

227235



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

June 4, 2010

**VIA E-FILING**

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

**FILED**

JUN 4 - 2010

**SURFACE  
TRANSPORTATION BOARD**

**Re: Petition for Exemption to Abandon of a portion of the St. Charles Industrial Lead from M.P. 35.13 to the end of the Line at M.P. 38.3 near St. Charles, a total distance of 3.17 miles in Kane County, Illinois (the "Line"); STB Docket No. AB-33 (Sub-No. 284X)**

Dear Ms. Brown:

Pursuant to 49 U.S.C. §10502, I am hereby e-filing the Petition for Exemption with Verification, including a Certificate of Service and Publication pursuant to 49 C.F.R. §1252.60(d) and 49 C.F.R. §1105.12. Also enclosed is a draft Federal Register notice pursuant to 49 C.F.R. §1152.60(c).

Please file the Petition for Exemption in Docket No. AB-33 (Sub-No. 284X). Enclosed is a credit authorization voucher in the amount of \$6,400.00 for the filing fee.

**FEE RECEIVED**

JUN 4 - 2010

**SURFACE  
TRANSPORTATION BOARD**

Sincerely,

Enclosures

cc: All Concerned Parties

**ENTERED  
Office of Proceedings**

JUN 4 - 2010

**Part of  
Public Record**

O:\Abandonments\33-284X\STB-PetLtr-060410.doc

cc:

**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  
4<sup>th</sup> Floor N.W., Auditors Building  
14<sup>th</sup> Street & Independence Ave., S.W.  
Washington, DC 20250**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**Docket No. AB-33 (Sub-No. 284X)**

**UNION PACIFIC RAILROAD COMPANY  
-- ABANDONMENT EXEMPTION --**

**IN KANE COUNTY, ILLINOIS  
(ST. CHARLES INDUSTRIAL LEAD)**

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**PETITION FOR EXEMPTION**

**UNION PACIFIC RAILROAD COMPANY**

**Mack H. Shumate, Jr.  
Senior General Attorney  
101 North Wacker Drive  
Room 1920  
Chicago, IL 60606  
312-777-2055 (TEL)  
312-777-2065 (FAX)**

**ENTERED  
Office of Proceedings**

**JUN 4 - 2010**

**Part of  
Public Record**

**Dated: June 4, 2010  
Filed: June 4, 2010**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**Docket No. AB-33 (Sub-No. 284X)**

**UNION PACIFIC RAILROAD COMPANY  
-- ABANDONMENT EXEMPTION --**

**IN KANE COUNTY, ILLINOIS  
(ST. CHARLES INDUSTRIAL LEAD)**

**PETITION FOR EXEMPTION**

**I.**

**INTRODUCTION**

Union Pacific Railroad Company ("UP") hereby petitions the Board, pursuant to 49 U.S.C. § 10502, to grant an exemption from 49 U.S.C. § 10903 in order to permit abandonment and discontinuance of service over the St. Charles Industrial Lead from Milepost 35.13 to the end of the Line at Milepost 38.30 near St. Charles, Illinois, a total distance of 3.17 miles in Kane County, Illinois (the "Line"). Currently, there are no shippers on the Line and no expectation that any shippers will locate on the Line in the foreseeable future. The UP did provide rail service to the two (2) former freight customers on the Line within the last two (2) years. However, both customers have either ceased operations or relocated their operations off the Line. There is no overhead traffic on the Line.

UP seeks exemption of this proposed abandonment from regulation under 49 U.S.C. § 10903 in accordance with 49 U.S.C. § 10502 and the Rules applicable thereto

at 49 C.F.R. § 1121 and 49 C.F.R. § 1152 and the Special Rules at 49 C.F.R. § 1152.60.

II.

**PETITIONER'S BACKGROUND AND REPRESENTATIVE**

UP has rail operations in the States of Arizona, Arkansas, Iowa, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming. The Line from Milepost 35.13 to the end of the Line at Milepost 38.30 near St. Charles, Illinois, for a total distance of 3.17 miles in Kane County, Illinois is owned and operated by UP.

The name, address and telephone number of UP's representative is listed below:

Mack H. Shumate, Jr.  
101 North Wacker Drive  
Room 1920  
Chicago, IL 60606  
(312) 777-2055  
(312) 777-2065 FAX

III.

**LINE DESCRIPTIONS, ZIP CODE INFORMATION AND MAP**

The proposed action involves the abandonment and discontinuance of service over the St. Charles Industrial Lead from Milepost 35.13 to the end of the Line at Milepost 38.30 near St. Charles, Illinois, for a total distance of 3.17 miles in Kane County, Illinois.

