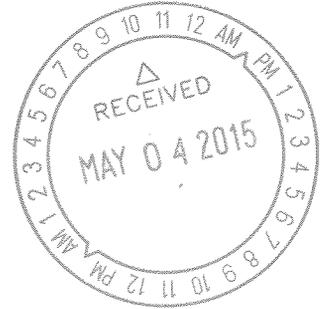


Before the  
SURFACE TRANSPORTATION BOARD  
Washington, D.C. 20423



STB Docket No. FD 36031

Status of the Former Spur Line at 125 Paul Avenue,  
San Francisco, California

240597

**PETITION FOR DECLARATORY ORDER**  
**BY**  
**400 PAUL WAVE EXCHANGE, LLC**

ENTERED  
Office of Proceedings  
May 4, 2016  
Part of  
Public Record

400 Paul Wave eXchange, LLC (“400 Paul Wave”), a limited liability company with offices at 2999 Oak Road, Suite 400 Walnut Creek, California hereby submits to the Surface Transportation Board (“Board”) this Petition for Declaratory Order (“Petition”) pursuant to 49 C.F.R. § 1011.7(vi). This Petition requests a ruling that the spur line described below has been severed from the interstate railroad system, and that there is a present and future need to declare the spur line de facto abandoned. (See *RLTD Ry. Corp. v. Surface Transp. Bd.*, 166 F.3d 808, 812 (6th Cir. 1999) (“a de facto abandonment occurred because the line was no longer 'linked to and part of the interstate rail system.'”))

**Introduction**

This Petition concerns a former railroad spur line located at 125 Paul Avenue in San Francisco, California. From the 1920s through approximately the early 1980s, Southern Pacific Railroad (now Union Pacific Railroad) (“UP”) maintained a spur line cutting southwest through the property located at 125 Paul Avenue in the City of San Francisco and the County of San Francisco, California. (See Legal Description and Assessors Maps of the area, attached hereto and incorporated as Exhibit A.)

5993969.1

FEE RECEIVED  
May 4, 2016 <sup>1</sup>  
SURFACE  
TRANSPORTATION BOARD

FILED  
May 4, 2016  
SURFACE  
TRANSPORTATION BOARD

At some point before 1982, UP completely removed the rail line from 125 Paul Avenue, along with adjacent slopes and other related improvements. Further, by 1982, a self-storage site had been constructed on the site of the former rail tracks that clearly obstructed the former right of way. (See 1982 Aerial Photograph, attached hereto and incorporated as Exhibit B.) In summary, by 1982, not only were all tracks, slopes, ties and related improvements removed, the right of way was obstructed by permanent storage facilities not owned by UP.

On November 13, 2000, 400 Paul Wave acquired the property located at 400 Paul Avenue in San Francisco, California (“400 Paul”). 400 Paul Wave purchased the 400 Paul property subject to a slope easement benefiting UP for maintenance of slopes (which no longer exist) adjacent to the now-absent spur line. The easement is contained in the 1926 Grant Deed from San Francisco Sulphur Co. to Southern Pacific Company, which states:

The party of the first part hereby grants to the party of the second part, and to its successors and assigns forever, the right to construct and maintain the slopes of embankment and cuts over, upon, across and along the hereinafter described lands in such a manner as the party of the second part, its successors and assigns may from time to time deem necessary for the safe, suitable and convenient operation of its railroad.

(See October 1926 Grant Deed, ¶ 2, attached hereto and incorporated as Exhibit D.)

In 2014, UP, which owned the rail spur property in fee, sold the land on which the spur line formerly had existed to Property Partners, LLC, an entity completely unrelated to railroads or railroad operation. UP did not retain any rights over the rail spur property. (See 2014 Quitclaim Deed to Property Partners, attached hereto and incorporated as Exhibit C.) UP’s sale of the land without any reservation for future use, together with UP’s removal of the tracks, slopes, ties and related improvements, indicates that UP permanently abandoned all railroad use of this particular spur.

On or around November 19, 2015, 400 Paul Wave contacted UP and requested that UP quitclaim its interest in the easement burdening 400 Paul Avenue in San Francisco, California, based on the information set forth above (abandonment for over 30 years). A representative from UP responded stating that in order to quitclaim the easement for slope maintenance (regardless of whether any slopes existed, or whether UP had used or maintained the slopes for the past 30 years), 400 Paul Wave must pay UP \$136,000, despite the fact that UP had removed the tracks and related improvements, abandoned the rail line, and sold the land where the spur line formerly had been located to an entity not engaged in railroad operation and without reserving any rights over the line. (See email correspondence between 400 Paul Wave and UP dated November 20, 2015 through January 25, 2016, attached hereto and incorporated as Exhibit E.)

Having achieved no results with UP, 400 Paul attempted to work with its title company, Old Republic Title Company, to remove the abandoned slope maintenance easement. On February 24, 2016, 400 Paul Wave was informed by Old Republic Title Company that an application must be submitted by the railroad to the Board in order to officially abandon the line. (See email from Tim Maxfield, Old Republic Title Company, dated February 24, 2016, attached hereto and incorporated as Exhibit F.)

In February 2016, 400 Paul Wave directed its lawyers to contact the Board to see whether UP had filed any formal abandonment concerning the line located near 400 Paul Avenue. On March 8, 2016, the Board confirmed it has no records of any formal abandonment of the line; however, the Board's preliminary analysis also indicated that the line in question was possibly a spur line based on its location away from the main line. (See emails from Alfred Forstall, U.S.

Surface Transportation Board, Rail Customer and Public Assistance Program, dated March 8, 2016 and March 1, 2016, respectively, attached hereto and incorporated as Exhibit G.)

Based upon the foregoing, 400 Paul Wave believes that the line in question is a spur line that has been abandoned. No formal abandonment would be required of UP in order to abandon the spur line.

In order to remove the abandoned slope maintenance easement from title to the 400 Paul property, however, a declaration of abandonment is necessary. The declaration of abandonment would terminate the 1926 easement for the maintenance of the slopes that currently burdens the property located at 400 Paul Avenue in San Francisco, California and would resolve any uncertainty surrounding the existence of this line.

### **Legal Argument**

#### **A. Abandonment of the Spur Line**

The rail system in America is governed by Title 49 of the United States Code, with rail systems falling under the jurisdiction of the Surface Transportation Board. (49 U.S.C. §10101 et seq.) Pursuant to 49 C.F.R. section 1011.7, subdivision (vi), a duty of the Board, as delegated to the Board's Office of Proceedings, is "to institute requested declaratory order proceedings under 5 U.S.C. section 554, subdivision (e)." Specifically, the Office of Proceedings may "with like effect as in the case of other orders, and in its sound discretion ... issue a declaratory order to terminate a controversy or remove uncertainty." (5 U.S.C. §554(e).)

While it is true that major rail lines must be formally abandoned or discontinued through a filing process with the Board, certain exceptions apply. Specifically, pursuant to 49 C.F.R. section 10906, the Board does not have to formally consider and approve applications over the abandonment of spur lines. The Code section provides, in pertinent part:

Notwithstanding section 10901 and subchapter II of chapter 113 of this title, and without the approval of the Board, a rail carrier providing transportation subject to the jurisdiction of the Board under this part may enter into arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks. The Board does not have authority under this chapter over construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks.

(49 C.F.R. §10906.)

The former rail line over 125 Paul Avenue was a spur line and as such, no formal abandonment through the Board was required. To date, however, and despite being provided with all information that is concurrently being provided to the Board with this Petition, UP still refuses to provide a quitclaim deed removing the slope easement burdening 400 Paul Avenue without 400 Paul Wave first paying it a sum of \$136,000. This abuse of power leaves 400 Paul Wave no choice but to turn to the Board for a declaratory order that the line has been abandoned -- together with all easements benefiting the abandoned line, including the slope maintenance easement -- even though no formal abandonment process was required for the termination of the spur line under 49 C.F.R. section 10906.

