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May 11, 2012

**VIA E-FILING**

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

ENTERED  
Office of Proceedings  
May 14, 2012  
Part of  
Public Record

**Re: Abandonment Exemption to Abandon Operations and Discontinue Service of the Capitol Drive Industrial Lead from M.P. 92.21 the Shoreline Connection to the end of the Line at M.P. 89.13 south of Hampton Avenue, a distance of 3.08 miles in Milwaukee County, Wisconsin; STB Docket No. AB-33 (Sub-No. 268X)**

Dear Ms. Brown:

Union Pacific Railroad Company ("Union Pacific") has received a motion from the Wisconsin Department of Transportation, (the "WIS DOT") on behalf of County of Milwaukee, Wisconsin, seeking to extend the negotiation period covering the issuance of a Certificate or Notice of Interim Trail Use pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 for the portion of the Union Pacific's Capitol Drive Industrial Lead located in the City from Milepost 92.21, the Shoreline Connection to the end of the Line at Milepost 89.13 south of Hampton Avenue, a distance of 3.08 miles in Milwaukee County, Wisconsin.

The Union Pacific is willing to extend the negotiation period with the WIS DOT concerning the acquisition of the subject property for trail use and supports the WIS DOT's request to extend the negotiation period for an additional 180 days to November 23, 2012. A copy of the WIS DOT's motion for extension is attached hereto as **Exhibit A** and hereby made a part hereof.

Sincerely,



Attachment

cc: Wisconsin Department of Transportation

2012\_05\_11 STB 180 Day Ext.doc



BEFORE THE  
SURFACE TRANSPORTATION BOARD  
**AB-33 (SUB-NO. 268X)**  
UNION PACIFIC RAILROAD. --  
NOTICE OF EXEMPTION FOR ABANDONMENT--  
IN MILWAUKEE COUNTY, WISCONSIN

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**COUNTY OF MILWAUKEE, WISCONSIN  
MOTION TO EXTEND TIME TO  
NEGOTIATE A NOTICE OF INTERIM TRAIL USE**

**BACKGROUND**

On service date June 11, 2009, the Surface Transportation Board (the Board) served notice that the Union Pacific Railroad Company (UP) filed with the Surface Transportation Board a Notice of Exemption pursuant to 49 U.S.C. § 10502 and the Board's regulations at 49 C.F.R. 1152 Subpart F – Exempt Abandonments to abandon a 3.08-mile line of railroad known as the Capitol Industrial Lead, from milepost 92.21, the Shoreline connection, to the end of the line at milepost 89.13, south of Hampton Avenue in the northeast area of Milwaukee, in Milwaukee County, WI. This portion of the line traverses United State Postal Service Zip Codes 53209, 53211, 53212 and 53217.

On May 11, 2009, the County of Milwaukee (CMW) signed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29 for the segment of UP railroad from milepost 92.21 to milepost 89.13, a total of approximately 3.08 miles.

The Board granted an NITU under 16 U.S.C. 1247(d), which was served on June 12, 2009, allowing CMW until December 9, 2009, to negotiate a rail banking agreement with UP.

The Milwaukee County Board of Supervisors expressed its commitment to the acquisition of

the subject corridor in 2009 through its authorization to submit a Federal Transportation Program grant application that seeks funding assistance for the acquisition of rights to the subject corridor and for development of a multiple-use trail therein.

Negotiations with the UP Railroad were delayed due to extenuating circumstances as a County-wide budget shortfall, which temporarily diverted attention away from numerous County initiatives, including the proposed trail development within the UP Rail corridor. Milwaukee County is still very interested in acquiring rights to the subject corridor and proceeding with the development of a trail facility therein.

The funding request submitted by the County to the Congestion Mitigation and Air Quality Improvement Program, administered by Federal Highways Administration and WisDOT, was granted and the award will be sufficient to allow the consummation of this project.

As a result this award, Milwaukee County will be required to work within procedures developed for federal transportation grant project implementation. The first step, obtaining a formal project agreement with the Wisconsin Department of Transportation (WisDOT), the agency responsible for administering federal transportation grants in Wisconsin, was completed on August 17, 2011.

For Milwaukee County budgetary purposes, the Milwaukee County Board of Supervisors approved a fund transfer to identify the County's match money for the federal transportation grant and to create a project in Milwaukee County's accounts.

A Federal Transportation Congestion Mitigation/Air Quality (CMAQ) grant was awarded to Milwaukee County for the acquisition of the subject railroad corridor in August 2010. Land acquisition through the CMAQ Program is a lengthy and complex process. The first step is the

completion of an Environmental Report and a Design Study Report. These reports, which must be submitted before formal negotiations with the UP Railroad can commence, ensure that potential issues/problems (environmental, structural, historical) that might necessitate modifications to the preliminary trail alignment are identified before an agreement for transfer of ownership of the land is reached.

In April 2012, the Wisconsin Department of Transportation issued a work authorization allowing Milwaukee County to proceed to execute contracts with consultants to undertake activities associated with completion of the Environmental Report and the Design Study Report. It is anticipated that the completion of the reports will take several months.

Milwaukee County respectfully requests an extension to the interim trail use/rail banking agreement negotiation period for the rail corridor between milepost 92.21 to milepost 89.13.

#### **MOTION**

Therefore, CMW moves that the period prescribed to negotiate an interim trail use/rail banking agreement be extended for 180 days for the rail corridor between milepost 92.21 to milepost 89.13, a total of approximately 3.08 miles in the City of Milwaukee, in Milwaukee County, Wisconsin.

Respectfully submitted,

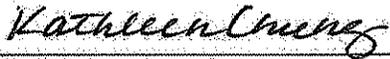


Kathleen Chung, State Bar No. 1032802  
Wisconsin Department of Transportation  
4802 Sheboygan Avenue, P.O. Box 7910  
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May 4, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused the foregoing cover letter in regards to AB33 (Sub-No. 268X), by electronic mail or regular mail, pursuant to 49 C.F.R. §1104.12, this 4<sup>th</sup> day of May, 2012, on all parties of record on the service list.

A handwritten signature in cursive script, reading "Kathleen Chung", is written over a horizontal line.

Kathleen Chung, Attorney  
State Bar no. 1032802  
Wisconsin Department of Transportation  
Office of General Counsel