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

December 14, 2012

233509
ENTERED
Office of Proceedings
December 14, 2012
Part of
Public Record

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

Dear Ms. Brown:

Union Pacific Railroad Company (“Union Pacific”) has reviewed the filing made on behalf of the Friends of Weiser River Trail, Inc. (“FWRT”) seeking to vacate, in part, the Notice of Interim Trail Use (“NITU”) served in this Docket No. AB-433 (Sub-No. 2X). A copy of said filing is attached hereto as Exhibit “A” and by this reference hereby made a part hereof. Union Pacific concurs with the statement made in the filing by FWRT that, “... the extra width of right of way (that portion of the right of way in excess of 100 feet in width) is not needed for resuming service over the subject line if that (service) became necessary.”

Therefore, Union Pacific has no objection to FWRT’s proposed request to the Board to reopen the proceeding and vacate the NITU with regard to that portion of the Line FWRT intends to quit claim to FWRT’s adjacent land owner.

If the Line is ever reactivated for rail service the 100 foot right of way will be more than sufficient for railroad operations.

Sincerely,



Mack H. Shumate, Jr.
Senior General Attorney

MHS:dro
Attachment



**STB Docket No. AB-433 (Sub-No. 2X) – Idaho Northern & Pacific Railroad Co.
Abandonment and Discontinuance Exemption in Washington and Adams Counties,
ID**

CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2012, I mailed a copy of Union Pacific Railroad Company's Letter seeking to vacate with regard to the above-captioned matters to all parties of record by First Class U.S. Mail, postage prepaid, on the following parties:

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

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

A handwritten signature in black ink that reads "Mack H. Shumate, Jr." The signature is written in a cursive style with a large, stylized initial 'M'.

Mack H. Shumate, Jr.

233428

ENTERED
Office of Proceedings
November 30, 2012
Part of
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)

EXHIBIT A

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.

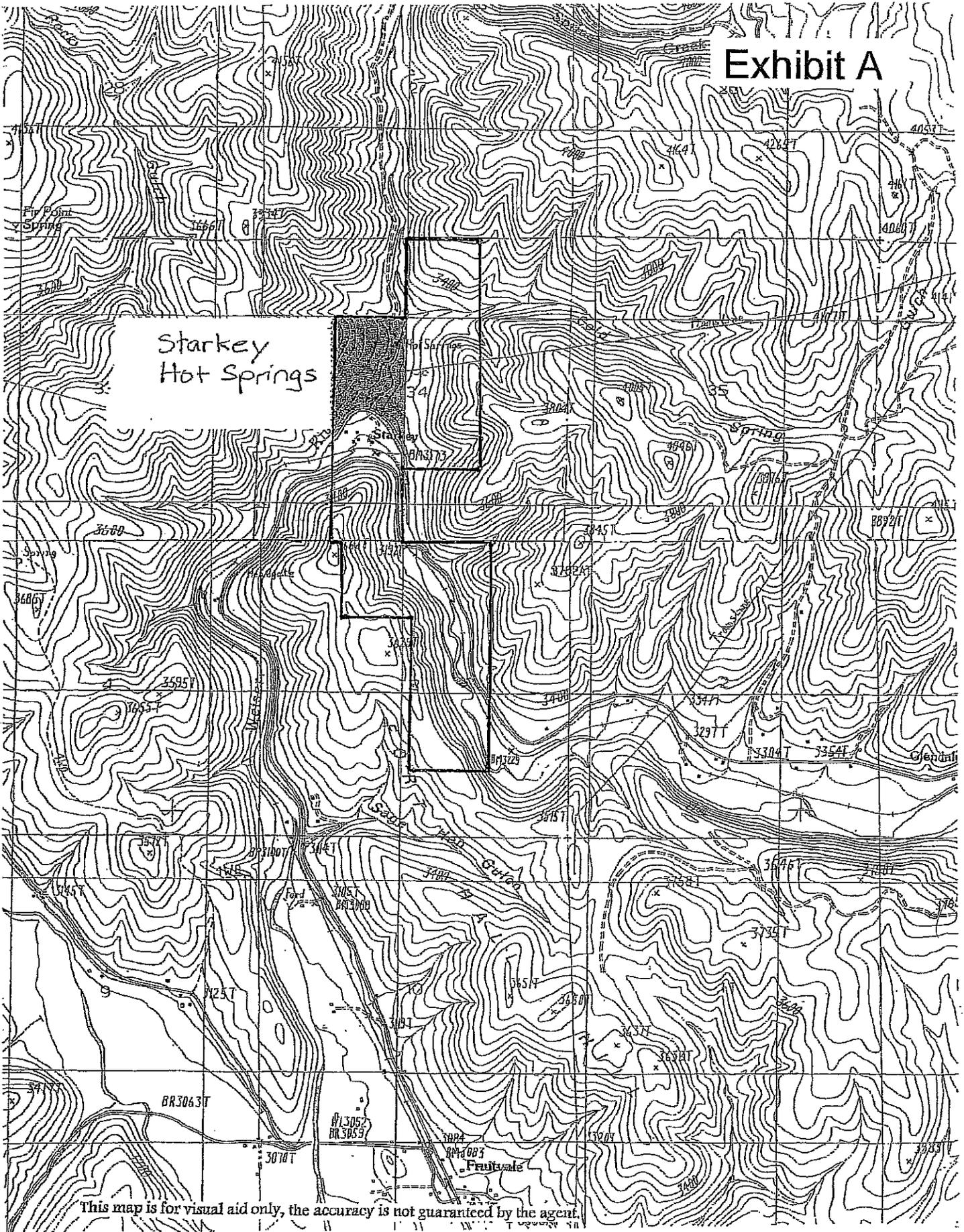
FWRT shall remain the trail manager for the remainder of the right of way.

