



Mack H. Shumate, Jr.
Senior General Attorney, Law Department

July 30, 2010

VIA E-FILE

The Honorable Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E. Street, S.W., Room #100
Washington, DC 20423-0001

**RE: Union Pacific Abandonment in Kane County, IL
STB Docket No. AB-33 (Sub-No. 284X)**

Dear Ms. Brown:

Union Pacific Railroad Company ("UP") has received a request from the City of St. Charles to submit a request for a Public Use condition and a Trail use condition to the Surface Transportation Board.

UP is willing to negotiate with the City of St. Charles for a Public Use condition and a Trail use condition. A copy of the City of St. Charles' request is attached hereto as Exhibit "A" and hereby made a part hereof.

Sincerely,

A handwritten signature in black ink, appearing to read "M. H. Shumate, Jr.", written in a cursive style.

Attachment

cc: City of St. Charles

O:\Abandonments\33-284X\STB-Request Ltr-073010.doc

CITY OF ST. CHARLES

TWO EAST MAIN STREET
ST. CHARLES, ILLINOIS 60174-1984

DEPARTMENT: **PUBLIC WORKS - ENGINEERING**PHONE: **(630) 377-4486**FAX: **(630) 762-6922****TRANSMITTAL****DATE:** 7/9/10

TO: Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

FROM: Mark Koenen
Director of Public Works
City of St. Charles
2 E. Main Street
St. Charles, IL 60174

ENTERED
Office of Proceedings

JUL 14 2010

Part of
Public Record**SUBJECT:** Union Pacific Abandonment in Kane County IL, STB Docket No. AB-33 (Sub-No. 284X)

Secretary Quinlan,

On behalf of the City of St. Charles, and the other parties to this letter, I am submitting a request for a Public Use condition and a Trail use condition to the Surface Transportation Board. This request pertains to Union Pacific's June 4th Petition for Exemption Docket No. AB-33 (Sub-No. 284X). Please find the following documents attached with this transmittal:

- List of organizations receiving a copy of the request
- An original letter requesting Public use condition and a Trail use condition
- 10 copies of the letter requesting Public use condition and a Trail use condition
- A \$250 check made out to the Surface Transportation Board for the Trail use condition filing fee

A copy of this request has been sent to the railroad and the organizations that were copied on the Petition for Exemption. Thank you for your consideration and I hope that the Surface Transportation Board looks favorably on our request. If you have any questions or concerns regarding our request please contact me by phone at 630-377-4486 or my e-mail at mkoenen@stcharlesil.gov.

Best regards,

Mark Koenen
Director of Public Works
City of St. Charles

MWK:mws

FILED

JUL 14 2010

**SURFACE
TRANSPORTATION BOARD****FEE RECEIVED**

JUL 14 2010

**SURFACE
TRANSPORTATION BOARD**

cc:

Mack H. Shumate, Jr.
Senior General Attorney- Union Pacific Representative
101 North Wacker Drive
Room 1920
Chicago, IL 60606

MTMCTEA
Attn: Railroads for National Defense
720 Thimble Shoals Blvd., Suite #130
Newport News, VA 23606-2574

U.S. Department of the Interior
National Park Service
Recreation Resources Assistance Divn.
P.O. Box 37127
Washington, DC 20013-7127

Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor N.W., Auditors Building
14th Street & Independence Ave., S.W.
Washington, DC 20250

July 9, 2010



Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

RE: Union Pacific Abandonment in Kane County IL, STB Docket No. AB-33 (Sub-No. 284X)

Dear Acting Secretary Quinlan:

This request is filed on behalf of County of Kane, Forest Preserve District of Kane County, St. Charles Park District, and City of St. Charles, all municipal corporations interested in providing recreation trail opportunities and utility service, hereinafter referred to as "proponents."

While not taking a position on the merits of this abandonment, the proponents request issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between Milepost 35.13 and Milepost 38.3 near St. Charles, IL.

A. Request for Public Use Condition

Proponent asks the STB to find that this property is suitable for other public use, specifically trail and utility use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. Justifications for this condition are:
 - a. the rail corridor in question crosses a scenic river and can be used to connect multiple regional trail systems, Great Western Trail, Fox River Trail and eventually to the Illinois Prairie Path, as well as four community parks and a forest preserve site in accordance with local and regional plans; and,
 - b. the corridor provides important space for municipal utility access.

The time period sought is 180 days from the effective date of the abandonment authorization. Proponent needs this much time to assemble or to review title information, complete a trail plan, and begin negotiations with the carrier.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts, and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period

DONALD P. DEWITT *Mayor*
BRIAN TOWNSEND *City Administrator*

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requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Request for Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, proponent also makes the following request:

Statement of Willingness to Assume Financial Responsibility

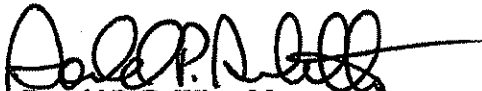
In order to establish interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 CFR §1152.29, the parties are willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by the Union Pacific.

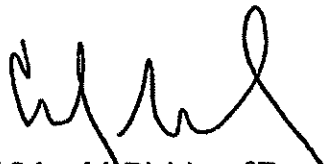
The property, known as the St. Charles Industrial Lead, extends from railroad milepost 35.13 to railroad milepost 38.3 near St. Charles, a distance of 3.17 miles in Kane County, IL. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-33 (Sub-No. 284X). A map published by Union Pacific depicting the right-of-way is attached.

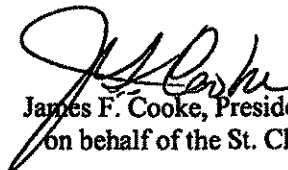
The parties to this letter acknowledge that use of the right-of-way is subject to the users' continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

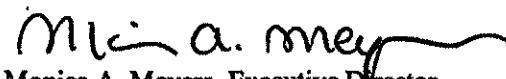
By our signatures below, we certify service upon Union Pacific, Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606 by U.S. mail, postage pre-paid, first class, this day of July 9, 2010.

Respectfully submitted,


Donald P. DeWitte, Mayor
on behalf of the City of St. Charles


Carl Schoedel, Division of Transportation
Director on behalf of the County of Kane


James F. Cooke, President
on behalf of the St. Charles Park District


Monica A. Meyers, Executive Director
on behalf of the Forest Preserve District of
Kane County

