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June 5, 2015
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Public Record

June 4, 2015

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: Proposed Abandonment of the Osawatomie Industrial Lead from Milepost 335.0 to Milepost 335.5 near Osawatomie, a total distance of 0.50 miles in Miami County, Kansas, STB Docket No. AB-33 (Sub No. 313X)

(1) *Union Pacific Concurrence with Petition to Transfer Holder of Notice of Interim Trail Use/Trail Manager/Responsible Party Status for the Osawatomie Industrial Lead, Osawatomie, Kansas. Status granted in STB Docket No. AB-33 (Sub No. 313X), Abandonment Exemption, Union Pacific Railroad Company, in Miami County, Kansas; and*

(2) *Corrected Joint Notice of Interim Trail Use/Rail Banking Agreement*

Dear Ms. Brown:

(1) Union Pacific Railroad Company ("Union Pacific") hereby concurs with the Petition to Transfer Holder of Notice of Interim Trail Use/Trail Manager/Responsible Party Status for the Osawatomie Industrial Lead, Osawatomie, Kansas. Status granted in STB Docket No. AB-33 (Sub No. 313X), Abandonment Exemption, Union Pacific Railroad Company, in Miami County, Kansas dated April 20, 2015 and attached hereto as Exhibit A. Union Pacific also accepts the substitution of Kanza Rail-Trails Conservancy, Inc. for the City of Osawatomie as the new holder of Interim Trail Use, Trail Manager and Responsible Party.

(2) It has been brought to Union Pacific's attention that two typographical errors, one by Union Pacific and one by the City of Osawatomie have created a discrepancy that needs to be clarified in order to preserve an accurate record with regard to the distance of the subject interim trail use. While the heading for the Proposed Abandonment originally and accurately described the Line as being from Milepost 335.0 to Milepost 335.5 for a total distance of 0.50 miles, the length of the Line covered by the Trail Use Agreement was reduced by .05 miles to permit continued operation and use of said .05 miles in Union Pacific's railroad system. For purposes of the record Union Pacific hereby withdraws that portion of the Line from Milepost 335.00 to

The Honorable Cynthia T. Brown
Chief, Section of Administration
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Milepost 335.05 from the proposed Interim Trail Use and will keep such Line Segment as part of its railroad operating system.

FIRST TYPOGRAPHICAL ERROR:

The Joint Notice of Interim Trail Use/Rail Banking Agreement (“Joint Agreement”) signed on behalf of Union Pacific inaccurately referenced the mileposts for the Line as being, “... from Milepost 333.05 to Milepost 333.5.” The correct reference is, “... from Milepost 335.05 to milepost 335.5.” The Joint Agreement was correct with regard to the .45 mile length of the Line covered by the Joint Agreement.

SECOND TYPOGRAPHICAL ERROR:

On the ninth line of the second paragraph of the City of Osawatomie’s Statement of Willingness to Assume Financial Responsibility (the “Statement”). The phrase, “milepost 335.0.5” should read “milepost 335.05.” This is clearly a minor typographical error in that the total distance of the Line covered by the Statement is .45 miles or the difference between Milepost 335.05 and Milepost 335.5. Union Pacific has made a pencil correction to the Statement.

A Corrected Joint Agreement dated as of November 25, 2014 is attached hereto as Exhibit “B” and is hereby made a part hereof.

Sincerely,



Mack H. Shumate, Jr.
Senior General Attorney

MHS/ev
Attachment

cc: City of Osawatomie



CITY OF OSAWATOMIE
439 Main Street
P.O. Box 37
Osawatomie, Kansas 66064
913-755-2146
FAX: 913-755-4164

EXHIBIT A

RECEIVED

APR 28 2015

LAW DEPARTMENT
UNION PACIFIC RR CO.

April 20, 2015

Ms. Cynthia T. Brown
Secretary
Surface Transportation Board
395 "E" Street SW
Washington, DC 20423

RE: Petition to Transfer Holder of Notice of Interim Trail Use/Trail Manager/Responsible Party Status for the Osawatomie Industrial Lead, Osawatomie, Kansas. Status granted in STB Docket No. STB Docket No. AB-33 (Sub-No 313X), Abandonment Exemption, Union Pacific Railroad Company, in Miami County, Kansas.

