

ENTERED
Office of Proceedings
November 30, 2012
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Public Record

November 28, 2012

Honorable Anne K. Quinlan,
Acting Secretary
Surface Transportation Board
395 East Street, SW
Washington, DC 20423

Re: STB Docket No. AB-433 (Sub-No. 2X)
Idaho Northern & Pacific Railroad Co. B
Abandonment and
Discontinuance Exemption B
In Washington and Adams Counties, ID

Dear Acting Secretary Quinlan:

This letter is filed on behalf of Friends of Weiser River Trail, Inc., (FWRT), who seeks to vacate, in part, the Notice of Interim Trail Use (NITU) served in this Docket No. AB-433 (Sub-No. 2X).

The FWRT now seeks to have the NITU vacated in part, to the extent the NITU may apply to certain property lying *outside* of a 100 foot width segment of right of way, situated in Adams County, Idaho, in the NE1/4 of the SW1/4 of Section 34, T18N, R1W, Boise Meridian, (Exhibit A) (hereinafter, this property will be referred to as AStarkey Hot Springs@), and in support thereof explains as follows:

Starkey Hot Springs is a townsite that was platted in 1911, which has historically been subject to a railroad right of way depicted as one hundred feet wide. (Exhibit B) That the one hundred foot wide right of way was surveyed in May 2009 and a copy of that survey is attached hereto. (Exhibit C)

A dispute exists as to whether any right of way interests exists outside of the surveyed right of way. The dispute includes whether a wider right of way was originally acquired by the originating railroad company, and if so, whether such interests were abandoned or forfeited back in time, prior to the 1911 platting of Starkey Hot Springs. Irrespective of this dispute, FWRT submits that to the extent any such interests did or do exist, the extra width of right of way is not needed for resuming service over the subject line if that became necessary. Additionally, to FWRT=s knowledge, no more than a 100 foot wide right of way has ever been claimed or used by the railroad in the over 100 years of the right of way=s existence.

For these reasons, FWRT intends to quitclaim to the adjoining landowner any interests that FWRT may have acquired from Union Pacific Railroad that lie outside of the surveyed 100 foot wide right of way in Starkey Hot Springs in May 2009. FWRT thus requests the Board reopen the proceedings and vacate the NITU in this Docket No. AB-433 (Sub-No. 2X),¹ so that to the extent any right of way interests exists or existed outside of the platted (Exhibit B) and surveyed (Exhibit C) right of way, such interests may be abandoned pursuant to this Board=s authority. Additionally, FWRT requests that the authorization for abandonment be issued without prejudice to any future party who might seek an STB order that the subject interests had been *de facto* abandoned back in time.

FWRT shall remain the trail manager for the remainder of the right of way.

Sincerely yours,

Shirley S. Atteberry, President
Friends of Weiser River Trail, Inc.

¹ See e.g., *Union Pacific Railroad Co. Abandonment Exemption In Whittier Junction-Colima Junction Line in Los Angeles County, CA*, Docket No. AB-33 (Sub-No. 93X) (July 21, 2006).

SURVEY FOR
EVELYN SNIDER

WITHIN
 NE1/4SW1/4 OF SECTION 34, T.15N., R.1W., B.M.
 ADAMS COUNTY, IDAHO
 OF
 CENTERLINE OF FORMER PACIFIC & IDAHO NORTHERN RAILWAY
 THROUGH THE FORMER TOWNSITE OF STARKEY HOT SPRINGS

CERTIFICATE OF ENGINEER/SURVEYOR

I, S. ROLAND MULLINIX, A REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR IN THE STATE OF IDAHO, DO HEREBY CERTIFY THAT THE SURVEY REPRESENTED ON THIS PLAT WAS PERFORMED BY ME OR UNDER MY SUPERVISION IN ACCORDANCE WITH THE LAWS OF THE STATE OF IDAHO IN MAY OF 2009.