Sincerely yours,

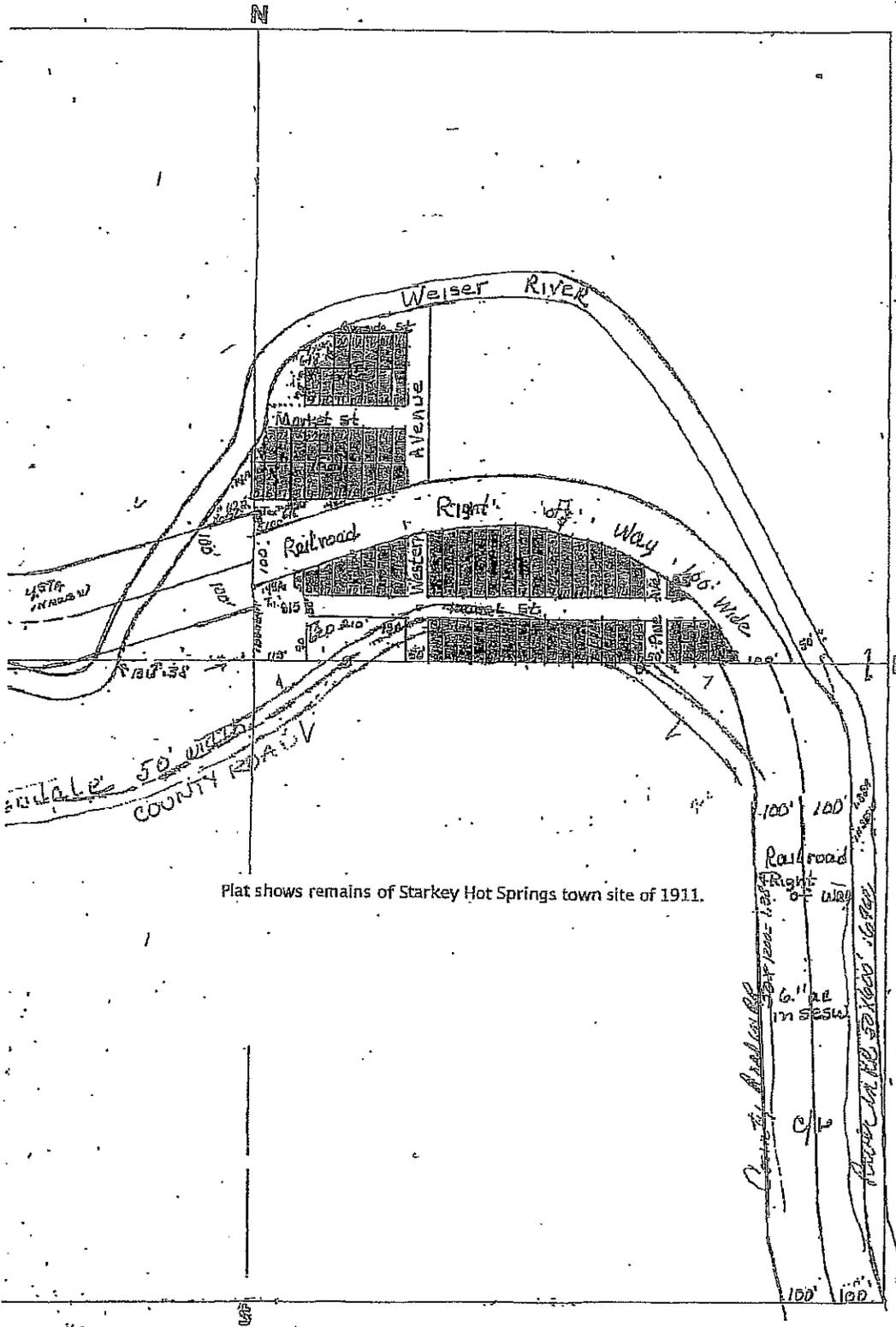
Shirley S. Atteberry, President
Friends of Weiser River Trail, Inc.

