



ATTORNEYS AT LAW
1666 K Street, NW
Suite 500
Washington, DC 20006
T 202.887.1400
F 202.466.3215

Justin Marks

August 17, 2015

239040

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20423

ENTERED
Office of Proceedings
August 17, 2015
Part of
Public Record

Re: STB Docket No. AB-33 (Sub-No. 93X) Union Pacific Railroad Company -
Abandonment Exemption - Whittier Junction - Colima Junction Line - In Los
Angeles County, CA

Dear Ms. Brown:

This letter is filed on behalf of the City of Whittier, California (hereinafter referred to as the "City"), which seeks to vacate, in part, the Notice of Interim Trail Use ("NITU") served in this Docket No. AB-33 (Sub-No. 93X) on December 14, 2001 and amended on September 10, 2002 and July 21, 2006. The City would like to terminate interim trail use/rail banking on a portion of the right-of-way subject to the NITU as further described herein.

By notice of exemption served and published in the Federal Register on August 12, 1996, the Surface Transportation Board ("STB" or "Board") granted Union Pacific Railroad Company ("UP") authority to abandon approximately 5.18 miles of its Whittier Junction-Colima Junction line (a portion of the Anaheim Branch) between approximately MP 0.0 near Whittier Junction and approximately MP 5.18 near Colima Junction in Los Angeles County, California. The exemption became effective on September 11, 1996.

On November 30, 2001, the City late-filed a request for issuance of a NITU for a portion of the right-of-way between approximately milepost 0.43 near the grade crossing at Pioneer Boulevard and approximately MP 5.11 near Colima Junction (hereinafter referred to as the "Subject Line"), a distance of approximately 4.68 miles. By decision served December 14, 2001, the STB modified the notice exempting UP's abandonment of the Subject Line to the extent necessary to implement interim trail use by the City. On December 17, 2001, the City acquired the Subject Line from UP subject to UP's right to restart freight service under the NITU.

The Board has twice granted the City's request to terminate the NITU so that the City may dispose of extra-width portions of the right-of-way that are not needed for the resumption of rail service over the Subject Line. By decision served September 10, 2002, the Board vacated the NITU in this proceeding over a 15,000 square foot parcel and by decision served July 21,

2006, the Board vacated trail use over an aggregate of approximately 17,000 square feet of property.

The City now intends to sell an additional strip of extra-width property to adjacent landowners. In connection with the pending and future sale of the extra-width property, the City has decided to terminate interim trail use on the extra-width parcel as described herein.

The extra-width property to be sold will involve the transfer of a small strip of land along the edge of the Subject Line right-of-way and will not disrupt the continuity of the Subject Line for rail restart purposes. The City plans to terminate trail use over approximately 4,937 square feet of property located on the eastern boundary of the Subject Line between approximately MP 2.73 near Whittier Boulevard and approximately MP 2.78 between Santa Fe Springs Road and Milton Avenue.

Therefore, the City respectfully requests that the STB vacate the NITU, to the extent necessary to terminate interim trail use over the 4,937 square feet of property located on the eastern boundary of the Subject Line between approximately MP2.73 near Whittier Boulevard and approximately MP 2.78 between Santa Fe Springs Road and Milton Avenue, effective on or before October 1, 2015. The NITU will remain effective for, and the City will continue interim trail use over, the remaining portion of the Subject Line. A copy of the STB's Decision and Notice of Interim Trail Use or Abandonment in Docket No. AB-33 (Sub-No. 93X) served December 14, 2001 and subsequent amendments to that NITU are attached hereto as Exhibit A. A map of the over-width property to be sold is attached hereto as Exhibit B.

Sincerely,



Justin J. Marks
Counsel for City of Whittier

EXHIBIT

A

32360
DO

SERVICE DATE - DECEMBER 14, 2001

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-33 (Sub-No. 93X)¹

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN WHITTIER JUNCTION-COLIMA JUNCTION LINE
IN LOS ANGELES COUNTY, CA

Decided: December 12, 2001

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152.50 to abandon approximately 5.18 miles of the Whittier Junction-Colima Junction line (portion of the Anaheim Branch) from milepost 0.0 near Whittier Junction to milepost 5.18 near Colima Junction, in Los Angeles County, CA. Notice of the exemption was served and published in the Federal Register on August 12, 1996 (61 FR 41823). On December 13, 1996, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the City of Whittier (City) to negotiate an interim trail use/rail banking agreement with UP for the 5.18-mile line of railroad. The negotiation period under the NITU was extended several times at the request of UP and expired on December 31, 2000.²

By petition filed November 30, 2001, the City late-filed a request for a NITU for a portion of the right-of-way between milepost 0.43 near the grade crossing at Pioneer Boulevard and milepost 5.11 near Colima Junction, a distance of approximately 4.68 miles.³ The City states that, intermittently over the period of time since the effective date of the exemption, the City and UP have negotiated for transfer of the line, but the parties had a material disagreement regarding

¹ This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southerm Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company (UP/SP). The common control authorized in UP/SP, Decision No. 44 (STB served Aug. 12, 1996), was consummated on September 11, 1996.

