TEXAS TRANSPORTATION COMMISSION

ELLIS County

MINUTE ORDER

DALLAS District

Transportation Code, Chapter 91, authorizes the Texas Department of Transportation (department) to acquire abandoned rail facilities. In approving the acquisition of abandoned rail facilities, the Texas Transportation Commission (commission) is required to consider the local and regional economic benefit realized from the disbursement of funds to acquire the rail facility in comparison to the amount of the disbursement.

Pursuant to this legislation, the commission has adopted rules prescribing policies and procedures for the department's acquisition of abandoned rail facilities, codified as 43 TAC §§7.20-7.22. Those rules require the department to request that a municipality, county, or rural rail transportation district in which all or a segment of the rail facility is located provide documentation concerning the local and regional economic impact of an abandonment. The rules also require the department, if a determination is made that there is a need to acquire the rail facility, to conduct one or more public hearings to receive public comment on the proposed acquisition.

The Union Pacific Railroad Company (UP) has filed a notice of exemption with the Surface Transportation Board (STB) for UP to abandon a 4.57-mile segment of rail line, known as the Waxahachie Industrial Lead, between milepost 798.03 near Waxahachie, and milepost 802.60 near Nena, in Ellis county (see Exhibit A).

The department has obtained information concerning the local and regional economic impact of the abandonment from the UP, and has determined, based on this information and information contained in the UP notice filed with the STB, that there is only a limited need to preserve the rail facility for future transportation purposes, as more fully described in the attached Exhibit B.

A public hearing concerning the proposed acquisition was held at the Waxahachie City Hall on June 6, 2006. A summary of public comments on the proposed acquisition is contained in Exhibit B.

The city of Waxahachie (city) has proposed an interim trail use and has filed the necessary documents with the STB. If approved, the city would assume full managerial, financial and legal responsibility for the corridor which would be subject to reversion back to the UP to operate as a railroad at such time the UP deems it necessary to reactivate the line.

The commission has considered the criteria prescribed in §7.22 of the rules, as more fully described in Exhibit B, and has determined that the acquisition of the rail facility should not be authorized at this time.

IT IS THEREFORE ORDERED by the commission, that the department take no further action at this time to acquire the Waxahachie Industrial Lead.

Submitted and reviewed by:

James L. Randall

Director, Transportation Planning and Programming Division

Recommended by:

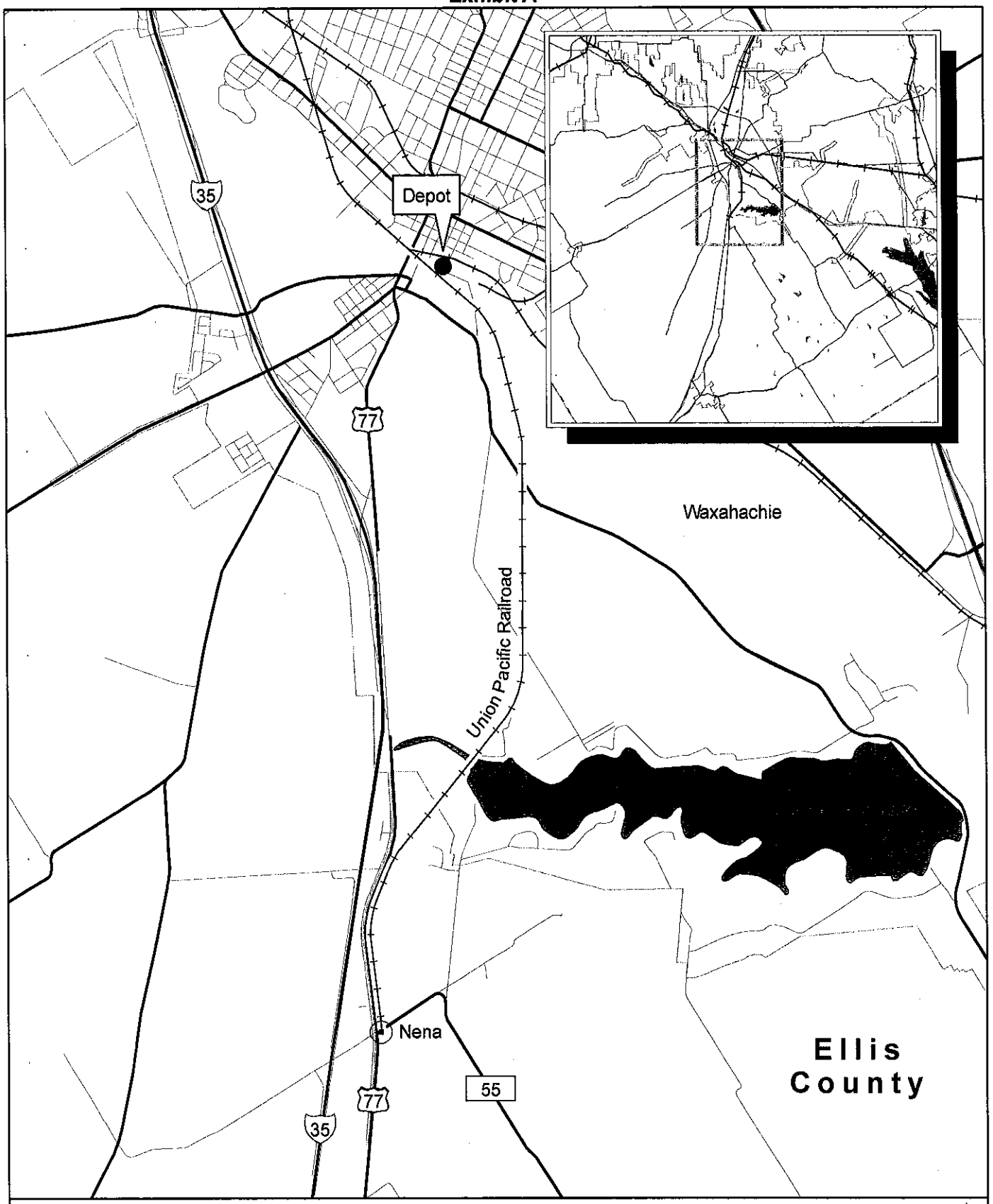
M. W. Behrens

Executive Director

110565 JUN 28 06

Minute Number — Date Passed

Exhibit A



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Miles

Waxahachie Industrial Lead

Prepared by
TPP - Mapping Branch
Data Analysis, Mapping and Reporting
May 11, 2006

Texas Department of Transportation

EXHIBIT B

Proposed Rail Line Acquisition – Ellis County
Union Pacific Railroad, Waxahachie Industrial Lead; Waxahachie to Nena

Analysis of TAC Rules for Acquiring Abandoned Rail Facilities

Title 43, Part 1, Chapter 7, Subchapter C, Rule 7.22

(a) Purpose. Transportation Code, Chapter 91, authorizes the department to acquire abandoned rail facilities. In establishing criteria for the department's acquisition of abandoned rail facilities, the commission is required to consider the local and regional economic benefit realized from the disbursement of funds in comparison to the amount of the disbursement. This section prescribes policies and procedures for the department's acquisition of abandoned rail facilities.

(b) Public involvement.

At a February 8, 2006 meeting, TxDOT officials informed city of Waxahachie (city) officials of TxDOT's interest in acquiring the line. The city is interested in acquiring an existing depot from its third party owner (UP leases the underlying land to the structure's owner) and renovating it. The city intends to construct a visitor's center at that location and is interested in acquiring or leasing the land where the depot is located (which is part of the proposed abandonment), and constructing a recreational trail on all or portions of the right of way. The city indicated they would support TxDOT's acquisition of this facility provided they were able to proceed with their plans for the depot and the possible establishment of a trail. It is possible that TxDOT can permit the city to establish a trail in the corridor with the understanding that all or portions of the corridor may be needed in the future for other transportation purposes and that those purposes would take priority over the trail. TxDOT and the city's representatives agreed to work together to preserve this corridor.

A public hearing was held on June 6, 2006 in Waxahachie. At the public hearing, comments were received from a representative of the city of Waxahachie in support of the acquisition; while two representatives of a commercial business located on both ends of the line spoke in opposition to the acquisition. On a form provided to attendees of the public hearing, nine individuals indicated their support of the acquisition, while two (the same two who spoke at the hearing) listed their opposition. A letter supporting the acquisition was sent by the Ellis County Engineering Department within the prescribed timeframe.

EXHIBIT B

Proposed Rail Line Acquisition – Ellis County
Union Pacific Railroad, Waxahachie Industrial Lead; Waxahachie to Nena

Texas Administrative Code Application

§7.22. Criteria. In approving the acquisition of an abandoned rail facility, the commission will consider:

(1) service performed on the rail line in the two years preceding the date of the notice of intent to abandon or discontinue service;

Application: No rail service has been provided and no trains have moved over the line for more than two years.

(2) comments or other evidence in support of or opposition to the proposed abandonment or discontinuance of service received from interested parties;

Application: At the public hearing held on June 6, 2006, one commenter spoke in support of the abandonment of the rail line from the standpoint of increased commercial property development.

(3) alternate sources of transportation services available, including alternate sources of rail transportation service;

Application: Trucks have been used to replace since rail service ceased (circa 2002) via the existing highway system (US 77 and I-35). The commodities being moved are not compatible with air freight services. No alternate sources of rail transportation exist to the segment of rail line under consideration.

(4) impact of the proposed abandonment or discontinuance of service on the operation of the state transportation system;

Application: The impact of the proposed abandonment is considered minimal at this time.

(5) local and regional economic impact of the abandonment or discontinuance of service;

Application: No negative impacts to the local and regional economies are expected as a result of this abandonment and the ongoing discontinuance of rail service.

(6) viability of the rail line for continued rail transportation service;

Application: Currently, the line is not viable for rail service. There are no active shippers on the line and no demands for passenger rail service. A significant financial investment would be required to return the line to service, which would include the reconstruction of at least one bridge structure, the replacement of track and switches that have been removed, and a complete cross-tie replacement program.

(7) the extent to which the monetary value of the economic benefits attributable to the acquisition exceed the amount of funds disbursed by the department to acquire the rail facility.

Application: The negotiated purchase price of the rail line is $210,103. TxDOT's consultant valued the infrastructure and real property at $210,450. The value includes 5.385 acres of fee simple real estate and track materials. The 55.947 acres of land with reversionary title is not included in the assessed value. Though there is no current demand for rail service, continued population growth within the region may make service (freight or passenger) more viable in the future. We are unable to estimate the future economic impacts of these services.