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

Exhibit A



This map is for visual aid only, the accuracy is not guaranteed by the agent.



Plat shows remains of Starkey Hot Springs town site of 1911.

SURVEY FOR

EVELYN SNIDER

BY HER

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 STANLEY HOT SPRINGS

CERTIFICATE OF ENGINEER/SURVEYOR

I, S. EDWARD MULLINX, A REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR IN THE STATE OF IDAHO, DO HEREBY CERTIFY THAT THE SURVEY REPRESENTED ON THIS PLAN WAS PERFORMED BY ME OR UNDER MY SUPERVISION IN ACCORDANCE WITH THE LAWS OF THE STATE OF IDAHO IN MAY OF 1910.

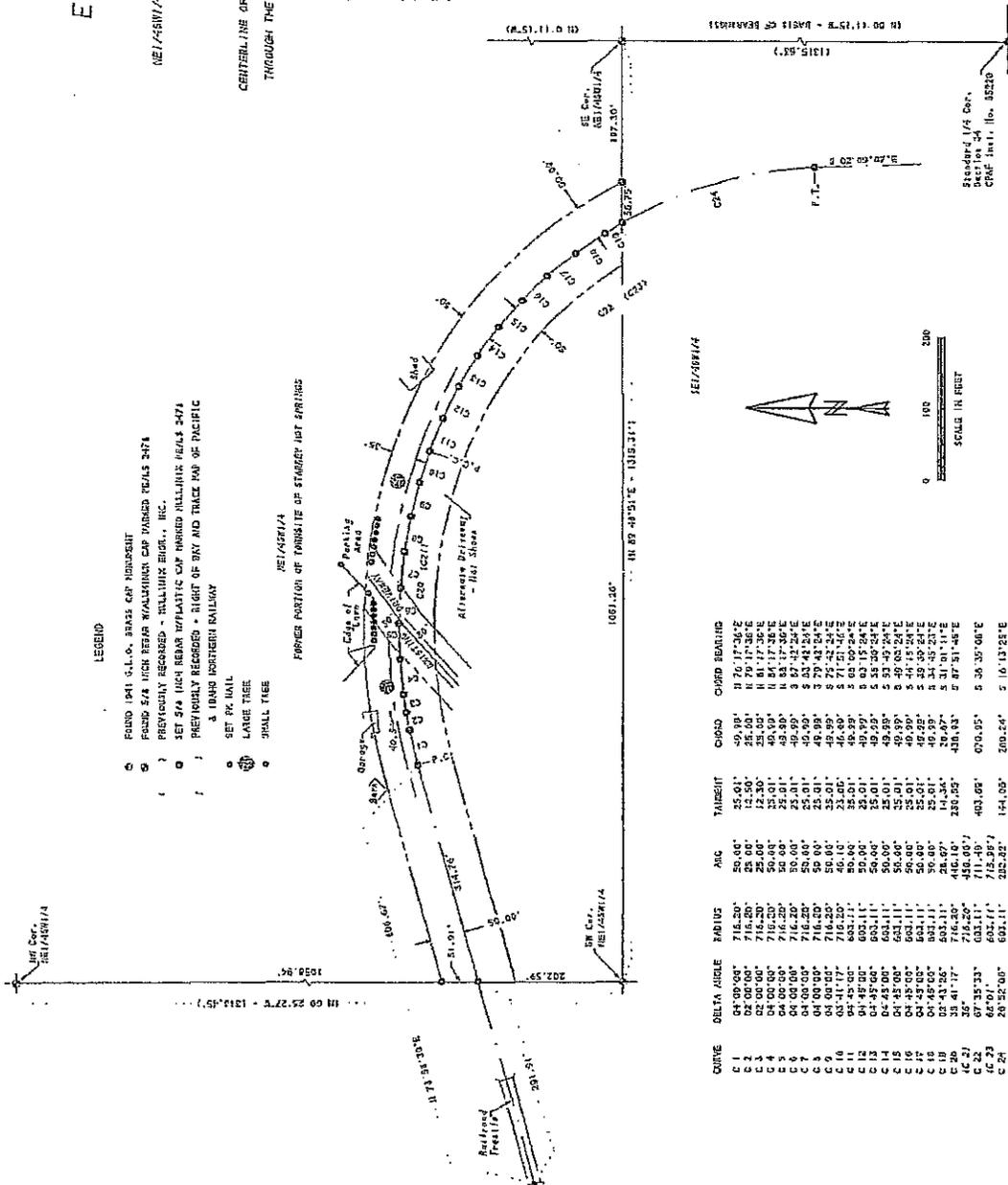


REFERENCES

1. PLAN OF THE TOWNSITE OF STANLEY HOT SPRINGS, 1911.
2. RECORD OF SURVEY BY MULLINX ENGINEERING, INC., INF. JP 43226.
3. JUNE 22, 1916, RIGHT-OF-WAY AND TRACK MAP OF PACIFIC AND IDAHO NORTHERN RAILWAY.

NOTE: THE TRACKS OF THE P. & I. 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 COMBINATION WITH THE 1916 RAILWAY RIGHT OF WAY AND TRACK MAP.

MULLINX ENGINEERING, INC.
REGISTERED ENGINEER
APRIL 23, 1910



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

December 14, 2012

Summary Estimate of Material and Force Account Work
By the Union Pacific Railroad Company
For the proposed new STH 26 overhead structure and removal of STH 26 underpass
structure
At approximately MP 274.45, Adams Subdivision

