

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board**

[STB Docket No. AB-33 (Sub-No. 280X); STB Docket No. AB-1038X]; STB Docket No. AB-546X]

**Union Pacific Railroad Company—Abandonment Exemption and Discontinuance of Service—in Tarrant County, TX; Fort Worth and Dallas Belt Railroad Company—Discontinuance of Service—in Tarrant County, TX; Fort Worth and Western Railroad Company—Discontinuance of Service—in Tarrant County, TX**

On August 7, 2009, Union Pacific Railroad Company (UP), Fort Worth and Dallas Belt Railroad Company (FWDB), and Fort Worth and Western Railroad Company (FWWR) (collectively, petitioners) jointly filed with the Surface Transportation Board (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 service over a segment of its North Fort Worth Branch line of railroad between milepost 633.02 and milepost 634.25, a distance of approximately 1.23 miles in Tarrant County, TX; (2) FWDB to discontinue operations over the subject line segment;<sup>1</sup> and (3) FWWR to discontinue overhead and local trackage rights over the subject line segment.<sup>2</sup> The line traverses United States Postal Service Zip Code 76106.<sup>3</sup>

In addition to an exemption from the prior approval requirements of 49 U.S.C. 10903, petitioners seek exemption from 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions). Petitioners also seek relief from the trail use provisions of the Board's regulations at 49 CFR 1152.29. In support, petitioners state that the sole purpose of their joint petition is to allow the proposed acquisition of the right-of-way associated with the line segment by the Tarrant Regional Water District for a public flood control and redevelopment project in the north downtown area of Fort Worth, TX, commonly known as

the Trinity Uptown Project. These requests will be addressed in the final decision.

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 R. Co.—Abandonment—Goshen*, 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 November 25, 2009.

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 \$1,500 filing fee. See 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 September 16, 2009. Each trail use request must be accompanied by a \$200 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-33 (Sub-No 280X), STB Docket No. 1038X), and STB Docket No. 546X, 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, Room 1920, Chicago, IL 60606, and Paul H. Lamboley, Bank of America Plaza, 50 W. Liberty Street, Suite #645, Reno, NV 89501. Replies to the petition are due on or before September 16, 2009.

Persons seeking further information concerning abandonment or discontinuance 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 Section of Environmental Analysis (SEA) 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 SEA will be served upon all parties of record and

upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA 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.

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

Decided: August 24, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**  
Clearance Clerk.

[FR Doc. E9-20743 Filed 8-26-09; 8:45 am]

**BILLING CODE 4915-01-P**

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****Access to the Interstate System**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of revised policy statement.

**SUMMARY:** This document issues the revised FHWA policy statement regarding requests for new or modified access points to the Interstate System. The policy includes the requirements for the justification and documentation necessary to substantiate any request that is submitted to FHWA for approval.

**FOR FURTHER INFORMATION CONTACT:** For technical information: Mr. Jon Obenberger, Office of Program Administration (HIPA-20), (202) 366-2221. For legal information: Mr. Robert Black, Office of the Chief Counsel (HCC-32), (202) 366-1359, Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:****Background**

The surface transportation system plays a key role in shaping the economic health, quality of life and sustainability of a metropolitan area, region, and State. The Interstate System is a critical element providing a network of limited access freeways which facilitate the distribution of virtually all goods and services across the United States. The Interstate System also influences the mobility and safety of people and goods by providing access to local highways and a network of public

<sup>1</sup> FWDB operates the line pursuant to a lease with UP. See *Fort Worth and Dallas Belt Railroad—Acquisition and Operation Exemption—Certain Lines of St. Louis Southwestern Railway Company*, Finance Docket No. 32514 (ICC served June 22, 1994).

<sup>2</sup> FWDB, a corporate affiliate of FWWR, granted FWWR these trackage rights. See *Fort Worth & Western Railroad Company—Trackage Rights Exemption—Fort Worth and Dallas Belt Railroad Company*, Finance Docket No. 32590, (ICC served Nov. 10, 1994).

<sup>3</sup> Petitioners state that the lease and trackage rights will remain in full force and effect for the remainder of the North Fort Worth Branch.

streets. As a result, it is in the national interest to preserve and enhance the Interstate System to meet the needs of the surface transportation system of the United States for the 21st century.

The FHWA's Policy on Access to the Interstate System provides the requirements for the justification and documentation necessary to substantiate any proposed changes in access to the Interstate System. This policy also facilitates decisionmaking regarding proposed changes in access to the Interstate System in a manner that considers and is consistent with the vision, goals and long-range transportation plans of a metropolitan area, region and State. This policy reflects the congressional intent and direction provided in section 1909(a)(3) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59, 119 Stat. 1144), which amended section 101 of title 23, United States Code by adding subsection (b)(3)(H): "the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st century."

