

Other Non-Passenger Trains and Equipment; End-of-Train Devices. FRA assigned the petition Docket Number FRA–2012–0091.

BNSF seeks relief with respect to the application of certain provisions of 49 CFR part 232. Specifically, BNSF seeks relief from 49 CFR Sections 232.205(c)(1)—*Class I brake test—initial terminal inspection* and 232.207(b)(1)—*Class IA brake tests—1,000-mile inspection* for trains operating in distributive power mode. BNSF requests to extend the maximum allowable brake pipe air flow from the present rule of 60 cubic feet per minute (CFM) to 90 CFM for distributed power-equipped trains under specified operating conditions.

Canadian railroads have operated with the higher air flow of 90 CFM on distributed power trains for the past 2 years. Recently, BNSF conducted demonstration testing in Great Falls, MT, for air flows between 60 and 90 CFM; a summary of which has been submitted to this docket. BNSF states that these tests confirmed brake propagation rates comparable to the rates achieved by Canadian Pacific Railway and Canadian National Railway in their experience operating high CFM air flow trains. Based upon the successful outcome of its test, and the operational experience of the Canadian railroads, BNSF petitions FRA to permit operation at higher air flow levels for trains operating in distributive power mode under the operating conditions specified in its petition.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site:* <http://www.regulations.gov/>. Follow the online instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.

- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by February 25, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or online at <http://www.dot.gov/privacy.html>.

Issued in Washington, DC, on December 17, 2012.

**Robert C. Lauby,**

*Deputy Associate Administrator for Regulatory and Legislative Operations.*

[FR Doc. 2013–00223 Filed 1–8–13; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. AB 33 (Sub-No. 306X); Docket No. AB 1091X]

#### **Union Pacific Railroad Company—Abandonment and Discontinuance Exemption—in Cameron County, TX; Brownsville and Matamoras Bridge Company—Abandonment Exemption—in Cameron County, TX**

On December 20, 2012, Union Pacific Railroad Company (UP) and Brownsville and Matamoras Bridge Company (B&M) (collectively, Petitioners) jointly filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to permit: (1) UP to abandon and discontinue the portion of UP's Brownsville Subdivision from milepost 7.4 at Olmito Junction to milepost 0.22 at Brownsville, Tex. (UP's Brownsville Subdivision); and (2) B&M to abandon its 0.8 mile line from its connection to

UP's Brownsville Subdivision near UP milepost 0.41 to the international border with Mexico located near the center-point of B&M's bridge at Brownsville (B&M Bridge Line), a total distance of 7.98 miles in Cameron County, Tex. (collectively, the Line). The Line traverses United States Postal Service Zip Code 78520 and includes no stations.

In addition to an exemption from the prior approval requirements of 49 U.S.C. 10903, Petitioners seek an exemption from 49 U.S.C. 10904 (offer of financial assistance procedures) and 10905 (public use provisions). In support, Petitioners state that no shippers are served by the Line and that there is an agreement in principle that, following abandonment, UP's Brownsville Subdivision will be transferred to Cameron County, Tex., and/or the City of Brownsville, Tex., for interim trail use. B&M asserts that the .08 mile B&M Bridge Line is unsuitable for both public use and interim trail use. B&M states that the B&M Bridge will remain under ownership of B&M, and the B&M Bridge may play some future role in the movement of motor vehicle traffic across the border between Mexico and the United States. These requests will be addressed in the final decision.

Petitioners state that the Line does not contain Federally granted rights-of-way. Any documentation in Petitioners' possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, In Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by April 9, 2013.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,600 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the Line, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than January 29, 2013. Each trail use request must be accompanied by a \$250 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to Docket Nos. AB 33 (Sub-No. 306X) and AB 1091X, and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001; and (2) Mack H. Shumate, Jr., 101 North Wacker Drive, #1920, Chicago, IL 60606. Replies to the joint petition are due on or before January 29, 2013.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: January 3, 2013.

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

**Derrick A. Gardner,**  
Clearance Clerk.

[FR Doc. 2013-00243 Filed 1-8-13; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 30186]

#### **Tongue River Railroad Company, Inc.—Rail Construction and Operation—In Custer, Powder River and Rosebud Counties, MT**

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of Supplemental Application for Construction and Operation Authority and Board Acceptance.

