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## **U.S. SUES UNION PACIFIC R.R. FOR \$37 MILLION FOR ALLEGEDLY FAILING TO PREVENT USE OF RAIL CARS TO SMUGGLE NARCOTICS ACROSS BORDER**

### *Cocaine and Marijuana Found During Separate Inspections Upon Entry Into U.S.*

WASHINGTON – The government has filed two lawsuits against the Union Pacific Railroad Company for allegedly failing to prevent the use of its rail cars to smuggle large quantities of narcotics into the United States, the Justice Department announced today. The complaints, filed in San Diego and Houston, seek more than \$37 million in monetary penalties. The government alleges the rail cars were brought across the border at the ports of entry at Calexico, Calif., and Brownsville, Texas.

According to the complaints, Union Pacific Railroad, the largest provider of rail transportation services in North America, has substantial Mexico rail operations, serving border gateways in California, Arizona and Texas. It is alleged in the complaints that Union Pacific has a substantial ownership-interest in the privatized Mexican railroad company Ferrocarril Mexicano (FM). Union Pacific also partners with FM to offer Union Pacific's customers the ability to move merchandise north- and south-bound between Mexico and the United States.

In accordance with Title 19, United States Code, Section 1584, the owner or person in charge of a vehicle bound to the United States is required to submit to Department of Homeland Security, Customs and Border Protection (CBP), a manifest that accurately identifies all merchandise on board the vehicle. A violation of this section mandates the imposition of civil monetary penalties.

“It is imperative for transportation providers to be vigilant in determining the nature of cargo they bring into the United States from other countries, said Michael F. Hertz, Acting Assistant Attorney General for the Justice Department's Civil Division. “These laws were established to protect the American people.”

The complaint, filed in the Southern District of California, alleges that on 37 separate occasions, from November 2001 to October 2006, after Union Pacific submitted its manifests, CBP officials found a total of over 4,000 pounds of marijuana on Union Pacific rail cars north-bound from Mexico for travel throughout the United States. According to the complaint, CBP imposed mandatory monetary penalties of \$33,595,112 for Union Pacific's violations but to date, Union Pacific has failed and refused to pay the civil penalties.

The government's complaint filed in the Southern District of Texas alleges that on June 16, 2003, Union Pacific submitted a manifest to CBP for entry at the Port of Entry at Brownsville, Texas. According to the government complaint, the railroad manifest indicated that the rail cars were empty. However, the suit states that CBP officials, during a routine inspection, found a total of 99 packages containing 117 kilograms of cocaine within a false wall on the bottom side of the rail car. The suit, filed in the Southern District of Texas, seeks \$4,128,000.

"Railroad companies and other freight carriers must take seriously their obligations under the law to take appropriate action to prevent the use of their vehicles to smuggle narcotics and other contraband into the United States," said Karen P. Hewitt, U.S. Attorney for the Southern District of California. "This civil complaint marks an important step toward addressing the repeated failure of the largest railroad company in North America to prevent rail cars bound for travel throughout the United States from being used to smuggle significant amounts of narcotics."

"Along with the profits of doing an international transportation business comes the legal obligation to ensure contraband is not also brought into our country," said Tim Johnson, Acting U.S. Attorney for the Southern District of Texas. "The consequences of failing to meet that obligation are what this suit is all about."

"Securing the nation's rail system against the threat of cross border smuggling requires the compliance and cooperation of the rail industry," said Jayson P. Ahern, Acting Commissioner of U.S. Customs and Border Protection, Department of Homeland Security. "Failure to comply with reasonable security measures leads to vulnerabilities that are simply unacceptable when considering the consequences of illegal cross border activity."

The case is being handled in San Diego by Assistant U.S. Attorneys Joseph P. Price, Jr., and Joseph J. Purcell; in Houston by Assistant U.S. Attorney Nancy L. Masso; in Washington by Civil Division Trial Attorneys, David S. Silverbrand and Lauren A. Weeman; and with the assistance of Shelby L. Stuntz and Julie Koller, Attorneys, Department of Homeland Security, Customs and Border Protection.

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