Section 111 of title 23, United States Code, provides that all agreements between the Secretary and the State departments of transportation (State DOTs) for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary. The Secretary has delegated the authority to administer 23 U.S.C. 111 to the Federal Highway Administrator pursuant to 49 CFR 1.48(b)(1). A formal policy statement including guidance for justifying and documenting the need for additional access to the existing sections of the Interstate System was published in the **Federal Register** on October 22, 1990 (55 FR 42670), and modified on February 11, 1998 (63 FR 7045).

The FHWA has adopted the AASHTO publication "A Policy on Design Standards—Interstate System" as the standard for projects on the Interstate System as incorporated by reference at 23 CFR 625.4(a)(2). Section 625.4(a)(2) further requires that access to the Interstate System shall be fully controlled, and that access to the Interstate System shall be achieved by interchanges at selected public highways.

#### Summary of Changes

The changes in FHWA's policy were made to reflect the direction provided in

SAFETEA-LU, to clarify the operational and safety analysis and assessment of impacts that provides the basis for proposed changes in access to the Interstate System, and to update language at various locations to reference Federal laws, regulations, and FHWA policies. The following specific revisions have been made to the existing policy statement:

1. Updates were made to Requirement 1 clarifying the need for agencies to analyze and justify that the projected design-year traffic demands cannot be adequately accommodated by existing access to the Interstate.

2. Additional examples were added to Requirement 2 to identify the type of improvements to be considered in the planning for and development of proposed changes in access.

3. Text was added to Requirement 3 to clarify that the safety and operational analysis to be performed and documentation to be submitted provide the justification for proposed changes in access.

4. Revisions were made to Requirement 4 clarifying the need to meet or exceed design standards for all roadway improvements included in proposals to change access.

5. Changes were made to Requirement 5 to reference the current requirements contained in SAFETEA-LU and 23 CFR part 450.

6. Text was added to Requirement 6 clarifying the analysis to be performed in support of proposed changes in access involving multiple interchanges.

7. Clarification to Requirement 7 was made identifying the justification needed to support any proposed change in access due to changes in land use or density of development.

8. Revision was made to Requirement 8 to clarify and avoid duplication with Requirement 5.

9. Updates were made to the Application section to reference current Federal laws, regulations, and FHWA policies. Revisions were made to paragraph 4 and a new paragraph 5 was added to clarify what is a change in access and how this policy may apply to different types of access changes. Paragraph 8 was added to clarify how FHWA's review and approval of proposed changes in access relate to other Federal actions, reviews, and approvals. Paragraph 9 was added to clarify that proposals for changes in access need to be reevaluated and the proposal resubmitted to FHWA for review and approval if the project has not proceeded to construction within 8 years.

The revised policy statement also includes various editorial changes to

enhance clarity and readability. The revised policy statement is as follows:

#### Policy

It is in the national interest to preserve and enhance the Interstate System to meet the needs of the 21st Century by assuring that it provides the highest level of service in terms of safety and mobility. Full control of access along the Interstate mainline and ramps, along with control of access on the crossroad at interchanges, is critical to providing such service. Therefore, FHWA's decision to approve new or revised access points to the Interstate System must be supported by substantiated information justifying and documenting that decision. The FHWA's decision to approve a request is dependent on the proposal satisfying and documenting the following requirements.

#### Considerations and Requirements

1. The need being addressed by the request cannot be adequately satisfied by existing interchanges to the Interstate, and/or local roads and streets in the corridor can neither provide the desired access, nor can they be reasonably improved (such as access control along surface streets, improving traffic control, modifying ramp terminals and intersections, adding turn bays or lengthening storage) to satisfactorily accommodate the design-year traffic demands (23 CFR 625.2(a)).

2. The need being addressed by the request cannot be adequately satisfied by reasonable transportation system management (such as ramp metering, mass transit, and HOV facilities), geometric design, and alternative improvements to the Interstate without the proposed change(s) in access (23 CFR 625.2(a)).

3. An operational and safety analysis has concluded that the proposed change in access does not have a significant adverse impact on the safety and operation of the Interstate facility (which includes mainline lanes, existing, new, or modified ramps, ramp intersections with crossroad) or on the local street network based on both the current and the planned future traffic projections. The analysis shall, particularly in urbanized areas, include at least the first adjacent existing or proposed interchange on either side of the proposed change in access (23 CFR 625.2(a), 655.603(d) and 771.111(f)). The crossroads and the local street network, to at least the first major intersection on either side of the proposed change in access, shall be included in this analysis to the extent necessary to fully evaluate the safety and operational impacts that

the proposed change in access and other transportation improvements may have on the local street network (23 CFR 625.2(a) and 655.603(d)). Requests for a proposed change in access must include a description and assessment of the impacts and ability of the proposed changes to safely and efficiently collect, distribute and accommodate traffic on the Interstate facility, ramps, intersection of ramps with crossroad, and local street network (23 CFR 625.2(a) and 655.603(d)). Each request must also include a conceptual plan of the type and location of the signs proposed to support each design alternative (23 U.S.C. 109(d) and 23 CFR 655.603(d)).