**SUMMARY:** Tongue River Railroad Company, Inc. (TRRC) seeks a Board license under 49 U.S.C. 10901 to construct and operate a rail line in southeast Montana. The purpose of the proposed line is to transport low sulfur sub-bituminous coal from mine sites in the Otter Creek and Ashland, Mont., area. TRRC had filed a revised application for its construction authority on October 16, 2012, but modified the project in a December 17, 2012 supplemental application that supersedes the October 16 revised application. As discussed in the supplemental application, TRRC's preferred routing for the proposed line would be the Colstrip Alignment between Colstrip, Mont., and Ashland/Otter Creek, Mont., the southern portion of which was approved previously by the Interstate Commerce Commission (ICC).

The Board here gives notice that it is accepting the supplemental application. The Board has already established a service list for this proceeding in a notice served on September 20, 2012, and a procedural schedule for filings on the transportation merits in a decision served on November 1, 2012. Under that schedule, filings concerning whether the supplemental application meets the criteria of 49 U.S.C. 10901 are due by March 1, 2013, and any reply comment from TRRC is due by April 15, 2013. As indicated below, any entity that is not currently on the service list that submits a filing by March 1 will be added to the service list.

**DATES:** This notice is effective on January 13, 2013. Pleadings must be filed in accordance with the procedural schedule that the Board has established in this case. All filings must be served concurrently on all parties of record and must be accompanied by a certificate of service.

**ADDRESSES:** Any filing submitted in this proceeding must be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions found on the Board's Web site at "[www.stb.dot.gov](http://www.stb.dot.gov)" at the "E-FILING" link. Any person submitting a filing in the traditional paper format should send an original and 10 paper copies of the filing (and also an electronic version) to: Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, one copy of each filing in this proceeding must be sent (and may be sent by email only if service by email is acceptable to the recipient) to each of the following: (1) David H. Coburn,

Steptoe & Johnson LLP, 1330 Connecticut Ave. NW., Washington, DC 20036; and (2) any other person designated as a party of record on this proceeding's service list.

**FOR FURTHER INFORMATION CONTACT:**

Marc A. Lerner, (202) 245-0390.

[Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: 1-800-877-8339].

**SUPPLEMENTARY INFORMATION:** In 1986, the ICC authorized TRRC to construct an approximately 89-mile rail line between Miles City, Mont., and Ashland and Otter Creek, Mont., in a proceeding known as *Tongue River I*.<sup>1</sup> In 1996, the Board authorized TRRC to build a contiguous 41-mile line from Ashland to Decker, Mont., in *Tongue River II*.<sup>2</sup> In 2007, the Board authorized TRRC to build and operate the Western Alignment, a 17.3-mile alternative route for a portion of the route already approved in *Tongue River II*, in a proceeding known as *Tongue River III*.<sup>3</sup>

Petitions for review of *Tongue River II* and *Tongue River III* were filed in the United States Court of Appeals for the Ninth Circuit, and, in 2011, the court affirmed in part, and reversed and remanded in part, those decisions for additional Board review. *N. Plains Res. Council v. STB*, 668 F.3d 1067 (9th Cir. 2011). The court's decision implicitly required the Board to revisit the environmental analysis for *Tongue River I* (as well as *Tongue River II* and *Tongue River III*), because the agency had conducted a cumulative impacts analysis for the entire line in *Tongue River III*, and not just the portion of the line at issue in *Tongue River III*, and had made the resulting mitigation conditions applicable to the entire line in its *Tongue River III* decision. On April 19, 2012, TRRC informed the Board that it no longer intended to build the *Tongue River II* and *Tongue River III* portions of the railroad.

In a decision served on June 18, 2012, the Board dismissed *Tongue River II* and *Tongue River III* and reopened *Tongue*

<sup>1</sup> *Tongue River R.R.—Rail Constr. and Operation—In Custer, Powder River and Rosebud Cntys., Mont.* (*Tongue River I*), FD 30186 (ICC served Sept. 4, 1985), modified (ICC served May 9, 1986), *pet. for judicial review dismissed*, *N. Plains Res. Council v. ICC*, 817 F.2d 758 (9th Cir.), *cert. denied*, 484 U.S. 976 (1987).

<sup>2</sup> *Tongue River R.R.—Rail Constr. and Operation—Ashland to Decker, Mont.*, 1 S.T.B. 809 (1996), *pet. for reconsideration denied* (STB served Dec. 31, 1996).

<sup>3</sup> *Tongue River R.R.—Rail Constr. and Operation—Western Alignment*, FD 30186 (Sub-No. 3) (STB served Oct. 9, 2007), *pet. for reconsideration denied* (STB served March 13, 2008).