



City of Whittier

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July 11, 2018

ENTERED
Office of Proceedings
July 11, 2018
Part of
Public Record

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 East Street, SW
Washington, DC 20423

RE: STB Docket No. AB-33-93-X Union Pacific Railroad Company – Abandonment
Exemption – Whittier Junction - Colima Junction Line - in Los Angeles County,
California.

Ms. Cynthia T. Brown,

On June 21, 2018, the City of Whittier (City) submitted a letter seeking to vacate, in part, if deemed necessary by (Surface Transportation Board) STB, the Notice of Interim Trail Use (NITU) previously served in the Docket No. AB-33-93-X.

On July 9, 2018, STB staff contacted the City to request that supplemental NITU information be submitted to the STB in compliance with 49 CFR 1152.29(d)(2). Please find attached the requested information.

The undersigned hereby certifies that on the aforementioned date I have caused to be served copies of this letter upon the following Parties of Record in this proceeding, by U.S. Certified Mail with Return Receipt Requested and via E-mail.

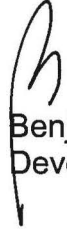
The Burlington Northern And Santa Fe Railway Company
Attn: Tyler White
2500 Lou Menk Drive
Fort Worth, TX 76161-2828
Tel: (817) 352-2353
Fax: (817) 352-2397
tyler.white2@bnsf.com

Union Pacific Railroad Company
101 North Wacker Drive Rm 1920
Chicago, IL 60606-1718

Union Pacific Railroad Company
Attn: Jeremy Berman, General Attorney
1400 Douglas Street, Stop 1580
Omaha, NE 68179
Tel: (402) 544-4735
Fax: (402) 501-0129
jmberman@up.com

Thank you for your assistance in this matter and please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'B' followed by a stylized 'P' and a vertical line.

Benjamin Pongetti
Development Project Manager

32360
DO

SERVICE DATE - DECEMBER 14, 2001

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-33 (Sub-No. 93X)¹

UNION PACIFIC RAILROAD COMPANY-ABANDONMENT
EXEMPTION-IN WHITTIER JUNCTION-COLIMA JUNCTION LINE
IN LOS ANGELES COUNTY, CA

Decided: December 12, 2001

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152.50 to abandon approximately 5.18 miles of the Whittier Junction-Colima Junction line (portion of the Anaheim Branch) from milepost 0.0 near Whittier Junction to milepost 5.18 near Colima Junction, in Los Angeles County, CA. Notice of the exemption was served and published in the Federal Register on August 12, 1996 (61 FR 41823). On December 13, 1996, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the City of Whittier (City) to negotiate an interim trail use/rail banking agreement with UP for the 5.18-mile line of railroad. The negotiation period under the NITU was extended several times at the request of UP and expired on December 31, 2000.²

By petition filed November 30, 2001, the City late-filed a request for a NITU for a portion of the right-of-way between milepost 0.43 near the grade crossing at Pioneer Boulevard and milepost 5.11 near Colima Junction, a distance of approximately 4.68 miles.³ The City states that, intermittently over the period of time since the effective date of the exemption, the City and UP have negotiated for transfer of the line, but the parties had a material disagreement regarding

¹ This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company-Control and Merger-Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company (UP/SP). The common control authorized in UP/SP, Decision No. 44 (STB served Aug. 12, 1996), was consummated on September 11, 1996.

² The negotiating period under the NITU was extended by decisions served February 10, 1997, January 26, 1998, August 5, 1998, July 30, 1999 (affirmed by decision served August 4, 1999), January 26, 2000, and August 7, 2000.

³ The August 12, 1996 decision also provided that requests for trail use/rail banking had to be filed by August 22, 1996. The decision stated, however, that the Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

the value of the line, and the City's environmental assessment took longer to commence and to complete than the City had planned. The City further states that the parties have reached an agreement and completed all steps necessary for the planned transfer of the line. The City submitted a statement indicating its willingness to assume full financial responsibility for the management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for payment of any and all taxes that may be levied or assessed against, the right-of-way, as required at 49 CFR 1152.29, and acknowledged that the use of the right-of-way as a trail is subject to possible future reconstruction and reactivation of the right-of-way for rail service. On December 5, 2001, UP advised the Board that it has not consummated the abandonment of the 4.68-mile portion of the line and that it is willing to negotiate with the City for interim trail use.