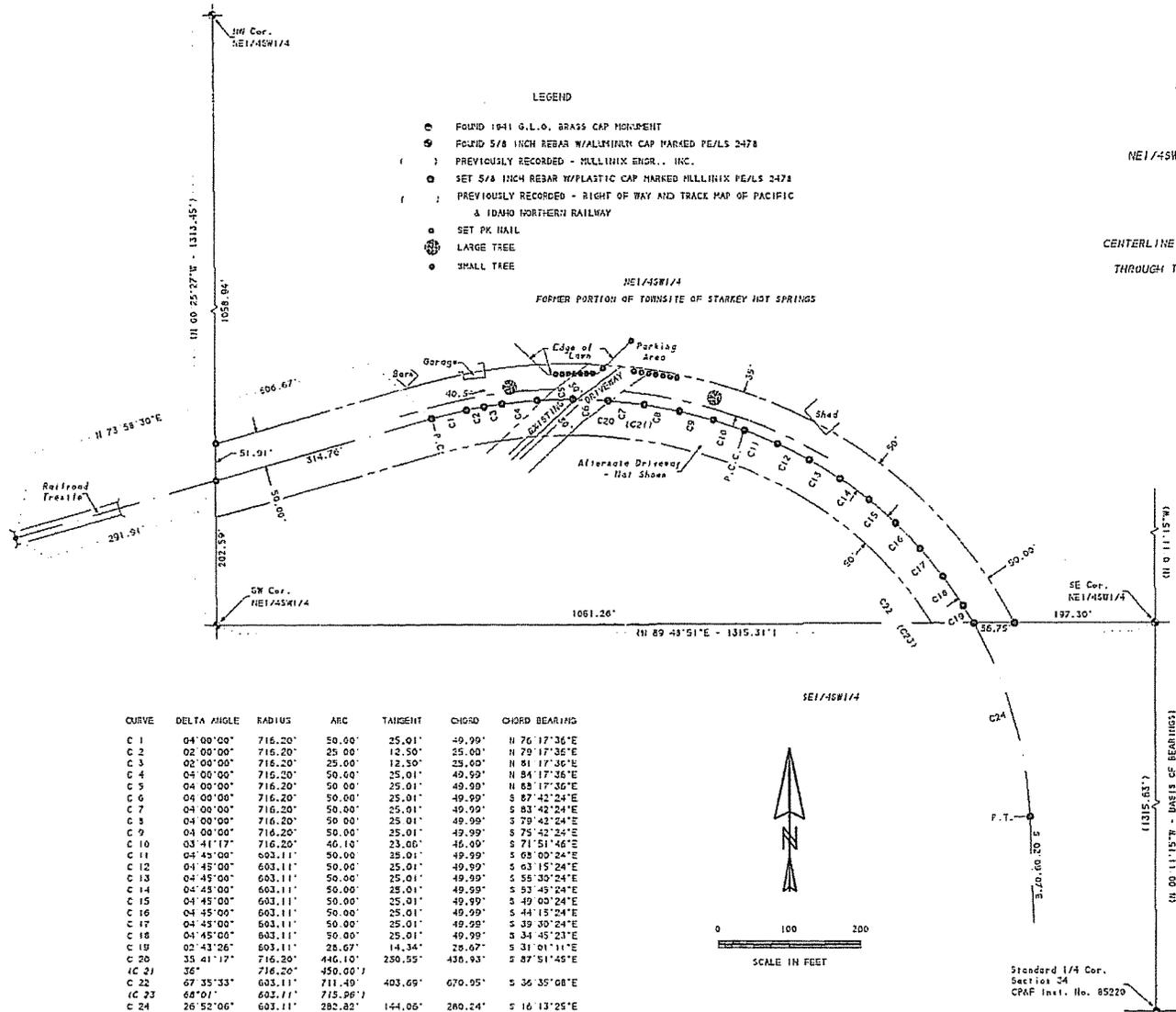
REFERENCES

1. PLAT OF THE TOWNSITE OF STARKEY HOT SPRINGS, 1911.
2. RECORD OF SURVEY BY MULLINIX ENGR., INC., INST. NO. 45226.
3. JUNE 30, 1916, RIGHT-OF-WAY AND TRACK MAP OF PACIFIC AND IDAHO NORTHERN RAILWAY.

NOTE: THE TRACKS OF THE P&ID RAILWAY WERE REMOVED SEVERAL YEARS AGO. FOR THIS SURVEY THE CENTERLINE OF THE TRACKS WAS DETERMINED BY A TOPOGRAPHIC SURVEY OF THE RAILWAY BED IN COOPERATION WITH THE 1916 RAILWAY RIGHT OF WAY AND TRACK MAP.

MULLINIX ENGINEERING, INC.
 KEISER, IDAHO 83072
 APRIL 29, 2010

Exhibit C



CERTIFICATE OF SERVICE

I hereby certify that a copy of the attached letter to the Surface Transportation Board dated November 28, 2012, has been served this 30th day of November, 2012, via first-class mail, postage prepaid, upon all parties of record in Docket No. AB-433(Sub-No. 2X).

Shirley S. Atteberry, President
Friends of Weiser River Trail, Inc.
3494 Rush Creek Road
Cambridge, Idaho 83610

Parties served:

Union Pacific Railroad Company
CT Corporation System, Registered Agent
1111 W. Jefferson Street, Suite 530
Boise, ID 83702

Neil Cox, General Manager
Idaho Northern & Pacific Railroad
119 N. Commercial Avenue
Emmett, ID 83617