would require, at minimum, sheet pilings along the west side of the reservoir for approximately 2,100 linear feet. A geotechnical analysis may reflect the need to complete bridging along a greater section of the reservoir. The pilings, estimated to reach depths of 50 feet below grade surface, would add costs of approximately \$3.15 million to the project in addition to the costs of installing the embankment, ballast, and rail tracks. The alignment would continue south across U.S. Highway 281 and bisect the Riverbend Subdivision and the Villa Nueva Community. The U.S. Highway 281 overpass would add approximately \$5 million, according to the Texas Department of Transportation. From U.S. Highway 281 the rail line would proceed with a vertical rise of 15 feet over the IBWC levee and remain elevated across the floodway leading to the Rio Grande River. This segment across the floodway would add approximately \$12 million.

Construction of this alternative would encroach on the eastern boundary of the World Birding Center. The Texas Parks and Wildlife Department (TPWD) has opposed this route.

Alternative 4b would require, at minimum, sheet pilings along the west side of the Cameron County Irrigation District main reservoir for approximately 2,100 linear feet. A geotechnical analysis may reflect the need to complete bridging along a greater section of the reservoir. The pilings, estimated to reach depths of 50 feet below grade surface, would add costs of approximately \$3.15 million to the project in addition to the cost of installing the embankment, ballast, and rail tracks. Rail bridges over U.S. Highway 281 and New Carmen Road would include approximately 2,750 feet of additional railroad bridge compared to Alternative 1 at an additional cost of \$5.5 million. The international rail bridge between the IBWC levee and the river would be the same as that constructed under Alternative 1. An additional bridge may be required for the Resaca crossing south of the Las Palmas Wildlife Management Area.

Construction of this alternative would also encroach on the eastern boundary of the World Birding Center. The TPWD has opposed Alternative 4b. Cameron County identifies another major difficulty with this alternative is the diagonal crossing of privately owned land parcels between U.S. Highway 281 and the wildlife management area.

Alternative 5 was not viewed as a preferred alternative because it would involve increased travel time of trains from one switching yard to another, required construction of two more overpasses, and would bring the rail line with 1,000 feet of a significant number of homes.

Alternative 6, the "No Build" alternative, would leave the existing rail system in place and achieve none of the described project objectives. Potential industrial and commercial growth associated with the West Rail Project would be curbed as the area would lack a safer, more direct route to the major transportation corridor. At-grade rail/roadway safety crossing issues would remain, as would traffic delays and idling times for traffic and their associated emissions. Such emissions are currently contributing to the degradation of air quality. Train noise in the downtown Brownsville area would persist.

None of the above alternatives provided avoidance or mitigation of any of the unavoidable impacts attributable to the selected project, and in addition, created higher costs in terms of land usage and overall costs. For this reason, the Department concluded that these options were not preferred alternatives.

III. Summary of the Assessment of the Potential Environment Impacts Resulting From the Proposed Action

The final environmental assessment provides detailed information on the environmental effects of the construction and use of the alternatives described above, including the proposed project. The proposed project was determined to be the preferred alternative, in view of the lower construction costs and the low extent of community and environmental impact as compared to the other alternatives.

On the basis of the final environmental assessment, the Department reached the following conclusions on the impact of construction of the railway bypass and bridge at the proposed location:

Farmlands: The proposed project requires the acquisition of approximately 46 acres of farmland that may be considered prime farmland under the Farmland Protection Policy Act, 7 U.S.C. 4201, *et seq.* The amount

of farmland acquired does not include acreage to be negotiated with the USFWS for the construction of a buffer zone north of the World Birding Center, the dimensions of which have been determined through consultation with the U.S. Fish and Wildlife Service. The proposed project requires one at-grade crossing at New Carmen Road. Right-of-way at this crossing will be secured by Cameron County, should an overpass at this site be desired in the future.

Wetlands: Given appropriate mitigation measures agreed to by the Sponsor and coordination with appropriate Federal and state agencies, the Department expects the proposed project's impact on wetland areas to be negligible. Specific wetland impacts will be influenced by the final bridge design selected for the several areas where the relocation project will traverse waterways, such as the Resaca del Rancho Viejo, Resaca de la Palma, and the Rio Grande. All wetland issues will be coordinated with the appropriate federal and state agencies, as outlined below. The construction plans will include a storm water runoff protection plan to eliminate the introduction of exotic weedy species. Much of the proposed route, according to the National Wetlands Inventory (NWI), falls within upland agricultural areas. The final environmental assessment estimates a total of 0.33 acres of wetlands will be impacted by this project.

The project crosses two resacas (Resaca del Rancho Viejo and Resaca de la Palma). Both are normally filled with water and may fall under the jurisdiction of the U.S. Army Corps of Engineers (USACE). The project will also cross various drainage and irrigation ditches. As described in the final environmental assessment, wetland delineation will be conducted as necessary in support of a Section 404 permit issued pursuant to the Clean Water Act, 33 U.S.C. 1251, *et seq.*, in accordance with USACE and Department of the Army specifications.

As the project enters the engineering design phase, mitigation measures regarding the impact on vegetative and aquatic habitats falling within the project area—such as affected areas of the Resaca Rancho Viejo and Resaca de la Palma—will be developed. This step will involve coordination with the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the Texas Parks and Wildlife Department to not only protect defined jurisdictional wetlands but also to secure necessary permits for crossing these areas.

Floodplains, Floods, and the River Channel: While the rail line and

international bridge will cross portions of an identified 100-year shallow floodplain, negative impacts to the floodplain are not expected.

The design for the international rail bridge requires a 15 feet elevation above the floodplain of the Rio Grande River with bents located in the floodplain itself. The bents are not expected to impede the free flow of floodwater within the river or its levees. Flood levels should remain unchanged.

The railway approach to the international bridge will be at grade level. The design is anticipated to include free flow box culverts and/or bridges at resacas and irrigation crossings. These features should not impede the free flow of floodwaters. The design will include proper slope drainage and free flow of waters off the railway surface to be directed toward natural drainage gradients.

The project is not expected to require dredging, tunneling, or trenching. Should the design call for the installation of bridge bents in the river's channel, a temporary cofferdam may be used. Once the bent installation is finished, all non-native materials in the channel will be promptly removed.

Air Quality: While project-related activities, which may include, but are not limited to, construction, demolition, repair, or rehabilitation, are expected to create higher levels of dust and airborne particles and involve additional exhaust emitted from machinery and trucks, these impacts are expected to only be short-term and should pose no significant impact upon general air quality. Moreover, the project will include best management practices (BMP) to mitigate fugitive dust emissions throughout the construction process. For dust control, timely application of water will be used as necessary, or as excessive emissions are produced.

The West Rail Project lies within the Brownsville-Laredo Intrastate Air Quality Control Region (AQCR 213), which is in attainment of National Air Quality Standard air pollutants. Therefore, the Texas Commission on Environment Quality (TCEQ) in a letter dated March 21, 2003 contained in Appendix D of the Environmental Assessment indicated that no special measures need to be taken in regards to this project other than standard dust mitigation techniques by the construction contractors.

Listed, Threatened, and Endangered Species: Several listed and endangered species could potentially be impacted by the project. To mitigate these impacts, the Department expects the Sponsor to comply with a series of

recommendations from the USFWS and the TPWD.

Two species of federally protected cats, the ocelot and the jaguarundi, are found in the general project region along with one bird species, the Northern aplomado falcon, and two plant species, the Texas Ayenia and the South Texas Ambrosia. Surveys of the project site, however, found that vegetation there is less dense than in areas typically occupied by those species. Therefore, their regular presence within the immediate project area is considered unlikely. In addition to federally listed species, 15 state-listed, threatened, or endangered species may use portions of the project route because of the presence of potentially suitable habitat.