Trail use requests are accepted as long as the Board retains jurisdiction over the involved railroad right-of-way⁴ and the carrier is willing to enter into negotiations. Inasmuch as UP has not consummated the abandonment and is willing to negotiate with the City for the right-of-way, a NITU will be issued for that portion, with the trail use negotiation period running for 180 days from the service date of this decision or until June 12, 2002. If the parties reach a mutually acceptable final agreement, no further Board action is necessary. If no agreement is reached within 180 days, UP may fully abandon the line, provided that the environmental conditions imposed in the August 12, 1996 decision are met. Use of the right-of-way for trail purposes is subject to restoration for railroad purposes. See 49 CFR 1152.29(d)(2).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice of exemption published in the Federal Register on August 12, 1996, exempting the abandonment of the line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below, for the portion of the line extending between milepost 0.43 and milepost 5.11 until June 12, 2002, subject to the environmental conditions imposed in the August 12, 1996 decision.

⁴ See Rail Abandonments-Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Soo Line Railroad Company-Exemption-Abandonment in Waukesha County, WI, Docket No. AB-57 (Sub-No. 23X) (ICC served May 14, 1987); and Missouri-Kansas-Texas Railroad Company-Abandonment-In Pettis and Henry Counties, MO, Docket No. AB-102 (Sub-No. 16) (ICC served Apr. 26, 1991).

3. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for payment of any and all taxes that may be levied or assessed against, the right-of-way.

4. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.

5. If interim trail use is implemented and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

6. If an agreement for interim trail use/rail banking is reached by June 12, 2002, interim trail use may be implemented. If no agreement is reached by that time, UP may fully abandon the line.

7. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

32992
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SERVICE DATE - SEPTEMBER 10, 2002

SURFACE TRANSPORTATION BOARD

DECISION AND MODIFICATION OF NOTICE OF INTERIM TRAIL USE OR
ABANDONMENT

STB Docket No. AB-33 (Sub-No. 93X)¹

UNION PACIFIC RAILROAD COMPANY-ABANDONMENT
EXEMPTION-IN WHITTIER JUNCTION-COLIMA JUNCTION LINE
IN LOS ANGELES COUNTY, CA

Decided: September 5, 2002

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152.50 to abandon approximately 5.18 miles of the Whittier Junction-Colima Junction line (portion of the Anaheim Branch) from milepost 0.0 near Whittier Junction to milepost 5.18 near Colima Junction, in Los Angeles County, CA. Notice of the exemption was served and published in the Federal Register on August 12, 1996 (61 FR 41823). On December 13, 1996, a notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the City of Whittier (City) to negotiate an interim trail use/rail banking agreement with UP for the 5.18-mile line of railroad. The negotiation period under the NITU was extended several times at the request of UP and expired on December 31, 2000.

By petition filed November 30, 2001, the City late-filed a request for issuance of a NITU pursuant to the National Trails System Act, 16 U.S.C. 1247(d), for the portion of the right-of-way between milepost 0.43 near the grade crossing at Pioneer Boulevard and milepost 5.11 near Colima Junction, a distance of approximately 4.68 miles. On December 14, 2001, a decision was served authorizing the City to negotiate with UP for that portion of the right-of-way.

On June 25, 2002, the City filed a request to terminate trail use over a 15,000 square foot-parcel located between approximately milepost 2.70 near Mar Vista Street and approximately milepost

¹ This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company-Control and Merger-Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company. The common control authority sought in that proceeding was granted by the Board in Union Pacific/Southern Pacific Merger, 1 S.T.B. 233 (1996), and was consummated on September 11, 1996.