Dear Ms. Brown:

Enclosed please find a NEW pleading: An original and ten copies of a "*Joint Petition of the City of Osawatomie, and Kanza Rail-Trails Conservancy, Inc. for Substitution of New Holder of Interim Trail Use/Trail Manager/Responsible Party*" along with a Statement of Willingness to Assume Financial Responsibility filed on behalf of Kanza Rail-Trails Conservancy, Inc. One milepost in the previous pleading filed on March 31, 2015, was incorrect and this new pleading replaces the previous pleading.

If you have any questions, please feel free to contact us.

Sincerely,

L. Mark Govea
Mayor

Enc.

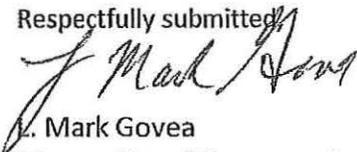
BEFORE THE
STB Docket No. AB-33 (Sub-No 313X)
-ABANDONMENT EXEMPTION-
IN MIAMI COUNTY, KANSAS

JOINT PETITION OF THE CITY OF OSAWATOMIE AND KANZA RAIL-TRAILS CONSERVANCY, INC FOR
SUBSTITUTION OF NEW HOLDER OF INTERIM TRAIL USE/TRAIL MANAGER/RESPONSIBLE PARTY

Pursuant to 49 C. F.R. 1152.29, the City of Osawatomi, Kansas ("City") and Kanza Rail-Trails Conservancy, Inc. ("KRTC") submit this joint petition to the Surface Transportation Board (STB) requesting that the above-captioned proceedings be reopened so that KRTC may be substituted as the Holder of the Interim Trail Use/Trail Manager/Responsible Party for the rail line in the above-captioned proceeding, specifically the Osawatomi Industrial Lead located between Milepost 335.05 and Milepost 335.50, at or near Osawatomi, Kansas, a distance of .45 miles in Miami County, Kansas. In support of said petition, the City and KRTC set forth the following to wit:

1. Union Pacific Railroad Company (UP) filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon 0.50 miles of the Osawatomi Industrial Lead, from milepost 335.0 to milepost 335.5 near Osawatomi, in Miami County, Kan. Notice of the exemption was served and published in the Federal Register on July 23, 2013 (78 Fed. Reg. 44,190).
2. By decision and Notice of Interim Trail Use or abandonment (NITU) served on August 19, 2013, the STB under U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by the Union Pacific Railroad Company, the above-referenced rail line known as the Osawatomi Industrial Lead. (Said NITU is attached hereto as Exhibit A).
3. By letter filed on November 26, 2014, Mack H. Shumate, Jr., Senior General Attorney with the UP notified STB that a Trail Use/Rail Banking Agreement between Union Pacific and the City of Osawatomi from milepost 335.05 to milepost 335.50 in Miami County, Kansas on the Osawatomi Industrial Lead for a total distance of .45 miles had been executed in accordance with 49 C.F.R. 1152.29(h).
4. Kanza Rail-Trails Conservancy, Inc. is a duly incorporated Kansas not-for-profit corporation with a corporate address of: Kanza Rail-Trails Conservancy, Inc., P.O. Box 3863, Topeka, Kansas 66604, Scott Allen, President, Telephone, 785-466-0181.
5. Attached hereto as Exhibits B and C are the KRTC's Statement of Willingness to Assume Financial Responsibility and a map of the corridor.
6. The date for the transition of total responsibility as the new interim trail manager to the KRTC is July 1, 2015.

WHEREFORE, City and KRTC respectfully request that the STB reopen the above-captioned cause, vacate the existing NITU issued to City, and issue an appropriate NITU to KRTC as the new holder of Interim Trail Use/Trail Manager/Responsible Party.

Respectfully submitted,

Mark Govea
Mayor, City of Osawatomi


Scott Allen
President, Kanza Rail-Trails Conservancy

Date: 4-21-2015

Date: 4/16/2015

EXHIBIT B

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 C.F.R. §1152.29, the Kanza Rail-Trails Conservancy, Inc. is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way formerly owned by the Union Pacific Railroad Company and now owned by the City of Osawatomie, Kansas.

The property, known as the Osawatomie Industrial Lead extends from railroad milepost 335.05 near Osawatomie to railroad milepost 335.50 near Osawatomie, a distance of 0.45 miles in Miami County, Kansas. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-33 (Sub-No 313X).

A map depicting the right-of-way is attached.