In letters contained in Appendix C of the environmental assessment and in subsequent correspondence, the USFWS and TPWD made a number of recommendations with which Cameron County has agreed to comply. These include replanting with native species disturbed areas of vegetation and trees, fulfillment of the World Birding Center Revegetation Mitigation Plan (Appendix L of the draft Environmental Assessment), a monitoring program with annual reports to USFWS on fulfillment of Revegetation Mitigation Plan, use of specific train operating procedures to minimize train noise, and ownership by Cameron County in perpetuity of the buffer zones and Right of Ways for the rail line and placement in the deeds for these areas restricted conditions regarding future clearing, construction and development. Additionally a qualified biologist, as provided for in the draft environmental assessment, will survey the project area prior to construction to determine if state and federally-listed, threatened, or endangered species are present. If encountered, these species will be relocated to avoid any direct impact. Record of exotic species removed from the area will be documented, as requested by the Texas Parks and Wildlife Department. In light of the Migratory Bird Treaty Act and population decline of many migratory bird species, the Department expects that precautions will be taken throughout the construction process to avoid or minimize the loss of critical vegetation during migratory bird's general nesting season from March through September. In conformance with the Act, a survey will be conducted to identify nesting sites and species prior to construction near the Resaca de la Palma refuge, thus avoiding inadvertent destruction of nests, eggs, etc.

Habitat and Vegetation: The construction phase will cause some loss of habitat and clearing of vegetation. Approximately 18 acres of wooded and scrub vegetation will be cleared, particularly along the Resaca de la Palma wildlife refuge where mature mesquite, huisache, and spiny hackberry trees will be removed throughout the 100 feet right of way. The use of defoliating agents and/or herbicides is not anticipated.

Cameron County, throughout the project, has coordinated closely with USFWS and TPWD on the re-vegetation of disturbed areas. As a consequence, mitigation efforts will include the revegetation of areas along the project route and the creation of a buffer zone between the railway and the Resaca de la Palma refuge. North of the refuge, the County will implement the "World Birding Center Revegetation Mitigation Plan, Appendix L of the draft environmental assessment, to minimize noise and visual impacts and create further bio-diversity in regards to the future World Birding Center. This plan calls for the creation of a 13-acre mitigation area sited 30 ft north of Lower Rio Grande National Wildlife Refuge (LRGV-NWR). This mitigation area will include approximately a 6.5-acre vegetative area and an approximately 6.5 acre clear zone. The Mitigation Plan seeks to increase diversity in the current cultivated land by the addition of woody deciduous tree and shrub diversity, and improve the visual aesthetics of the project and reduce its noise impact. The area encompassed by the mitigation plan and the railway right-of-way will remain under the ownership of Cameron County, and that deed restriction as far as clearing, construction and future development will be filed with the County Clerk to remain in perpetuity.

Potential Land Use Conflicts: The Department examined long- and short-term concerns relating to land use and determined that the project will be consistent with defined land usage. The proposed project requires the least acreage and minimizes impact to the land, compared to other alternatives, and largely avoids community and residential areas. The draft environmental assessment notes that roughly 75% of the land falling within the project area has already been altered by human activities. Development and construction phases of the project are expected to alter land forms and will temporarily modify the natural drainage pattern throughout the project area.

Land types to be used in this project include levee areas of the Rio Grande River, scrubland, and farmland. The

project should not cause significant impact to the levee area or agricultural lands. Access to agricultural land will remain open.

Projected acquisitions include private land. No relocations or displacement of homes or businesses will be necessary. The acquisition of private lands will be limited to the requirements of the project, such as the 100 to 300 feet right of way for the railway, the international rail bridge, and any roadway overpasses. Upon completion of the project, lands acquired through the project will be transferred to Union Pacific Railroad (UPRR).

Alteration of land and the removal of vegetation are not expected to affect erosion within the general project area greater than any similar construction project. Measures will be adopted as fully as possible throughout the construction period to minimize erosion, including undertaking construction in dry seasons and completion of Storm Water Pollution Prevention Plan, compliance with requirements imposed by the U.S. Army Corps of Engineers and other agencies, returning disturbed lands to their previous contours, and revegetation efforts. The TPWD has issued recommendations to moderate erosion, including the use of weed free hay bales and silt screens to prevent siltation into wetlands, which the Sponsor has committed to undertake.

Historical and Archeological Resources: A survey conducted by Anthony and Brown Consulting and approved by the Texas Historical Commission indicates that no archeological or historical sites will be impacted by the proposed project. One archeological site, 41CF185, was found, but it is completely destroyed and is neither eligible for the National Register of Historic Places nor for designation as a State Archeological Landmark. No evidence of buried prehistoric sites was found.

Cameron County made a "reasonable and good faith" effort to identify Native American groups that may have historical ties to the area and to invite these groups to participate in the consultation process, in accordance with the Native American Graves Protection and Repatriation Act, Executive Order 12875, and the Advisory Council for Historic Preservation. Using the Native American Consultation Database, maintained by the Department of the Interior, no federally recognized Native American groups were identified.

Water Quality: Significant impacts to current water supply and use are not anticipated, nor are adverse effects to

the interbasin transfer of ground water. Impacts to the quality of storm water run off, surface water, and ground water will be minimal.

Noise: The Department identified two broad categories of noise resulting from the proposed project: short-term construction-related noise and longer-term noise associated with passing trains and horn blasts. The proposed project is located within a sparsely populated area of Cameron County (the draft environmental assessment notes only two residential structures within 1,000 feet of the construction). However, portions of the Resaca de la Palma wildlife refuge and World Birding Center may be affected by noise related to rail traffic, but those impacts are not expected to be significant and will be minimized by implementation of the World Birding Center Revegetation Mitigation Plan.

While levels of construction noise will vary according to the nature of the construction work in progress, such noise is expected to be short term and will not exceed noise limits imposed by federal, state, and local laws and ordinances.

Noise resulting from rail traffic is not expected to have a significant impact on the surrounding environment, including the Resaca de la Palma wildlife refuge and the World Birding Center. A horn noise analysis conducted for the New Carmen Road at-grade crossing indicates that horn noise will not have any impact on the surrounding environment, as defined by the FTA (Federal Transit Administration).

Similarly, interim criteria for the threshold of disturbance for birds established by the FTA will not be exceeded either by regular train traffic or by train horns.

While a USFWS standard for peak hour noise will be slightly exceeded, the impact is not expected to be significant since the noise level will not exceed the USFWS limit 200 feet from the tracks and highway noise in the area frequently is recorded well above the USFWS peak hour noise level. Noise impacts will also be minimized by a ban against trains idling on the tracks, and maintenance of minimum speed of trains passing through the area of approximately 40 mph.

It should be noted that the proposed project will reduce noise levels along the existing corridor significantly, an important benefit for the higher numbers of homes located on the existing corridor.

Environmental Justice/Socio-Economic Concerns: In accordance with Executive Order 12898 of February 11, 1994, the project is not expected to have

a disproportionate impact on the minority or low-income communities in the immediate vicinity of the project, in view of the location of the project and the sparsely-populated nature of the land.

Energy Requirements and Conservation Potentials: The construction of the proposed project should be considered as a short-term use of the environment during which energy and labor will be expended. This energy cost will, in the long-term, be offset by reduced vehicle congestion in downtown Brownsville and the more efficient movement of commerce and cargo between the United States and Mexico.

Any Irreversible and Irrecoverable Commitment of Resources: The project has not involved irreversible and irretrievable commitment of resources.

Health and Safety: The project should contribute to the health and safety of the Brownsville community through lessening vehicle emissions, reducing the potential for vehicle-train collisions at existing at-grade crossings, and minimizing the potential for the railroad accidents in densely-populated areas involving hazardous materials.

Cumulative Impacts: The Department also considered cumulative environmental impacts resulting from the project.

As stated above, the proposed project will improve the quality of life for city and area residents by (a) the relocation of rail lines outside the Brownsville; (b) the reduction of vehicle waiting times and improvement of air quality in the downtown sections of the city; (c) the reduced impact of train noise to city residents; (d) the diversion of the transport of hazardous cargo from downtown Brownsville to less populated areas outside the city; and, (e) the elimination of numerous at-grade crossings.

Environmental disruption throughout the construction process and in the operation of the rail line will be minimized through appropriate mitigation measures, discussed above, and coordination between Cameron County with Federal and state agencies such as the IBWC, USACE, USFWS, and TPWD in the development and implementation of those mitigation measures.

IV. Conclusion: Analysis of the Final Environmental Assessment

On the basis of the final environmental assessment, information developed during the review of the Cameron County's application and environmental assessment, and comments received, a Finding of No

Significant Impact ("FONSI") is adopted and an environmental impact statement will not be prepared.

The Final Environmental Assessment prepared by the Department addressing this action is on file and may be reviewed by interested parties at the Department of State, 2201 C Street NW, Room 4258, Washington, DC (Attn: Mr. Dennis Linskey, Tel 202-647-8529).