2.78 near Pickering Avenue, on what the City describes as the eastern boundary of the line. The City states that, in connection with a transaction involving the sale of real property, it has decided to terminate trail use over that portion of the right-of-way. The City requested that the partial vacation of the NITU be made effective on July 23, 2002. By decision served July 18, 2002, the proceeding was reopened and the NITU served December 14, 2001, was vacated with respect to the 15,000 square foot-parcel along the right-of-way between milepost 2.70 and milepost 2.78 and UP was permitted to fully abandon that portion of the right-of-way for which the NITU had been vacated, effective July 23, 2002, as requested.²

The July 18 decision included reference to the City's statement that, if the transaction was not completed by July 23, 2002, the City would advise the Board and amend its request to reflect a new effective date for vacating the NITU. On August 19, 2002, the City filed a letter stating that the real property transaction did not close on July 23, 2002, but instead closed on August 13, 2002. The City therefore requested that the effective date for the partial vacation of the NITU be changed to August 13, 2002. The City's request will be granted.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The City's request to amend the effective date of its June 25, 2002 request for partial vacation of the NITU is granted.
2. The vacation of the NITU as to the 15,000 square foot-parcel along the right-of-way between 2.70 and milepost 2.78 is effective as of August 13, 2002.

² On August 2, 2002, UP notified the Board that, on July 23, 2002, it had closed the transaction covering the 15,000 square foot-parcel, which UP indicates covers only a small extra width parcel on the line. UP also stated that, in its view, no notice of consummation of abandonment is necessary because the sale of the extra width parcel will not disrupt the continuity of the line and the property sold would not be necessary for future reestablishment of rail service over the right-of-way.

STB Docket No. AB-33 (Sub-No. 93X)

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

37182
DO

SERVICE DATE – JULY 21, 2006

SURFACE TRANSPORTATION BOARD

DECISION AND MODIFICATION OF NOTICE OF INTERIM TRAIL USE OR
ABANDONMENT

STB Docket No. AB-33 (Sub-No. 93X)¹

UNION PACIFIC RAILROAD COMPANY-ABANDONMENT
EXEMPTION-IN WHITTIER JUNCTION-COLIMA JUNCTION LINE
IN LOS ANGELES COUNTY, CA

Decided: July 20, 2006

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152.50 to abandon approximately 5.18 miles of the Whittier Junction-Colima Junction line (portion of the Anaheim Branch) from milepost 0.0 near Whittier Junction to milepost 5.18 near Colima Junction, in Los Angeles County, CA. Notice of the exemption was served and published in the Federal Register on August 12, 1996 (61 FR 41823). On December 13, 1996, a notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the City of Whittier (City) to negotiate an interim trail use/rail banking agreement with UP for the 5.18-mile line of railroad. At the request of UP, the negotiating period was extended several time; the latest extension was granted by decision served August 7, 2000. The negotiation period expired on December 31, 2000.

By petition filed November 30, 2001, the City late-filed a request for issuance of a NITU pursuant to the National Trails System Act, 16 U.S.C. 1247(d), for the portion of the right-of-way between milepost 0.43 near the grade crossing at Pioneer Boulevard and milepost 5.11 near Colima Junction, a distance of approximately 4.68 miles. On December 14, 2001, a decision was served authorizing the City to negotiate with UP for that portion of the right-of-way. On June 25, 2002, the City filed a request to terminate trail use over a 15,000 square foot-parcel located between approximately milepost 2.70 near Mar Vista Street and approximately milepost 2.78 near Pickering Avenue, on what the City described as the eastern boundary of the line. The city stated that, in connection with a transaction involving the sale of real property, it

¹ This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company-Control and Merger-Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company. The common control authority sought in that proceeding was granted by the Board in Union Pacific/Southern Pacific Merger, 1 S.T.B. 233 (1996), and was consummated on September 11, 1996.

had decided to terminate trail use over that portion of the right-of-way. The City requested that the partial vacation of the NITU be made effective on July 23, 2002. By decision served July 18, 2002, the proceeding was reopened and the NITU served December 14, 2001, was vacated with respect to the 15,000 square foot-parcel along the right-of-way between milepost 2.70 and milepost 2.78 and UP was permitted to fully abandon that portion of the right-of-way for which the NITU had been vacated, effective July 23, 2002, as requested. The July 18 decision included reference to the City's statement that, if the transaction was not completed by July 23, 2002, the City would advise the Board and amend its request to reflect a new effective date for vacating the NITU. On August 19, 2002, the City filed a letter stating that the real property transaction did not close on July 23, 2002, but instead closed on August 13, 2002. The City therefore requested that the effective date for the partial vacation of the NITU be changed to August 13, 2002. By decision served September 10, 2002, the City's request to amend the effective date of its June 25, 2002 request for partial vacation of the NITU was granted, and the vacation of the NITU as to the 15,000 square foot parcel along the right-of-way between milepost 2.70 and milepost 2.78 was made effective as of August 13, 2002.