4. The proposed access connects to a public road only and will provide for all traffic movements. Less than "full interchanges" may be considered on a case-by-case basis for applications requiring special access for managed lanes (e.g., transit, HOVs, HOT lanes) or park and ride lots. The proposed access will be designed to meet or exceed current standards (23 CFR 625.2(a), 625.4(a)(2), and 655.603(d)).

5. The proposal considers and is consistent with local and regional land use and transportation plans. Prior to receiving final approval, all requests for new or revised access must be included in an adopted Metropolitan Transportation Plan, in the adopted Statewide or Metropolitan Transportation Improvement Program (STIP or TIP), and the Congestion Management Process within transportation management areas, as appropriate, and as specified in 23 CFR part 450, and the transportation conformity requirements of 40 CFR parts 51 and 93.

6. In corridors where the potential exists for future multiple interchange additions, a comprehensive corridor or network study must accompany all requests for new or revised access with recommendations that address all of the proposed and desired access changes within the context of a longer-range system or network plan (23 U.S.C. 109(d), 23 CFR 625.2(a), 655.603(d), and 771.111).

7. When a new or revised access point is due to a new, expanded, or substantial change in current or planned future development or land use, requests must demonstrate appropriate coordination has occurred between the development and any proposed transportation system improvements (23 CFR 625.2(a) and 655.603(d)). The request must describe the commitments agreed upon to assure adequate collection and dispersion of the traffic resulting from the development with the

adjoining local street network and Interstate access point (23 CFR 625.2(a) and 655.603(d)).

8. The proposal can be expected to be included as an alternative in the required environmental evaluation, review and processing. The proposal should include supporting information and current status of the environmental processing (23 CFR 771.111).

#### Application

This policy is applicable to new or revised access points to existing Interstate facilities regardless of the funding of the original construction or regardless of the funding for the new access points. This includes routes incorporated into the Interstate System under the provisions of 23 U.S.C. 103(c)(4)(A) or other legislation.

Routes approved as a future part of the Interstate System under 23 U.S.C. 103(c)(4)(B) represent a special case because they are not yet a part of the Interstate System. Since the intention to add the route to the Interstate System has been formalized by agreement, any proposed new or significant changes in access beyond those covered in the agreement, regardless of funding, must be approved by FHWA.

This policy is not applicable to toll roads incorporated into the Interstate System, except for segments where Federal funds have been expended or these funds will be used for roadway improvements, or where the toll road section has been added to the Interstate System under the provisions of 23 U.S.C. 103(c)(4)(A). The term "segment" is defined as the project limits described in the Federal-aid project agreement.

Each break in the control of access to the Interstate System right-of-way is considered to be an access point. For the purpose of applying this policy, each entrance or exit point, including "locked gate" access, is considered to be an access point. For example, a diamond interchange configuration has four access points.

Ramps providing access to rest areas, information centers, and weigh stations within the Interstate controlled access are not considered access points for the purpose of applying this policy. These facilities shall be accessible to vehicles only to and from the Interstate System. Access to or from these facilities and local roads and adjoining property is prohibited. The only allowed exception is for access to adjacent publicly owned conservation and recreation areas, if access to these areas is only available through the rest area, as allowed under 23 CFR 752.5(d).

Generally, any change in the design of an existing access point is considered a

change to the interchange configuration, even though the number of actual points of access may not change. For example, replacing one of the direct ramps of a diamond interchange with a loop, or changing a cloverleaf interchange into a fully directional interchange would be considered revised access for the purpose of applying this policy.

All requests for new or revised access points on completed Interstate highways must closely adhere to the planning and environmental review processes as required in 23 CFR parts 450 and 771. The FHWA approval constitutes a Federal action and, as such, requires that the transportation planning, conformity, congestion management process, and the National Environmental Policy Act procedures be followed and their requirements satisfied. This means the final FHWA approval of requests for new or revised access cannot precede the completion of these processes or necessary actions.

To offer maximum flexibility, however, any proposed change in access can be submitted by a State DOT to the FHWA Division Office for a determination of engineering and operational acceptability. This flexibility allows agencies the option of obtaining this acceptability determination prior to making the required modifications to the Transportation Plan, performing any required conformity analysis, and completing the environmental review and approval process. In this manner, State DOTs can determine if a proposal is acceptable for inclusion as an alternative in the environmental process. This policy in no way alters the planning, conformity or environmental review and approval procedures as contained in 23 CFR parts 450 and 771, and 40 CFR parts 51 and 93.