² The negotiating period under the NITU was extended by decisions served February 10, 1997, January 26, 1998, August 5, 1998, July 30, 1999 (affirmed by decision served August 4, 1999), January 26, 2000, and August 7, 2000.

³ The August 12, 1996 decision also provided that requests for trail use/rail banking had to be filed by August 22, 1996. The decision stated, however, that the Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

the value of the line, and the City's environmental assessment took longer to commence and to complete than the City had planned. The City further states that the parties have reached an agreement and completed all steps necessary for the planned transfer of the line. The City submitted a statement indicating its willingness to assume full financial responsibility for the 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 payment of any and all taxes that may be levied or assessed against, the right-of-way, as required at 49 CFR 1152.29, and acknowledged that the use of the right-of-way as a trail is subject to possible future reconstruction and reactivation of the right-of-way for rail service. On December 5, 2001, UP advised the Board that it has not consummated the abandonment of the 4.68-mile portion of the line and that it is willing to negotiate with the City for interim trail use.

Trail use requests are accepted as long as the Board retains jurisdiction over the involved railroad right-of-way⁴ and the carrier is willing to enter into negotiations. Inasmuch as UP has not consummated the abandonment and is willing to negotiate with the City for the right-of-way, a NITU will be issued for that portion, with the trail use negotiation period running for 180 days from the service date of this decision or until June 12, 2002. If the parties reach a mutually acceptable final agreement, no further Board action is necessary. If no agreement is reached within 180 days, UP may fully abandon the line, provided that the environmental conditions imposed in the August 12, 1996 decision are met. Use of the right-of-way for trail purposes is subject to restoration for railroad purposes. See 49 CFR 1152.29(d)(2).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice of exemption published in the Federal Register on August 12, 1996, exempting the abandonment of the line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below, for the portion of the line extending between milepost 0.43 and milepost 5.11 until June 12, 2002, subject to the environmental conditions imposed in the August 12, 1996 decision.

⁴ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Soo Line Railroad Company—Exemption—Abandonment in Waukesha County, WI, Docket No. AB-57 (Sub-No. 23X) (ICC served May 14, 1987); and Missouri-Kansas-Texas Railroad Company—Abandonment—In Pettis and Henry Counties, MO, Docket No. AB-102 (Sub-No. 16) (ICC served Apr. 26, 1991).

3. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, 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 payment of any and all taxes that may be levied or assessed against, the right-of-way.

4. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.

5. If interim trail use is implemented and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

6. If an agreement for interim trail use/rail banking is reached by June 12, 2002, interim trail use may be implemented. If no agreement is reached by that time, UP may fully abandon the line.

7. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

32992
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SERVICE DATE - SEPTEMBER 10, 2002

SURFACE TRANSPORTATION BOARD

DECISION AND MODIFICATION OF NOTICE OF INTERIM TRAIL USE OR
ABANDONMENT

STB Docket No. AB-33 (Sub-No. 93X)¹

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN WHITTIER JUNCTION-COLIMA JUNCTION LINE
IN LOS ANGELES COUNTY, CA

Decided: September 5, 2002

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152.50 to abandon approximately 5.18 miles of the Whittier Junction-Colima Junction line (portion of the Anaheim Branch) from milepost 0.0 near Whittier Junction to milepost 5.18 near Colima Junction, in Los Angeles County, CA. Notice of the exemption was served and published in the Federal Register on August 12, 1996 (61 FR 41823). On December 13, 1996, a notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the City of Whittier (City) to negotiate an interim trail use/rail banking agreement with UP for the 5.18-mile line of railroad. The negotiation period under the NITU was extended several times at the request of UP and expired on December 31, 2000.

By petition filed November 30, 2001, the City late-filed a request for issuance of a NITU pursuant to the National Trails System Act, 16 U.S.C. 1247(d), for the portion of the right-of-way between milepost 0.43 near the grade crossing at Pioneer Boulevard and milepost 5.11 near Colima Junction, a distance of approximately 4.68 miles. On December 14, 2001, a decision was served authorizing the City to negotiate with UP for that portion of the right-of-way.

