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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

SUPPLEMENT TO 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 Supplement to Petition to Reopen and Modify. Bowie County's original Petition to Reopen and Modify was filed on April 10, 2007. In particular, Bowie County once again 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 in this Docket, 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.¹ By filing its Petition to Reopen, Bowie County provided notice that it intends to terminate trail use over a 50 foot wide portion of the railroad right-of-way (measured from the northernmost edge of the right-of-way)²

¹ The abandoned rail corridor can be viewed on Google maps using the satellite feature. Simply type in New Boston, Texas and then scroll the screen along U.S. Hwy. 82 in a west-bound direction to the outskirts of De Kalb, Texas, which is the next community to the west of New Boston. The abandoned rail corridor is located just south of the highway.

² In its initial Petition, the incorrect statement was made that the 50 foot wide portion of the railroad right-of-way would be 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. That 50-foot corridor, which is located on the northern most portion of the 100-foot corridor and runs parallel to U.S. Highway 82, will be acquired by the Texas Department of Transportation. This segment of the 100-foot corridor will be used to widen U.S. Highway 82, which is adjacent to the northern edge of the rail corridor. The remaining 50-foot portion of the abandoned corridor, which is wide enough to allow the future resumption of rail freight service, will continue to be rail banked by Bowie County.

On May 16, 2007, the Board served its decision in this proceeding in which it stated that:

In order for the Board to grant the relief requested, the County must first demonstrate that, in this particular case, the remaining width of the right-of-way would be sufficient to permit trail use and the reestablishment of rail service.* The present record is insufficient to permit the Board to make that determination. The claim presented by the County regarding future rail service on the line is simply a conclusory statement. Consequently, the County is directed to submit a more detailed discussion as to why the remaining 50 feet of right-of-way will be adequate to accommodate trail use and future rail service. (*Footnote omitted).

The County is directed to submit a detailed discussion demonstrating that, should the relief sought here be granted, the remaining 50-foot right-of-way will be of sufficient width to permit trail use and future rail service.

In response to the fore-going directive, Bowie County notes that simultaneous rail and trail operations are not anticipated. Bowie County recognizes that should the Union Pacific Railroad Company ("UP"), as the successor-in-interest to the Missouri Pacific Railroad Company, require the entirety of the remaining 50-foot corridor in order to conduct future rail operations, UP may properly seek to terminate railbanking and assert control of the entire 50-foot corridor. Because Bowie County has been advised that the minimum required for rail

operations is 25 feet, the 50-foot corridor located immediately south of the property to be acquired by TxDOT would be sufficient to allow for future rail operations. However, Bowie County is aware that should UP initiate future rail operations, UP would require the entire 50-foot corridor for its renewed operations.

Bowie County further understands that there are no prescribed widths for trails. Consistent with that understanding, Bowie County will grant an *interim* easement that is less than 50 feet wide, but would permit the construction and maintenance of a trail along the southernmost portion of the remaining corridor. The remaining portion of the right-of-way will continue to be railbanked in order to provide for the potential restoration of rail service. Bowie County understands that, in the event that rail operations were ever resumed, the interim trail would likely be removed so that the entire 50-foot corridor would be available for the resumed rail service.

Requested Relief

Bowie County once again 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 northernmost 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

- (iv) Texas Department of Transportation
William Glavin, P. E.
Director - Rail Division
125 E. 11th Street
Austin, Texas 78701-2483

Should further information be required, please contact the undersigned.

Respectfully submitted,

By: Richard H. Streeter /s/
Richard H. Streeter
Barnes & Thornburg LLP
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Washington, D.C. 20006
(202) 408-6933

Dated: July 14, 2010

CERTIFICATE OF SERVICE

I, Richard H. Streeter, do hereby certify that a true copy of the foregoing Supplement to Petition to Reopen and Modify was served this 14th day of July, 2010, 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

Richard H. Streeter /s/
Richard H. Streeter