The Line from Milepost 35.13 to Milepost 38.30 was constructed in 1886 and 1887 by the Minnesota & Northwestern Railroad Company. Current rail on the Line consists of 112 pound jointed rail, rolled and laid in 1944 and 1947. Based on

information in the UP's possession, the Line proposed for abandonment does not contain federally granted right-of-way.

The Line traverses U.S. Postal Service Zip Code: 60174

A map of the Line proposed for abandonment in solid red is attached hereto as **Attachment 1** and is hereby made a part hereof. Other rail lines in the area, principal highways and other roads are shown on the map. There are three bridges on the Line that are 50 years old or older. UP knows of no historic sites or structures or archeological resources in the project area. The Illinois Office of Historic Preservation ("SHPO") has been contacted. In their response which is attached to the Combined Environmental and Historic Report filed with the Board on May 7, 2010, the SHPO stated that no historic structures would be affected by the proposed abandonment and salvage activity.

Since rail service on the Line was discontinued in 2009 there are no stations on the Line to be closed as a result of this proposed abandonment.

#### IV.

#### SHIPPER INFORMATION

The proposed abandonment will have no adverse effect on any customers on the Line. Since there are no longer any Shippers on the Line, there will be no increase in rail traffic, rail yard activity or truck traffic as a result of the proposed abandonment. There will be no effect on regional or local transportation systems and patterns and no diversion of traffic to other transportation systems or modes.

There were two customers of record during the period commencing January 1, 2008 to date. Both customers have either ceased operations on the Line or relocated their operations off the Line.

Shipper one is Cardinal Industries ("Cardinal"), a manufacturer of laminated wood products. Cardinal Industries completed its relocation of its operations to a point off the Line at the end of 2009. Its current address is 5 N 200 Wooley Road, Maple Park, IL 60151.

**TRAFFIC HISTORY – CARDINAL:**

- 2008: STCC 2499610 and STCC 2499615, Wood particleboard, 28 cars, 2068 Tons.
- 2009: STCC 2499610, Wood particleboard, 1 car, 75 tons. This car moved in February 2009.
- 2010: No traffic.

Shipper two is Stock Building Supply ("Stock"), a dealer in lumber products that ended operations and left the Line in early 2008. Stock did not relocate in the area; accordingly, the only contact address is for its corporate headquarters – Stock Building Supply, 8020 Arco Corporate Drive, Raleigh, NC 27617.

**TRAFFIC HISTORY – STOCK:**

- 2008: STCC 24211xx, Lumber, 9 cars, 824 tons. No traffic after May 2008.
- 2009: No traffic.
- 2010: No traffic.

Rail service on the subject Line was discontinued in 2009 after both the Cardinal and Stock operations either ceased or were relocated off the Line.

## **V.**

### **REASONS FOR THE ABANDONMENT AND DISCONTINUANCE**

There has been no traffic on the Line since February, 2009. Based on the nature of recent and projected development on the west side of St. Charles, Illinois, there are no prospects for future rail business. The property proposed for abandonment maybe suitable for other public purposes including conservation, energy production or transmission or trail use. However, in UP's reasoned opinion, the right-of-way would not be suited for roads or highways as the area is adequately served by Route 64, Interstate 355 and Route 31. The UP ownership interest in the real property which makes up the right-of-way is predominantly non-reversionary fee title.

The proposed abandonment will permit the state of Illinois to avoid an estimated \$500,000 in expenditure associated with a necessary modification to the existing railroad crossing on the Line at the intersection with Route 64.

The UP is of the reasoned opinion that the proposed abandonment will be beneficial to the UP and will have no adverse effect on interstate commerce.

## **VI.**

### **REASONABLE ALTERNATIVE: VIABILITY**

There appears to be no rail reasonable alternative to the proposed abandonment. There will be no adverse effect on any shippers in that the two remaining shippers on the Line have either ceased operations or relocated their operations off the Line. Given the absence of rail activity and no known prospects for future rail business, the proposed abandonment is warranted. The property may be suitable for other public purposes including conservation, energy production or transmission or trail use. However, in UP's reasoned opinion, the right-of-way would

not be suited for roads or highways as the surrounding area is adequately served by Route 64, Interstate 355 and Route 31.

## **VII.**

### **THE EXEMPTION STANDARDS HAVE BEEN MET**

#### **A. The abandonment requires an exemption from 49 U.S.C. § 10903.**

Abandonment of rail lines requires authorization and approval of the Board pursuant to 49 U.S.C. § 10903. However, 49 U.S.C. § 10502 requires the Board to exempt a transaction when it finds: (1) continued regulation is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. § 10101; and (2) either the transaction is of limited scope or Board regulation is not necessary to protect shippers from an abuse of market power. UP's proposal for abandonment and discontinuance of operations clearly satisfies the standards for exemption under 49 U.S.C. § 10502.

Detailed scrutiny by the Board under 49 U.S.C. § 10903 is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. § 10101. An exemption will minimize UP's administrative expense and the cost, preparation and review associated with progressing the proposed abandonment in a full application proceeding. An exemption will expedite regulatory action and will reduce regulatory barriers to exit from the Line consistent with Sections 10101(2) and (7). An exemption will foster sound economic conditions in the transportation industry consistent with Section 10101(5), by permitting UP's abandonment of the Line and avoiding the need to retain and operate a rail line that will not be used by any shipper.

The proposed abandonment is clearly a transaction of "limited scope." The Line is only 3.17 miles long and will have no recurring local traffic. In addition, regulation of this proposed abandonment is not needed to protect shippers from an abuse of market

power, in that there are no shippers on the Line and there is no known potential for future rail activity on the Line.

## VIII.

### LAND AREA, FEDERAL GRANT INFORMATION, AND PUBLIC USE

The operating right-of-way is generally 100 feet wide with some minor violations and located in a highly urban area with residential, industrial, golf course and airport uses adjacent to the Line. The topography along the entire length is generally level.

The property proposed for abandonment may be suitable for other public purposes, including conservation, energy production, transmission or trail use. However, in UP's reasoned opinion, the right-of-way would not be suited for roads or highways as the surrounding area is adequately served by Route 64, Interstate 355 and Route 31.

The Line contains mostly non-reversionary property. Based on information in UP's possession, the Line does not contain federally granted right-of-way. Any documentation in UP's possession concerning the Line will be made available to those requesting it.

## IX.

### LABOR

UP is agreeable to the labor protection conditions imposed in abandonment proceedings as prescribed in Oregon Short Line R. Co. – Abandonment – Goshen, 360 ICC 91 (1979).

X.

**ENVIRONMENTAL AND HISTORIC REPORT.**

The required environmental and historic information is contained in the Combined Environmental and Historic Report (the "CEHR") which was served on May 7, 2010. A copy of the CEHR transmittal letter is attached hereto as **Attachment 2**. The original of the CEHR was e-filed with the Honorable Cynthia T. Brown, Chief, Section of Administration, on May 7, 2010.

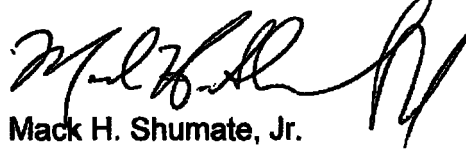
Subsequent to the filing of the combined CEHR no additional letters were received by UP from any federal, state or local governmental agency concerning any conditions to be imposed on the proposed abandonment.

WHEREFORE, Union Pacific Railroad Company respectfully requests that the Board issue a decision exempting the proposed abandonment from the provisions of 49 U.S.C. § 10903 and find that the Section 106 of the National Historic Preservation Act of 1966, as amended, has been satisfied and direct that the exemption be effective on the date of the Board's decision.

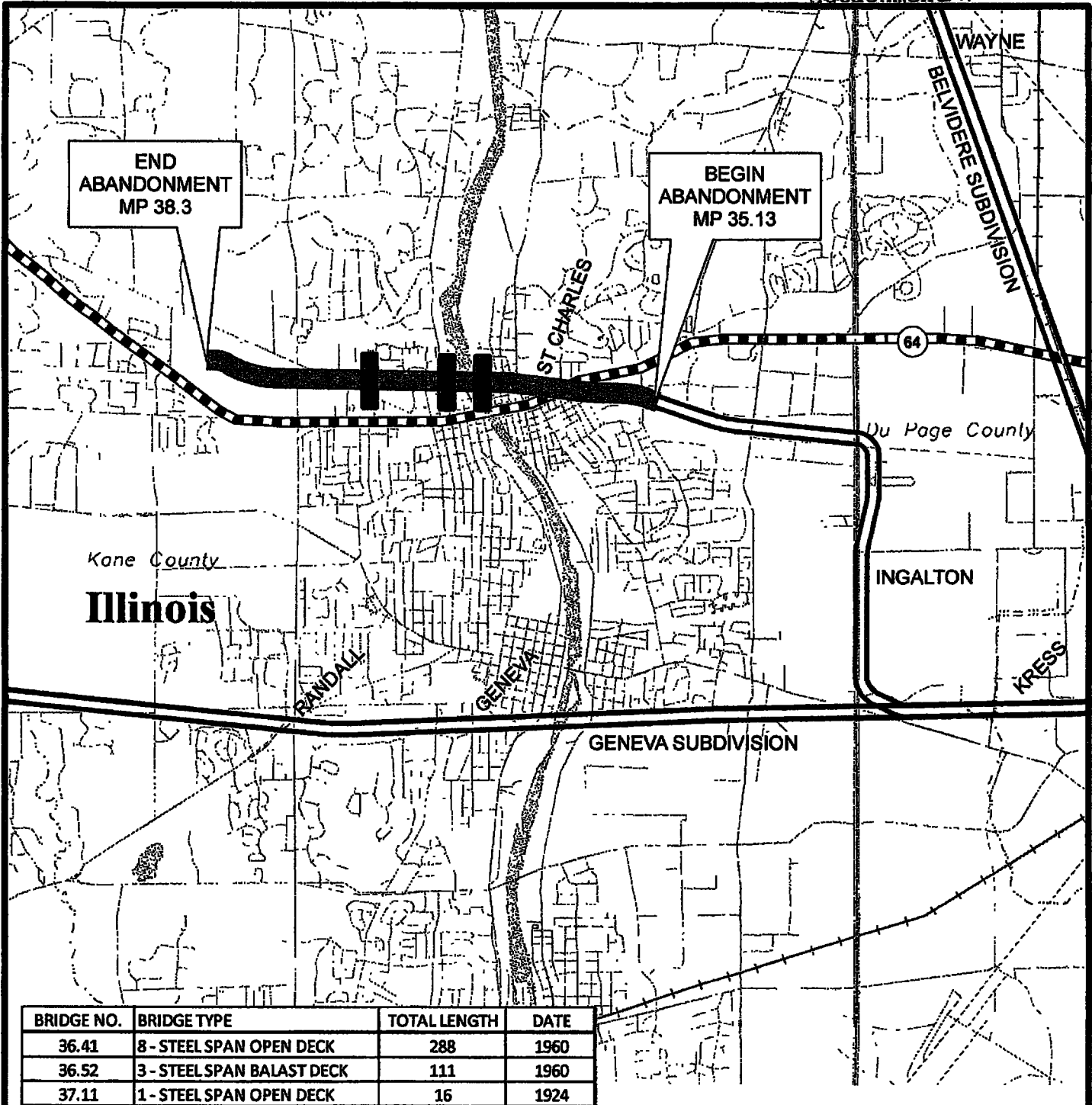
Dated this 4th day of June, 2010.

Respectfully submitted,

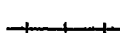
UNION PACIFIC RAILROAD COMPANY



Mack H. Shumate, Jr.  
Senior General Attorney  
101 North Wacker Drive  
Room 1920  
Chicago, IL 60606  
Tel: 312/777-2055  
Fax: 312/777-2065



## Legend

-  UPRR TO BE ABANDONED
-  OTHER UPRR LINES
-  OTHER RAILROADS
-  PRINCIPAL HIGHWAYS
-  OTHER ROADS

## ST. CHARLES INDUSTRIAL LEAD

MP 35.13 TO MP 38.30  
TOTAL OF 3.17 MILES IN KANE COUNTY  
IN ILLINOIS

## UNION PACIFIC RAILROAD CO. ST. CHARLES INDUSTRIAL LEAD ILLINOIS

INCLUDING 50+ YEAR OLD STRUCTURES





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

May 7, 2010

**VIA E-FILING**

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

**Re: Petition for Exemption to Abandon of a portion of the St. Charles Industrial Lead from M.P. 35.13 to the end of the Line at M.P. 38.3 near St. Charles, a total distance of 3.17 miles in Kane County, Illinois (the "Line"); STB Docket No. AB-33 (Sub-No. 284X)**

Dear Ms. Brown:

Attached for filing in the above-referenced docket is the Combined Environmental and Historic Report prepared pursuant to 49 C.F.R. §1105.7 and §1105.8, with a Certificate of Service, and a transmittal letter pursuant to 49 C.F.R. §1105.11.

Union Pacific anticipates filing a Petition for Exemption to Abandon the Line in this matter on or after May 27, 2010.

Sincerely,

A handwritten signature in black ink, appearing to read "M. H. Shumate, Jr.", followed by a stylized flourish.

Attachment

cc: All Concerned Parties

o:\abandonments\33-284X\STB-EHR.doc

**VERIFICATION**

STATE OF NEBRASKA )

COUNTY OF DOUGLAS )

) ss:  
)

I, RAYMOND E. ALLAMONG, JR., Senior Manager Rail Line Planning of Union Pacific Railroad Company, declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing document and that its assertions are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this verification on behalf of Union Pacific Railroad Company.

Dated at Omaha, Nebraska, this 11th day of May, 2010.

  
Raymond E. Allamong, Jr.

SUBSCRIBED AND SWORN TO  
before me this 11th day of  
May, 2010.

  
Notary Public



My Commission expires: \_\_\_\_\_

**DRAFT FEDERAL REGISTER NOTICE**  
**[49 C.F.R. § 1152.60(c)]**

**STB No. AB-33 (Sub-No. 284X)**  
**Notice of Petition for Exemption to Abandon or**  
**to Discontinue Service**

On June 4, 2010, Union Pacific Railroad Company filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for abandonment of the St. Charles Industrial Lead, from Milepost 35.13 to the end of the Line at Milepost 38.30 near St. Charles, a distance of 3.17 miles in Kane County, Illinois, (the "Line"). The Line traverses U.S. Postal Zip Code 60174. There are no shippers on the Line that will be adversely affected by the proposed abandonment. There are no stations or structures that will be adversely affected by the proposed abandonment.

The Line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected as required by 49 U.S.C. 10903(b)(2).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR Part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

## **CERTIFICATE OF SERVICE AND PUBLICATION**

The undersigned hereby certifies that a copy of the foregoing Petition for Exemption in Docket No. AB-33 (Sub-No. 284X) by Union Pacific Railroad Company was served on the date indicated below by mailing a copy, first class mail postage prepaid to the following:

**MTMCTEA**

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

Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

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

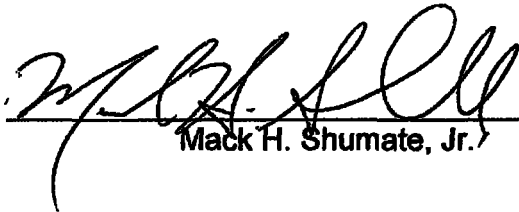
U.S. Department of Agriculture  
Chief of the Forest Service  
4<sup>th</sup> Floor N.W., Auditors Building  
14<sup>th</sup> Street & Independence Ave., S.W.  
Washington, DC 20250

The undersigned further certifies that a Notice of Abandonment and Discontinuance of Service was published one time in the county where the Line is located as follows:

| <u>County</u> | <u>Newspaper</u>      | <u>Date</u>  |
|---------------|-----------------------|--------------|
| Kane          | Kane County Chronicle | June 3, 2010 |

The above newspaper is generally circulated in the county where the rail line is located. The Notice as published was in the form prescribed by the Board for a Petition for Exemption at 49 C.F.R. 1105.12.

Dated this 4th day of June, 2010.

  
Mack H. Shumate, Jr.

SHAW SUBURBAN MEDIA  
ORDER CONFIRMATION  
(CONTINUED)

Salesperson: KIMBERLY PIPPIN

Printed at 06/02/10 12:01 by kschn

Acct#: 10046848

Ad#: 513425 Status: N

**PUBLIC NOTICE**

**NOTICE OF INTENT TO ABANDON**

UNION PACIFIC RAILROAD COMPANY ("UP") gives notice that on or after June 4, 2010, it intends to file with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption under 49 U.S.C. Section 10502 from the prior approval requirements of 49 U.S.C. 10903, permitting the abandonment and discontinuance of service on the St. Charles Industrial Lead from M.P. 35.13 to the end of the Line M.P. 38.30 near St. Charles, a distance of 3.17 miles in Kane County, Illinois (the "Line"). The Line traverses U. S. Postal Service Zip Code 60174. The proceeding has been docketed as No. AB-33 (Sub-No.284X).

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for abandonment exemption. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the SEA, Surface Transportation Board, Washington, D.C. 20423 or by calling SEA at (202) 248-0285.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as traffic use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 395 E. Street, SW, Washington, D.C. 20423 [See 49 C.F.R. Sections 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 C.F.R. Section 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Congressional and Public Services at (888) 254-1792. Copies of any comments or requests for conditions should be served on the applicant's representative: Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, #1820, Chicago, Illinois 60606 (312) 777-2055.

UNION PACIFIC  
RAILROAD COMPANY

(Published in the Kane County  
Chronicle, June 3, 2010.)