On June 25, 2002, the City filed a request to terminate trail use over a 15,000 square foot-parcel located between approximately milepost 2.70 near Mar Vista Street and approximately milepost

¹ This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company. The common control authority sought in that proceeding was granted by the Board in Union Pacific/Southern Pacific Merger, 1 S.T.B. 233 (1996), and was consummated on September 11, 1996.

2.78 near Pickering Avenue, on what the City describes as the eastern boundary of the line. The City states that, in connection with a transaction involving the sale of real property, it has decided to terminate trail use over that portion of the right-of-way. The City requested that the partial vacation of the NITU be made effective on July 23, 2002. By decision served July 18, 2002, the proceeding was reopened and the NITU served December 14, 2001, was vacated with respect to the 15,000 square foot-parcel along the right-of-way between milepost 2.70 and milepost 2.78 and UP was permitted to fully abandon that portion of the right-of-way for which the NITU had been vacated, effective July 23, 2002, as requested.²

The July 18 decision included reference to the City's statement that, if the transaction was not completed by July 23, 2002, the City would advise the Board and amend its request to reflect a new effective date for vacating the NITU. On August 19, 2002, the City filed a letter stating that the real property transaction did not close on July 23, 2002, but instead closed on August 13, 2002. The City therefore requested that the effective date for the partial vacation of the NITU be changed to August 13, 2002. The City's request will be granted.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The City's request to amend the effective date of its June 25, 2002 request for partial vacation of the NITU is granted.
2. The vacation of the NITU as to the 15,000 square foot-parcel along the right-of-way between 2.70 and milepost 2.78 is effective as of August 13, 2002.

² On August 2, 2002, UP notified the Board that, on July 23, 2002, it had closed the transaction covering the 15,000 square foot-parcel, which UP indicates covers only a small extra width parcel on the line. UP also stated that, in its view, no notice of consummation of abandonment is necessary because the sale of the extra width parcel will not disrupt the continuity of the line and the property sold would not be necessary for future reestablishment of rail service over the right-of-way.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

37182
DO

SERVICE DATE – JULY 21, 2006

SURFACE TRANSPORTATION BOARD

DECISION AND MODIFICATION OF NOTICE OF INTERIM TRAIL USE OR
ABANDONMENT

STB Docket No. AB-33 (Sub-No. 93X)¹

UNION PACIFIC RAILROAD COMPANY–ABANDONMENT
EXEMPTION–IN WHITTIER JUNCTION–COLIMA JUNCTION LINE
IN LOS ANGELES COUNTY, CA

Decided: July 20, 2006

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152.50 to abandon approximately 5.18 miles of the Whittier Junction-Colima Junction line (portion of the Anaheim Branch) from milepost 0.0 near Whittier Junction to milepost 5.18 near Colima Junction, in Los Angeles County, CA. Notice of the exemption was served and published in the Federal Register on August 12, 1996 (61 FR 41823). On December 13, 1996, a notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the City of Whittier (City) to negotiate an interim trail use/rail banking agreement with UP for the 5.18-mile line of railroad. At the request of UP, the negotiating period was extended several time; the latest extension was granted by decision served August 7, 2000. The negotiation period expired on December 31, 2000.

By petition filed November 30, 2001, the City late-filed a request for issuance of a NITU pursuant to the National Trails System Act, 16 U.S.C. 1247(d), for the portion of the right-of-way between milepost 0.43 near the grade crossing at Pioneer Boulevard and milepost 5.11 near Colima Junction, a distance of approximately 4.68 miles. On December 14, 2001, a decision was served authorizing the City to negotiate with UP for that portion of the right-of-way. On June 25, 2002, the City filed a request to terminate trail use over a 15,000 square foot-parcel located between approximately milepost 2.70 near Mar Vista Street and approximately milepost 2.78 near Pickering Avenue, on what the City described as the eastern boundary of the line. The city stated that, in connection with a transaction involving the sale of real property, it

¹ This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company–Control and Merger–Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company. The common control authority sought in that proceeding was granted by the Board in Union Pacific/Southern Pacific Merger, 1 S.T.B. 233 (1996), and was consummated on September 11, 1996.

had decided to terminate trail use over that portion of the right-of-way. The City requested that the partial vacation of the NITU be made effective on July 23, 2002. By decision served July 18, 2002, the proceeding was reopened and the NITU served December 14, 2001, was vacated with respect to the 15,000 square foot-parcel along the right-of-way between milepost 2.70 and milepost 2.78 and UP was permitted to fully abandon that portion of the right-of-way for which the NITU had been vacated, effective July 23, 2002, as requested. The July 18 decision included reference to the City's statement that, if the transaction was not completed by July 23, 2002, the City would advise the Board and amend its request to reflect a new effective date for vacating the NITU. On August 19, 2002, the City filed a letter stating that the real property transaction did not close on July 23, 2002, but instead closed on August 13, 2002. The City therefore requested that the effective date for the partial vacation of the NITU be changed to August 13, 2002. By decision served September 10, 2002, the City's request to amend the effective date of its June 25, 2002 request for partial vacation of the NITU was granted, and the vacation of the NITU as to the 15,000 square foot parcel along the right-of-way between milepost 2.70 and milepost 2.78 was made effective as of August 13, 2002.

