

Union Pacific & US Customs and Border Protection Agreement

Summary of Key Points

Aug. 19, 2011

Overview

US Customs and Border Protection and Union Pacific Sign Agreement to Resolve Disputed Penalties and Launch “21st Century Bi-National Secure Border Corridor” to Improve Rail Transportation Security Between US and Mexico

- U.S. Customs and Border Protection (CBP) and Union Pacific Railroad Co. signed an agreement today that formalizes and enhances their collaborative relationship to help secure the U.S. border against contraband and other security risks and to improve the flow of goods. This agreement initiates the “21st Century Bi-National Secure Border Corridor” – a comprehensive program to expand cooperative partnerships among the U.S. and Mexican governments, railroads reaching the border, and other stakeholders that have an interest in rail transportation of goods between the U.S. and Mexico.

Statement by the Company

- “We are pleased that we have reached a resolution that allows Union Pacific to expand our long-standing relationship with CBP, in which Union Pacific has already invested tens of millions of dollars in technology, infrastructure, training, and workforce resources to promote safer and more secure rail transportation across the border,” said Jim Young, Union Pacific chairman and chief executive officer. “CBP and Union Pacific teams along the border have worked exceptionally well together for many years, and this formal agreement solidifies our commitment to enhance that relationship and involve others who should be part of this critical work. With so many threats to American security, Union Pacific continues to play an active role in mitigating national and rail security threats.”

Background

- In recent years, CBP has asserted hundreds of millions of dollars in penalties against Union Pacific after illegal narcotics were discovered on trains originating in Mexico and delivered by Mexican railroads to Union Pacific at Mexican border crossings. CBP and Union Pacific disagree about whether federal law authorizes CBP to issue such penalties. The agreement addresses past and future penalties, other than those involved in the ongoing Nebraska lawsuit. In signing this agreement, however, CBP maintains its position that the fines were required by law, and Union Pacific maintains its position that it complied with all laws. Rather than fighting over the penalties not in the litigation, the parties concluded it is more constructive to cooperate in improving supply chain security.

Key Components of the Agreement:

- Union Pacific will invest \$50 million to enhance efforts to help secure the U.S. – Mexico border and improve supply chain security. The funds will be allocated towards technology, infrastructure, and personnel enhancements that CBP and Union Pacific will define in coming months.

- Investments will include enhanced technologies such as intelligent video scanning and developing technologies such as global positioning systems (GPS) and radio frequency identification (RFID) tracking of rail movements.
- A working team will form a “Fusion Center” where CBP, Union Pacific, and other stakeholders will interact for communication, sharing of intelligence, analysis, and coordination. Other initiatives will harden inspection and detection processes at the U.S. border and encourage investments in Mexican rail corridors. Rail shippers will be encouraged to participate as well.
- As Union Pacific makes the agreed investments, over \$500 million in civil penalties that CBP has asserted or might assert against Union Pacific for previous drug discoveries will be mitigated, and Union Pacific will not pay fines or penalties for those drug discoveries. The parties also agreed on a new process and new standards under which future drug discoveries will be evaluated for the next five years. However, the agreement leaves in place Union Pacific’s lawsuit challenging nearly \$38 million in penalties asserted by CBP that is awaiting decision in the U.S. District Court in Nebraska. Union Pacific and CBP agreed that this lawsuit should continue in order to clarify whether the penalties are authorized by federal laws for the long term.

Union Pacific serves all rail gateways to Mexico, and it is the largest transporter of goods by rail to and from the United States – Mexico border. Union Pacific’s gateways to Mexico are located at Brownsville, Laredo, Eagle Pass, and El Paso, Texas; Nogales, Ariz.; and Calexico, Calif.

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