

UNION PACIFIC RAILROAD  
101 North Wacker Drive, Room 1920  
Chicago, Illinois 60606-1718

P 312.777.2055  
F 877.213.4433  
[mackshumate@up.com](mailto:mackshumate@up.com)

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

232607

July 25, 2012

ENTERED  
Office of Proceedings  
July 25, 2012  
Part of  
Public Record

**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

**AMENDMENT TO PETITION FOR WAIVER AND REVOCATION OF  
IMPLEMENTATION**

**RE: Docket No. AB-33 (Sub No. 307X); Petition for Waiver Under 49 C.F.R. 1110.9, 49 C.F.R. 1117.1 and 49 C.F.R. 1121.4(g) from the Public Use, Interim Trail Use and Financial Assistance Procedures for the Proposed Abandonment Exemption of the Boulder Industrial Lead for Reasons of Overriding Public Need**

Dear Ms. Brown:

Enclosed for filing in the above proceeding is Union Pacific Railroad Company's ("Union Pacific") Amendment to Petition for Waiver and Revocation of Implementation (the "Amendment"). The purpose of this Amendment is to **amend and restate the Petition for Waiver** under 49 C.F.R. §1110.9, 49 C.F.R. §1117.1 and 49 C.F.R. §1121.4(g) to a **Petition for Exemption** under 49 U.S.C. §10502 from the Financial Assistance Provision of 49 U.S.C. §10904 and the Public Use Provisions of 49 U.S.C. §10905 for reasons overriding public need.

Union Pacific reaffirms its revocation of implementation of Union Pacific's request to exempt the proposed abandonment from the offer of Financial Assistance Provisions of 49 U.S.C. §10904 and the Public Use Provisions of 49 U.S.C. §10905 under 49 U.S.C. §10502 as part of Union Pacific's Notice of Exemption under 49 C.F.R. §1152, subpart F. Union Pacific concurs that the appropriate means for seeking such exemption is by a Petition for Exemption under 49 U.S.C. §10502 and not as part of the Notice of Exemption process under 49 C.F.R. 1152, subpart F. Union Pacific also reaffirms its request that the Board hold in abeyance the related



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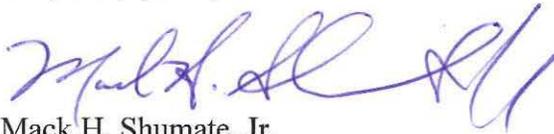
July 25, 2012

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Notice of Exemption filed in AB33 (Sub No. 307X) until the Board rules on this Petition for Exemption. We are requesting expedited action on this Petition.

Very truly yours,



Mack H. Shumate, Jr.  
Senior General Attorney

MHS/cav

2012\_07\_20\_BOULDER-Brown-Ltr-Amendment Petition for Waiver

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Docket No. AB-33 (Sub-No. 307X)

UNION PACIFIC RAILROAD COMPANY  
-- ABANDONMENT EXEMPTION --  
ADAMS, WELD AND BOULDER COUNTIES, COLORADO  
(BOULDER INDUSTRIAL LEAD)

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**AMENDMENT TO PETITION FOR WAIVER AND  
REVOCAION OF IMPLEMENTATION**

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AMENDMENT TO AMEND AND RESTATE THE PETITION FOR WAIVER UNDER  
49 C.F.R. §1110.9, 49 C.F.R. 11171.1 AND 49 C.F.R. §1121.4(g)  
TO A PETITION FOR EXEMPTION UNDER 49 U.S.C. §10502  
FROM THE FINANCIAL ASSISTANCE PROVISIONS OF  
49 U.S.C. §10904 AND THE PUBLIC USE PROVISIONS OF  
49 U.S.C. §10905 FOR REASONS OF OVERRIDING PUBLIC NEED

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UNION PACIFIC RAILROAD COMPANY

Mack H. Shumate, Jr., Senior General Attorney  
101 North Wacker Drive, Room 1920  
Chicago, Illinois 60606  
(312) 777-2055  
(312) 777-2065 FAX

Dated: July 25, 2012  
Filed: July 25, 2012

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Docket No. AB-33 (Sub-No. 307X)

UNION PACIFIC RAILROAD COMPANY  
-- ABANDONMENT EXEMPTION --  
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49 U.S.C. §10905 FOR REASONS OF OVERRIDING PUBLIC NEED

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On June 27, 2012, Union Pacific filed for an exempt abandonment of the Union Pacific's Retained Freight Operating Easement over the remaining portion of the Boulder Industrial Lead from Milepost 9.27 near Eastlake to the end of the Line at Milepost 33.17 near Valmont, a distance of 23.90 miles in Adams, Weld and Boulder Counties, Colorado (the "Line"). Union Pacific supplemented the Notice of Exemption filing with a request for an Exemption from the Offer of Financial Assistance Provisions of 49 U.S.C. §10904 and Public Use Provisions of 49 U.S.C. §10905 on June 27, 2012 (the "Supplement"). The Supplement should have been made as a separate Petition for Exemption rather than as part of the Notice of Exemption. Union Pacific hereby reaffirms its withdrawal of the Supplement to the Notice of Exemption filed with the

board on June 27, 2012, and hereby files this, Amendment to the Petition for Waiver and Revocation of Implementation (the "Amendment"). The Petition for Waiver and Revocation of Implementation was filed by Union Pacific with the Board on July 20, 2012. Union Pacific respectfully reaffirms its request that the Board hold in abeyance any decision with regard to the Notice of Exemption for abandonment of the Union Pacific's freight operating easement on the Line until the Board has issued its decision with regard to this Amendment.