Dated: June 18, 2004.

Dennis Linskey,

Coordinator, U.S.—Mexico Border Affairs, Office of Mexican Affairs, Department of State.

[FR Doc. 04-14468 Filed 6-24-04; 8:45 am]

BILLING CODE 4710-26-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST-2004-18488]

Notice of Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Department of Transportation's (DOT) intention to request extension of a previously approved information collection.

DATES: Comments on this notice must be received by August 24, 2004.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number OST-2004-18488 by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax 1-202-493-2251.

• Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

• Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

• Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information

United States Department of Agriculture



Natural Resources Conservation Service

101 S. Main Street
Temple, TX 76501-6624
Phone: 254-742-9826
FAX: 254-742-9859

December 22, 2011

Union Pacific Railroad
1400 Douglas St.
Stop 1580
Omaha, Nebraska 68179

Attention: Colleen K. Graham

Subject: LNU-Farmland Protection
Proposed Rail Line Abandonment
Cameron County, Texas

We have reviewed the information provided in your correspondence dated November 10, 2011 concerning the proposed rail line abandonment in Cameron County, Texas. This review is part of the National Environmental Policy Act (NEPA) evaluation for the Surface Transportation Board. We have evaluated the proposed site as required by the Farmland Protection Policy Act (FPPA).

The proposed project may contain Important Farmland Soils; however, we do not normally consider discontinuing a rail line on an existing railroad a conversion of Important Farmland. The area described in your letter is, therefore, considered exempt under the FPPA. We have completed a Farmland Conversion Impact Rating (form AD-1006) indicating the exemption.

If you have any questions, please contact me at (254) 742-9855, Fax (254) 742-9859.

Sincerely,

A handwritten signature in cursive script that reads "Wayne J. Gabriel".

Wayne Gabriel
NRCS Soil Scientist

Attachment



United States Department of the Interior
FISH AND WILDLIFE SERVICE
 Ecological Services - LRGV Sub Office
 Phone: (956) 784-7560 Fax: (956) 787-0547
 3325 Green Jay Road
 Alamo, TX 78516
 November 29, 2011

Colleen K. Graham, Paralegal
 Union Pacific Railroad
 1400 Douglas Street, Stop 1580
 Omaha, NE 68179

Re: Consultation No.: 02ETCC00-2012-TA-0059

Dear Ms. Graham;

This responds to your letter received in our office regarding your request that the U.S. Fish and Wildlife Service (Service) review the proposed abandonment of rail line. Brownsville & Matamoros Bridge Company (B&M) and your company, Union Pacific Railroad (UPRR), propose a joint notice of exemption for B&M to abandon its 0.8-mile long stretch of rail line north of the international border at Brownsville, Texas, and for UPRR to discontinue its operation of the B&M Bridge line and to discontinue service on and to abandon its Brownsville Subdivision from milepost 7.4 near Olmito Junction to milepost 0.22 at Brownsville. Please also note that the rail is located near one of the tracts for the Service's Lower Rio Grande Valley National Wildlife Refuge ("Phillips Banco"), and is adjacent to the Fish Hatchery, part which is under Service jurisdiction. It also crosses over a waterway/irrigation canal and is adjacent to a reservoir near the Phillips Banco tract, all potential habitat for wildlife species and migrating birds and animals.

While you had made an initial determination of not anticipating any adverse impacts, we require further information. We are in receipt of a map as to where the rail line is located, but there is no summary of the project, whether the line will be abandoned-in-place or removed, and if so, what type of habitats may be impacted by the proposed project. We are also aware that you are in the process of preparing an Environmental Report, but please note that this correspondence does not constitute concurrence for the project, but is simply an explanation of what we require in order to further provide you with information for your documentation.

Under Section 7(a)(2) of the Endangered Species Act (ESA), the federal action agency, the Department of Transportation Federal Railroad Administration (FRA) is responsible for determining the effects of these actions on listed species or critical habitat (50 CFR § 402.14 [a]) and is ultimately responsible for section 7 obligations. Non-federal representatives (i.e. consultants, state agencies, county or local officials) may request and receive species lists, prepare environmental documents, biological assessments, and provide information for formal consultations. However, the Service requires the action agency to designate the non-federal representative in writing. Non-federal representatives should provide supporting information to the federal action agency for their evaluation. After evaluating the potential for effect, one of the following determinations is made by the federal action agency.

No effect – the action agency determines its proposed action will not affect federally listed species or critical habitat. No section 7 consultation is necessary and the Service believes the agency has complied with Section 7(a)(2) of the ESA by making the determination. However, if the project changes or additional information on the distribution of listed or proposed species becomes available the project should be reanalyzed for effects not previously considered.

Is not likely to adversely effect – the action agency determines their project may affect listed species and or critical habitat, however, the effects are expected to be discountable, or insignificant, or completely beneficial. Certain avoidance and minimization measures may need to be implemented in order to reach this level of effects. The action agency should seek written concurrence from the Service that adverse effects have been eliminated. If agreement cannot be reached the agency is advised to initiate formal consultation.

Is likely to adversely affect – the action agency determines adverse effects to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable, insignificant, or beneficial. If the overall effect of the proposed action is beneficial to the listed species but also is likely to cause some adverse effects to individuals of that species, then the proposed action "is likely to adversely affect" the listed species. An "is likely to adversely affect" determination requires formal section 7 consultation.

The Service recommends the action agency maintain a complete record of evaluation for all determinations, including steps leading to the determination of affect, the qualified personnel conducting the evaluation, habitat conditions, site photographs, and any other related articles. The Service's Consultation Handbook is available online <http://endangered.fws.gov/consultations/s7hndbk/s7hndbk.htm> for further information on definitions and process.

Section 7

Section 7 of the Endangered Species Act of 1973, as amended (ESA) requires that all Federal agencies consult with the Service to ensure that actions authorized, funded or carried out by such agencies do not jeopardize the continued existence of any listed threatened or endangered species or adversely modify or destroy critical habitat of such species. *It is the responsibility of the Federal action agency to determine if the proposed project may affect threatened or endangered species.* If a "may affect" determination is made, the Federal agency shall initiate the formal section 7 consultation process by writing to: Field Supervisor; U.S. Fish and Wildlife Service; c/o TAMU-CC, Unit 5837; 6300 Ocean Drive; Corpus Christi, Texas 78412-5837. If no effect is evident, no further consultation is needed; however, we would appreciate the opportunity to review the criteria used to arrive at that determination.

The Service recommends the action agency and/or non-federal representative maintain a complete record that identifies steps leading to the determination of affect, the qualified personnel conducting the evaluation, habitat conditions, site photographs, and any other related articles. The Service's Consultation Handbook is available at <http://endangered.fws.gov/consultations/s7hndbk/s7hndbk.htm> for further information on definitions and process.

Federally Listed Species

We have enclosed an updated list of federally listed or proposed threatened and endangered species that have been documented or are known to occur in Cameron County, Texas. Species information may be obtained at <http://lfw2es.fws.gov/endangeredspecies/lists/>. The species information should help you determine if suitable habitat for these listed species exists in any of the proposed project areas or if project activities may affect species on-site, off-site, and/or result in "take" of a federally listed species.

"Take" is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. In addition to the direct take of an individual animal, habitat destruction or modification can be considered take, regardless of whether it has been formally designated as critical habitat, if it would result in the death or injury of wildlife by removing essential habitat components or impairing essential behavior patterns, including breeding, feeding, or sheltering.

State Listed Species

The State of Texas protects certain species. Please contact the Texas Parks and Wildlife Department (Endangered Resources Branch), Fountain Park Plaza Building, Suite 100, 3000 South IH-35, Austin, Texas 78704 (telephone 512/912-7011) for information concerning fish, wildlife, and plants of State concern or visit their website at <http://www.tpwd.state.tx.us/nature/endang/animals/mammals/>.