**B. Termination of the Easement**

It is well established in California real estate law that an easement is terminated by abandonment of its purpose. In fact, this rule has been addressed a number of times with regard to easements granted to railroad companies where the railway is no longer in existence. Most notably, the court in *People v. Ocean Shore R.R.* (1948) 32 Cal. 2d 406, 417 [196 P.2d 570, 578] held, “An easement acquired by a utility for a public purpose is terminated by abandonment of that purpose, and whether or not there has been such an abandonment is ordinarily a question of fact.”

There, the court held:

“It was for the trier of fact to determine whether there was a bona fide intent to preserve the right of way for actual railroad use, and the court could properly conclude that the acts and conduct of defendant were incompatible with the continued exercise of the easement, that the discontinuance of the line was not merely temporary, and that the right of way was abandoned and the easement terminated.”

*(People v. Ocean Shore R.R. (1948) 32 Cal. 2d 406, 418 [196 P.2d 570, 578].)*

In the court’s analysis of whether the easement had been abandoned, it noted how long the railroad had been out of operation, whether the service had ever resumed, and whether the tracks or other infrastructure had been removed. In their examination of the pertinent facts, the court in *Ocean Shore R.R.* found the railroad operation had been discontinued more than fourteen years, there had been no resumption of service, the tracks had been removed for over fourteen years, and it was economically infeasible to operate a railroad. (*People v. Ocean Shore R.R., supra*, 32 Cal. 2d 406 at p. 419.)

Although the railroad claimed its continued right to the easement, the court ruled that the public interest underlying the easement (maintenance of the railway) no longer existed due to termination of the railway service and removal of the tracks. Consequently, the railroad could no longer claim the benefit of the easement. (*People v. Ocean Shore R.R., supra*, 32 Cal. 2d 406 at p. 421.) Because the use envisioned for the easement no longer existed, the court found that the easement had been abandoned and thus was terminated.

In another 1940s case related to oil pipelines, the court held “It is well settled that where a utility acquires an easement (as distinguished from a fee simple title) in the nature of a right of way for a public purpose, the abandonment of the public purpose terminates the easement and the easement reverts.” (*Slater v. Shell Oil Co. (1940) 39 Cal. App. 2d 535, 549-50 [103 P.2d 1043, 1051].)*

In yet another case, decided nearly twenty years after the first *Ocean Shore R.R.* case, the court again held that the clear discontinued use of a railway supported a finding of voluntary abandonment of the easement. The result of that abandonment was extinguishment of the easement. (*Lake Merced Golf & Country Club v. Ocean Shore R.R. Co.* (1962) 206 Cal. App. 2d 421, 438 [23 Cal. Rptr. 881, 891] [citing *Ocean Shore R. R. Co. v. Doelger* (1960) 179 Cal.App.2d 222, 228 [3 Cal.Rptr. 706].)

Lastly, in California's preeminent treatise on Real Estate Law, Miller and Starr, the authors cite to a number of the cases mentioned above in its section on abandonment of private easements. Specifically, Miller and Starr's section states, "An easement is abandoned when the owner stops using it with the intention of abandoning the right to use it in the future." (Miller & Starr, Cal. Real Estate (4th ed. 2015) §15:79). As previously discussed, whether the owner intended to abandon its right to the easement is a question of fact which was examined at length by the *Ocean Shore R.R.* court.

In the present case, the railroad tracks and appurtenances were removed more than thirty years ago. The slopes have been removed, and UP has not used the tracks or maintained the slopes for over thirty years. Further, UP sold the dominant parcel to a non-railroad related entity in 2014 without reserving any rights for railroad use. Such facts are clear evidence that the discontinuance of the spur line is permanent. Therefore, it is clear that the intended purpose and use of the easement are no longer in existence and that the easement has been abandoned as a matter of law.

As outlined above, there is ample evidence and case law to support a finding that UP abandoned its railway and thus the easement has terminated. Records of a formal filing do not

exist because no formal abandonment procedure is required to abandon a spur line under 49 C.F.R. section 10906.

400 Paul Wave requests the Board's assistance to remove the uncertainty regarding the status of the former spur line, and the existence of a slope maintenance easement benefiting an abandoned rail line. The indisputable facts compel the conclusion that the spur line was de facto abandoned by UP no later than 1982, when the tracks and slopes were removed and new structures were built which blocked the former right of way. A finding of abandonment would not cause any change in carrier operations, would not impact any interstate or intrastate commerce, and would have no negative historical or environmental impact. Because the spur line has not been used in over three (3) decades, there is no revenue or cost associated with the line. (49 C.F.R. §1152.22 et seq.)

**Relief Requested**

For all of the reasons discussed above, 400 Paul Wave respectfully requests a Declaratory Ruling that the spur line has been abandoned, together with the slope maintenance easement encumbering the 400 Paul property. The relief requested is reasonable and necessary to clarify the status of the spur line, once and for all, and to prevent an abuse of power by UP.

Respectfully Submitted,



Lisa Freilicher, General Counsel  
400 Paul Wave eXchange, LLC  
2999 Oak Road, Suite 400  
Walnut Creek, California 94597

Dated: April 25, 2016

# Exhibit A

September 19, 2012

EXHIBIT "A"  
LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

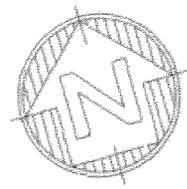
PARCEL ONE:

PARCEL 2 AS SHOWN ON THAT MAP ENTITLED, "PARCEL MAP OF LANDS OF SOUTHERN PACIFIC TRANSPORTATION COMPANY", FILED FOR RECORD ON MARCH 2, 1981 IN BOOK 19 OF PARCEL MAPS AT PAGE 39 THROUGH 41, INCLUSIVE, OFFICIAL RECORDS OF THE CITY AND COUNTY SAN FRANCISCO.

CONTAINING 11,283 S.F., 0.26 ACRES, MORE OR LESS

APN: LOT 19, BLOCK 5431A

S16°05'35"W  
24.00'



# EGBERT AVENUE WIDTH VARIES

S73°54'25"E 571.22'

22.81'

**LOT 017**  
N/F  
THE HOUSING AUTHORITY  
OF THE CITY AND COUNTY  
OF SAN FRANCISCO  
Y77727  
C153 O.R. 443

**LOT 001Z**  
N/F  
EGBERT ENTERPRISES, LLC  
PARCEL II  
**LOT 002**  
N/F  
CHRISTOFORIDIS  
2004-642690-00  
1557 O.R. 0040  
**EASEMENT**  
PARCEL NO. 1  
BOOK 1353 O.R.  
468

**LOT 001A**  
N/F  
EGBERT ENTERPRISES, LLC  
1999-G691867-00  
H510 O.R. 0430

**EASEMENT**  
PARCEL NO. 2  
BOOK 1353  
O.R. 468

**LOT 019**  
PARCEL 2  
19 PM 39-41  
AREA = 11,192±  
SQ. FT.

**LOT 018**  
PARCEL 1  
19 PM 39-41

L = 64.52'  
R = 452.64'  
D = 8°10'00"

L = 66.94'  
R = 469.64'  
D = 8°10'00"

**LOT 001L**  
N/F  
TWENTY-SIX SAC  
SELF-STORAGE  
LIMITED  
PARTNERSHIP,  
A NEVADA  
LIMITED  
PARTNERSHIP  
2002-H145052-00  
1115 O.R. 0219

**LOT 014**  
N/F  
400 PAUL WAVE EXCHANGE, LLC  
A DELAWARE LIMITED  
LIABILITY COMPANY  
2000-G863520-00  
H765 O.R. 0308

WESTERLY LINE OF  
PARCEL NO. ONE, DEED  
RECORDED JULY 20, 1926,  
BOOK 1302, PAGE 415

## ASSESSOR'S BLOCK 5431A

N/F NOW OR FORMERLY

● INDICATES FOUND CITY  
STANDARD MONUMENT  
(OR AS NOTED)

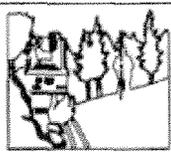


100' 0 100'



SCALE: 1" = 100'

SURVEY:  
FTS  
DRAWN:  
HRF  
CHECKED:



Frederick T. Seher & Associates, Inc.  
PROFESSIONAL LAND SURVEYORS  
841 LOMBARD STREET, SAN FRANCISCO, CA  
PHONE (415) 921-7690 FAX (415) 921-7655

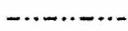
UPPER ROW - EGBERT AVENUE  
ASSESSOR'S BLOCK 5431A, LOT 019  
EXHIBIT "A"

JOB NO. 1640-12 DATE: SEPT., 2012 SCALE: 1" = 100' SHEET NO. 1 OF 2



**LEGEND:**

RELEASE OF EASEMENT 

UPRRCO. R/W OUTLINED 

RELEASE OF EASEMENT AREA = 4,360 SQ. FT. +/-

NOTE: BEFORE YOU BEGIN ANY WORK, SEE AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY

SAN FRANCISCO, SAN FRANCISCO COUNTY, CALIFORNIA

OPP.M.P. 4 - SAN FRANCISCO SUB.

