



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

March 14, 2008

2/2/826

VIA E-Filing

Ms. Anne K. Quinlan, Secretary
Surface Transportation Board
395 E Street S.W., Room #1149
Washington, D.C. 20024

Re: Proposed Abandonment of the Chesterville Industrial Lead from M. P. 52.9 near Chesterville to M. P. 61.2 near Eagle Lake, a distance of 8.3 miles in Colorado and Wharton Counties, Texas; STB Docket No. AB-33 (Sub-No. 253X)

Dear Ms. Quinlan:

The Union Pacific Railroad Company, (Union Pacific), has received a request from Fritz R. Kahn the attorney for The Metropolitan Transit Authority of Harris County, Texas, ("MTA"), for a Notice of Interim Trail Use pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 regarding that portion of the Union Pacific's right-of-way known as the Chesterville Industrial Lead extending between Milepost 52.9 near Chesterville and Milepost 61.2 near Eagle Lake, a distance of a distance of 8.3 miles in Colorado and Wharton Counties, Texas. The Union Pacific is willing to negotiate with MTA concerning trail use and supports the MTA's request to negotiate for a period of 180 days. A copy of the MTA's request is attached hereto as Exhibit "A" and is hereby made a part hereof.

Very truly yours,

Attachment

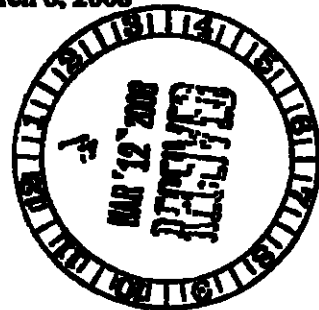
cc: Fritz R. Kahn, Esq.
Jenice Simmons <Via email at: simmonsj@stb.dot.gov >

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LAW OFFICES
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March 6, 2008

Hon Anne K Quinlan
Acting Secretary
Surface Transportation Board
395 F Street, SW
Washington, DC 20423



221900

Dear Secretary Quinlan

Enclosed are the original and ten copies of the Petition for Trails Use/Rail Banking Condition of The Metropolitan Transit Authority of Harris County, Texas, filed February 25, 2008, in STB Docket No AB-33 (Sub-No 253X). Union Pacific Railroad Company—Abandonment Exemption—in Colorado and Wharton Counties, TX, corrected to include a clause in the Statement of Willingness to Assume Financial Responsibility inadvertently omitted

I apologize for the error and for any inconvenience it may have occasioned.

ENTERED
Office of Proceedings

MAR 12 2008

Part of
Public Record

Sincerely yours,


Fritz R. Kahn

enc

cc Mack H Shumate, Jr, Esq
Cassie B Stinson, Esq



**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

S1B Docket No AB-33 (Sub-No 253X)

22/800

**UNION PACIFIC RAILROAD COMPANY
—ABANDONMENT EXEMPTION—
IN COLORADO AND WHARTON COUNTIES, TX**

**PETITION FOR TRAIL USE/RAIL BANKING CONDITION
OF
THE METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS**

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Attorneys for

**THE METROPOLITAN TRANSIT AUTHORITY
OF HARRIS COUNTY, TEXAS**

Due and dated February 25, 2008

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB Docket No AB-33 (Sub-No 253X)

**UNION PACIFIC RAILROAD COMPANY
—ABANDONMENT EXEMPTION—
IN COLORADO AND WHARTON COUNTIES, TX**

**PETITION FOR TRAIL USE/RAIL BANKING CONDITION
OF
THE METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS**

Petitioner, The Metropolitan Transit Authority of Harris County, Texas, ("METRO"), pursuant to 16 U S C 1247(d), 49 C F R 1152.29, and the Board's Notice, served February 15, 2008, supports the proposed abandonment by the Union Pacific Railroad Company ("UP") of its Chesterville Industrial Lead, extending between Milepost 52.9 near Chesterville and Milepost 61.2 near Eagle Lake in Colorado and Wharton Counties, Texas, and asks that the abandonment authorization be conditioned to allow METRO and UP 180 days to negotiate the terms and conditions for METRO's acquisition of UP's property interest in the line for trails use/rail banking.

METRO is the owner of the real estate underlying the railroad line and of the tracks, ties and other improvements of the Chesterville Industrial Lead, having acquired them and the remainder of the Bellaire Subdivision, between Milepost 3.48 near Bellaire Junction in Houston and Milepost 61.2 at Eagle Lake, subject to the grant to UP of a permanent and unconditional easement enabling UP to continue to render railroad service on the line, in accordance with the decision of the Board's predecessor, the Interstate

Commerce Commission, in Metro Transit Auth. of Harris County, TX--Declar. Order, 9 I C C 2d 559 (1993).

As the ICC noted in its decision, 9 I C.C 2d at 562, METRO sought "the purchase of these rights-of-way [to] guarantee that the properties will continue to be available to meet future community passenger transportation needs should [UP's] operations over these lines be discontinued "

UP ceased operating over the preponderance of the Bellaire Subdivision, between Milepost 3 48 near Bellaire Junction in Houston and Milepost 52 9 near Chesterville, and METRO acquired the UP's property interests in the line for trails use/rail banking, pursuant to the Board's Decision and Certificate of Interim Trail Use or Abandonment in STB Docket No AB-33 (Sub-No. 156), Union Pacific Railroad Company--Abandonment--In Harris, Fort Bend, Austin, Canton and Colorado Counties, TX, served November 8, 2000

UP now has determined to discontinue operations over the remaining 8 3 miles of the Bellaire Subdivision the real estate underlying the railroad line and the tracks, ties and other improvements of which are owned by METRO, namely the Chesterville Industrial Lead, between Milepost 52 9 near Chesterville and Milepost 61 2 near Eagle Lake, a map of which is attached

**Statement of Willingness to Assume
Financial Responsibility**

In order to establish interim trail use and rail banking under the National Trails System Act, 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, METRO is willing to assume full responsibility for the management of, for any legal liability arising out of the transfer or use of (unless the use is immune from liability, in which case it need only indemnify the railroad against any potential liability) and for the payment of any and all taxes that may

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be levied or assessed against the right-of-way and what had been the UP's property interest in the subject railroad line. The railroad line extends between Milepost 52.9 near Chesterville and Milepost 61.2 near Eagle Lake, a distance of 8.3 miles in Colorado and Wharton Counties, Texas. The UP's property interest in the railroad line is proposed to be abandoned by UP, pursuant to its Notice of Exemption, filed January 28, 2008. A map of the railroad line depicting the right-of-way is attached.

METRO acknowledges that use of the right-of-way is subject to the user's continuing obligation to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail use.

A copy of this statement is being served on the UP on the same date as being filed with the Board.

Respectfully submitted,

THE METROPOLITAN TRANSIT AUTHORITY
OF HARRIS COUNTY, TEXAS

By its attorneys,

Cassie B. Stinson
Andrews Kurth LLP
600 Travis Street (Ste. 4200)
Houston, TX 77002
Tel. (713) 220-4684


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Due and dated February 25, 2008

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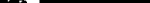
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[REDACTED]

UP RD. TO UP G.L.
2.0 MILES IN CALHOUN COUNTY
0.5 MILES IN HANCOCK COUNTY
TOTAL OF 2.5 MILES

INCLUDING 50+ YEAR OLD STRUCTURES

SCALE  **MILES**

FBI, Birmingham 44-1987, Sub B, 14a MEMPHIS, Tennessee 44-68747 65-01

22-33/Sub. No. 25321

CERTIFICATE OF SERVICE

**I certify that I this day served the foregoing Petition for Trails Use/Rail Banking
Condition of The Metropolitan Transit Authority of Harris County, Texas, upon the
Union Pacific Railroad Company by facsimile transmitting a copy to its attorney. Mack
H Shumate, Jr, Esq at (312) 777-2063**



Fritz R Kahn