On August 2, 2002, UP notified the Board that, on July 23, 2002, it had closed the transaction covering the 15,000 square foot-parcel, which UP indicates cover only a small extra width parcel on the line. UP also stated that, in its view, no notice of consummation of abandonment is necessary because the sale of the extra width parcel will not disrupt the continuity of the line and the property sold would not be necessary for future reestablishment of rail service over the right-of-way.

On June 26, 2006, the City filed a request to terminate trail use over an aggregate of approximately 17,000 square feet of property located at various points along the edge of the right-of-way through sale to adjacent landowners or occupants that already hold leases or licenses thereon predating the City's acquisition. The request includes the following extra width parcels, (collectively referred as the sale parcels): (1) 1,550 square foot-parcel located on the eastern boundary between approximately milepost 1.65 near Broadway and approximately milepost 1.70 between Broadway and Magnolia Avenue; (2) 306 square foot-parcel located on the western boundary between approximately milepost 0.70 near Redman Avenue and approximately milepost 0.80 near South Norwalk Boulevard; (3) 630 square foot-parcel located on the western boundary between approximately milepost 1.37 and approximately milepost 1.40 near Howard Street; (4) 2,782 square foot-parcel on the eastern boundary between approximately milepost 1.66 near Broadway and approximately milepost 1.71 between Broadway and Magnolia Avenue; (5) 2,722 square foot-parcel located on the eastern boundary between approximately milepost 1.68 near Broadway and approximately milepost 1.73 near Magnolia Avenue; (6) 1,020 square foot-parcel located on the eastern boundary between approximately milepost 1.70, between Broadway and Magnolia Avenue, and approximately milepost 1.75 near Magnolia Avenue; (7) 1,510 square foot-parcel located on the eastern boundary between approximately milepost 1.72, between Broadway and Magnolia Avenue, and approximately milepost 1.77 near Magnolia Avenue; (8) 432 square foot-parcel located on the western boundary between

approximately milepost 1.78 and approximately milepost 1.80 near Camilla Street; (9) 284 square foot-parcel located on the western boundary at approximately milepost 1.70, between Broadway and Magnolia Avenue; (10) 1,262 square foot-parcel located on the eastern boundary between approximately milepost 1.34 near Orange Drive and approximately milepost 1.37 near Howard Street; (11) 703 square foot-parcel located on the western boundary between approximately milepost 1.40 and approximately milepost 1.44 near Howard Street; (12) 324 square foot-parcel located on the western boundary between approximately milepost 1.42 and approximately milepost 1.46 near Howard Street; (13) 1,467 square foot-parcel located on the eastern boundary at approximately milepost 0.43 near Pioneer Boulevard; (14) 290 square foot-parcel located on the western boundary at approximately milepost 0.43 near Pioneer Boulevard; (15) 1,200 square foot-parcel located on the eastern boundary between approximately milepost 3.42 near Greenleaf Avenue and approximately milepost 3.44, between Greenleaf Avenue and Washington Avenue; and (16) 492 square foot-parcel located on the eastern boundary between approximately milepost 3.44 and approximately milepost 3.46, between Greenleaf Avenue and Washington Avenue. The City requests that the NITU to these line segments be vacated as of July 31, 2006. The City further states that the transaction will involve the transfer of small strips of land along the edge of the right-of-way and will not disrupt the continuity of the line.²

The City has complied with the requirements of 49 CFR 1152.29(d)(2) regarding a request to vacate a NITU. Whenever a trail manager intends to terminate trail use over a portion of the right-of-way and sends the Board a request that a NITU be vacated, the Board will reopen the proceeding, vacate the NITU. Therefore, the City's request to vacate the NITU will be granted with respect to the 17,000 sq. ft.-sale parcels, effective July 31, 2006, as requested.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The City's request to vacate the NITU for the approximately 17, 000 sq. ft. of property is granted.
3. The NITU served December 14, 2001, is vacated with respect to the 17,000 sq. ft. of property along the right-of-way as discussed in this decision, effective as of July 31, 2006. The City will remain the trail user for the remainder of the right-of-way.