An affirmative determination by FHWA of engineering and operational acceptability for proposals for new or revised access points to the Interstate System should be reevaluated whenever a significant change in conditions occurs (e.g., land use, traffic volumes, roadway configuration or design, environmental commitments). Proposals shall be reevaluated if the project has not progressed to construction within 8 years of receiving an affirmative determination of engineering and operational acceptability (23 CFR 625.2(a)). If the project is not constructed within this time period, an updated justification report based on current and projected future conditions must be submitted to FHWA to receive either an affirmative determination of engineering and operational acceptability, or final approval if all

other requirements have been satisfied (23 U.S.C. 111, 23 CFR 625.2(a), and 23 CFR 771.129).

### Implementation

State DOTs are required to submit requests for proposed changes in access to their FHWA Division Office for review and action under 23 U.S.C. 106 and 111, and 23 CFR 625.2(a). The FHWA Division Office will ensure that all requests for changes in access contain sufficient information, as required in this policy, to allow FHWA to independently evaluate and act on the request. Guidance to assist with the implementation and consistent application of this policy can be accessed electronically through the FHWA Office of Infrastructure's Web page at: <http://www.fhwa.dot.gov/programadmin/index.htm>.

### Policy Statement Impact

The policy statement, first published in the **Federal Register** on October 22, 1990 (55 FR 42670), and modified on February 11, 1998 (63 FR 7045), describes the justification and documentation needed for requests to add or revise access to the existing Interstate System.

The revisions made by the publication of this policy statement reflect the direction provided in SAFETEA-LU, clarify the operational and safety analysis to accompany proposed changes in access on the Interstate System, and update language at various locations to ensure consistency with other Federal laws, regulations and FHWA policies. State DOTs should take these factors into consideration when making requests for new or revised access points, but the overall effort necessary for developing the request will not be significantly increased.

(Authority: 23 U.S.C. 111 and 315; 49 CFR 1.48)

Issued on August 18, 2009.

**Victor M. Mendez,**

*Federal Highway Administrator.*

[FR Doc. E9-20679 Filed 8-26-09; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34936]

#### **Port of Moses Lake—Construction Exemption—Moses Lake, WA [STB Finance Docket No. 34936 (Sub-No. 1)]; Port of Moses Lake—Acquisition Exemption—Moses Lake, WA**

**AGENCY:** Surface Transportation Board, Department of Transportation.

**ACTION:** Notice of exemption.

**SUMMARY:** Subject to a Programmatic Agreement negotiated by the parties and environmental mitigation measures, the Board is granting exemptions under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 for the Port of Moses Lake (Port) in STB Finance Docket No. 34936 to construct two segments of rail line in Moses Lake, WA, one between the community of Wheeler and Parker Horn at the mouth of Crab Creek and another between Columbia Basin Railroad Company, Inc. (CBRW) trackage and the east side of the Grant County International Airport, and in STB Finance Docket No. 34936 (Sub-No. 1) to acquire a segment of rail line from CBRW that runs approximately from Parker Horn near Stratford Road to near the Grant County International Airport, which would connect the newly constructed segments. The Port plans to rehabilitate and upgrade this line segment, including the upgrade of two signalized grade crossings. The Port estimates the total mileage of its construction and acquisition proposals to be approximately 11.5 miles in length.

**DATES:** The exemption will be effective on September 11, 2009. Petitions to reopen must be filed by September 16, 2009.

**ADDRESSES:** An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34936 and STB Finance Docket No. 34936 (Sub-No. 1), must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, one copy of all pleadings must be served on petitioner's representative: Adrian L. Steel, Jr., Mayer Brown LLP, 1909 K Street, NW., Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 245-0395. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Board's decision. Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: August 21, 2009.

By the Board, Chairman Elliott, Vice Chairman Nottingham, and Commissioner Mulvey.

**Jeffrey Herzig,**  
*Clearance Clerk.*

[FR Doc. E9-20666 Filed 8-26-09; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Westfield-Barnes Airport, Westfield MA; FAA Approval of Noise Compatibility Program**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Westfield Airport Commission under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of federal and non-federal responsibilities in Senate Report No. 96-52 (1980). On August 3, 2009, the Airports Division Manager approved the Westfield-Barnes Airport noise compatibility program. All of the proposed program elements were approved.

**DATES:** *Effective Date:* The effective date of the FAA's approval of the Westfield-Barnes Airport noise compatibility program is August 3, 2009.

**FOR FURTHER INFORMATION CONTACT:** Richard Doucette, Federal Aviation Administration, New England Region, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone (781) 238-7613.

Documents reflecting this FAA action may be obtained from the same individual.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA has given its overall approval to the Westfield-Barnes Airport noise compatibility program, effective August 3, 2009.

Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter the Act), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps.

The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.