DEPARTMENT OF STATE

[Public Notice 6835]

Review of Unused Presidential Permit: Laredo, Texas International Railroad Bridge

SUMMARY: More than 14 years ago, the Department of State issued to the Union Pacific Railroad/Missouri Pacific Railroad Company, a Presidential permit for an international rail bridge at Laredo, Texas. To date, the permit remains unused. The Department and other Federal agencies are currently evaluating whether to revoke, modify, or retain as written this long-unused permit given the change of circumstances in the project area, development of nearby projects, inaction by the permittee, and apparent lack of interest in pursuing the corresponding projects in Mexico. The review is not a judgment regarding either the need for a new bridge or the merits of Union Pacific Railroad/Missouri Pacific Railroad Company's (UP) plan, but rather represents a recognition that the project for which this permit was issued has gone unimplemented longer than similar projects and, due to the passage of time, may no longer be viable. UP provided a project status update, which is included in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Interested members of the public are invited to submit written comments regarding this permit review on or before February 9, 2010.

ADDRESSES: Submit comments to Mr. Stewart Tuttle, U.S.-Mexico Border Affairs Coordinator, via e-mail at *WHA–BorderAffairs@state.gov,* or by mail at WHA/MEX—Room 3909, Department of State, 2201 C St., NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Mr. Stewart Tuttle, U.S.-Mexico Border Affairs Coordinator, via e-mail at *WHA–BorderAffairs@state.gov;* by phone at 202–647–9894; or by mail at Office of Mexican Affairs—Room 3909, Department of State, 2201 C St., NW., Washington, DC 20520. Information about Presidential permits is available at *http://www.state.gov/p/wha/rt/permit/.*

SUPPLEMENTARY INFORMATION: Executive Order 11423 of August 16, 1968, as amended, authorizes the Secretary of State to issue Presidential permits for the construction, connection, operation, and maintenance of facilities crossing the international borders of the United States, including, but not limited to, bridges and pipelines connecting the United States with Canada or Mexico. In order to issue a Presidential permit, the Secretary or her delegate must find that a border crossing is in the U.S. national interest. Within the context of appropriate border security, safety, health, and environmental requirements, it is in the U.S. national interest to facilitate the efficient movement of legitimate goods and travelers across U.S. borders.

Since 1968, the Department has issued 21 Presidential permits for non-pipeline border crossings on the U.S.-Mexico border and one for the U.S.-Canada border. Of the 21 U.S.-Mexican border projects that have received permits, most began construction within two to five years. The Presidential permit process, which emphasizes interagency and binational coordination, is designed to ensure that border crossings are built if, and only if, there is clear local, binational, and interagency support for the project and construction is in the U.S. national interest. It is not in the U.S. national interest to commit scarce government resources (*e.g.,* Customs and Border Protection inspectors, highway improvement funds, *etc.*) as well as private resources (*e.g.,* land, capital, *etc.*) for border crossing projects that cannot be successfully implemented within a reasonable time period. While the Department may find a project to be in the U.S. national interest under a certain set of circumstances, those circumstances may change over time so that, five or ten years later, the Department may conclude that the project is no longer in the national interest or the relevant agencies may reconsider their recommendations on the Department's initial grant of the permit. The border region is dynamic and fast-changing and it is important that an outdated permit not be used to build a border crossing on a site that is no longer appropriate due to the passage of time (*e.g.,* due to changes in transportation patterns, development patterns, *etc.*). At the same time, the Department recognizes that, by their nature, border crossing projects are complex, time consuming, and subject to political, financial, regulatory, and logistical setbacks.

In this review, the Department of State seeks public input on whether to revoke, modify, or retain as written the Presidential permit that it issued in 1995 to the Union Pacific Railroad/Missouri Pacific Railroad Company (UP) for an international rail bridge at Laredo, Texas. Interested members of the public are invited to submit written comments, as set forth above.

The following is the text of a letter that UP submitted on September 3, 2009, to the Department, providing its initial input to this review process.

