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231327  
Mack H. Shumate, Jr.  
Senior General Attorney, Law Department  
231328

November 23, 2011

**VIA E-FILE**

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

**RE: Joint Petition for Exemption for Union Pacific Railroad Company ("UP") to discontinue trackage rights and abandon UP's freight easement upon, and for Santa Clara Valley Transportation Authority ("VTA") to abandon VTA's residual common carrier obligation upon, the San Jose Industrial Lead from M.P. 7.35 near Warm Springs to M.P. 16.3 near San Jose, a distance of 8.9 miles in Alameda and Santa Clara Counties, California (the "Line"). The Line is to be abandoned for freight service but shall be retained and rebuilt for future inclusion in the Bay Area Rapid Transit System ("BART"). The UP docket for this filing is AB-33 (Sub-No. 303X). The VTA docket for this filing is AB-980 (Sub-No. 1X)**

Dear Ms. Brown:

Attached for filing in the above-referenced docket is Union Pacific Railroad Company's ("UP's") and Santa Clara Valley Transportation Authority's ("VTA's") 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.

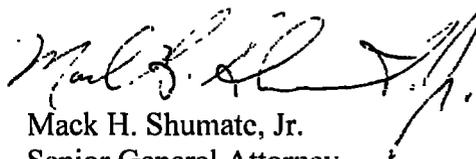
UP and VTA anticipates filing a Joint Petition for Exemption for UP to discontinue trackage rights and abandon its freight easement upon, and for VTA to abandon its residual common carrier obligation upon the San Jose Industrial Lead from M.P. 7.35 near Warm Springs to M.P. 16.3 near San Jose in Alameda and Santa Clara Counties, California on or after December 14, 2011.

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Office of Proceedings

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Public Record

Sincerely,

  
Mack H. Shumate, Jr.  
Senior General Attorney

Attachment

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ENTERED  
Office of Proceedings

NOV 23 2011

Post of  
Public Record

November 23, 2011

VIA E-FILE

TO: SEE ATTACHED SERVICE LIST

RE: **Joint Petition for Exemption for Union Pacific Railroad Company ("UP") to discontinue trackage rights and abandon UP's freight easement upon, and for Santa Clara Valley Transportation Authority ("VTA") to abandon VTA's residual common carrier obligation upon, the San Jose Industrial Lead from M.P. 7.35 near Warm Springs to M.P. 16.3 near San Jose, a distance of 8.9 miles in Alameda and Santa Clara Counties, California (the "Line"). The Line is to be abandoned for freight service but shall be retained and rebuilt for future inclusion in the Bay Area Rapid Transit System ("BART"). The UP docket for this filing is AB-33 (Sub-No. 303X). The VTA docket for this filing is AB-980 (Sub-No. 1X)**

To whom it may concern:

On or after December 14, 2011, Union Pacific Railroad Company ("UP") and Santa Clara Valley Transportation Authority ("VTA") (collectively, the "Applicants") expect to be filing with the Surface Transportation Board ("STB" or "Board") a Joint Petition for Exemption for Union Pacific Railroad Company ("UP") to discontinue trackage rights and abandon UP's freight easement upon, and for Santa Clara Valley Transportation Authority ("VTA") to abandon VTA's residual common carrier obligation upon, the San Jose Industrial Lead from M.P. 7.35 near Warm Springs to M.P. 16.3 near San Jose, a distance of 8.9 miles in Alameda and Santa Clara Counties, California (the "Line"). The Line is to be abandoned for freight service but shall be retained and rebuilt for future inclusion in the Bay Area Rapid Transit System ("BART"). The UP docket for this filing is AB-33 (Sub-No. 303X). The VTA docket for this filing is AB-980 (Sub-No. 1X). Attached is a Combined Environmental and Historic Report which describes the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

The Applicants are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis (SEA) at the following address, and refer to the above-referenced Docket Number:

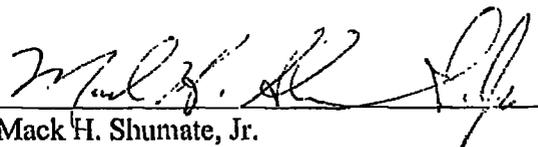


Surface Transportation Board  
Section of Environmental Analysis (SEA)  
395 E. Street, S.W., Room #100  
Washington, DC 20423-0001  
Telephone No.: (202) 245-0296

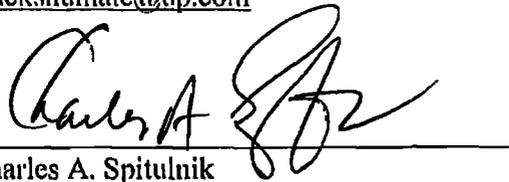
Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to our representative) would be appreciated within three (3) weeks.

Your comments will be considered by the Board in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact our representative directly. UP's representative in this matter is Mack H. Shumate, Jr. VTA's representative in this matter is Charles A. Spitulnik. Our representatives may be contacted at the addresses and telephone numbers indicated below.