² The City indicates that it will continue to be the interim trail user over the remainder of the right-of-way.

4. This decision is effective on its service date.

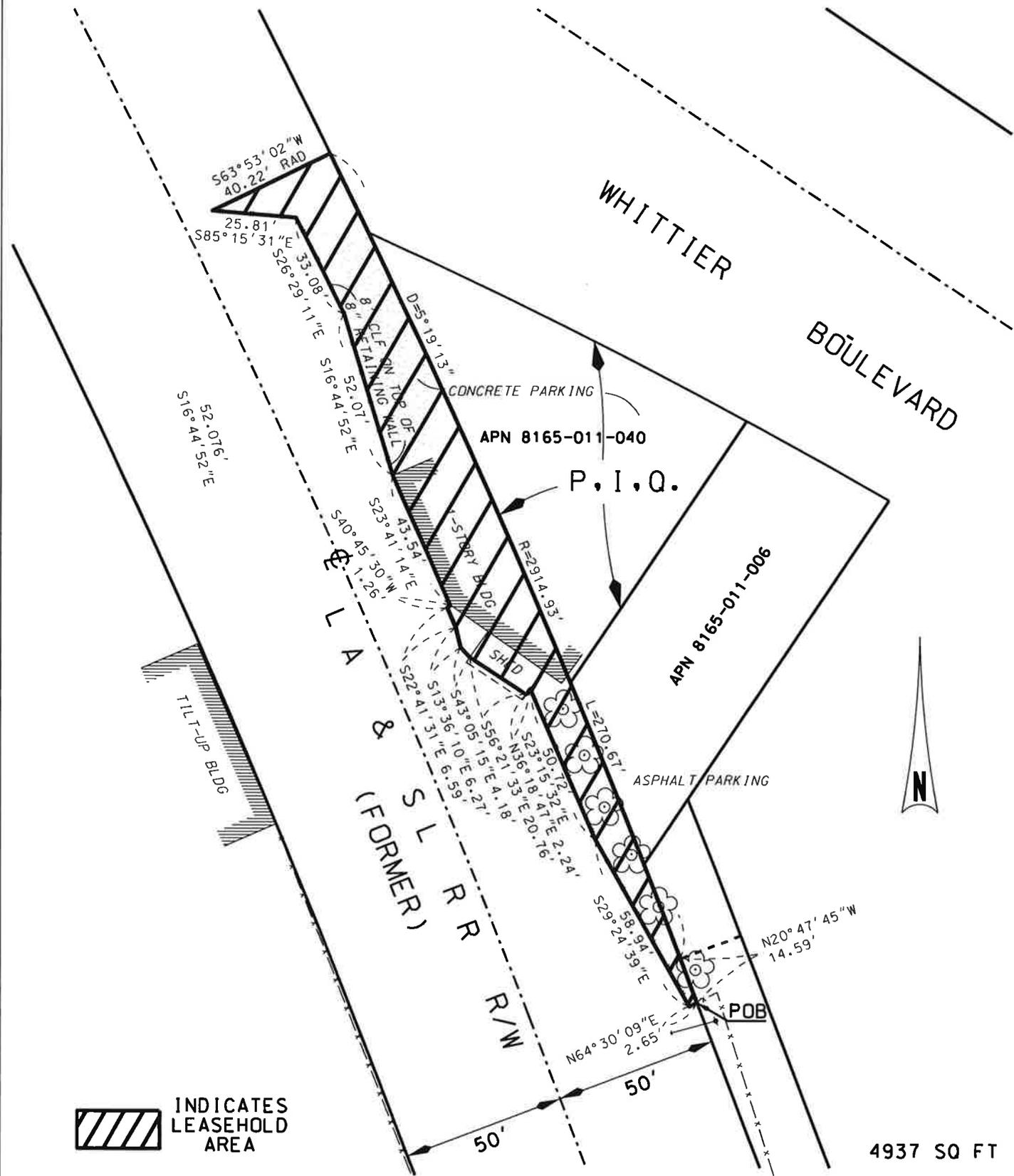
By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

EXHIBIT

B

EXHIBIT "B"



 INDICATES LEASEHOLD AREA



WILLDAN
ENGINEERS • PLANNERS
13191 CROSSROADS PARKWAY NORTH, SUITE 405
INDUSTRY, CA. 91746-3497
(562) 908-6200

SCALE 1" = 40'	DATE JUN 8, 2007
DRAWN BY D. BEYERBACH	LICENSE.PLG
CHECKED BY D. KNELL	2007/WHITTIER

**SKETCH TO ACCOMPANY
LEGAL DESCRIPTION**