Begin text

I am responding on behalf of Union Pacific Railroad Company (''UP'') to Mr. Daniel D. Darrach's August 7, 2009 letter concerning the Presidential Permit UP received in May 1995 (the ''Permit''), to construct, operate, and maintain a new international railroad bridge between Laredo, Texas, and Nuevo Laredo, Tamaulipas (the ''New Bridge''). In his letter Mr. Darrach correctly noted that construction has not yet begun on the New Bridge, and he invited UP to provide a brief, written statement outlining its interest in maintaining the Permit, current and planned activities to implement the project, and coordination with government agencies on both sides of the border.

UP is very interested in maintaining the Permit. Though construction of the New Bridge (which would be a part of a total project known as the Flecha Lane project) has not commenced and no start date has been established for the capacity-related reasons described below, UP has purchased all right-of-way in the U.S. required for the Flecha Lane project and has planned (e.g., engineering) extensively for it. We are also considering how the Mexican portion of the project would be implemented. In fact, I recently met with Sr. Jorge Licon, head of the rail division of the Mexico's Secretary of Communications and Transportation (''SCT''), to discuss various rail bridge options at Laredo/Nuevo Laredo.

We believe that the validity of the justifications for the New Bridge outlined in our application for the Permit will return in the foreseeable future. Continuation of the Permit would allow for construction to begin immediately when, as we expect, the level of rail traffic crossing between the U.S. and Mexico at Laredo/Nuevo Laredo increases and renews the need for the New Bridge.

In 1994, when UP filed its application for the Permit, the existing bridge between Laredo and Nuevo Laredo (the ''Existing Bridge'') was approaching the limit of its capacity. Now, however, with the implementation of various operating and process efficiencies and the recent economic downturn, the traffic of the Existing Bridge's three users consumes only about 50% of its capacity. (There are three users of the Existing Bridge: UP, with about 65% of the traffic traversing it, Kansas City Southern de Mexico (''KCSM''), which was part of the Mexican national railway system before it was privatized in the mid to late 1990s, and the Texas Mexican Railway Company (''TexMex'')). KCSM and TexMex are both wholly-owned by Kansas City Southern Industries (''KCS''), which also owns 100% of The Kansas City Southern Railroad Company.) Shortly after UP's application for the Permit, the Mexican railroad with which UP and TexMex connect at the Existing Bridge was privatized. This privatized entity has proven much readier than its predecessor to make capital investments and process improvements that have increased the Existing Bridge's capacity.

Over time, a number of improvements have been made to the infrastructure at the

Existing Bridge and in the way traffic is processed for interchange at that border crossing. UP and KCSM have made significant capital investments to increase capacity—UP at its Port Laredo yard approximately eight miles north of Laredo and KCSM at its Sanchez Yard in Nuevo Laredo. Both KCSM and UP have added the Centralized Traffic Control (''CTC'') system and additional sidings on their main lines on their respective sides of the border. This addition of yard capacity, CTC, and sidings allows our trains to more quickly proceed to and from the border crossing, thereby reducing congestion at the crossing and increasing the Existing Bridge's capacity.

Process improvements made include the implementation of the dispacho previo system (a system providing for a more fluid and faster operation by clearing cars to cross from the U.S. into Mexico prior to their arrival at the border) and the Automated Manifest System with US Customs, the installation of VACIS machines on both sides of the border, the increased use of ''run-through'' trains (including locomotives), and improved customs processes. These improvements have expedited movements over the Existing Bridge and substantially increased its capacity.

The diminished current need for the New Bridge, or for any other bridge that would replace the Existing Bridge, has also resulted from declining traffic levels caused by the recent downturn in the general economy and by the rerouting by customers of certain trains from the Laredo/Nuevo Laredo crossing to the crossing at Eagle Pass, Texas/Piedras Negras, Coahuila. In addition, the failure of anticipated movements originating from the Port of Lazaro Cardenas, Mexico, to materialize has reduced projected traffic volumes.