Kanza Rail-Trails Conservancy, Inc. acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon the Union Pacific Railroad Company, Law Department, 101 North Wacker Drive, Room 1920, Chicago, Illinois 60606-1718 by U.S. Mail, postage prepaid, first class, on 4/16/2015, 2015.

Respectfully submitted,



Scott Allen

President

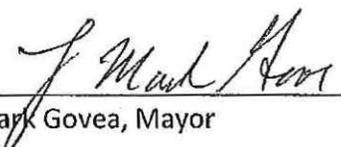
Kanza Rail-Trails Conservancy, Inc.

Certificate of Service

I hereby certify that I have this day caused to be served a copy of the foregoing to be served by U.S. Mail, postage prepaid, first class upon the following:

Mack H. Shumate, Jr.
Senior General Attorney
Union Pacific Railroad Company
Law Department
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606-1718

Dated this 21 day of APRIL, 2015.



L. Mark Govea, Mayor

November 25, 2014

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

CORRECTED

**JOINT NOTICE OF INTERIM TRAIL USE / RAIL BANKING AGREEMENT
BETWEEN UNION PACIFIC RAILROAD COMPANY AND
CITY OF OSAWATOMIE, KANSAS IN ACCORDANCE WITH 49 C.F.R. 1152.29(h)**

**RE: Abandonment of and Discontinuance of Service of a portion of the Osawatomie
Industrial Lead, Miami County, Kansas; STB Docket No. AB-33 (Sub No. 313X)**

Dear Ms. Brown:

Union Pacific Railroad Company ("Union Pacific") and the City of Osawatomie ("City") have entered into a trail use/rail banking agreement (the "Trail Use Agreement") covering the rail line from milepost 335.05 to milepost 335.50 in Miami County, Kansas on the Osawatomie Industrial Lead for a total distance of .45 miles (the "Line"). Attached to this Joint Notice as Exhibit A and made a part hereof is a map depicting an accurate description of the Line, including mileposts, that is the subject of said Trail Use Agreement. In accordance with the requirements of 49 C.F.R. 1152.29(h), Union Pacific and City hereby certify that the Trail Use Agreement includes provisions requiring the trail sponsor, City of Osawatomie, to fulfill the responsibilities described at 49 C.F.R. 1152.29(a)(3). A copy of City's Statement of Willingness to Assume Financial Responsibility under the Trail Use Agreement is attached hereto as Exhibit B and is hereby made a part hereof.

Sincerely,



Mack H. Shumate, Jr.
Senior General Attorney

MHS/ev
Attachment

cc: City of Osawatomie

Sincerely,

CITY OF OSAWATOMIE

By:

Title:

J. Mark Gores
Mayor

Enclosure

cc:

EXHIBIT A TO
JOINT NOTICE

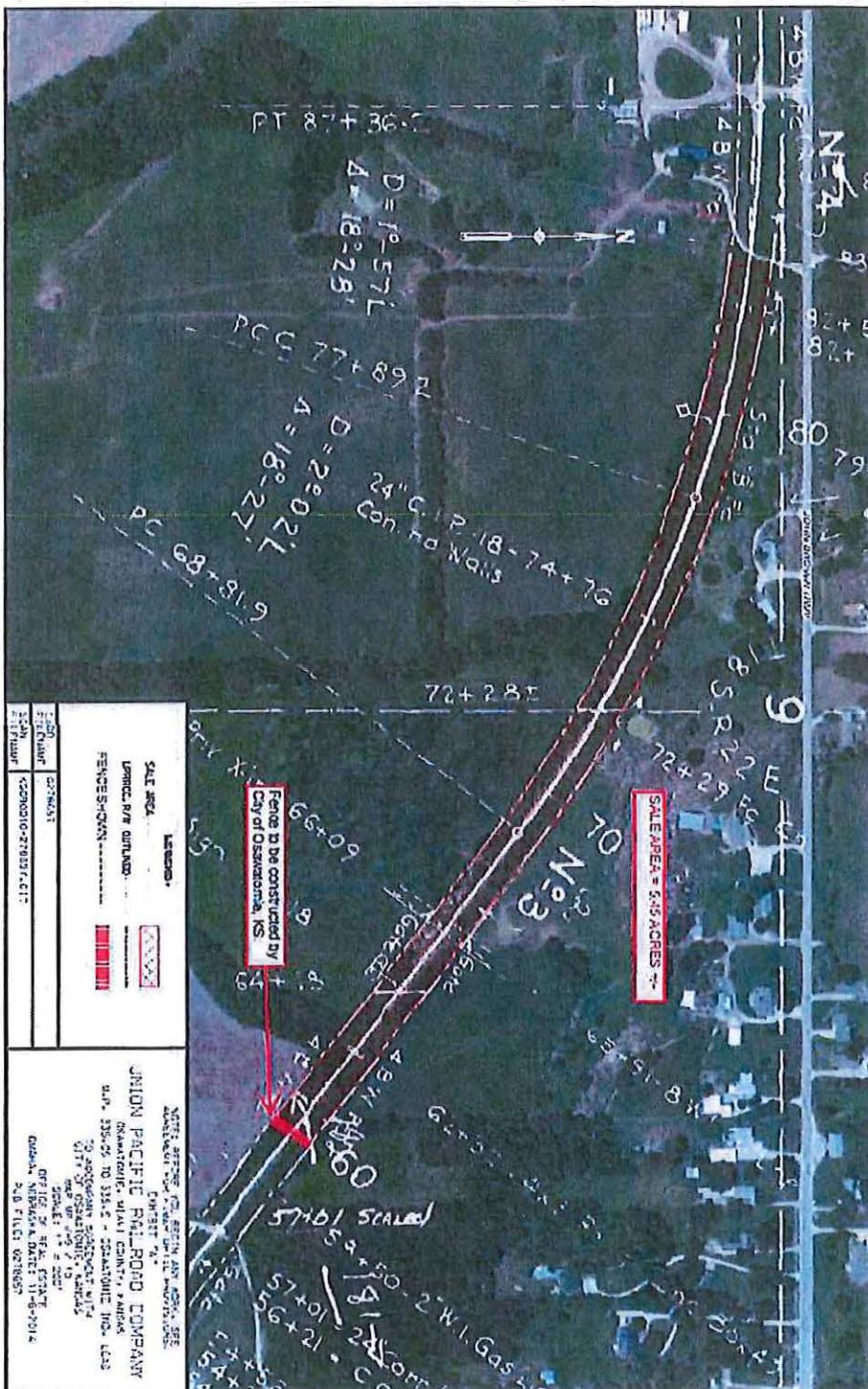


EXHIBIT B TO
JOINT NOTICE

TO ATTACH EXECUTED STATEMENT

City of Osawatomie's Statement of Willingness To Assume Financial Responsibility

City of Osawatomie, through authorization by the Mayor & City Council, acquired the Line as defined below on November 25, 2014 under a Purchase and Sale Agreement between Union Pacific Railroad Company and City of Osawatomie dated November 24, 2014.

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29 with respect to the right-of-way owned by Union Pacific Railroad Company [see Discontinuance of Service AB-33 (Sub-No. 313X)], City of Osawatomie hereby represents to the Surface Transportation Board and Union Pacific Railroad Company that City of Osawatomie assumes responsibility for (1) managing the right-of-way, (2) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify Union Pacific Railroad Company against any potential liability), and (3) the payment of any and all taxes that may be levied or assessed against the right of way. The right of way is known as Osawatomie Industrial Lead from milepost 335.05 to milepost 335.5, and extends for a total distance of .45 miles in Miami County, Kansas (the "Line"). The right-of-way is part of a line of railroad proposed for abandonment by Union Pacific Railroad Company in Docket No. STB AB-33 (Sub No. 313X). A map of the property depicting the right-of-way is attached hereto as **Exhibit A** and is hereby made a part hereof.

City of Osawatomie acknowledges that use of the right-of-way is subject to City of Osawatomie's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad on the same date it is being served on the Surface Transportation Board.

CITY OF OSAWATOMIE

By: J. Mark Gove
Title: Mayor

Agreed to and Acknowledged by Union Pacific Railroad Company this 25th day of November, 2014.

By: M. E. Rabe
Title: General Attorney

Union Pacific Railroad Company

Miami County, Kansas

Exhibit "A"

All right, title and interest in and to that part of the Osawatonic Industrial Lead of the Union Pacific Railroad Company, formerly the St. Louis, Kansas and Arizona Railway Company, beginning at Mile Post 335.05 and ending at Mile Post 335.5 of said Osawatonic Industrial Lead, located in the South Half of Section 9, Township 18 South, Range 22 East of the 6th Principal Meridian, Miami County, Kansas.

Union Pacific Railroad Co.
Real Estate Department
Omaha, NE.

LD 0278675
November 6, 2014