The purpose of this Amendment is to Amend and restate the Petition for Wavier under 49 C.F.R. §1110.9, 49 C.F.R. §1117.71 and 49 C.F.R. §1121.4(g) to a Petition for Exemption under 49 U.S.C. §10502 from the Financial Assistance Provisions of 49 U.S.C. §10904 and the Public use Provisions of 49 U.S.C. §10905 for reasons of overriding public need. In that the Line has been sold to RTD, as hereinafter defined, Union Pacific will not consider requests for trail use under the Trails Act, 16 U.S.C. 1247(d).

The Board has authority under 49 U.S.C. §10502 to exempt the proposed abandonment from the Offer of Financial Assistance provisions of 49 U.S.C. §10904 and the Public Use provisions of 49 U.S.C. §10905. An exemption is typically granted when the right-of-way is needed for a valid public purpose and there is no overriding public need for continued rail service on the Line for which abandonment authority is sought.<sup>1</sup>

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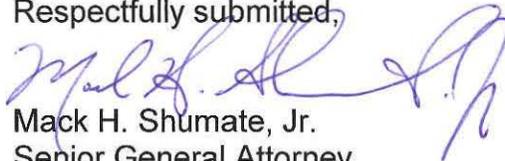
<sup>1</sup> See Missouri Pacific Railroad – Abandonment and Discontinuance of Operations – In Houston, Harris County, TX, Docket No. AB-3 (Sub No. 139X) et al., (STB Decision served December 31, 1996). Proposed abandonment exempted from §§10904 and 10905); Southern Pacific Transportation Company – Discontinuance of Service Exemption – In Los Angeles County, CA, Docket No. AB-12 (Sub-No. 172X), et al., (ICC served December 23, 1994); Missouri Pacific Railroad Company – Abandonment – In Harris County, TX, Docket No., Ab-3 (Sub-No 105X) (ICC served December 22, 1992); Chicago & North Western Transportation Company – Abandonment Exemption – In Blackhawk County, IA, Docket No. AB 284 (Sub No. 1X (ICC served April 1, 1988).

The Line, over which Union Pacific seeks to abandon its freight operating easement rights, was sold to the Denver Regional Transportation District ("RTD") in June of 2009 and is incorporated into the Master Plan for RTD's integrated mass transit system known as "FasTracks". FasTracks encompasses a regional public passenger rail and bus network for the greater Denver, Colorado area. In that the Line will be incorporated into the RTD mass transit system, the right-of-way which makes up the Line from Milepost 9.27 near Eastlake to the end of the Line at Milepost 33.17 near Valmont is not suited for other public purposes including roads or highways, or other forms of transportation, trails, conversation, energy production or transmission or recreation. There will be no adverse effect on shippers on the Line. Development in the area of Boulder, Colorado served by the Boulder Industrial Lead has shifted away from rail oriented industries, decreasing the likelihood that a major new rail oriented shipper would be interested in locating on the Line. There is no overriding public need for continued railroad freight operations in that no originating, terminating or overhead railroad freight traffic has moved or has been requested to move on or over the Line for well over two (2) years.

WHEREFORE, (1) in that the right-of-way which makes up the subject portion of the Boulder Industrial Lead has been acquired and is needed for a valid public use and purpose by the Denver Regional Transportation District as part of its Master Plan for the mass transit system known as, "FasTracks", and (2) in that there is no overriding public need of the right-of-way for the purpose of providing common carrier freight service by the railroad for public convenience and necessity. Union Pacific Railroad Company respectfully requests the Board issue a decision granting that an exemption under 49

U.S.C. §10502 from the Offer of Financial Assistance Provisions of 49 U.S.C. §10904 and from the Public Use Provisions of 49 U.S.C. §10905 is warranted in this matter in that the right-of-way which makes up the subject portion of the Boulder Industrial Lead is needed for a valid public purpose by the Denver Regional Transportation District and there is no other overriding public need for continued freight rail service on the subject portion of the Boulder Industrial Lead.

Respectfully submitted,



Mack H. Shumate, Jr.  
Senior General Attorney  
101 N. Wacker Drive, Room 1920  
Chicago, IL 60606  
312-777-2055

Dated: July 25, 2012

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