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November 12, 2013

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ENTERED
Office of Proceedings
November 12, 2013
Part of the Public Record

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

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 WIS DOT concerning the acquisition of the subject property for trail use and supports WIS DOT's request to extend the negotiation period for an additional 180 days from November 11, 2013 to May 10, 2014. 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

2013_11_12 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

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.

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.

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.

On November 12, 2012, based on that information, Milwaukee County filed a request to extend the time period to negotiate an interim trail use/rail banking agreement for 180 days. On service date November 21, 2012, the Board did grant the request, and extended the negotiation time period to May 15, 2013.

Pursuant to the April 1, 2012 work authorization, Milwaukee County has been following a strict WisDOT process for implementation of the federal CMAQ grant awarded for the acquisition of the corridor. To date, Milwaukee County's efforts have been focused on providing WisDOT with information pertaining to preliminary engineering including environmental

assessment, preliminary trail alignment, and preliminary bridge design for converting the bridges to trail use, all of which will be combined into a required Design Study Report.

The preliminary engineering part of the process is nearly complete in that WisDOT has reviewed the materials submitted by Milwaukee County, and the County is now addressing their comments.

The Environmental Document and Design Study Report have been in review by WisDOT and FHWA during September and October of 2013. It is anticipated that final corrections to those documents will be approved by the end of November 2013. The draft ROW plat is 95% complete, but cannot be given final approval until the Environmental Document and Design Study Report have been approved. The process of hiring a consultant to negotiate the real estate purchase with the railroad has begun. Preparation of a work authorization with WisDOT for the County to begin final design of the proposed bike trail and railroad bridge conversions will commence in November or December of 2013.

MOTION

Therefore, CMW respectfully 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

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November 11, 2013

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 11th day of November, 2013, on all parties of record on the service list.



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