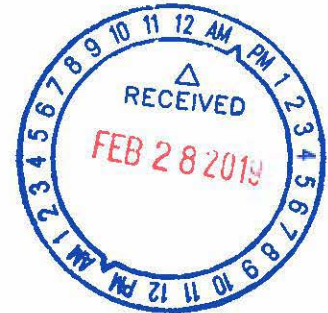


National Association of Reversionary Property Owners

(NARPO) IRS 501 (c)(3)

110 Bellevue Way NE Ste. 8A PMB719
Bellevue, WA 98004
760-238-8420



February 27, 2019

The Honorable Cynthia T. Brown, Chief
Section of Administration Surface Transportation Board
395 E Street, SW, Ste. 1260
Washington, DC 20423-0001

247218

ENTERED
Office of Proceedings
February 28, 2019
Part of
Public Record

Re: Docket No. AB 33 (Sub-No. 255) Abandonment Exemption
UNION PACIFIC RAILROAD COMPANY—ABANDONMENT—IN CARVER AND
SCOTT COUNTIES, MINN

Dear Ms. Brown: Enclosed for filing in this docket please find the Petition of the National Association of Reversionary Property Owners (NARPO) to Reopen this Proceeding due to substantially changed circumstances and new evidence and to Revoke the CITU Served on April 1, 2008.

Attached is NARPO's check for \$300.00 for the filing fee. NARPO is asking for a waiver of the filing fee per 49 CFR 1002.2(e)(2). NARPO will explain its request for a fee waiver in the later part of the Petition.

As indicated by the attached certificate of service, I have served all persons who are listed as parties of record on the Board's service list for this proceeding. Should you have any questions concerning this matter, please do not hesitate to call me at the above number.

Very truly yours,

Richard Welsh, Executive Director, NARPO

FILED
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TRANSPORTATION BOARD

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FEE RECEIVED
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BEFORE THE SURFACE TRANSPORTATION BOARD

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT—
IN CARVER AND SCOTT COUNTIES, MINN

DOCKET AB-33- (Sub No-255)

**Petition of NARPO to Reopen this Proceeding and revoke the CITU
decided April 1, 2008**

Union Pacific Railroad (UP) agreed to negotiate for interim trail use with two different entities in AB 33-255. The CITU was extended six times. A trail use agreement was signed on October 21, 2011 and confirmed by UP on November 4, 2011. But on 9/8/2010 Union Pacific Railroad wrote this to the STB:

"This is to advise that in accordance with 49 CFR 1152.29(e)(2), as of September 8, 2010, the Union Pacific Railroad Company, ("UP") with regard to the subject Abandonment, has consummated the abandonment of that portion of the Chaska Industrial Lead from Milepost 38.0 to Milepost 38.6 near Merriam, a distance of .60 miles and that portion of the Line near Milepost 36.17 where the Minnesota River Bridge and Main Street Bridge are located in Carver and Scott Counties, Minnesota, pursuant to authority granted in the Surface Transportation Board's ("Board's") Decisions served April 1, 2008 and September 2, 2010. A copy of this notice is being served concurrently with the Minnesota Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101-2147."

According to long established precedence by the STB and the federal courts, for a CITU or NITU to be valid and to stay valid, the rail line in the abandonment that is subject to a CITU or NITU must be connected to the National Rail System, see **RLTD Railway Corp. v. STB**, 166 F.3d 808, 814 (8th Circuit 1999). The rail line in AB 33-255 was stub ended at MP 33.0 in the City of Chasta, MN with no rail link to this stub end. The other end of the rail line was connected to the UP main line at MP 38.6, but UP consummated the abandonment of MP 38.6 to MP 38.0 on September 8, 2010. When the abandonment of the rail line segment from MP 38.6 to MP 38.0 was consummated by UP, the rest of the rail line was no longer connected to the National Rail System. Also see Footnote 3 directly below of the April 28, 2011 decision by Rachel D. Campbell, Director, Office of Proceedings;

"The original CITU included the entire right-of-way, extending from milepost 38.6 to milepost

33.0. In a CITU extension request filed on August 17, 2010, SCRRA excluded the portion of the line from milepost 38.6 to milepost 38.0 from its CITU extension request. In a decision served on September 8, 2010, the Board authorized UP to fully abandon the portion of the right-of-way between milepost 38.6 and milepost 38.0, subject to meeting the outstanding conditions imposed in the April 2008 decision. By letter filed on September 8, 2010, UP stated that it has consummated the abandonment of that portion of the right-of-way."

Consequently, the STB should revoke the CITU issued to CCRRA and SCRRA. The STB has the authority to revoke NITU's and CITUs, see Jost v. STB, 194 F.3d 79, 85 (D.C. Cir. 1999).

NARPO's request for a fee waiver.

NARPO has been an IRS approved non-profit and tax deductible educational charitable foundation since 1989. NARPO does not have any paid staff and no officers are paid or get any remuneration. NARPO's sole purpose is to assist property owners throughout the United States retain their property rights to the land underlying railroad rights of ways. At the present, NARPO has members in 49 states with no members in Hawaii. NARPO's average annual income from donations is less than \$5,000. With that small amount of donations, NARPO maintains its website, answers numerous phone calls, searches the STB website daily, travels to give talks to various property owner groups across the United States and of course makes filings on behalf of NARPO members to the STB.

The STB grants many fee waivers to government entities as they are permitted to do, 49 CFR 1002.2. And 49 CFR 1002.2(e)(2) allows the STB to grant fee waivers;

(2) In extraordinary situations the Board will accept requests for waivers or fee reductions in accordance with the following procedure: . . .

NARPO requests the STB to grant NARPO a fee waiver due to our extraordinary circumstances and our non-profit mission of protecting property rights. Besides NARPO is bringing to the Board's attention a mistake the Board allowed in 2010.

I certify on February 27, 2019 all parties of record of AB 33-255 have been notified of this Petition to Reopen via email or USPS mail.

Richard Welsh—Executive Director-NARPO