TO ACCOMPANY AGREEMENT WITH  
400 PAUL WAVE EXCHANGE

MAP SP V-2 / 4A

SCALE: 1" = 200'

OFFICE OF REAL ESTATE  
OMAHA, NEBRASKA DATE: 1-23-2016

PJB FILE: 0296913

CADD FILENAME	0296913
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SCAN FILENAME	CALV204A-296913.TIF
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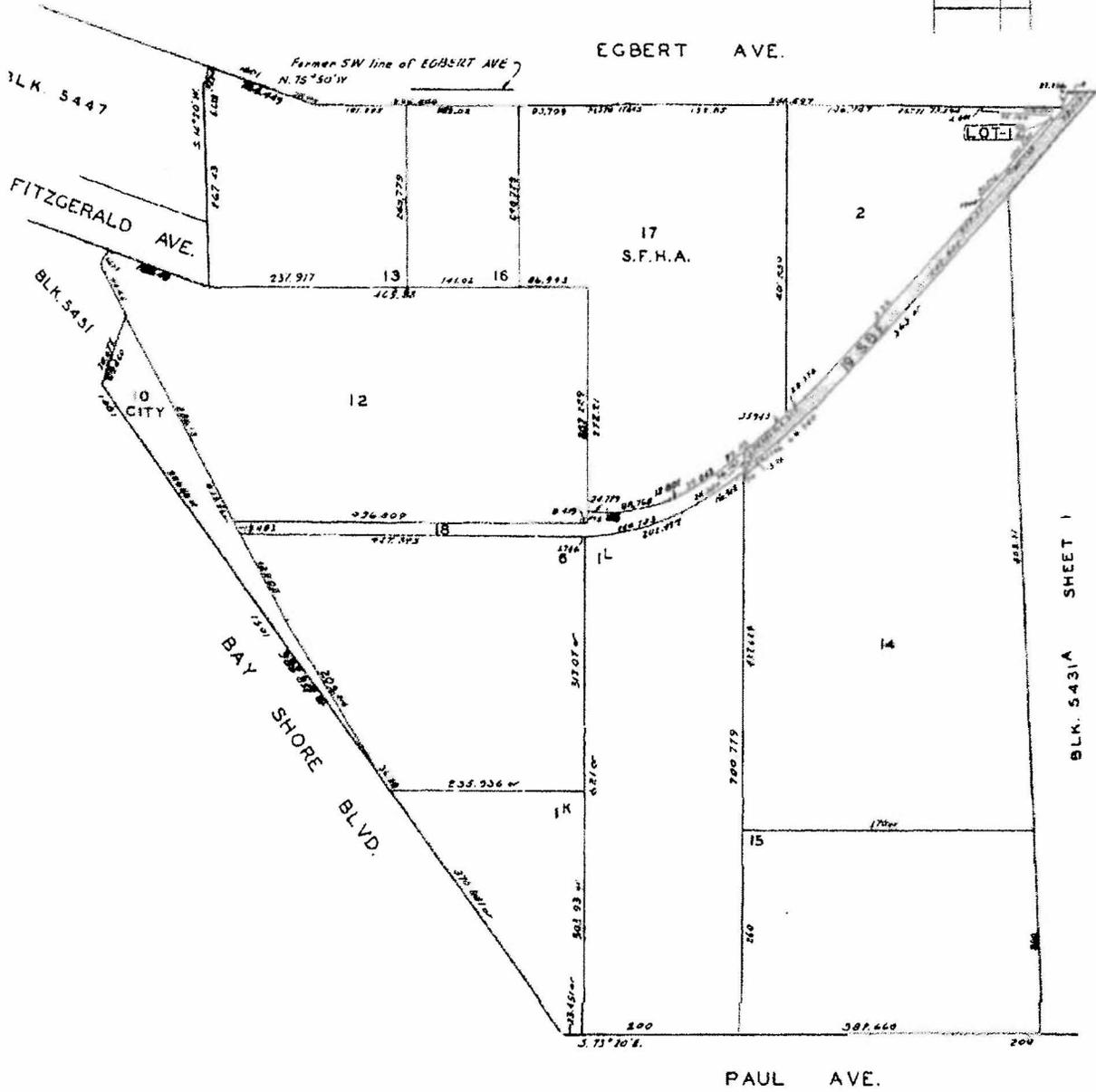
5431A

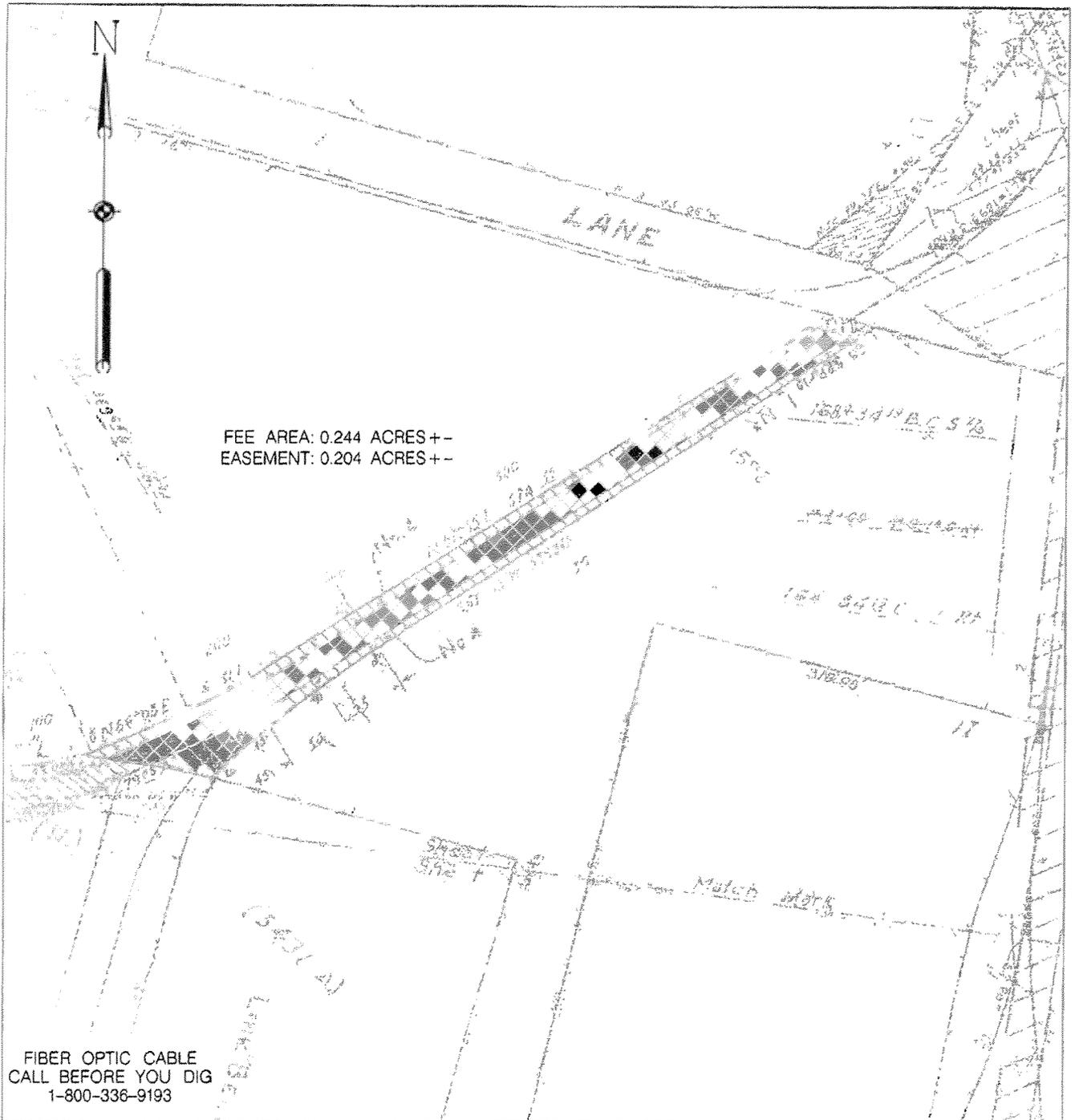
SHEET 2

SCALE 1"=100'



REVISED	DATE





SCALE 1" = 400'

LEGEND

U.P.R.R. RIGHT OF WAY

FEE AREA SHOWN

EASEMENT AREA

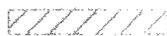


EXHIBIT "A"

**UNION PACIFIC RAILROAD CO.**

TO ACCOMPANY AGREEMENT WITH  
JOE O'BRIAN

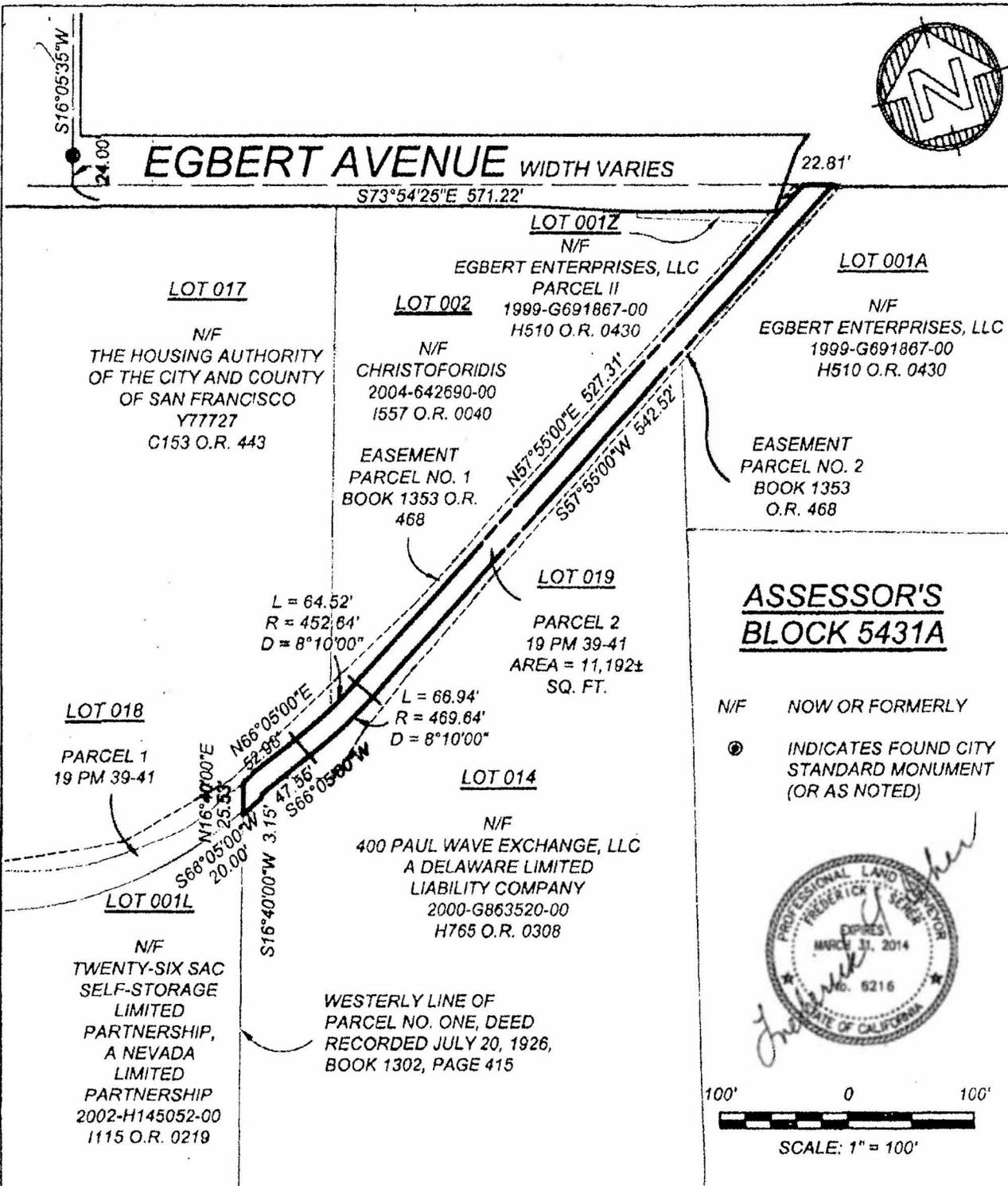
SAN FRANCISCO, SAN FRANCISCO COUNTY, CA.

ABANDONED SPUR TRACK

SP CA V 2 / 4a

REAL ESTATE DEPARTMENT OMAHA NE.

FILE #2717-74 DATE: 2-8-2012 T.D.A.



SURVEY:  
FTS  
DRAWN:  
HRF  
CHECKED:



**Frederick T. Seher & Associates, Inc.**  
PROFESSIONAL LAND SURVEYORS  
841 LOMBARD STREET, SAN FRANCISCO, CA  
PHONE (415) 921-7880 FAX (415) 921-7855

**UPPER ROW - EGBERT AVENUE**  
**ASSESSOR'S BLOCK 5431A, LOT 019**  
**EXHIBIT "A"**

# Exhibit B



INQUIRY # 4293951.5

YEAR: 1982

— = 500'



# Exhibit C

4  
**RECORDING REQUESTED BY AND WHEN  
RECORDED MAIL TO:**

Property Partners, LLC  
1485 Bayshore Boulevard, MBN 178  
San Francisco, CA 94124

**MAIL TAX STATEMENTS TO:**  
Same as above



San Francisco Assessor-Recorder  
Carmen Chu, Assessor-Recorder

**DOC- 2014-J956655-00**

Check Number 8502

Tuesday, SEP 30, 2014 15:36:09

Ttl Pd \$40.00 Ropt # 0005025719

ofa/NF/1-6

Lot 019, Block 5431A  
125 Paul Avenue

QUITCLAIM DEED

The undersigned hereby declares documentary transfer tax to be: not disclosed per R&T Code 11932

SEPARATE PAGE PURSUANT TO GOVT CODE 27361.6

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

Property Partners, LLC  
1485 Bayshore Boulevard, MBN 178  
San Francisco, California 94124

---

**MAIL TAX STATEMENTS TO:**

Property Partners, LLC  
1485 Bayshore Boulevard, MBN 178  
San Francisco, California 94124

---

*Space Above Line for Recorder's Use Only*

2717-74

**QUITCLAIM DEED**

**UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation (formerly known as Southern Pacific Transportation Company, a Delaware corporation, successor in interest through merger with Southern Pacific Company, a Delaware corporation) ("Grantor"), in consideration of the sum of Ten Dollars (\$10.00), and other valuable consideration to it duly paid, the receipt whereof is hereby acknowledged, does hereby REMISE, RELEASE and forever QUITCLAIM unto **PROPERTY PARTNERS, LLC**, a California limited liability company ("Grantee"), whose address is 1485 Bayshore Boulevard, MBN 178, San Francisco, California 94124, and unto its successors and assigns forever, all of Grantor's right, title, interest, estate, claim and demand, both at law and in equity, of, in, and to the real estate (the "Property") situated in the City and County of San Francisco, State of California, as more particularly described in **Exhibit A**, hereto attached and hereby made a part hereof.

EXCEPTING FROM THIS QUITCLAIM AND RESERVING UNTO GRANTOR, its successors and assigns, forever, all minerals and all mineral rights of every kind and character now known to exist or hereafter discovered underlying the Property, including, without limiting the generality of the foregoing, oil and gas and rights thereto, together with the sole, exclusive and perpetual right to explore for, remove and dispose of said minerals by any means or methods suitable to Grantor, its successors and assigns, but without entering upon or using the surface of the Property, and in such manner as not to damage the surface of the Property, or to interfere with the use thereof by Grantee, its successors or assigns.

IN WITNESS WHEREOF, Grantor has caused this Quitclaim Deed to be duly executed as of the 10<sup>th</sup> day of September, 2014.

Attest:

**UNION PACIFIC RAILROAD COMPANY,  
a Delaware corporation**

C. J. Meyer  
Assistant Secretary

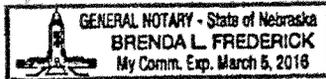
By: Tommy Lee  
Title: Assistant Vice President - Real Estate

(Seal)

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

On September 10, 2014, before me, Brenda L. Frederick,  
Notary Public in and for said County and State, personally appeared Tony K. Love and  
C.J. Meyer, who are the Assistant Vice President – Real Estate and  
the Assistant Secretary, respectively, of UNION PACIFIC RAILROAD COMPANY,  
a Delaware corporation, and who are personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the persons whose names are subscribed to in the within instrument,  
and acknowledged to me that they executed the same in their authorized capacities, and that by  
their signatures on the instrument the persons, or the entity upon behalf of which the persons  
acted, executed the instrument.

WITNESS my hand and official seal.



(Seal)

Brenda L. Frederick  
Notary Public

September 24, 2012

EXHIBIT "A"  
LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL ONE:

PARCEL 2 AS SHOWN ON THAT MAP ENTITLED, "PARCEL MAP OF LANDS OF SOUTHERN PACIFIC TRANSPORTATION COMPANY", FILED FOR RECORD ON MARCH 2, 1981 IN BOOK 19 OF PARCEL MAPS AT PAGE 39 THROUGH 41, INCLUSIVE, OFFICIAL RECORDS OF THE CITY AND COUNTY SAN FRANCISCO.

CONTAINING 11,283 S.F., 0.26 ACRES, MORE OR LESS

APN: LOT 19, BLOCK 5431A



# Exhibit D

SAN FRANCISCO SULPHUR CO. }  
 TO }  
 SOUTHERN PACIFIC CO. }

THIS INDENTURE, made this 26th day of October, 1926, by and between SAN FRANCISCO SULPHUR COMPANY, a corporation, organized and existing under the laws of the State of California, party of the first part, and SOUTHERN PACIFIC COMPANY, a corporation, party of the second part,

WITNESSETH: That for and in consideration of the sum of TEN (10) DOLLARS, lawful money of the United States of America, paid by the party of the second part to the party of the first part, the receipt whereof is hereby acknowledged, the party of the first part hereby grants to the party of the second part, and to its successors and assigns forever, the right to construct and maintain the slopes of embankments and cuts over, upon, across and along the hereinafter described lands in such manner as the party of the second part, its successors and assigns may from time to time deem necessary for the safe, suitable and convenient operation of its railroad.

THE lands upon and along which this easement is granted are situate in the City and County of San Francisco, State of California, and particularly described as follows, to-wit:

PARCEL NO. 1:

a Strip of land lying Northwesterly from and adjacent to the 17 foot right of way acquired by Southern Pacific Company from San Francisco Sulphur Company by deed dated April 3, 1925, which deed was recorded April 8, 1925, in Liber 1037, Page 358, Official Records of the City and County of San Francisco, said strip being of variable width as follows:

AT a point on the Northwesterly boundary of said right of way lying North 73° 52' West 22,798 feet from point of beginning of description of said deed, a width of 5 feet; at a point 148 feet Southwesterly from above described point measured on Northwesterly boundary line of said right of way, a width of 5 feet; at a point 448 feet Southwesterly from first described point measured on Northwesterly boundary line of said right of way, a width of 8 feet; at a point 648 feet Southwesterly from first described point measured on Northwesterly boundary line of said right of way a width of 8 feet; at a point 748 feet Southwesterly from first described point measured on Northwesterly boundary of said right of way, a width of 13 feet; at a point 848 feet Southwesterly from first described point measured on Northwesterly boundary line of said right of way a width of 20 feet; at a point 857.04 feet Southwesterly from first described point measured on Northwesterly boundary line of said right of way, a width of 21 feet.

THE last mentioned point being also the Southeasterly corner of a parcel of land owned by Kroebler Manufacturing Company.

PARCEL NO. 2:

A strip of land lying adjacent to and Southeasterly of the right of way acquired by deed referred to in Parcel No. 1, being 5 feet wide at the point of beginning of description of above mentioned deed and having various widths as follows:

AT a point 163 feet Southwesterly from said point of beginning measured on Southeasterly boundary line of said right of way a width of 5 feet; at a point 463 feet Southwesterly from said point of beginning measured on Southeasterly boundary line of said right of way a width of 8 feet; at a point 513 feet Southwesterly from said point of beginning measured on Southeasterly boundary line of said right of way a width of

9 feet; at a point 663 feet Southwesterly from said point of beginning measured on Southeasterly boundary line of said right of way a width of 18 feet; at a point 606 feet Southwesterly from said point of beginning measured on Southeasterly boundary line of said right of way a width of 26 feet, and at a variable width from last above mentioned point to point 620.04 feet Southwesterly from said point of beginning measured on Southeasterly boundary line of said right of way where said Southeasterly boundary line intersects the Northeasterly boundary line of property as described in deed from San Francisco Sulphur Company to Link-Belt, Keese and Gottfried Co., dated July 2, 1926, and recorded July 20, 1926, in Vol. 1302 at Page 415 Official Records of San Francisco County.

THE parcels of land hereinabove described are shown tinted in red on blueprint of Coast Division Drawing 16422, Sheet #5, hereto attached and made a part hereof.

IN WITNESS WHEREOF, the said party of the first part has executed these presents the day and year first herein written.

(Corp. Seal)

SAN FRANCISCO SULPHUR COMPANY,  
By B. P. OLIVER, Vice-President.  
Attest: C. JANTZEN, Secretary.

Form Approved:

WM. V. BERREN,  
Contract Attorney.

Description Correct  
W. H. KIRBRIDE,  
Engineer M of W & S.

State of California }  
City and County of San Francisco }

ss.

On this 28th day of October, in the year one thousand nine hundred and twenty-six, before me, O. A. Eggers, a Notary Public in and for the City and County of San Francisco, State of California, residing therein, duly commissioned and sworn, personally appeared B. P. Oliver and C. Jantzen, known to me to be the Vice-President and Secretary, respectively of San Francisco Sulphur Company, the corporation described in and that executed the within instrument, and also known to me to be the persons who executed the same on behalf of the corporation therein named, and they acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the City and County of San Francisco, the day and year in this certificate first above written.

(Seal)

O. A. EGGERS, Notary Public  
in and for the City and County of San Francisco, State of California.

My Commission expires April 6, 1928.

# Exhibit E

---

**From:** Robert M. Krantz [<mailto:rmkrantz@up.com>]  
**Sent:** Monday, January 25, 2016 3:39 PM  
**To:** John Wilson  
**Subject:** Fw: RR Slope Easement - 400 Paul

John, I have been researching our property records internally regarding the slope easement. Part of this review includes researching the book value of the property in question and to obtain a print of the area which is part of the transaction. Please find attached a print that illustrates the portion of the slope easement that encumbers the 400 Paul Wave Exchange parcel.

The railroad's records contains a book/ledger value for all of the Company's real estate, including the slope easement in question. Typically a \$10,000 administrative fee will cover our transactional costs if the property interest in question has a low book value. However, our Property Engineering group has advised that the slope easement (the area impacting your property as well as the balance of the slope easement) has a high book value. As background, many of the former Southern Pacific property interests, both fee holdings and easements, were written up from a book value standpoint as part of the Union Pacific acquisition. The area of the easement that impacts your property was one of them. The book value of the portion of the slope easement affecting your property is \$136,000.

With the above said, I am willing to progress a Partial Release and Quitclaim of Easement for the portion of the slope easement that impacts your property for the book value of \$136,000. This amount covers the book/ledger value associated with the easement on your property. Anything less than this causes a book loss for UP and I cannot convey out any property interest that will cause UP a book loss.

Please let me know if you would like to proceed. If you would like to move forward, I will prepare an "Agreement for Partial Release and Quitclaim" which is a short document that covers the transaction. All real estate transactions are subject to the formal review and approval of UP's senior management.

Robert M. Krantz, Director-Real Estate  
Union Pacific Railroad  
2603 Camino Ramon, Suite 200  
San Ramon, CA 94583

Direct: 925-242-2100  
Fax: 402-501-0340  
Email: [rmkrantz@up.com](mailto:rmkrantz@up.com)

----- Forwarded by Robert M. Krantz/UPC on 01/25/2016 05:19 PM -----

**From:** Robert M. Krantz/UPC  
**To:** Christine Tejada <[CTejada@cambaygroup.com](mailto:CTejada@cambaygroup.com)>  
**Date:** 01/13/2016 04:56 PM  
**Subject:** RE: RR Slope Easement - 400 Paul

No thanks, that's OK. I printed it out.

Robert M. Krantz, Director-Real Estate  
Union Pacific Railroad

2603 Camino Ramon, Suite 200  
San Ramon, CA 94583

Direct: 925-242-2100  
Fax: 402-501-0340  
Email: [rmkrantz@up.com](mailto:rmkrantz@up.com)

From: Christine Tejada <[CTejada@CambayGroup.com](mailto:CTejada@CambayGroup.com)>  
To: "Robert M. Krantz" <[rmkrantz@up.com](mailto:rmkrantz@up.com)>  
Date: 01/13/2016 04:53 PM  
Subject: RE: RR Slope Easement - 400 Paul

---

This email originated from outside of the company. Please use discretion if opening attachments or clicking on links.

---

Would you like me to send you a hard copy?

Thank you.

Regards,

Christine Tejada  
Corporate Paralegal  
The Cambay Group, Inc.  
2999 Oak Road, Suite 400  
Walnut Creek, CA 94597  
Telephone: (925) 933-1405  
Facsimile: (925) 933-1404  
[ctejada@CambayGroup.com](mailto:ctejada@CambayGroup.com)

**From:** Robert M. Krantz [<mailto:rmkrantz@up.com>]  
**Sent:** Wednesday, January 13, 2016 2:50 PM  
**To:** Christine Tejada  
**Cc:** Jennifer McCulloch; Lisa Freilicher  
**Subject:** Re: RR Slope Easement - 400 Paul

Thank you.

Robert M. Krantz, Director-Real Estate  
Union Pacific Railroad  
2603 Camino Ramon, Suite 200  
San Ramon, CA 94583

Direct: 925-242-2100  
Fax: 402-501-0340  
Email: [rmkrantz@up.com](mailto:rmkrantz@up.com)

From: Christine Tejada <CTejada@CambayGroup.com>  
To: "rmkrantz@up.com" <rmkrantz@up.com>  
Cc: Jennifer McCulloch <JMcCulloch@CambayGroup.com> Lisa Freilicher <LFreilicher@CambayGroup.com>  
Date: 01/13/2016 04:46 PM  
Subject: FW: RR Slope Easement - 400 Paul

---

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---

Dear Mr. Krantz:

Please see the attached Preliminary Title Report per your request.

Thank you.

Regards,

Christine Tejada  
Corporate Paralegal  
The Cambay Group, Inc.  
2999 Oak Road, Suite 400  
Walnut Creek, CA 94597  
Telephone: (925) 933-1405  
Facsimile: (925) 933-1404  
[ctejada@CambayGroup.com](mailto:ctejada@CambayGroup.com)

**From:** John Wilson  
**Sent:** Wednesday, January 13, 2016 2:41 PM  
**To:** Christine Tejada  
**Subject:** Fwd: RR Slope Easement - 400 Paul

Sent from my iPhone

Begin forwarded message:

**From:** "Robert M. Krantz" <[rmkrantz@up.com](mailto:rmkrantz@up.com)>  
**Date:** January 13, 2016 at 2:21:49 PM PST  
**To:** John Wilson <[JWilson@CambayGroup.com](mailto:JWilson@CambayGroup.com)>  
**Subject:** **Fw: RR Slope Easement - 400 Paul**

Hi John. I am replying to your voice message the other day.

I received a package of information from Christine Tejada. One piece of information that I did not receive and will need is a copy of a preliminary title report or title policy for the 400 Paul Wave Exchange ownership that shows 400 Paul Wave Exchange as the underlying fee owner of the property and also shows in the title report an exception to title for the referenced slope easement area. We can only quitclaim our easement interest to the underlying fee owner.

In terms of handling any proposed transaction, we prefer to handle the recordation of the Release and Quitclaim of Easement deed (our form used) and receipt of the \$10,000 administrative fee through an escrow company. All costs of the escrow would be paid by the Buyer.

Once I am in receipt of the requested information, I will progress this matter further internally. Thank you.

Robert M. Krantz, Director-Real Estate  
Union Pacific Railroad  
2603 Camino Ramon, Suite 200  
San Ramon, CA 94583

Direct: 925-242-2100  
Fax: 402-501-0340  
Email: [rmkrantz@up.com](mailto:rmkrantz@up.com)

----- Forwarded by Robert M. Krantz/UPC on 01/13/2016 04:15 PM -----

From: Robert M. Krantz/UPC  
To: John Wilson <[JWilson@CambayGroup.com](mailto:JWilson@CambayGroup.com)>  
Cc: Lisa Freilicher <[LFreilicher@CambayGroup.com](mailto:LFreilicher@CambayGroup.com)>  
Date: 11/20/2015 12:15 PM  
Subject: Re: RR Slope Easement - 400 Paul

---

Hi John Please find attached a property sale application. I will need a detailed map of the specific area showing the existing UP rail easement area you are requesting for release. I will need to have Google aerial photo(s) highlighted showing the specific right of way of interest, a street map with the location and other drawings or diagrams as appropriate that show the property of interest. An assessor's plat map showing the easement as well will be needed. I will need a title report that references the easement of interest and the underlying granting document for the easement. Should we be able to move forward and quitclaim our easement interest, we would require that you prepare legal descriptions and plat maps of the easement area requested for quitclaim. In any proposed transaction, all costs associated with surveys, title insurance and escrow would be at your expense.

As part of the process I go through, I have to approach a number of different departments internally to get any property released to me for disposition. This process can take a number of weeks. Due to current year end commitments, I may not be able to devote any attention to this matter for the balance of this year.

We can only quitclaim our easement interest to the underlying fee owner. We charge a \$10,000 administrative fee for handling any transactions due to the number of different departments involved in any transaction.

Please review the attached Application, fill it out and return to me. This should not be construed as a contract or commitment as matters of this nature are subject to formal Union Pacific management approval.

Robert M. Krantz, Director-Real Estate  
Union Pacific Railroad  
2603 Camino Ramon, Suite 200  
San Ramon, CA 94583

Direct: 925-242-2100

Fax: 402-501-0340  
Email: [rmkrantz@up.com](mailto:rmkrantz@up.com)

[attachment "UPRR Property Sale Application.pdf" deleted by Robert M. Krantz/UPC]

From: John Wilson <[JWilson@cambaygroup.com](mailto:JWilson@cambaygroup.com)>  
To: "rmkrantz@up.com" <[rmkrantz@up.com](mailto:rmkrantz@up.com)>  
Cc: Lisa Freilicher <[LFreilicher@cambaygroup.com](mailto:LFreilicher@cambaygroup.com)>  
Date: 11/20/2015 11:59 AM  
Subject: RR Slope Easement - 400 Paul

---

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Rob - Thanks for the information. I will begin gathering the materials and get back to you.  
Best,  
John Wilson [attachment "John O Wilson.vcf" deleted by Robert M. Krantz/UPC]

\*\*

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\*\* [attachment "PTR v7 (fm ORTC 1-6-16) (Sixth Amended).pdf" deleted by Robert M. Krantz/UPC]

\*\*

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IRS Circular 230 Disclosure: Pursuant to Internal Revenue Service Circular 230, only formal opinions satisfying specific requirements may be relied on for the purpose of avoiding certain penalties under the Internal Revenue Code. Any tax advice contained in this communication (including attachments) does not constitute a formal opinion satisfying such requirements. Accordingly, we must advise you that any such tax advice was not intended or written to be used, and cannot be used, by you or any other person as such an opinion for the purpose of (i) avoiding penalties imposed under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any matters addressed herein.

# Exhibit F

---

**Subject:** RE: 1211039763-KS / 400 Paul Avenue, San Francisco, CA / Union Pacific's Phantom Easement to Maintain Non-Existent Slopes for a Non-Existent Railroad on Unowned Land ..

**From:** Tim Maxfield <[tmaxfield@ortc.com](mailto:tmaxfield@ortc.com)>  
**Date:** February 24, 2016 at 4:01:21 PM PST  
**To:** Lisa Freilicher <[LFreilicher@cambaygroup.com](mailto:LFreilicher@cambaygroup.com)>  
**Subject:** 1211039763-KS / 400 Paul Avenue, San Francisco, CA / Union Pacific's Phantom Easement to Maintain Non-Existent Slopes for a Non-Existent Railroad on Unowned Land ...

Hello, Lisa. Pleasure talking to you this afternoon!

Per our conversation, Laura Lowe and JoAnne Dunec, our Underwriting Counsel in San Francisco, have decided that we cannot delete the railroad spur easement, based on the fact that the railroad has all but abandoned it. They had me search the Surface Transportation Board web-site to see if anything was ever filed by the railroad, but I did not find any filing.

They told me that without something officially terminating it with the Surface Transportation Board or some other governmental agency, the railroad could come in and claim the right to use the land, and that isn't a risk that the Company would take.

Need to find out if the railroad has been terminated in that area, and if so, is there any documentation that can be provided?

Tim Maxfield  
Advisory Title Officer / Vice President, Old Republic Title Company  
T: (209) 955-2811 | F: (209) 951-1163 | Shoretel: 42811  
[tmaxfield@ortc.com](mailto:tmaxfield@ortc.com)  
Old Republic Title Company

**From:** JoAnne Dunec  
**Sent:** Wednesday, February 24, 2016 10:16 AM  
**To:** Tim Maxfield  
**Cc:** Laura Lowe  
**Subject:** FW: 1211039763-KS / 400 Paul Avenue, San Francisco, CA / Union Pacific's Phantom Easement to Maintain Non-Existent Slopes for a Non-Existent Railroad on Unowned Land ...  
**Importance:** High

Hi Tim -

Can you determine whether the railroad formally terminated the spur line in question through the Surface Transportation Board?

JoAnne

**JoAnne Dunec**  
Vice President | Underwriting Counsel

T: 415-248-7172 | F: 415-398-5813 | Shoretel: 47172

jdunec@ortc.com  
Old Republic Title

**From:** Tim Maxfield  
**Sent:** Friday, February 05, 2016 4:30 PM  
**To:** Laura Lowe  
**Subject:** 1211039763-KS / 400 Paul Avenue, San Francisco, CA / Union Pacific's Phantom Easement to Maintain Non-Existent Slopes for a Non-Existent Railroad on Unowned Land ...  
**Importance:** High

Good afternoon. Laura and Happy Friday!

The in-house Counsel for the Seller sent the attached and has asked if we would consider removing Exception 8, an easement for construction and maintenance of slopes of embankments, that was conveyed to Southern Pacific Company, in 1926.

Can I get your thoughts, please? She indicated that they would pursue a Quiet Title Action if necessary, but would prefer not to.

Tim Maxfield  
Advisory Title Officer / Vice President, Old Republic Title Company  
T: (209) 955-2811 | F: (209) 951-1163 | Shoretel: 42811  
tmaxfield@ortc.com  
Old Republic Title Company

**From:** Lisa Freilicher [<mailto:LFreilicher@CambayGroup.com>]  
**Sent:** Monday, February 01, 2016 12:14 PM  
**To:** Tim Maxfield  
**Cc:** John Wilson; Christine Tejada  
**Subject:** Union Pacific's Phantom Easement to Maintain Non-Existent Slopes for a Non-Existent Railroad on Unowned Land ...  
**Importance:** High

Hi Tim – I've attached the memo that we discussed this morning (the latest chapter for John's book!). Please let us know your thoughts, and whether this means the Union Pacific exception can be removed. Thanks so much as always and have a great week! -Lisa

Lisa Freilicher  
General Counsel  
The Cambay Group, Inc.  
2999 Oak Road, Suite 400  
Walnut Creek, CA 94597  
Telephone: (925) 933-1405  
Cell: (510) 846-6242  
Facsimile: (925) 933-1404  
[lfreilicher@CambayGroup.com](mailto:lfreilicher@CambayGroup.com)

PRIVILEGED AND CONFIDENTIAL -- DO NOT FORWARD

# Exhibit G

---

**From:** Alfred.Forstall@stb.dot.gov  
**Sent:** Tuesday, March 08, 2016 7:14 AM  
**To:** Jessica L. Garland  
**Subject:** Abandonment of spur at 400 Paul Avenue San Francisco, CA

Dear Ms. Garland:

This morning, I completed the search of the catalogue of old ICC dockets in the STB library. I found no abandonment dockets pertaining to any of the industrial spurs in and around the Paul Avenue facility. Therefore, I am unable to draw any hard conclusion regarding the status of the line or the railroad easements at 400 Paul Avenue. If further questions arise as your process unfolds, please do not hesitate to let me know.

Best regards,

**Fred Forstall**

----- Forwarded by Alfred Forstall/STB on 03/08/2016 09:57 AM -----

**From:** Alfred Forstall/STB  
**To:** "Jessica L. Garland" <Jessica.Garland@ndif.com>  
**Date:** 03/07/2016 04:00 PM  
**Subject:** RE: Materials for investigation into abandonment of spur line located at 400 Paul Avenue San Francisco, CA (Email 3 of 3)

Dear Ms. Garland:

Regrettably, I have not yet had a chance to complete the research for the railroad line in question. Also, I cannot offer very good advice in regard to the time necessary for a Board determination should it come to that because such cases are not very common. The link below is for the record of a case that is before the Board at the moment. It pertains to a request by the City of Appleton regarding a derelict railroad bridge spanning the Fox River. The Appleton filing in this case may be of interest to you as it provides a sense of how the issue plays out at the Board. However, at the moment, the City and railroad are negotiating a settlement, so the record doesn't speak to the issue of the time necessary for a Board determination.

[http://www.stb.dot.gov/home.nsf/case?openform&caseID=31388&caseDocket=FD\\_35918\\_0](http://www.stb.dot.gov/home.nsf/case?openform&caseID=31388&caseDocket=FD_35918_0)

I will be in touch as soon as I have had the chance to complete the search of the microfiche records.

**Fred Forstall**

U.S. Surface Transportation Board, Rail Customer and Public Assistance Program  
395 E Street SW, Washington, DC 20423  
202-245-0241 [alfred.forstall@stb.dot.gov](mailto:alfred.forstall@stb.dot.gov)



Opinions expressed by employees of the Rail Customer & Public Assistance Program (RCPA) of the Surface Transportation Board are theirs alone, and do not represent opinions of, or by, the Board or its Commissioners or Directors. Formal opinions of the Board may only be obtained via a formal proceeding. Positions taken by RCPA employees might not be followed by the Board should a formal proceeding be initiated; and spoken or written comments may be withdrawn by the Board at its discretion. All matters discussed with RCPA employees are confidential and subject to the same confidentiality provisions as administrative dispute resolutions pursuant to 49 C.F.R. 1109.3 and 5 U.S.C. 574. Except as specifically set forth in 5 U.S.C. 574, neither RCPA employees nor the parties to an informal matter before the RCPA shall disclose any informal dispute resolution communication.

From: "Jessica L. Garland" <Jessica.Garland@ndf.com>  
To: "Alfred.Forstall@stb.dot.gov" <Alfred.Forstall@stb.dot.gov>  
Date: 03/07/2016 03:17 PM  
Subject: RE: Materials for investigation into abandonment of spur line located at 400 Paul Avenue San Francisco, CA (Email 3 of 3)

Good afternoon Mr. Forstall,

I am writing just to check in and see how your search for records of abandonment of the railroad tracks located at 400 Paul Avenue, San Francisco is coming along. Further, should your search come up empty, my clients would be interested in moving forward with a petition to the STB for a declaration that the railroad abandoned these tracks. I believe that was the next step you mentioned as an avenue to explore. Do you have any idea of how long that process takes, generally?

Thank you as always for all of your assistance and insights in this matter.

Very Best,  
Jessica



NEWMAYER & DILLON LLP



Jessica L. Garland | Associate  
[Jessica.Garland@ndf.com](mailto:Jessica.Garland@ndf.com)  
p 949.854.7000 - d 949.271.7117

Newmeyer & Dillon LLP  
895 Dove Street, 5th Floor  
Newport Beach, CA 92660

Newport Beach • Walnut Creek • Las Vegas

**From:** Jessica L. Garland  
**Sent:** Tuesday, March 01, 2016 11:43 AM  
**To:** 'Alfred.Forstall@stb.dot.gov'  
**Subject:** RE: Materials for investigation into abandonment of spur line located at 400 Paul Avenue San Francisco, CA (Email 3 of 3)

Dear Mr. Forstall,

Thank you very much for your preliminary response and for the USGS topographic map of the area. Your insights are very much appreciated, and I look forward to hearing what you find (or perhaps do not find) after reviewing the ICC abandonment records.

Very Best,  
Jessica



NEWMAYER & DILLON LLP



Jessica L. Garland | Associate  
[Jessica.Garland@ndf.com](mailto:Jessica.Garland@ndf.com)  
p 949.854.7000 - d 949.271.7117

Newmeyer & Dillon LLP  
895 Dove Street, 5th Floor  
Newport Beach, CA 92660

Newport Beach • Walnut Creek • Las Vegas

**From:** [Alfred.Forstall@stb.dot.gov](mailto:Alfred.Forstall@stb.dot.gov) [mailto:[Alfred.Forstall@stb.dot.gov](mailto:Alfred.Forstall@stb.dot.gov)]

**Sent:** Tuesday, March 01, 2016 8:14 AM

**To:** Jessica L. Garland

**Subject:** RE: Materials for investigation into abandonment of spur line located at 400 Paul Avenue San Francisco, CA (Email 3 of 3)

Dear Ms. Garland:

The emails did, in fact, come through last night. It is clear from the 1974 photo that change was already in progress in the neighborhood. Quite a few remnants appear of the network of tracks that had served both sides of the main line. (See the attached USGS topographic map.) The tracks at 400 Paul Avenue were clearly still in place in 1974, as freight cars can be seen in the vicinity. I agree with your assessment of the 1982 photograph; the tracks appear to have been removed by that time. Knowing this allows me to focus the search for potential abandonment dockets. You note the self storage site to the north of the property in question. Having been constructed on former railroad property, it clearly obstructs the former right-of-way, and its presence makes it reasonably clear that the intention of the railroad was to abandon the line serving 400 Paul Avenue.

You also ask my opinion regarding whether the right-of-way in question might have been considered to have been excepted track. My unofficial opinion is that it could quite reasonably be considered to have been spur or industrial track excepted under section 10906. As the USGS map shows, the tracks in the area were stub ended tracks of the sort commonly used to serve individual customers and were not the sort that typically hosted through train service. It is unlikely that the nature of these tracks has changed in any way over time.

I will be in touch after I have had a chance to review the old ICC abandonment records.

Sincerely,

**Fred Forstall**

U.S. Surface Transportation Board, Rail Customer and Public Assistance Program  
395 E Street SW, Washington, DC 20423  
202-245-0241 | [alfred.forstall@stb.dot.gov](mailto:alfred.forstall@stb.dot.gov)

Opinions expressed by employees of the Rail Customer & Public Assistance Program (RCPA) of the Surface Transportation Board are theirs alone, and do not represent opinions of, or by, the Board or its Commissioners or Directors. Formal opinions of the Board may only be obtained via a formal proceeding. Positions taken by RCPA employees might not be followed by the Board should a formal proceeding be initiated; and spoken or written comments may be withdrawn by the Board at its discretion. All matters discussed with RCPA employees are confidential and subject to the same confidentiality provisions as administrative dispute resolutions pursuant to 49 C.F.R. 1109.3 and 5 U.S.C. 574. Except as specifically set forth in 5 U.S.C. 574, neither RCPA employees nor the parties to an informal matter before the RCPA shall disclose any informal dispute resolution communication.

**From:** "Jessica L. Garland" <[Jessica.Garland@ndlf.com](mailto:Jessica.Garland@ndlf.com)>

**To:** "[alfred.forstall@stb.dot.gov](mailto:alfred.forstall@stb.dot.gov)" <[alfred.forstall@stb.dot.gov](mailto:alfred.forstall@stb.dot.gov)>

**Date:** 02/29/2016 08:34 PM

**Subject:** RE: Materials for investigation into abandonment of spur line located at 400 Paul Avenue San Francisco, CA (Email 3 of 3)

Email 3 of 3

Thank you again for your help!

Please feel free to email or call me with any thoughts or questions.

Best,  
Jessica



NEWMAYER & DILLION LLP



Jessica L. Garland | Associate  
[Jessica.Garland@ndlf.com](mailto:Jessica.Garland@ndlf.com)  
p 949.854.7000 - d 949.271.7117

Newmeyer & Dillon LLP  
895 Dove Street, 5th Floor  
Newport Beach, CA 92660

Newport Beach • Walnut Creek • Las Vegas

**From:** Jessica L. Garland  
**Sent:** Monday, February 29, 2016 5:32 PM  
**To:** 'alfred.forstall@stb.dot.gov'  
**Subject:** RE: Materials for investigation into abandonment of spur line located at 400 Paul Avenue San Francisco, CA (Email 2 of 3)

Email 2 of 3

Here is the second batch of photos. You will note that in the 1982 photograph, the rail activity seems gone, especially with construction of the self storage site to the north of 400 Paul. In the 1998 photograph, it looks as though all rail activity is entirely gone.

**From:** Jessica L. Garland  
**Sent:** Monday, February 29, 2016 5:29 PM  
**To:** 'alfred.forstall@stb.dot.gov'  
**Subject:** Materials for investigation into abandonment of spur line located at 400 Paul Avenue San Francisco, CA (Email 1 of 3)

Good evening Fred,

Thank you so much for taking the time to speak with me earlier today regarding our investigation of whether Union Pacific Railroad (formerly Southern Pacific) formally abandoned or discontinued its spur line on this property or the adjacent property. The property address in question is 400 Paul Avenue in the City of San Francisco in the county of San Francisco.

I was able to get a hold of the attached aerial photographs of the area from 1974 to 2012. The spur line in question ran diagonally with a curve from the northeast to the southwest of the property. I hope this can help you in your search to determine whether Union Pacific ever formally filed an application for abandonment or discontinuance through the Surface Transportation Board.  
**\*Note, there photographs are rather large, so I have to send them over a few emails because my first email to you resulted in it coming back as "undeliverable" due to the size of the files\***

Second, in looking at these photographs, do you feel that this line was in fact a spur line and not a main railway and thus would have fallen under the 49 USC 10906 exception?

Thank you again for all of your time and assistance with this matter.

Very Best,  
Jessica

I, Lisa Freilicher, declare under penalty of perjury that the foregoing is true and correct. Further,

I certify that I am qualified and authorized to file this pleading.

Executed on: April 25, 2016

  
Lisa Freilicher, General Counsel

I hereby certify that I have served all parties of record in this proceeding with this document by United States mail.

Date: April 26, 2016

  
Dee Novoa