Migratory Birds

The Migratory Bird Treaty Act implements various treaties and conventions for the protection of migratory birds. Under the Act, taking, killing or possessing migratory birds is unlawful. Many may nest in trees, brush areas or other suitable habitat. The Service recommends activities requiring vegetation removal or disturbance avoid the peak nesting period of March through August to avoid destruction of individuals, nests or eggs. If project activities must be conducted during this time, we recommend surveying for nest prior to commencing work. If a nest is found, and if possible, the Service recommends a buffer of vegetation (≥ 50 ft) remain around the nest until young have fledged or the nest is abandoned. List of migratory birds may be viewed at <http://migratorybirds.fws.gov/intrnltr/mbta/proposedbirdlist.pdf>

Wetlands

Wetlands and riparian zones provide valuable fish and wildlife habitat as well as contribute to flood control, water quality enhancement, and groundwater recharge. Wetland and riparian vegetation provide food and cover for wildlife, stabilize banks and decrease soil erosion. These areas are inherently dynamic and very sensitive to changes caused by such activities as overgrazing, logging, major construction, or earth disturbance. Executive Order 11990 asserts that each agency shall provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial value of wetlands in carrying out the agency's responsibilities. Construction activities near riparian zones should be carefully designed to minimize impacts. If vegetation clearing is needed in these riparian areas, they should be re-vegetated with native wetland and riparian vegetation to prevent erosion or loss of habitat. We recommend minimizing the area of soil scarification and initiating incremental re-establishment of herbaceous vegetation at the proposed work sites. Denuded and/or disturbed areas should be re-vegetated with a mixture of native legumes and grasses. Species commonly used for soil stabilization are listed in the Texas Department of Agriculture's (TDA) Native Tree and Plant Directory, available from TDA at P.O. Box 12847, Austin, Texas 78711. The Service also urges taking precautions to ensure sediment loading does not occur to any receiving streams in the proposed project area. To prevent and/or minimize soil erosion and compaction associated with construction activities, avoid any unnecessary clearing of vegetation, and follow established rights-of-way whenever possible. All machinery and petroleum products should be stored outside the floodplain and/or wetland area during construction to prevent possible contamination of water and soils. No permanent structures should be placed in the 100-year floodplain.

If your project will involve filling, dredging, or trenching of a wetland or riparian area it may require a Section 404 permit from the U.S. Army Corps of Engineers (COE). For permitting requirements please contact the U.S. Corps of Engineers, District Engineer, P.O. Box 1229, Galveston, TX 77553-1229, (409) 766-3002.

Beneficial Landscaping

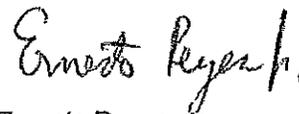
In accordance with Executive Order 13112 on Invasive Species and the Executive Memorandum on Beneficial Landscaping, where possible, any landscaping associated with project plans should be limited to seeding and replanting with native species. A mixture of grasses and forbs appropriate to address potential erosion problems and long-term cover should be planted when seed is reasonably available. Although Bermuda grass is listed in seed mixtures, this species and other introduced species should be avoided as much as possible. The Service also recommends the use of native trees, shrubs and herbaceous species that are adaptable, drought tolerant and conserve water.

Service Response

Please note that the Service strives to respond to requests for project review within 30 days of receipt, however, this time period is not mandated by regulation. Responses may be delayed due to workload and lack of staff. Failure to meet the 30-day timeframe does not constitute a concurrence from the Service that the proposed project will not have impacts to threatened and endangered species.

For continued compliance under the Endangered Species Act, the Service recommends further consultation on any project-related impacts not described herein. After the requested information has been completed and received, the Service will further review the project. If project plans change, portions of the project were not evaluated, or differ from the described above, please notify us. If we can be of further assistance, please contact Brunilda Fuentes-Capozello (956-784-7631), or Ernesto Reyes, Jr. on this letterhead.

Sincerely,



Ernesto Reyes, Jr.
Fish & Wildlife Biologist

For
Allan M. Strand
Field Supervisor

cc: Field Supervisor, U.S. Fish and Wildlife Service, Corpus Christi, TX

Enclosures

References

Banks, R. C. 1979. Human-related mortality of birds in the United States. U. S. Fish and Wildlife Service, Spec. Sci. Rep.-- Wildl. 215.

Federally Listed as Threatened and Endangered Species of Texas
February 3, 2011

This list also represents species that may be found in counties throughout the state. It is recommended that the field station responsible for a project area be contacted if additional information is needed.

DISCLAIMER

This Cameron County list is based on information available to the U.S. Fish and Wildlife Service at the time of preparation, date on page 1. This list is subject to change, without notice, as new biological information is gathered and should not be used as the sole source for identifying species that may be impacted by a project.

Cameron County

Brown pelican	(DM)	<i>Pelecanus occidentalis</i>
Green sea turtle	(T)	<i>Chelonia mydas</i>
Gulf Coast jaguarundi	(E)	<i>Herpailurus yagouaroundi cacomitli</i>
Hawksbill sea turtle	(E w/CHI)	<i>Eretmochelys imbricata</i>
Kemp's Ridley sea turtle	(E)	<i>Lepidochelys kempi</i>
Leatherback sea turtle	(E w/CHI)	<i>Dermochelys coriacea</i>
Loggerhead sea turtle	(T)	<i>Caretta caretta</i>
Northern aplomado falcon	(E)	<i>Falco femoralis septentrionalis</i>
Ocelot	(E)	<i>Leopardus pardalis</i>
Piping plover	(T w/CH)	<i>Charadrius melodus</i>
South Texas ambrosia	(E)	<i>Ambrosia cheiranthifolia</i>
Texas ayenia	(E)	<i>Ayenia limitaris</i>
West Indian manatee	(E)	<i>Trichechus manatus</i>
Mountain Plover	(P/T)	<i>Charadrius montanus</i>

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Statewide or areawide migrants are not included by county, except where they breed or occur in concentrations. The whooping crane is an exception; an attempt is made to include all confirmed sightings on this list.

- E = Species in danger of extinction throughout all or a significant portion of its range.
T = Species which is likely to become endangered within the foreseeable future throughout all or a significant portion of its range.
DM = Delisted, monitoring for 5 years
C = Species for which the Service has on file enough substantial information to warrant listing as threatened or endangered.
CH = Critical Habitat (in Texas unless annotated I)
P/ = Proposed ...
P/E = Species proposed to be listed as endangered.
P/T = Species proposed to be listed as threatened.
G = with special rule
I = CH designated (or proposed) outside Texas
~ = protection restricted to populations found in the Ainterior@ of the United States. In Texas, the least tern receives full protection, except within 50 miles (80 km) of the Gulf Coast.

UNION PACIFIC RAILROAD
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606-1718

Mack H. Shumate, Jr.
Senior General Attorney, Law Department

P 312.777.2055
F 877.213.4433
mackshumate@up.com

August 21, 2012

Mr. Ernesto Reyes, Jr.
Fish & Wildlife Biologist
United States Dept. of the Interior, Fish and Wildlife Service
3325 Green Jay Road
Alamo, TX 78516

Re: Consultation No.: 02ETCC00-2012-TA-0059

Dear Mr. Reyes:

Thank you for your November 29 response regarding the Union Pacific Railroad's ("UP's") plans to abandon its Brownsville Subdivision south of Olmito Junction, and for the Brownsville and Matamoros Bridge Company ("B&M Bridge") to abandon its 0.8 mile of rail line north of the international border. In this letter UP is providing additional information and comment to assist the Service's further review of this project.

The project is tied to Presidential Permit 04-1 authorizing the construction of the Brownsville West Rail Bypass International Bridge. The new bridge route will render the present Brownsville line and international rail crossing redundant. The present line will be abandoned and the track structure and short bridges (but not the B&M Bridge) removed. As noted in the Finding of No Significant Impact and Summary Environmental Assessment published in the Federal Register June 25, 2004 (attached), one of the primary benefits of the West Rail project is "Removal of the existing rail system from residential and downtown areas of Brownsville and Matamoros, thereby improving safety and reducing congestion and noise." (Page 35700, first column.) The right of way subject to abandonment is to be transferred to Cameron County.

The most extensive area of Service control adjacent to the right of way appears indeed to be the fish hatchery area – UP estimates that it parallels the area for about 1.1 miles from the produce market south to Tandy Road.

UP notes that the proposed abandonment is very unusual in that it involves a rail line now subject to heavy rail traffic and frequent maintenance, including vegetation control and the removal and replacement of track materials. Accordingly, a final removal of track material from the line, especially if it follows immediately after the end of train operations, should not represent a unique event disruptive to area wildlife.

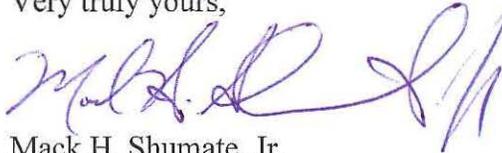
Mr. Ernesto Reyes, Jr.
United States Dept. of the Interior, Fish and Wildlife Service
August 21, 2012
Page 2

Concerning the impact on migratory birds, UP will arrange a nest survey if the salvage project takes place in what you describe in your letter as the "peak nesting period of March through August."

Concerning impact on waterways and wetlands, UP has notified the Corps of the impending planned abandonment and, if the Corps wishes it, will have its salvage contractor consult with the Corps regarding the need for Section 404 permitting prior to removal of the several short bridges on the line. Other than removal of bridge abutments and piers, there should be no filling, dredging, or trenching of a wetland or riparian area.

Please call (312) 777-2055 with any additional questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Mack H. Shumate, Jr.", with a stylized flourish at the end.

Mack H. Shumate, Jr.
Senior General Attorney, Law Department

MHS:mml
Attachment

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-NASD-2004-091 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-NASD-2004-091. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-NASD-2004-091 and should be submitted on or before July 16, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 04-14450 Filed 6-24-04; 8:45 am]
BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3586]

State of Ohio (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Security Management Agency, effective June 18, 2004, the above numbered declaration is hereby amended to include Hocking, Mahoning, and Portage Counties as disaster areas due to damages caused by severe storms, and flooding occurring on May 18, 2004, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Pickaway, Ross, and Trumbull in the State of Ohio; and Mercer County in the Commonwealth of Pennsylvania may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is August 2, 2004, and for economic injury the deadline is March 3, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 21, 2004.

Herbert L. Mitchell,
Associate Administrator for Disaster Assistance.

[FR Doc. 04-14536 Filed 6-24-04; 8:45 am]
BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3594]

State of Wisconsin

As a result of the President's major disaster declaration on June 19, 2004, I find that Columbia, Dodge, Fond du Lac, Jefferson, Kenosha, Ozaukee and Winnebago Counties in the State of Wisconsin constitute a disaster area due to damages caused by severe storms and flooding occurring on May 19, 2004, and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of

⁷ 17 CFR 200.30-3(a)(12).

business on August 18, 2004 and for economic injury until the close of business on March 21, 2005 at the address listed below or other locally announced locations:

U.S. Small Business Administration,
Disaster Area 2 Office, One Baltimore
Place, Suite 300, Atlanta, GA 30308

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Adams, Calumet, Dane, Green Lake, Juneau, Marquette, Milwaukee, Outagamie, Racine, Rock, Sauk, Sheboygan, Walworth, Washington, Waukesha, Waupaca and Waushara in the State of Wisconsin; and Lake and McHenry counties in the State of Illinois.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.750
Homeowners without credit available elsewhere	2.875
Businesses with credit available elsewhere	5.500
Businesses and non-profit organizations without credit available elsewhere	2.750
Others (including non-profit organizations) with credit available elsewhere	4.875
For Economic Injury	
Businesses and small agricultural cooperatives without credit available elsewhere	2.750

The number assigned to this disaster for physical damage is 359406. For economic injury the number is 9ZJ800 for Wisconsin; and 9ZJ900 for Illinois.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 21, 2004.

Herbert L. Mitchell,
Associate Administrator for Disaster Assistance.

[FR Doc. 04-14535 Filed 6-24-04; 8:45 am]
BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice 4750]

Finding of No Significant Impact and Summary Environmental Assessment; Brownsville/Matamoros West Rail Relocation Project—Cameron County, TX

The proposed action is to issue a Presidential Permit to Cameron County, Texas (the "Sponsor"), for the Brownsville/Matamoros West Rail

Relocation Project ("West Rail Project"), which will include the construction, operation and maintenance of an international rail bridge across the Rio Grande River from Brownsville, Texas to Matamoros, Mexico.

I. Background

The Department of State is charged with the issuance of Presidential Permits for the construction of international bridges between the United States and Mexico under the International Bridge Act of 1972, 33 U.S.C. 535 *et seq.*, and Executive Order 11423, 33 FR 11741 (1968), as amended by Executive Order 12847 of May 17, 1993, 58 FR 29511 (1993), Executive Order 13284 of January 23, 2003, 68 FR 4075 (2003), and Executive Order 13337 of April 30, 2004, 69 FR 25299 (2004).

A draft environmental assessment of the proposed West Rail Project was prepared by Raba-Kistner Consultants, Inc. and HNTB, Inc. on behalf of the Presidential Permit applicant, Cameron County, Texas, under the guidance and supervision of the U.S. Department of State (the "Department"). The Department placed a notice in the Federal Register (68 FR 141 (July 23, 2003)) regarding the availability for inspection of Cameron County's permit application and related documents. No comments were received in response to this notice.

Consistent with its regulations for the implementation of the National Environmental Policy Act ("NEPA") and in the context of its responsibilities with respect to Presidential permits, the Department has conducted its own, independent review of the draft environmental assessment. Numerous Federal and non-federal agencies have also independently reviewed the draft environmental assessment, offered comments and/or qualifications, and approved or accepted the draft environmental assessment. These "cooperating agencies" are: the Department of Commerce, the Department of Defense (U.S. Army Corps of Engineers), the Department of Homeland Security (Bureau of Customs and Border Protection, the Federal Emergency Management Agency, and the United States Coast Guard), the Department of Health and Human Services (Food and Drug Administration), the Department of the Interior (Fish and Wildlife Service), the Department of Justice, the Department of Transportation (the Surface Transportation Board, Federal Highway Administration, Federal Railway Administration), the Department of State, the Environmental Protection Agency, the Council of Environmental

Quality, the General Services Administration, the International Boundary and Water Commission, the State of Texas, Texas Parks and Wildlife Department, the Texas Historical Commission, and the Texas Commission on Environmental Quality. All comments received by these cooperating agencies were responded to directly by the Sponsor or Raba-Kistner Consultants, Inc., including by expanding the analysis contained in the draft environmental assessment and/or through the development of appropriate mitigation measures.

The Sponsor has worked closely with the Federal and state agencies that have participated in the environmental assessment to address their concerns about the possible environmental impacts of this project. The results of Cameron County's meetings and other contacts with agencies were recorded in correspondence and described in the draft environmental assessment and addenda. After examining six alternatives rail routes, Cameron County ultimately proposed the preferred alignment that sought to minimize direct and indirect impacts to the human environment and that represented lower design and construction costs. The draft environmental assessment, as amended and supplemented, together with the comments submitted by Federal and state agencies, responses to these comments, and all correspondence between the agencies and the Sponsor addressing the agencies' concerns, constitute the final environmental assessment.

Based on the final environmental assessment, including mitigation measures that Cameron County has or is prepared to undertake, information developed during the review of Cameron County's application and comments received from Federal and state agencies, and the Department's independent review of that assessment, the Department has concluded that issuance of the Presidential Permit authorizing construction, operation and maintenance of the West Rail Bypass and international railway bridge would not have a significant impact on the quality of the human environment within the United States. Accordingly, a Finding of No Significant Impact ("FONSI") is adopted and an environmental impact statement will not be prepared, in accordance with the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, Council of Environmental Quality Regulations, 40 CFR 1501.4 and 1508.13, and with Department of State Regulations, 22 CFR 161.8(c).

II. Summary Environmental Assessment

A. The Proposed Project

Cameron County, Texas has applied to the Department for a Presidential permit authorizing the relocation of the Union Pacific Railroad (UPRR) line approximately 6 miles west of the City of Brownsville, Texas and the construction of a new international rail bridge approximately 15 river miles upstream of an existing rail bridge, which together constitute the West Rail Relocation Project. A single rail line will be constructed from the existing rail junction adjacent to U.S. Highway 77/83 and run to the Rio Grande River. It will claim a minimum right of way of 100 feet. Union Pacific Railroad (UPRR) will assume control of the new rail line once construction has been completed. UPRR will maintain operating rights to the new rail line in the United States. It is anticipated that, upon completion of the project, the Sponsor will request the Department of State to transfer the permit to the B&M Bridge Company, which will take over ownership of the U.S. portion of the international rail bridge.

The West Rail project involves the construction of a new international rail bridge that will pass over International Boundary and Water Commission (IBWC) levees and the Rio Grande River and into Matamoros, Tamaulipas, Mexico. The single-track bridge will span the Rio Grande River's floodway located between the flood control levees of the U.S. and Mexican sections of land managed by the IBWC. The proposed bridge will be located approximately at Rio Grande River Mile 71.7 and have a total span of 2,940 linear feet. The length of the U.S. portion of the bridge is approximately 840 feet. The bridge design will include a vertical clearance above the levees in accordance with IBWC requirements.

The rail bridge design, structure, and construction will adhere to UPRR engineering standards. An approach embankment will terminate at the north right of way of U.S. Highway 281 and tie into the abutment of the international rail bridge. The bridge will cross U.S. Highway 281 at a minimum elevation of 16.5 feet and continue over the IBWC levee and the Rio Grande River. Provisions for future widening of U.S. Highway 281 will be included in the design. A geotechnical study will determine the necessary bridge foundations and spacing of the columns for each pier. Schematics reflect the design flood elevation based on a flood flow of 20,000 cubic feet per second for this reach of the river. In addition, an 8

feet 3 inch, curved, chain-linked fence will be constructed at the edges of the bridge's superstructure to prevent pedestrian falls and illegal immigration. There will be no illumination under the bridge. Gate controls across the bridge will also be included. Land areas below the bridge will be replanted according to United States Fish and Wildlife Service (USFWS) specifications.

The engineering design phase will include hydraulic studies of the Rio Grande River that will be completed upon the issuance of a Presidential Permit. The hydraulic studies will assess the hydraulic impact of the bridge on the river flow and the impact of a potential relocation of the levee in Mexico to a location nearer to the river and will be presented to the U.S. and Mexican sections of the IBWC for review.

As the project involves the construction of an international rail bridge, the Department of Homeland Security has been consulted regarding border control and inspection needs. The Department of Homeland Security and the General Services Administration have outlined guidelines for the construction of all facilities related to the West Rail project, and Cameron County has agreed to adhere to the criteria in these guidelines.

The West Rail Project offers several advantages to communities of Brownsville and throughout Cameron County, which include improvements to the general human environment:

- Removal of the existing rail system from residential and downtown areas of Brownsville and Matamoros, thereby improving safety and reducing congestion and noise.
- Elimination of at-grade road crossings, reducing air pollution from vehicles idling while awaiting passage of trains.
- Creation of improved transportation corridors to handle traffic volumes more efficiently and allow for the redevelopment of the city's downtown area.
- Greater competitiveness, given the reduction in rail freight travel time between Brownsville and Monterrey, Mexico by approximately 2½ hours and the elimination of heavy traffic conditions at peak travel times.
- Facilitation of expected economic growth in the Brownsville area.
- Reduction in the community's immediate exposure to potential derailment-related Hazmat accidents and railcar explosions.

B. Alternatives Considered

In its review, the Department considered 6 alternatives described in detail in the draft environmental assessment and in a summary fashion below:

1. (The Project) Originates at the rail intersection adjacent to U.S. Highway 77/83, proceeds west, just north of the Resaca de la Palma wildlife refuge, turns south, passing 2,000 feet west of the World Birding Center, and crosses U.S. Highway 281 and the Rio Grande River.

2. Originates at the rail intersection adjacent to U.S. Highway 77/83, proceeds west, circumnavigating the Resaca de la Palma wildlife refuge further to the north than Alternative 1. The route then turns south, passing 2,000 feet west of the World Birding Center and crosses U.S. Highway 281 and the Rio Grande River.

3. Originates at the rail intersection adjacent to U.S. Highway 77/83 and continues west, north of the Resaca de la Palma wildlife refuge, proceeds an additional 3 miles, then turns south, crossing U.S. Highway 281 and the Rio Grande River.

4. (a), (b). Both Alternatives 4a and 4b originate at the rail intersection adjacent to U.S. Highway 77/83 and proceed south between the Resaca de la Palma refuge and the Cameron County Irrigation District Main Reservoir. At this point, Alternative 4a continues over U.S. Highway 281 and the Rio Grande River. Alternative 4b turns and proceeds west, south of the World Birding Center, along the same alignment as Alternative 1, crossing U.S. Highway 281 and the Rio Grande River.

5. Originates at the rail intersection adjacent to U.S. Highway 77 and proceeds north to the town of Rancho Viejo using existing rail lines. North of Rancho Viejo, the route turns southwest, then due south, and proceeds across U.S. Highway 281 and the Rio Grande River. This route abuts the western boundary of the World Birding Center.

6. The "No Build" Alternative: The international rail bridge is a common design element to all of the considered alternatives, other than the "No Build" alternative.

Alternative 2 was viewed as not preferred because it required approximately 51 additional acres of prime farmland. It would further require two grade separations for the future Merryman Road, a major street on the Brownsville thoroughfare plan.

Alternative 3 was viewed as not preferred because it would require the acquisition of additional acreage of prime farmlands (approximate 96 acres), a grade separation at the future FM

1421, a skewed overpass crossing at U.S. Highway 281, increased international bridge length (total of 0.19 miles), the displacement of 4-5 residential structures, the bisection of a residential community, and the location of 132 residences within 1,000 feet of the proposed rail line.

Both Alternatives 4a and 4b were viewed as not preferred for the reasons stated below. Alternative 4a, with a railroad embankment on the west side of the Cameron County Irrigation District main reservoir, would require, at minimum, sheet piling along the west side of the reservoir for approximately 2,100 linear feet. A geotechnical analysis may reflect the need to complete bridging along a greater section of the reservoir. The pilings, estimated to reach depths of 50 feet below grade surface, would add costs of approximately \$3.15 million to the project in addition to the costs of installing the embankment, ballast, and rail tracks. The alignment would continue south across U.S. Highway 281 and bisect the Riverbend Subdivision and the Villa Nueva Community. The U.S. Highway 281 overpass would add approximately \$5 million, according to the Texas Department of Transportation. From U.S. Highway 281 the rail line would proceed with a vertical rise of 15 feet over the IBWC levee and remain elevated across the floodway leading to the Rio Grande River. This segment across the floodway would add approximately \$12 million.

Construction of this alternative would encroach on the eastern boundary of the World Birding Center. The Texas Parks and Wildlife Department (TPWD) has opposed this route.

Alternative 4b would require, at minimum, sheet pilings along the west side of the Cameron County Irrigation District main reservoir for approximately 2,100 linear feet. A geotechnical analysis may reflect the need to complete bridging along a greater section of the reservoir. The pilings, estimated to reach depths of 50 feet below grade surface, would add costs of approximately \$3.15 million to the project in addition to the cost of installing the embankment, ballast, and rail tracks. Rail bridges over U.S. Highway 281 and New Carmen Road would include approximately 2,750 feet of additional railroad bridge compared to Alternative 1 at an additional cost of \$5.5 million. The international rail bridge between the IBWC levee and the river would be the same as that constructed under Alternative 1. An additional bridge may be required for the Resaca crossing south of the Las Palmas Wildlife Management Area.

Construction of this alternative would also encroach on the eastern boundary of the World Birding Center. The TPWD has opposed Alternative 4b. Cameron County identifies another major difficulty with this alternative is the diagonal crossing of privately owned land parcels between U.S. Highway 281 and the wildlife management area.

Alternative 5 was not viewed as a preferred alternative because it would involve increased travel time of trains from one switching yard to another, required construction of two more overpasses, and would bring the rail line with 1,000 feet of a significant number of homes.

Alternative 6, the "No Build" alternative, would leave the existing rail system in place and achieve none of the described project objectives. Potential industrial and commercial growth associated with the West Rail Project would be curbed as the area would lack a safer, more direct route to the major transportation corridor. At-grade rail/roadway safety crossing issues would remain, as would traffic delays and idling times for traffic and their associated emissions. Such emissions are currently contributing to the degradation of air quality. Train noise in the downtown Brownsville area would persist.

None of the above alternatives provided avoidance or mitigation of any of the unavoidable impacts attributable to the selected project, and in addition, created higher costs in terms of land usage and overall costs. For this reason, the Department concluded that these options were not preferred alternatives.

III. Summary of the Assessment of the Potential Environment Impacts Resulting From the Proposed Action

The final environmental assessment provides detailed information on the environmental effects of the construction and use of the alternatives described above, including the proposed project. The proposed project was determined to be the preferred alternative, in view of the lower construction costs and the low extent of community and environmental impact as compared to the other alternatives.

On the basis of the final environmental assessment, the Department reached the following conclusions on the impact of construction of the railway bypass and bridge at the proposed location:

Farmlands: The proposed project requires the acquisition of approximately 46 acres of farmland that may be considered prime farmland under the Farmland Protection Policy Act, 7 U.S.C. 4201, *et seq.* The amount

of farmland acquired does not include acreage to be negotiated with the USFWS for the construction of a buffer zone north of the World Birding Center, the dimensions of which have been determined through consultation with the U.S. Fish and Wildlife Service. The proposed project requires one at-grade crossing at New Cadden Road. Right-of-way at this crossing will be secured by Cameron County, should an overpass at this site be desired in the future.

Wetlands: Given appropriate mitigation measures agreed to by the Sponsor and coordination with appropriate Federal and state agencies, the Department expects the proposed project's impact on wetland areas to be negligible. Specific wetland impacts will be influenced by the final bridge design selected for the several areas where the relocation project will traverse waterways, such as the Resaca del Rancho Viejo, Resaca de la Palma, and the Rio Grande. All wetland issues will be coordinated with the appropriate federal and state agencies, as outlined below. The construction plans will include a storm water runoff protection plan to eliminate the introduction of exotic weedy species. Much of the proposed route, according to the National Wetlands Inventory (NWI), falls within upland agricultural areas. The final environmental assessment estimates a total of 0.33 acres of wetlands will be impacted by this project.

The project crosses two resacas (Resaca del Rancho Viejo and Resaca de la Palma). Both are normally filled with water and may fall under the jurisdiction of the U.S. Army Corps of Engineers (USACE). The project will also cross various drainage and irrigation ditches. As described in the final environmental assessment, wetland delineation will be conducted as necessary in support of a Section 404 permit issued pursuant to the Clean Water Act, 33 U.S.C. 1251, *et seq.*, in accordance with USACE and Department of the Army specifications.

As the project enters the engineering design phase, mitigation measures regarding the impact on vegetative and aquatic habitats falling within the project area—such as affected areas of the Resaca Rancho Viejo and Resaca de la Palma—will be developed. This step will involve coordination with the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the Texas Parks and Wildlife Department to not only protect defined jurisdictional wetlands but also to secure necessary permits for crossing these areas.

Floodplains, Floods, and the River Channel: While the rail line and

international bridge will cross portions of an identified 100-year shallow floodplain, negative impacts to the floodplain are not expected.

The design for the international rail bridge requires a 15 feet elevation above the floodplain of the Rio Grande River with bents located in the floodplain itself. The bents are not expected to impede the free flow of floodwater within the river or its levees. Flood levels should remain unchanged.

The railway approach to the international bridge will be at grade level. The design is anticipated to include free flow box culverts and/or bridges at resacas and irrigation crossings. These features should not impede the free flow of floodwaters. The design will include proper slope drainage and free flow of waters off the railway surface to be directed toward natural drainage gradients.

The project is not expected to require dredging, tunneling, or trenching. Should the design call for the installation of bridge bents in the river's channel, a temporary cofferdam may be used. Once the bent installation is finished, all non-native materials in the channel will be promptly removed.

Air Quality: While project-related activities, which may include, but are not limited to, construction, demolition, repair, or rehabilitation, are expected to create higher levels of dust and airborne particles and involve additional exhaust emitted from machinery and trucks, these impacts are expected to only be short-term and should pose no significant impact upon general air quality. Moreover, the project will include best management practices (BMP) to mitigate fugitive dust emissions throughout the construction process. For dust control, timely application of water will be used as necessary, or as excessive emissions are produced.

The West Rail Project lies within the Brownsville-Laredo Intrastate Air Quality Control Region (AQCR 213), which is in attainment of National Air Quality Standard air pollutants. Therefore, the Texas Commission on Environment Quality (TCEQ) in a letter dated March 21, 2003 contained in Appendix D of the Environmental Assessment indicated that no special measures need to be taken in regards to this project other than standard dust mitigation techniques by the construction contractors.

Listed, Threatened, and Endangered Species: Several listed and endangered species could potentially be impacted by the project. To mitigate these impacts, the Department expects the Sponsor to comply with a series of

recommendations from the USFWS and the TPWD.

Two species of federally protected cats, the ocelot and the jaguarundi, are found in the general project region along with one bird species, the Northern aplomado falcon, and two plant species, the Texas Ayenia and the South Texas Ambrosia. Surveys of the project site, however, found that vegetation there is less dense than in areas typically occupied by those species. Therefore, their regular presence within the immediate project area is considered unlikely. In addition to federally listed species, 15 state-listed, threatened, or endangered species may use portions of the project route because of the presence of potentially suitable habitat.

In letters contained in Appendix C of the environmental assessment and in subsequent correspondence, the USFWS and TPWD made a number of recommendations with which Cameron County has agreed to comply. These include replanting with native species disturbed areas of vegetation and trees, fulfillment of the World Birding Center Revegetation Mitigation Plan (Appendix L of the draft Environmental Assessment), a monitoring program with annual reports to USFWS on fulfillment of Revegetation Mitigation Plan, use of specific train operating procedures to minimize train noise, and ownership by Cameron County in perpetuity of the buffer zones and Right of Ways for the rail line and placement in the deeds for these areas restricted conditions regarding future clearing, construction and development. Additionally a qualified biologist, as provided for in the draft environmental assessment, will survey the project area prior to construction to determine if state and federally-listed, threatened, or endangered species are present. If encountered, these species will be relocated to avoid any direct impact. Record of exotic species removed from the area will be documented, as requested by the Texas Parks and Wildlife Department. In light of the Migratory Bird Treaty Act and population declines of many migratory bird species, the Department expects that precautions will be taken throughout the construction process to avoid or minimize the loss of critical vegetation during migratory bird's general nesting season from March through September. In conformance with the Act, a survey will be conducted to identify nesting sites and species prior to construction near the Resaca de la Palma refuge, thus avoiding inadvertent destruction of nests, eggs, etc.

Habitat and Vegetation: The construction phase will cause some loss of habitat and clearing of vegetation. Approximately 18 acres of wooded and scrub vegetation will be cleared, particularly along the Resaca de la Palma wildlife refuge where mature mesquite, huisache, and spiny hackberry trees will be removed throughout the 100 feet right of way. The use of defoliating agents and/or herbicides is not anticipated.

Cameron County, throughout the project, has coordinated closely with USFWS and TPWD on the re-vegetation of disturbed areas. As a consequence, mitigation efforts will include the revegetation of areas along the project route and the creation of a buffer zone between the railway and the Resaca de la Palma refuge. North of the refuge, the County will implement the "World Birding Center Revegetation Mitigation Plan, Appendix L of the draft environmental assessment, to minimize noise and visual impacts and create further bio-diversity in regards to the future World Birding Center. This plan calls for the creation of a 13-acre mitigation area sited 30 ft north of Lower Rio Grande National Wildlife Refuge (LRGV-NWR). This mitigation area will include approximately a 6.5-acre vegetative area and an approximately 6.5 acre clear zone. The Mitigation Plan seeks to increase diversity in the current cultivated land by the addition of woody deciduous tree and shrub diversity, and improve the visual aesthetics of the project and reduce its noise impact. The area encompassed by the mitigation plan and the railway right-of-way will remain under the ownership of Cameron County, and that deed restriction as far as clearing, construction and future development will be filed with the County Clerk to remain in perpetuity.

Potential Land Use Conflicts: The Department examined long- and short-term concerns relating to land use and determined that the project will be consistent with defined land usage. The proposed project requires the least acreage and minimizes impact to the land, compared to other alternatives, and largely avoids community and residential areas. The draft environmental assessment notes that roughly 75% of the land falling within the project area has already been altered by human activities. Development and construction phases of the project are expected to alter land forms and will temporarily modify the natural drainage pattern throughout the project area.

Land types to be used in this project include levee areas of the Rio Grande River, scrubland, and farmland. The

project should not cause significant impact to the levee area or agricultural lands. Access to agricultural land will remain open.

Projected acquisitions include private land. No relocations or displacement of homes or businesses will be necessary. The acquisition of private lands will be limited to the requirements of the project, such as the 100 to 300 feet right of way for the railway, the international rail bridge, and any roadway overpasses. Upon completion of the project, lands acquired through the project will be transferred to Union Pacific Railroad (UPRR).

Alteration of land and the removal of vegetation are not expected to affect erosion within the general project area greater than any similar construction project. Measures will be adopted as fully as possible throughout the construction period to minimize erosion, including undertaking construction in dry seasons and completion of Storm Water Pollution Prevention Plan, compliance with requirements imposed by the U.S. Army Corps of Engineers and other agencies, returning disturbed lands to their previous contours, and revegetation efforts. The TPWD has issued recommendations to moderate erosion, including the use of weed free hay bales and silt screens to prevent siltation into wetlands, which the Sponsor has committed to undertake.

Historical and Archeological Resources: A survey conducted by Anthony and Brown Consulting and approved by the Texas Historical Commission indicates that no archeological or historical sites will be impacted by the proposed project. One archeological site, 41CF185, was found, but it is completely destroyed and is neither eligible for the National Register of Historic Places nor for designation as a State Archeological Landmark. No evidence of buried prehistoric sites was found.

Cameron County made a "reasonable and good faith" effort to identify Native American groups that may have historical ties to the area and to invite these groups to participate in the consultation process, in accordance with the Native American Graves Protection and Repatriation Act, Executive Order 12875, and the Advisory Council for Historic Preservation. Using the Native American Consultation Database, maintained by the Department of the Interior, no federally recognized Native American groups were identified.

Water Quality: Significant impacts to current water supply and use are not anticipated, nor are adverse effects to

the interbasin transfer of ground water. Impacts to the quality of storm water run off, surface water, and ground water will be minimal.

Noise: The Department identified two broad categories of noise resulting from the proposed project: short-term construction-related noise and longer-term noise associated with passing trains and horn blasts. The proposed project is located within a sparsely populated area of Cameron County (the draft environmental assessment notes only two residential structures within 1,000 feet of the construction). However, portions of the Resaca de la Palma wildlife refuge and World Birding Center may be affected by noise related to rail traffic, but those impacts are not expected to be significant and will be minimized by implementation of the World Birding Center Revegetation Mitigation Plan.

While levels of construction noise will vary according to the nature of the construction work in progress, such noise is expected to be short term and will not exceed noise limits imposed by federal, state, and local laws and ordinances.

Noise resulting from rail traffic is not expected to have a significant impact on the surrounding environment, including the Resaca de la Palma wildlife refuge and the World Birding Center. A horn noise analysis conducted for the New Carmen Road at-grade crossing indicates that horn noise will not have any impact on the surrounding environment, as defined by the FTA (Federal Transit Administration).

Similarly, interim criteria for the threshold of disturbance for birds established by the FTA will not be exceeded either by regular train traffic or by train horns.

While a USFWS standard for peak hour noise will be slightly exceeded, the impact is not expected to be significant since the noise level will not exceed the USFWS limit 200 feet from the tracks and highway noise in the area frequently is recorded well above the USFWS peak hour noise level. Noise impacts will also be minimized by a ban against trains idling on the tracks, and maintenance of minimum speed of trains passing through the area of approximately 40 mph.

It should be noted that the proposed project will reduce noise levels along the existing corridor significantly, an important benefit for the higher numbers of homes located on the existing corridor.

Environmental Justice/Socio-Economic Concerns: In accordance with Executive Order 12898 of February 11, 1994, the project is not expected to have

a disproportionate impact on the minority or low-income communities in the immediate vicinity of the project, in view of the location of the project and the sparsely-populated nature of the land.

Energy Requirements and Conservation Potentials: The construction of the proposed project should be considered as a short-term use of the environment during which energy and labor will be expended. This energy cost will, in the long-term, be offset by reduced vehicle congestion in downtown Brownsville and the more efficient movement of commerce and cargo between the United States and Mexico.

Any Irreversible and Irrecoverable Commitment of Resources: The project has not involved irreversible and irretrievable commitment of resources.

Health and Safety: The project should contribute to the health and safety of the Brownsville community through lessening vehicle emissions, reducing the potential for vehicle-train collisions at existing at-grade crossings, and minimizing the potential for the railroad accidents in densely-populated areas involving hazardous materials.

Cumulative Impacts: The Department also considered cumulative environmental impacts resulting from the project.

As stated above, the proposed project will improve the quality of life for city and area residents by (a) the relocation of rail lines outside the Brownsville; (b) the reduction of vehicle waiting times and improvement of air quality in the downtown sections of the city; (c) the reduced impact of train noise to city residents; (d) the diversion of the transport of hazardous cargo from downtown Brownsville to less populated areas outside the city; and, (e) the elimination of numerous at-grade crossings.

Environmental disruption throughout the construction process and in the operation of the rail line will be minimized through appropriate mitigation measures, discussed above, and coordination between Cameron County with Federal and state agencies such as the IBWC, USACE, USFWS, and TPWD in the development and implementation of those mitigation measures.

IV. Conclusion: Analysis of the Final Environmental Assessment

On the basis of the final environmental assessment, information developed during the review of the Cameron County's application and environmental assessment, and comments received, a Finding of No

Significant Impact ("FONSI") is adopted and an environmental impact statement will not be prepared.

The Final Environmental Assessment prepared by the Department addressing this action is on file and may be reviewed by interested parties at the Department of State, 2201 C Street NW, Room 4258, Washington, DC (Attn: Mr. Dennis Linskey, Tel 202-647-8529).

Dated: June 18, 2004.

Dennis Linskey,
Coordinator, U.S.—Mexico Border Affairs,
Office of Mexican Affairs, Department of
State.

[FR Doc. 04-14468 Filed 6-24-04; 8:45 am]

BILLING CODE 4710-28-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST-2004-18488]

Notice of Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Department of Transportation's (DOT) intention to request extension of a previously approved information collection.

DATES: Comments on this notice must be received by August 24, 2004.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number OST-2004-18488 by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information

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13 June 2012

Colleen K. Graham
 Law Department
 Union Pacific Railroad
 1400 Douglas Street, Stop 1580
 Omaha NE 68179

Re: *Project review under Section 106 of the National Historic Preservation Act of 1966*
UPRR abandonment in Brownsville and at Brownsville & Matamoros Bridge, Brownsville, Cameron County, Texas (STB)

Dear Ms. Graham,

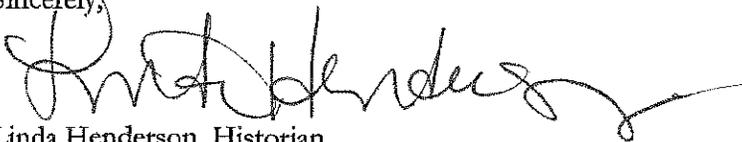
Thank you for your correspondence about the above-mentioned project. Since receiving it, we have been in communication with Ray Allamong in your Union Pacific (UPRR) office, discussing in particular the historic Brownsville & Matamoros International Bridge (B&M Bridge). This letter serves as official comment from Texas' State Historic Preservation Officer, the Executive Director of the Texas Historical Commission (THC).

THC staff led by Linda Henderson reviewed the materials and past coordination related to the bridge and the West Rail Bypass project as part of developing an understanding of the bridge's eligibility for listing in the National Register of Historic Places (NRHP) and any previous proposals for its future preservation. Based on the information we have been provided, for the abandonment of the rail line north of but excluding the bridge, we agree with the finding of "No Historic Properties Affected." The only remaining coordination needed relates to the bridge, and although we understand that the bridge is to remain intact, we need more information to complete our review.

The B&M Bridge is eligible under Criterion A for Transportation and Criterion C for Engineering. Because it is an international crossing over the Rio Grande, representatives from the US Department of State, US Army Corps of Engineers, International Boundary and Water Commission, US Customs & Border Protection should be contacted early in the coordination process to ensure efficient communication related to Section 106 coordination for abandonment of the bridge.

Thank you again for working with our office to identify and protect the state's irreplaceable historic and cultural resources. Please contact us with any questions: linda.henderson@thc.state.tx.us or 512/463-5851.

Sincerely,



Linda Henderson, Historian

For:

Mark Wolfe, State Historic Preservation Officer

Cc: Victoria Rutson, Federal Preservation Officer, Surface Transportation Board
 Mary Torres, Chair, Cameron County Historical Commission
 Kitty Henderson, Historic Bridge Foundation