The result is that current traffic over the Existing Bridge consumes approximately 50% of its capacity. For this reason, we do not believe that the New Bridge, nor any other new rail bridge at the Laredo/Nuevo Laredo crossing, is required at this time. But we are confident that traffic levels will increase and that a new bridge will be required in the future. Operating and other considerations dictate that any such new rail bridge should take the form of the Flecha Lane project, including the New Bridge. Continuation of the Permit would allow construction of the New Bridge to begin quickly when increases in traffic levels tax the capacity of the Existing Bridge.

We are aware of two other proposals for international railroad bridges at Laredo/Nuevo Laredo. Unfortunately, neither of these proposals, as presently planned, would meet UP's needs. We understand that KCS intends to apply for a Presidential Permit to construct and operate a new international bridge at Laredo/Nuevo Laredo approximately 12 miles southeast of the Existing Bridge (the ''East Loop By-Pass Project''). The East Loop By-Pass Project would involve the construction of approximately 51 miles of trackage in an eastern loop around Laredo/Nuevo Laredo. UP opposes the East Loop By-Pass Project because it would present significant operating problems and expense to UP and would add approximately 24 miles of circuity to UP movements interchanged with KCSM. At a minimum, any Presidential Permit for the East Loop Project should be made contingent upon agreement between KCS and UP for UP's use of the bridge and access trackage, including compensation terms. To date, KCS has declined UP's requests to discuss this important matter.

The other proposed project would involve the construction of a new railroad bridge approximately 19 miles west of the Existing Bridge (the ''Columbia River Project'') which would connect with trackage on the U.S. side constructed alongside the existing toll road at approximately mile post 27. The Columbia River Project is supported more by the governmental entities that have proposed it than by the railroads that would actually use it. UP opposes the Columbia River Project since it would, if implemented, present significant operational problems for UP. We doubt the project will ever be undertaken due to its high cost and the opposition of various affected parties, including KCS.

I would very much appreciate the opportunity to speak with you further about UP's position on this very important matter.

Sincerely, Robert Naro, Vice President for Mexico Operations, Union Pacific Railroad Company

End Text

Dated: December 4, 2009.

Alex Lee,

Director, Office of Mexican Affairs, Department of State.

[FR Doc. E9–29335 Filed 12–10–09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35329]

A&R Terminal Railroad Company—Acquisition and Operation Exemption—A&R Logistics, Inc.

A&R Terminal Railroad Company (ARTR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire, by lease, and to operate A&R Logistics, Inc.'s (A&R) Morris Transload Facility and approximately 6.25 miles of right-of-way and trackage located in the transload facility, in Morris, IL.[1]

ARTR states that the rail line to be acquired and operated by ARTR constitutes a line of railroad for which an exemption from the Board is required because it is ARTR's initial rail acquisition and operation, notwithstanding that it might otherwise be considered to be spur, industrial, and/or switching track exempt from the Board's acquisition and operation authority under 49 U.S.C. 10906.[2]

The earliest this transaction may be consummated is December 25, 2009, the effective date of the exemption (30 days after the verified notice of exemption was filed).

ARTR certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier.

Pursuant to the Consolidated Appropriations Act, 2008, Public Law 110–161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: Collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term ''solid waste'' is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

If ARTR's verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than December 18, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35329, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on David C. Dillon, Dillon & Nash, Ltd., 111 West Washington Street, Suite 719, Chicago, IL 60602.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: December 7, 2009.

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

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. E9–29495 Filed 12–10–09; 8:45 am]

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[1] The Morris Transload Facility trackage is not described by milepost numbers.

[2] *See Effingham RR Co.—Pet. for Declaratory Order,* 2 S.T.B. 606 (1997), *aff'd sub nom. United Transp. Union—Ill. Legislative Bd. v. Surface Transp. Bd.,* 183 F.3d 606 (7th Cir. 1999); *see also Bulkmatic RR.—Acquire and Operate—Bulkmatic Transport,* 6 S.T.B. 481 (2002).