Yours very truly,



Mack H. Shumate, Jr.  
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November 23, 2011

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**State Clearing (or alternate):**

Office of Planning and Research  
1400 Tenth Street  
Sacramento, CA 95814

**State Environmental Protection Agency:**

California Environmental Protection Agency  
1001 I Street  
Sacramento, CA 95814

**State Coastal Zone Management Agency (if applicable):**

California Coastal Commission  
45 Fremont Street  
Suite 2000  
San Francisco, CA 94105-2219

**Head of each County:**

Santa Clara County Administration Center  
Board of Supervisors  
70 W. Hedding Street  
San Jose, CA 95110

County of Alameda Administration Building  
Board of Supervisors  
1221 Oak Street, Room 536  
Oakland, CA 94612

**Environmental Protection Agency (Regional Office):**

U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

**U.S. Fish and Wildlife:**

U.S. Fish & Wildlife Service, Region 8  
2800 Cottage Way W-2606  
Sacramento, CA 95825

**U.S. Army Corps of Engineers:**

U.S. Army Corps of Engineers, San Francisco  
1455 Market Street, Room 1667  
San Francisco, CA 94103

**National Park Service:**

National Park Service  
Pacific West Region  
One Jackson Center  
1111 Jackson Street, Suite 700  
Oakland, Ca 94607

**U.S. Natural Resources Conservation Service:**

State Conservationist  
Natural Resource Conversation Service  
4625 W. Jennifer Avenuc, Suite 109  
Fresno, CA 93722

**National Geodetic Survey:**

National Geodetic Survey  
Geodetic Services Division  
Information Services  
NOAAINGS12  
1315 E-W Highway  
Silver Spring, MD 20910-3282

**State Historic Preservation Office:**

Office of Historic Preservation  
1416 9th Street, Room 1442  
P.O. Box 942896  
Sacramento, CA 94296-0001

NOV 23 2011

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**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**Docket No. AB-33 (Sub-No. 303X)**

**UNION PACIFIC RAILROAD COMPANY  
-- DISCONTINUANCE OF TRACKAGE RIGHTS  
AND ABANDONMENT OF FREIGHT EASEMENT --  
IN ALAMEDA AND SANTA CLARA COUNTIES, CALIFORNIA  
(SAN JOSE INDUSTRIAL LEAD)**

**Docket No. AB-980 (Sub-No. 1X)**

**SANTA CLARA VALLEY TRANSPORTATION AUTHORITY  
-- ABANDONMENT OF RESIDUAL COMMON CARRIER SERVICE --  
IN ALAMEDA AND SANTA CLARA COUNTIES, CALIFORNIA  
(SAN JOSE INDUSTRIAL LEAD)**

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**Combined Environmental and Historic Report**

Union Pacific Railroad Company ("UP") and Santa Clara Valley Transportation Authority ("VTA") submit this Combined Environmental and Historic Report ("EHR") pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d) for a Joint Petition for Exemption for UP to discontinue trackage rights and abandon UP's freight easement upon, and for VTA to abandon VTA's residual common carrier obligation upon, a portion of the San Jose Industrial Lead from M.P. 7.35 near Warm Springs to M.P. 16.3 near San Jose, a distance of 8.9 miles in Alameda and Santa Clara Counties, California (the "Line"). The Line is to be abandoned for freight service but shall be retained and rebuilt for future inclusion in the Bay Area Rapid Transit System ("BART"). The Line traverses U.S. Postal Service Zip Codes 95116, 95122, 95112, 95133 and 94533.

The UP and VTA anticipate that a Joint Petition for Exemption for UP to discontinue trackage rights and abandon UP's freight easement upon, and for VTA to abandon VTA's residual common carrier obligation upon, the Line will be filed at the STB on or after December 14, 2011.

A map of the Line marked **Attachment No. 1** is attached and hereby made part hereof. UP's letter to federal, state and local government agencies marked as **Attachment No. 2** is attached hereto and hereby made a part hereof. Responses, if any, received to UP's letters to date are typically attached and sequentially numbered. To date the only response UP has received is from the National Geodetic Survey.

## **ENVIRONMENTAL REPORT**

### **49 C.F.R. § 1105.7(e)**

(1) **Proposed action and alternatives.** Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

**Response:** The proposed action involves UP's discontinuance of trackage rights and the abandonment of its freight easement upon, and for VTA to abandon VTA's residual common carrier obligation upon a portion of the San Jose Industrial lead from milepost 7.35 near Warm Springs to milepost 16.30 near San Jose, a distance of 8.95 miles, in Alameda and Santa Clara Counties, California. The Line is owned by the Santa Clara Valley Transportation Authority ("VTA") and UP is discontinuing its trackage rights and abandoning its freight easement over that segment. VTA is abandoning VTA's residual common carrier obligation upon the Line. The Line to be abandoned for the above-

referenced freight service is intended to be retained and rebuilt for future inclusion in the Bay Area Rapid Transit System ("BART").

There are two (2) shippers on the Line that have operations that will be affected by the proposed discontinuance and abandonments and rebuilding of the Line to BART specifications for inclusion in the BART System. However, both shippers have agreed to relocate their respective operations and will continue to be rail served at their new locations off the Line.

The two shippers are:

Clean Harbors San Jose LLC ("Clean Harbors")  
1021 Berryessa Road  
San Jose, CA 95133  
Attn: Daniel Hagg

Frank-Lin Distillers Products Ltd. ("Frank-Lin")  
2455 Huntington Drive  
Fairfield, CA 94533  
Attn: Lindley Maestri  
(traffic was billed San Jose)

Clean Harbors collects liquid hazardous wastes from various local industries and ships them out by rail for processing and disposal. Clean Harbors is voluntarily relocating to another UP served facility in the area and will continue to ship by rail. Given the close proximity of the relocation, Clean Harbors has requested that UP not disclose Clean Harbor's business volumes.

Frank-Lin receives alcohol and liquor for processing into various beverages. Frank-Lin is voluntarily relocating to another UP served facility in the area and will continue to ship by rail. Again, given the close proximity of the relocation, Frank-Lin has requested that UP not disclose Frank-Lin's business volumes.

Both Clean Harbors and Frank-Lin have recorded into a written Memorandum of Settlement Agreement and Release (collectively, "Memoranda of Agreement") with VTA agreeing to termination of service to their respective facilities and relocation of their respective rail served operations to new rail served locations off the Line. These Memoranda of Agreement will be included as exhibits to the Joint Petition for Exemption.

The discontinuance and abandonments will have no adverse effect on either Clean Harbors or Frank-Lin in that both will continue to receive direct rail service from UP at locations off the Line. The City of San Jose will continue to receive rail service from UP lines adjacent to or in the vicinity of the Line. The Line is located in the metropolitan area of San Jose. The area is served by numerous local and state roads that tie into interstate 880 paralleling the Line to the west and Interstate 680 paralleling the Line to the east.

There appears to be no reasonable alternative to the discontinuance and abandonments. There will be no adverse effect on shippers on the Line. Development in the area of San Jose served by the San Jose Industrial Lead is shifting away from rail oriented industries, decreasing the likelihood that a major new rail oriented shipper would be interested in locating on the Line. All overhead traffic through San Jose moves over an adjacent UP line. UP's Warm Springs Subdivision abuts the west side of the Line between the abandonment start point at milepost 7.35 and approximately milepost 10.0. In the vicinity of milepost 10.0, the Warm Springs Subdivision heads southwestward away from the Line. At this location, new tracks extending from the Warm Springs line are being constructed, and some existing tracks realigned, so that

freight trains will be able to leave the Warm Springs line and travel south to UP's Milpitas yard, which will no longer be accessed over the Line. The yard includes a major auto handling facility. South of UP's Milpitas yard additional realigned UP trackage will be constructed by UP and will run beside and then cross over the Line to permit continuation of freight rail service to an industrial park at milepost 12.1. UP is relocating its common carrier obligation for that portion of the Line between milepost 10 and milepost 12.1 via said additional realigned UP trackage adjacent to the Line. See **Attachment No. 5.**

After the discontinuance and abandonments sought in the Joint Petition for Exemption, UP will continue to provide rail service to Warm Springs and Milpitas via the Warm Springs Subdivision and the realigned track as described above. UP will continue to serve San Jose via its Warm Spring and Coast Subdivisions and connecting spurs. BNSF also has access to Warm Springs, Milpitas, and San Jose over UP lines as per existing agreements.

The Line was constructed in 1921 by the Western Pacific Railroad. It is constructed with a variety of jointed and welded rail ranging in weight from 100-pound to 119-pound rail laid between 1955 and 1996. The Line was purchased from UP by VTA in December of 2002. The freight easement and trackage rights transactions with VTA also occurred in December, 2002.

The Line is located generally within and north of San Jose. The Line is surrounded by existing streets, highways, mass transportation services, utilities and public parks for recreation. The Line, over which UP will give up its operating rights, was sold to the VTA in December, 2002 and will be incorporated into the BART mass

transit system. UP and VTA do not believe the right-of-way which makes up the Line from milepost 7.35 to milepost 16.30 is suited to other public purposes including roads or highways, other forms of mass transportation, conservation, energy production or transmission, or recreation.

Attached hereto as **Attachment No. 3** is an email communication from the National Geodetic Survey ("NGS") in response to the initial letter for the proposed joint discontinuance and abandonments informing that there are 22 geodetic survey marks within the area of the Line. As requested UP and VTA will inform the NGS at least 90 days prior to any activity on the Line that could disturb or destroy any geodetic markers.

Based on information in our possession, the Line does not contain federally granted right-of-way. Any documentation in UP's possession will be made available to those requesting it.

A map of the Line is attached as **Attachment No. 1**.

(1) **Transportation system.** Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

**Response:** There should be no effect on regional or local transportation systems, because rail service will continue and there will be no diversion to other modes or systems.

(2) **Land use.**

(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

(iii) If the action effects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.

**Response:** (i) Both the Alameda and Santa Clara County Supervisors Office's have been contacted. To date UP has received no response.

(ii) The United States Natural Resources Conservation Service has been contacted. To date UP has received no response.

(iii) The California Coastal Commission has been contacted. To date UP has received no response.

(iv) The property is generally not suitable for other public purposes including roads or highways, other forms of mass transportation, conservation, energy production or transmission, as this area is adequately served by existing roads and utility lines at the present time.

(3) **Energy.**

(i) Describe the effect of the proposed action on transportation of energy resources.

(ii) Describe the effect of the proposed action on recyclable commodities.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) an average of 50 rail carloads per mile per year for any part of the affected Line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

**Response:** (i) There will be no effects on the transportation of energy resources.

- (ii) Recyclable commodities moved over the Line are not affected.
- (iii) There will be no effect on energy efficiency.
- (iv) (A)(B) There will be no rail-to-motor diversion.

(4) **Air.** (i) If the proposed action will result in either:

(A) an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

(B) an increase in rail yard activity of at least 100% (measured by carload activity), or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. § 10901 (or § 10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in §§ (5)(i)(A) will apply.

**Response:** There is no such effect anticipated.

(4) **Air.** (ii) If the proposed action affects a class 1 or nonattainment area under the Clean Air Act, and will result in either:

(A) an increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, or

(B) an increase in rail yard activity of at least 20% (measured by carload activity), or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505), or a case involving the reinstatement of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

**Response:** There will be no increase in rail traffic, rail yard activity, or truck traffic of these magnitudes as a result of the proposed action.

(4) **Air.** (iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal

with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

**Response:** The proposed action will not affect the transportation of ozone depleting materials.

(5) **Noise.** If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

(i) an incremental increase in noise levels of three decibels Ldn or more or

(ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area and quantify the noise increase for these receptors if the thresholds are surpassed.

**Response:** Not applicable.

(6) **Safety.** (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

**Response:** (i) The proposed action will have no detrimental effects on public health and safety.

(ii) The proposed action will not affect the transportation of hazardous materials.

(iii) There are no known hazardous material waste sites or sites where known hazardous material spills have occurred on or along the subject right-of-way.

(7) **Biological resources.**

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

**Response:** (i) The U. S. Fish and Wildlife Service has been contacted. To date UP has received no response.

(ii) UP is not aware of any wildlife sanctuaries or refuges, or of any National or State parks or forests, that will be affected by the proposed abandonment.

(8) **Water.** (i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

**Response:** (i) The California Environmental Protection Agency has been contacted. To date UP has received no response.

(ii) The U.S. Army Corps of Engineers has been contacted. To date no response has been received.

(iii) It is not anticipated there will be any requirements for Section 402 permits.

(9) **Proposed Mitigation.** Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

**Response:** There are no known adverse environmental impacts.

**HISTORIC REPORT**  
**49 C.F.R. § 1105.8(d)**

(1) A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action:

**Response:** See **Attachment No. 1.**

(2) A written description of the right-of-way (including approximate widths to the extent known), and the topography and urban and/or rural characteristics of the surrounding area:

**Response:** The terrain under this Line is essentially flat and all urban in nature. Right-of-way which belongs to VTA is mostly 60 feet in width with some 80 foot width stretches. The Line passes through an older industrial/commercial area of San Jose now mainly occupied by trucking/warehousing, material storage, scrap metal/recycling and vehicle repair businesses.

(3) Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area:

**Response:** The California Department of Park and Recreation, Office of Historic Preservation was provided with four (4) photographs of the two railroad bridges affected by the proposed discontinuance and abandonments. The first bridge is a 50 foot trestle at milepost 15.19, which will be replaced as part of the BART transit project, and a 200 foot girder structure over Highway 101 at milepost 16.1 which is not designated for use in the BART project. A copy of the letter to the California Office of Historic Preservation and pictures are attached hereto as **Attachment No. 4**, and are hereby made a part hereof. To date, UP has not received a response from the Office of Historic Preservation.

(4) The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations to the extent such information is known:

**Response:** The bridges and their dates of construction are listed on the map,

**Attachment No. 1.**

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:

**Response:** See the preceding pages for a brief history and description of carrier operations.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic:

**Response:** Not applicable.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities):

**Response:** At this time, UP knows of no historic sites or structures or archeological resources on the Line or in the project area. UP believes that there is nothing in the scope of the project that merits historical comment and that any archeological sites within the scope of the right-of-way would have previously been disturbed during the construction and maintenance of the Line.

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain:

**Response:** UP does not have any such readily available information.

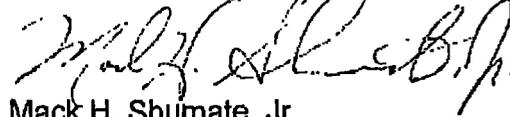
(9) Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified nonrailroad owned properties or group of properties immediately adjacent to the railroad right-of-way. Photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the locations and type of the site (i.e., prehistoric or native American):

**Response:** Not applicable.

Dated this 23rd day of November, 2011.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY



Mack H. Shumate, Jr.  
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Chicago, Illinois 60606  
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SANTA CLARA VALLEY TRANSPORTATION  
AUTHORITY



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202-955-5616 (Fax)  
[cspitulnik@kaplankirsch.com](mailto:cspitulnik@kaplankirsch.com)

**CERTIFICATE OF SERVICE  
OF THE  
COMBINED ENVIRONMENTAL AND HISTORIC REPORT**

The undersigned hereby certifies that a copy of the foregoing Joint Combined Environmental and Historic Report in Docket No. AB-33 (Sub-No. 303X) and AB-980 (Sub-No. 1X) for the San Jose Industrial Lead in Alameda and Santa Clara Counties, California was served by first class mail on the 23rd day of November, 2011 on the following:

**State Clearing (or alternate):**  
Office of Planning and Research  
1400 Tenth Street  
Sacramento, CA 95814

**U.S. Fish and Wildlife:**  
U.S. Fish & Wildlife Service, Region 8  
2800 Cottage Way W-2606  
Sacramento, CA 95825

**State Environmental Protection Agency:**  
California Environmental Protection Agency  
1001 I Street  
Sacramento, CA 95814

**U.S. Army Corps of Engineers:**  
U.S. Army Corps of Engineers, San Francisco  
1455 Market Street, Room 1667  
San Francisco, CA 94103

**State Coastal Zone Management Agency (if applicable):**  
California Coastal Commission  
45 Fremont Street  
Suite 2000  
San Francisco, CA 94105-2219

**National Park Service:**  
National Park Service  
Pacific West Region  
One Jackson Center  
1111 Jackson Street, Suite 700  
Oakland, Ca 94607

**Head of each County:**  
Santa Clara County Administration Center  
Board of Supervisors  
70 W. Hedding Street  
San Jose, CA 95110

**U.S. Natural Resources Conservation Service:**  
State Conservationist  
Natural Resource Conversation Service  
4625 W. Jennifer Avenue, Suite 109  
Fresno, CA 93722

County of Alameda Administration Building  
Board of Supervisors  
1221 Oak Street, Room 536  
Oakland, CA 94612

**National Geodetic Survey:**  
National Geodetic Survey  
Geodetic Services Division  
Information Services  
NOAAINGS12  
1315 E-W Highway  
Silver Spring, MD 20910-3282

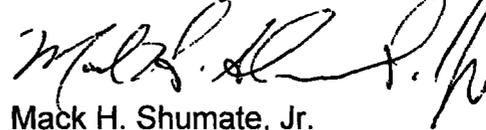
**Environmental Protection Agency  
(Regional Office):**  
U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

**State Historic Preservation Office:**  
Office of Historic Preservation  
1416 9th Street, Room 1442  
P.O. Box 942896  
Sacramento, CA 94296-0001

Frank-Lin Distillers Products Ltd.  
2455 Huntington Drive  
Fairfield, CA 94533  
Attn: Lindley Maestri

Clean Harbors San Jose LLC  
1021 Berryessa Road  
San Jose, CA 95133  
Attn: Daniel Hagg

UNION PACIFIC RAILROAD COMPANY



Mack H. Shumate, Jr.  
Senior General Attorney  
101 North Wacker Drive, Room 1920  
Chicago, Illinois 60606  
312-777-2055  
877-213-4433 (Fax)  
[mackshumate@up.com](mailto:mackshumate@up.com)



UNION PACIFIC RAILROAD  
1400 Douglas Street Omaha, Nebraska 68179

May 26, 2011

**State Clearinghouse (or alternate):**

Office of Planning and Research  
1400 Tenth Street  
Sacramento, CA 95814

**State Environmental Protection Agency:**

California Environmental Protection Agency  
1001 I Street  
Sacramento, CA 95814

**State Coastal Zone Management Agency  
(if applicable):**

California Coastal Commission  
45 Fremont Street  
Suite 2000  
San Francisco, CA 94105-2219

**Head of each County:**

Santa Clara County Administration Center  
Board of Supervisors  
70 West Hedding Street  
San Jose, CA 95110

**Environmental Protection Agency  
(Regional Office):**

U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

**U.S. Fish and Wildlife:**

U.S. Fish & Wildlife Service, Region 8  
2800 Cottage Way W-2606  
Sacramento, CA 95825

**U.S. Army Corps of Engineers:**

U. S. Army Corps of Engineers,  
San Francisco  
1455 Market St., Room 1667  
San Francisco, CA 94103

**National Park Service:**

National Park Service  
Pacific West Region  
One Jackson Center  
1111 Jackson Street, Suite 700  
Oakland, CA 94607

**U.S. Natural Resources Conservation Service:**

State Conservationist  
Natural Resource Conservation Service  
4625 W Jennifer Ave., Ste. 109  
Fresno, CA 93722

**National Geodetic Survey:**

National Geodetic Survey  
Geodetic Services Division  
Information Services  
NOAAINGS12  
1315 E-W Highway  
Silver Spring, MD 20910-3282

**State Historic Preservation Office:**

Office of Historic Preservation  
1416 9<sup>th</sup> Street, Room 1442  
P. O. Box 942896  
Sacramento, CA 94296-0001

Re: Proposed Joint Petition for Exemption Filing for UP to discontinue trackage rights and abandon its freight easement upon, and for Santa Clara Valley Transportation Authority (VTA) to abandon its residual common carrier obligation upon, the San Jose Industrial Lead from milepost 7.35 near Warm Springs to milepost 16.3 near San Jose. The line is to be abandoned for freight service but be retained and rebuilt for future inclusion in the Bay Area Rapid Transit (BART). The UP docket for this filing is AB-33 (Sub No. 303x). The VTA docket for this filing will be AB-980 (Sub No. 1x).

To Whom It May Concern:

Union Pacific Railroad Company plans to request authority from the Surface Transportation Board (STB) to discontinue trackage rights and abandon its freight easement upon, and Santa Clara Valley Transportation Authority (VTA) plans to request authority to abandon its residual common carrier obligation upon, the San Jose Industrial Lead from milepost 7.35 near Warm Springs to milepost 16.3 near San Jose.



The line to be abandoned for freight service is intended to be retained and rebuilt for future inclusion in the Bay Area Rapid Transit (BART). A map of the proposed track abandonment shown in black is attached.

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 40 C.F. R. Part 1105.7, this is to request your assistance in identifying any potential effects of this action as indicated in the paragraphs below. We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide us with a written response that can be included in an Environmental Report, which will be sent to the STB.

LOCAL AND/OR REGIONAL PLANNING AGENCIES. State whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

U. S. SOIL CONSERVATION SERVICE. State the effect of the proposed action on any prime agricultural land.

U. S. FISH AND WILDLIFE SERVICE (And State Game And Parks Commission, If Addressed). State (1) whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects, and, (2) whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

STATE WATER QUALITY OFFICIALS. State whether the proposed action is consistent with applicable Federal, State or Local water quality standards. Describe any inconsistencies.

U. S. ARMY CORPS OF ENGINEERS. State (1) whether permits under Section 404 of the Clean Water Act (33 U.S. C. § 1344) are required for the proposed action and (2) whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

U. S. ENVIRONMENTAL PROTECTION AGENCY AND STATE ENVIRONMENTAL PROTECTION (OR EQUIVALENT AGENCY). (1) Identify any potential effects on the surrounding area, (2) identify the location of hazardous waste sites and known hazardous material spills on the right-of-way and list the types of hazardous materials involved, and (3) state whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action.

Thank you for your assistance. Please send your reply to the undersigned and to Mr. Charles Spitulnik, legal representative for VTA.

Sincerely,



Colleen K. Graham, Paralegal  
Union Pacific Railroad  
1400 Douglas St., Stop 1580  
Omaha, NE 68179  
(w) 402-544-1643  
cgraham@up.com

Enclosure(s): Map

cc:

Charles Spitulnik, Kaplan Kirsh & Rockwell, LLP, 1001 Connecticut Ave, NW, Ste 800, Washington DC, 20036, cspitulnik@kaplankirsch.com



BEGIN  
ABANDONMENT  
M.P. 7.35

END  
ABANDONMENT  
M.P. 16.3

California

BRIDGE NO.	BRIDGE TYPE	TOTAL LENGTH	DATE
15.19	3 - SPAN TIMBER STRINGERS (TST)	50	1958
16.1	2 - SPAN THROUGH PLATE GIRDER (TPG)	200	1957

**Legend**

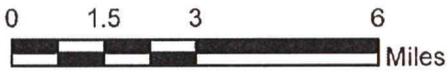
- UPRR - VTA LINE TO BE ABANDONED
- OTHER UPRR LINES
- ABANDONED TRACK
- PRINCIPAL HIGHWAYS
- OTHER ROADS
- 50 + YEAR OLD STRUCTURES

**SAN JOSE INDUSTRIAL LEAD**

MP 7.35 TO MP 16.3  
1.41 MILES IN ALAMEDA COUNTY  
7.54 MILES IN SANTA CLARA COUNTY  
TOTAL 8.95 MILES IN CALIFORNIA

UNION PACIFIC RAILROAD CO.  
SANTA CLARA VALLEY  
TRANSPORTATION AUTHORITY  
SAN JOSE INDUSTRIAL LEAD  
CALIFORNIA

INCLUDING STRUCTURES



Ray E. Allamong/UPC  
07/20/2011 08:52 AM

To "Charles A. Spitulnik" <cspitulnik@kaplankirsch.com>  
cc "Allison Fultz" <afultz@kaplankirsch.com>, Mack H. Shumate/UPC@UP  
bcc  
Subject Re: FW: NGS Response, STB Docket AB-33 (SUB NO. 303X)

Thanks for sending. You may recall that NGS markers have been noted on prior abandonments of this corridor.

"Charles A. Spitulnik" "Charles A. Spitulnik" <cspitulnik@kaplankir... 07/20/2011 05:56.24 AM



"Charles A. Spitulnik"  
<cspitulnik@kaplankirsch.com>  
07/20/2011 05:56 AM

To "Allison Fultz" <afultz@kaplankirsch.com>, "Ray E Allamong" <REALLAMO@up.com>  
cc  
Subject FW: NGS Response, STB Docket AB-33 (SUB NO. 303X)

Hi. Have you seen this? Chuck

Charles A. Spitulnik  
Kaplan Kirsch & Rockwell LLP  
1001 Connecticut Avenue, NW  
Suite 800  
Washington, DC 20036  
Phone: (202) 955-5600  
Fax: (202) 955-5616  
Cell: (301) 651-3629  
Email: cspitulnik@kaplankirsch.com

The information contained in this e-mail message is intended only for the personal and confidential use of the recipient named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

-----Original Message-----

From: Simon Monroe [mailto:Simon.Monroe@noaa.gov]  
Sent: Thursday, July 07, 2011 12:40 PM  
To: cgraham@up.com  
Cc: Charles A. Spitulnik; Surface Transportation Board; Surveyorlacy@yahoo.com; Gilbert Mitchell; Marti Ikehara; Simon Monroe  
Subject: NGS Response, STB Docket AB-33 (SUB NO. 303X)

Thank you for sharing your railroad abandonment environmental report for



RESET

|....|HS2848|. 1|88/ADJUSTED|N372458.....|W1215407.....|C...|L 874

|....|HS2846|. 3|29/RESET...|N372449.....|W1215404.....|B...|RV 2616  
CASS

|....|ES2845|. 2|29/ADJ UNCH|N372428.....|W1215403.....|C...|Y 147

|....|ES3084|. 3|29/RESET...|N372412.....|W1215254.....|D...|H 1122  
RESFT 1968

UNION PACIFIC RAILROAD  
1400 Douglas Street Omaha, Nebraska 68179

June 3, 2011

State Historic Preservation Office  
1416 9th Street, Room 1442  
PO Box 942896  
Sacramento, CA 94296

RE: Proposed Joint Petition for Exemption Filing for UP to discontinue trackage rights and abandon its freight easement upon, and for Santa Clara Valley Transportation Authority (VTA) to abandon its residual common carrier obligation upon, the San Jose Industrial Lead from milepost 7.35 near Warm Springs to milepost 16.3 near San Jose. The line is to be abandoned for freight service but be retained and rebuilt for future inclusion in the Bay Area Rapid Transit (BART). The UP docket for this filing is AB-33 (Sub No. 303x). The VTA docket for this filing will be AB-980 (Sub No. 1x).

In a letter dated May 26, 2011, Union Pacific Railroad Company ("Union Pacific") notified your office of its planned to discontinue trackage rights and abandon its freight easement upon, and Santa Clara Valley Transportation Authority (VTA) plans to request authority to abandon its residual common carrier obligation upon, the San Jose Industrial Lead from milepost 7.35 near Warm Springs to milepost 16.3 near San Jose. The line to be abandoned for freight service is intended to be retained and rebuilt for future inclusion in the Bay Area Rapid Transit (BART). In the same letter, UP attached a map which outlined the maps. In addition, we are enclosing color photographs.

The Surface Transportation Board ("STB") desires verification that your office sees no outstanding issues under Section 106 of National Historic Preservation Act. Accordingly, if you concur that there are no outstanding Section 106 issues regarding the Line, please verify by signing and dating the second page of this letter and return same to me in the enclosed self-addressed envelope, or if you prefer, you may respond via email to [cgraham@up.com](mailto:cgraham@up.com) with a signed version of the letter in PDF format.

Sincerely,



Colleen K. Graham, Paralegal  
Union Pacific Railroad  
1400 Douglas St., Stop 1580  
Omaha, NE 68179  
(w) 402-544-1643  
[cgraham@up.com](mailto:cgraham@up.com)



**UNION PACIFIC RAILROAD**  
1400 Douglas Street Omaha, Nebraska 68179

State Historic Preservation Office  
1416 9th Street, Room 1442  
PO Box 942896  
Sacramento, CA 94296

No Outstanding Section 106 Issues

By: \_\_\_\_\_

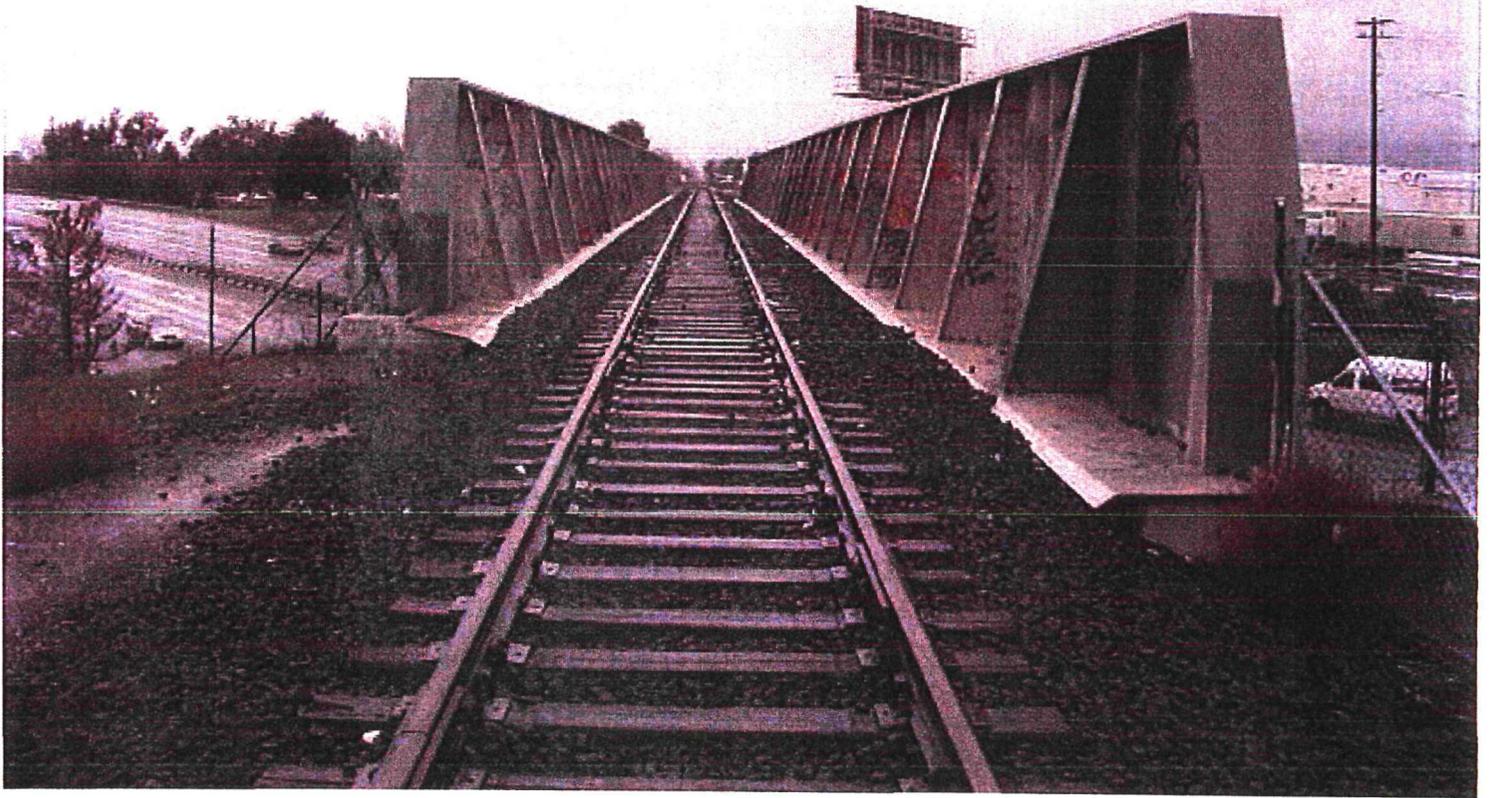
Title: \_\_\_\_\_

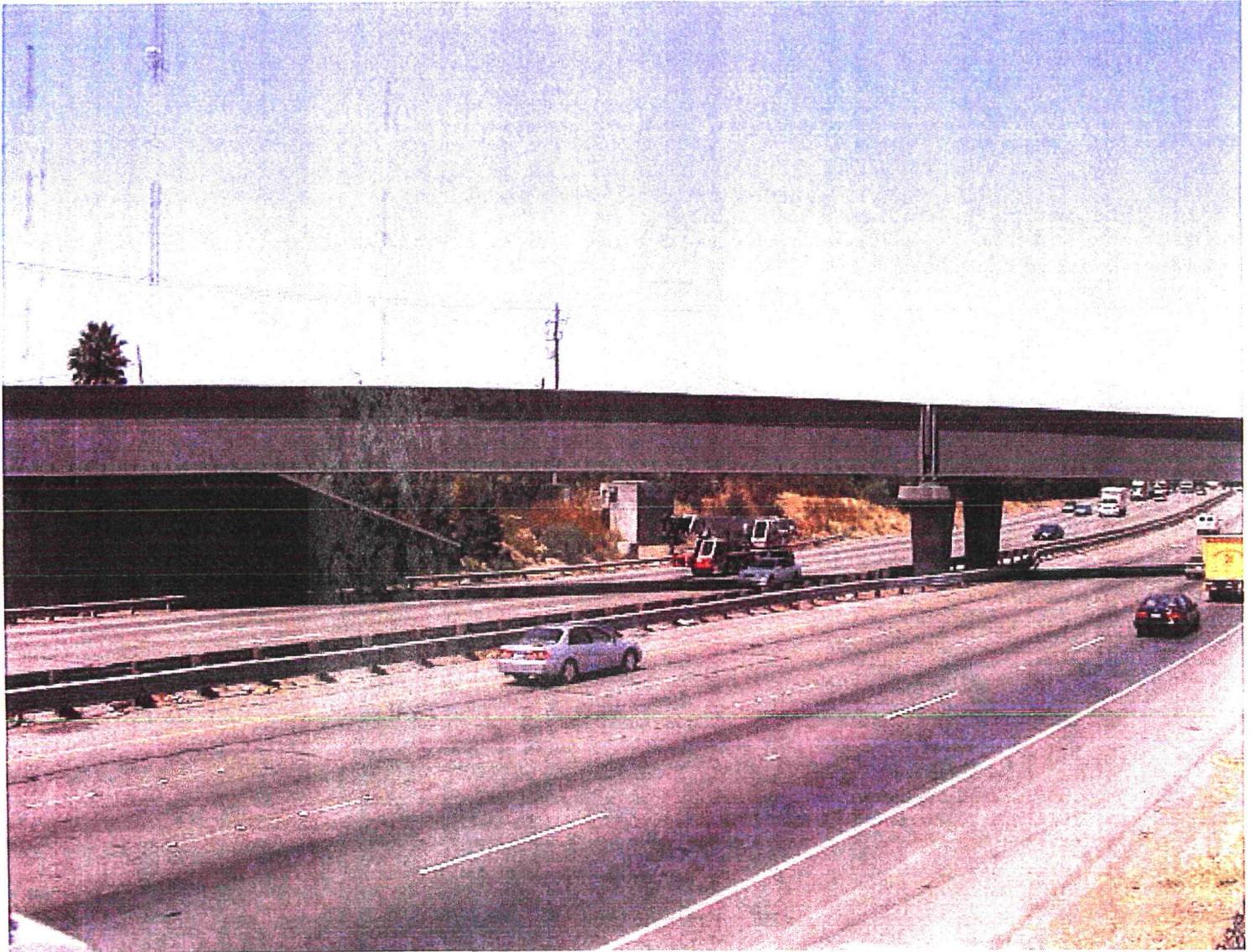
Dated: \_\_\_\_\_



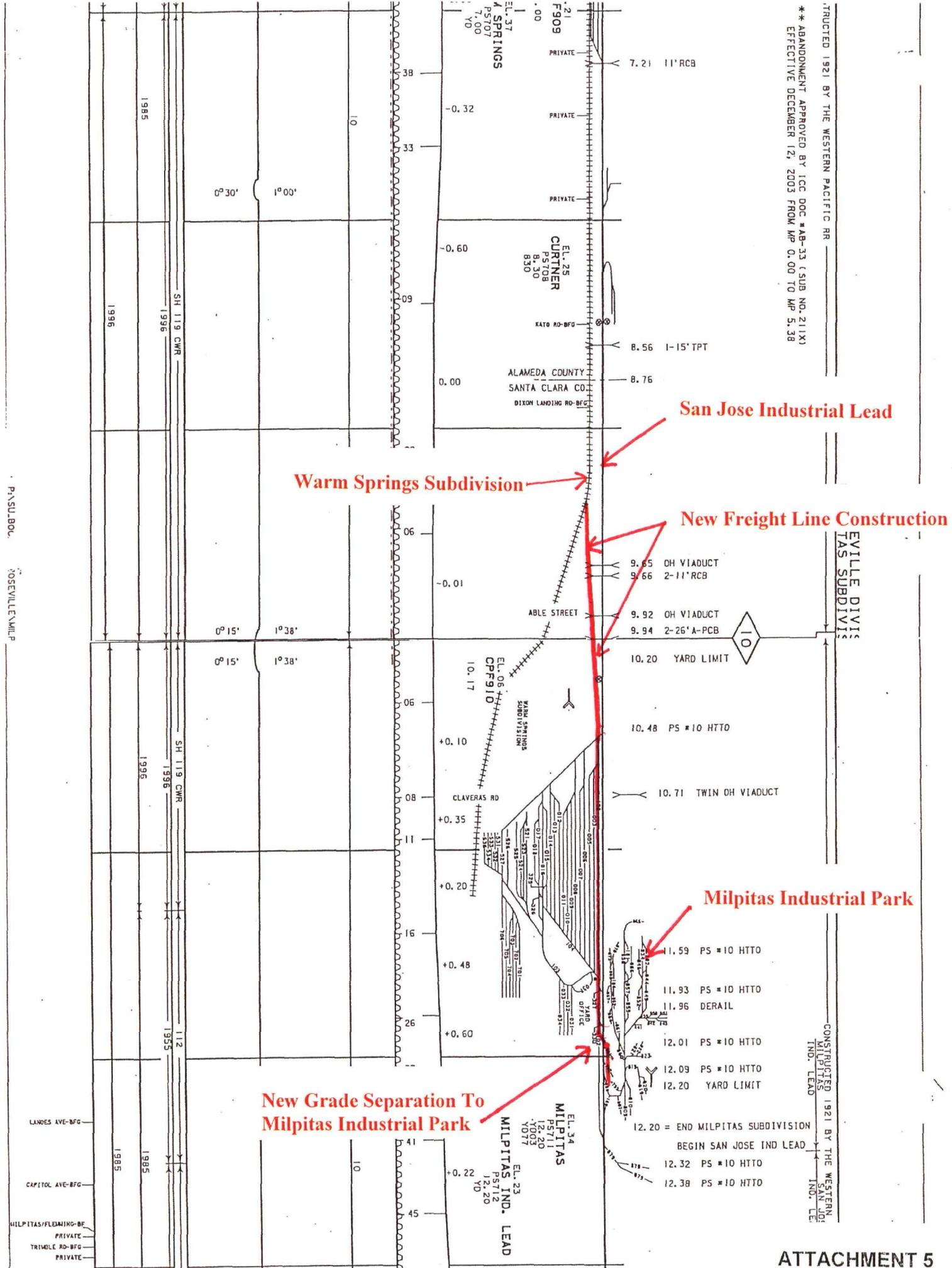








TRUCTED 1921 BY THE WESTERN PACIFIC RR  
 \*\* ABANDONMENT APPROVED BY ICC DOC # AB-33 (SUB NO. 211X)  
 EFFECTIVE DECEMBER 12, 2003 FROM MP 0.00 TO MP 5.38



**San Jose Industrial Lead**

**Warm Springs Subdivision**

**New Freight Line Construction**

**Milpitas Industrial Park**

**New Grade Separation To  
Milpitas Industrial Park**

EVILLE DIVIS  
 IAS SUBDIVIS

CONSTRUCTED 1921 BY THE WESTERN  
 MILPITAS  
 IND. LEAD  
 SAN JOE  
 IND. LE