On August 2, 2002, UP notified the Board that, on July 23, 2002, it had closed the transaction covering the 15,000 square foot-parcel, which UP indicates cover only a small extra width parcel on the line. UP also stated that, in its view, no notice of consummation of abandonment is necessary because the sale of the extra width parcel will not disrupt the continuity of the line and the property sold would not be necessary for future reestablishment of rail service over the right-of-way.

On June 26, 2006, the City filed a request to terminate trail use over an aggregate of approximately 17,000 square feet of property located at various points along the edge of the right-of-way through sale to adjacent landowners or occupants that already hold leases or licenses thereon predating the City's acquisition. The request includes the following extra width parcels, (collectively referred as the sale parcels): (1) 1,550 square foot-parcel located on the eastern boundary between approximately milepost 1.65 near Broadway and approximately milepost 1.70 between Broadway and Magnolia Avenue; (2) 306 square foot-parcel located on the western boundary between approximately milepost 0.70 near Redman Avenue and approximately milepost 0.80 near South Norwalk Boulevard; (3) 630 square foot-parcel located on the western boundary between approximately milepost 1.37 and approximately milepost 1.40 near Howard Street; (4) 2,782 square foot-parcel on the eastern boundary between approximately milepost 1.66 near Broadway and approximately milepost 1.71 between Broadway and Magnolia Avenue; (5) 2,722 square foot-parcel located on the eastern boundary between approximately milepost 1.68 near Broadway and approximately milepost 1.73 near Magnolia Avenue; (6) 1,020 square foot-parcel located on the eastern boundary between approximately milepost 1.70, between Broadway and Magnolia Avenue, and approximately milepost 1.75 near Magnolia Avenue; (7) 1,510 square foot-parcel located on the eastern boundary between approximately milepost 1.72, between Broadway and Magnolia Avenue, and approximately milepost 1.77 near Magnolia Avenue; (8) 432 square foot-parcel located on the western boundary between

approximately milepost 1.78 and approximately milepost 1.80 near Camilla Street; (9) 284 square foot-parcel located on the western boundary at approximately milepost 1.70, between Broadway and Magnolia Avenue; (10) 1,262 square foot-parcel located on the eastern boundary between approximately milepost 1.34 near Orange Drive and approximately milepost 1.37 near Howard Street; (11) 703 square foot-parcel located on the western boundary between approximately milepost 1.40 and approximately milepost 1.44 near Howard Street; (12) 324 square foot-parcel located on the western boundary between approximately milepost 1.42 and approximately milepost 1.46 near Howard Street; (13) 1,467 square foot-parcel located on the eastern boundary at approximately milepost 0.43 near Pioneer Boulevard; (14) 290 square foot-parcel located on the western boundary at approximately milepost 0.43 near Pioneer Boulevard; (15) 1,200 square foot-parcel located on the eastern boundary between approximately milepost 3.42 near Greenleaf Avenue and approximately milepost 3.44, between Greenleaf Avenue and Washington Avenue; and (16) 492 square foot-parcel located on the eastern boundary between approximately milepost 3.44 and approximately milepost 3.46, between Greenleaf Avenue and Washington Avenue. The City requests that the NITU to these line segments be vacated as of July 31, 2006. The City further states that the transaction will involve the transfer of small strips of land along the edge of the right-of-way and will not disrupt the continuity of the line.²

The City has complied with the requirements of 49 CFR 1152.29(d)(2) regarding a request to vacate a NITU. Whenever a trail manager intends to terminate trail use over a portion of the right-of-way and sends the Board a request that a NITU be vacated, the Board will reopen the proceeding, vacate the NITU. Therefore, the City's request to vacate the NITU will be granted with respect to the 17,000 sq. ft.-sale parcels, effective July 31, 2006, as requested.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The City's request to vacate the NITU for the approximately 17, 000 sq. ft. of property is granted.
3. The NITU served December 14, 2001, is vacated with respect to the 17,000 sq. ft. of property along the right-of-way as discussed in this decision, effective as of July 31, 2006. The City will remain the trail user for the remainder of the right-of-way.

² The City indicates that it will continue to be the interim trail user over the remainder of the right-of-way.

4. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary