

Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423

Docket No. AB-3 (Sub-No. 137X)

MISSOURI PACIFIC RAILROAD COMPANY--ABANDONMENT--
IN RED RIVER AND BOWIE COUNTIES, TX

PETITION TO REOPEN AND MODIFY

Comes now Bowie County, Texas ("Bowie County"), by and through the undersigned attorney, and, pursuant to the provisions of 49 C.F.R. § 1152.29(c)(2), files this Petition to Reopen and Modify. In particular, Bowie County respectfully requests the Surface Transportation Board ("Board") to vacate a portion of the Notice of Interim Trail Use ("NITU") issued by the Board on July 1, 2005.

Pursuant to the Board's July 1, 2005 Decision, Bowie County is the authorized interim trail user for the railroad right-of-way from milepost 23.0 at New Boston, Bowie County, Texas, to milepost 42.59 at the Red River County line. By filing this Petition, Bowie County provides notice that it intends to terminate trail use over a 50 foot wide portion of the railroad right-of-way (measured from the southernmost edge of the right-of-way) from milepost 23.0 to milepost 42.59 at the Red River County line, including all bridges and ballast, a distance of approximately 19.59 miles. The remaining 50 foot portion would permit the future resumption of rail freight service and will continue to be rail banked by Bowie County. It is requested that the NITU be modified on May 10, 2007 consistent with this request.

Background

By decision served and published in the *Federal Register* (61 FR 66748) on December 18, 1996, the Board granted the Missouri Pacific Railroad Company (“MP”) an exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903 to abandon a railroad line extending from milepost 23.0 at New Boston, in Bowie County, TX, to the end of the track at milepost 61.5, near Clarksville, in Red River County, TX. The exemption became effective on January 17, 1997.

On December 30, 1996, Rails to Trails Conservancy (“RTC”) filed a timely request for issuance of a NITU for the railroad line to be abandoned by MP. On February 14, 1997, the Board served its Decision finding that RTC had timely complied with the requirements of 49 C.F.R. § 1152.29 and authorizing the issuance of a NITU.

In a joint motion filed on June 15, 2005, RTC and Bowie County requested the substitution of Bowie County as interim trail user for that portion of the right-of-way from milepost 23.0 to milepost 42.59 at the Red River County line, including all bridges and ballast, a distance of approximately 19.59 miles. After RTC stated that it intended to terminate its trail use along that portion of the corridor, the Union Pacific Railroad Company (“UP”) (as successor in interest to MP) consented to the substitution request.

By Decision served July 1, 2005, the Board vacated the February 1997 NITU for that portion of the right-of-way from milepost 23.0 to milepost 42.59 at the Red River County line. The Board also issued a replacement NITU applicable to Bowie County as interim trail user for that same portion of the right-of-way. As noted in the Board’s Decision, RTC remained the interim trail manager for the remainder of the line between milepost 42.59 and milepost 61.5.

Requested Relief

Bowie County respectfully requests that the Board:

(i) modify a portion of the outstanding NITU, specifically terminate a 50 foot wide portion of the railroad right-of-way (measured from the southernmost edge of the right-of-way) from milepost 23.0 to milepost 42.59 at the Red River County line, including all bridges and ballast, a distance of approximately 19.59 miles; and immediately

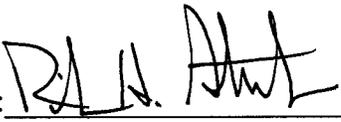
(ii) issue a decision permitting the immediate abandonment of the aforesaid portion of the 19.59-mile line of railroad between milepost 23.0, at or near New Boston, in Bowie County, and milepost 42.59 at the Red River County line, TX.

To satisfy the requirements of 49 C.F.R. § 1152.29(c)(2), the Board should send copies of its decision permitting the immediate abandonment of the specified portion of the right-of-way to the following entities:

- (i) The abandonment exemption applicant
Union Pacific Railroad Company
(successor-in-interest of Missouri Pacific Railroad Company)
c/o Mack Shumate, Jr.
101 North Wacker Drive
Room 1920
Chicago, IL 60606-1718
- (ii) The owner of the right-of-way
Bowie County, Texas
c/o Richard H. Streeter
Barnes & Thornburg LLP
750 17th Street, N.W., Suite 900
Washington, D.C. 20006
- (iii) The current trail user
Bowie County, Texas
c/o Judge James M. Carlow
710 James Bowie Drive
New Boston, Texas 75570

Should further information be required, please contact the undersigned.

Respectfully submitted,

By: 

Richard H. Streeter
Barnes & Thornburg LLP
750 17th Street, N.W.
Suite 900
Washington, D.C. 20006
(202) 408-6933

Dated: April 10 2007

CERTIFICATE OF SERVICE

I Richard H. Streeter, do hereby certify that a true copy of the foregoing Petition to Reopen and Modify was served this 10th day of April, 2007, by first-class mail, postage prepaid, on the following:

Union Pacific Railroad Company
c/o Mack Shumate, Jr.
101 North Wacker Drive
Room 1920
Chicago, IL 60606-1718



A handwritten signature in black ink, appearing to read "R.H. Streeter", is written over a horizontal line.