Summary: Provide approximately 45 days of flagging protection. Perform structure design plan review and inspection. One time contribution to project.

Grade Separation: Public (new overhead structure)
STH 26
Clyman, Wisconsin
Approx MP 274.45, Adams Subdivision
DOT # to be determined

	<u>Labor</u>	<u>Materials</u>	<u>Total</u>
Design plan review and inspection.	\$5,000		\$5,000
Flagging (45 days)	\$45,000		\$45,000
Monetary contribution		\$347,000	\$347,000
Total Estimated Cost			<u>\$397,000</u>

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Monetary contribution		\$347,000	\$347,000
Total Estimated Cost			<u>\$397,000</u>



RE: Stipulation for STH 26 overhead structure
Baer, Gregory - DOT to: 'John N. Venice'

12/14/2012 10:52 AM

John,

I would estimate that typically for something like this we would be at 45 days.

From: John N. Venice [mailto:JNVENICE@UP.COM]
Sent: Friday, December 14, 2012 10:28 AM
To: Baer, Gregory - DOT
Subject: RE: Stipulation for STH 26 overhead structure

Greg,

can you estimate how many days of UPRR provided flagging will be needed for the project?

From: "Baer, Gregory - DOT" <gregory.baer@dot.wi.gov>
To: "John N. Venice" <JNVENICE@UP.COM>
Date: 12/13/2012 05:32 PM
Subject: RE: Stipulation for STH 26 overhead structure

Hi John,

a hearing and subsequent order, might make UP change thier mind. I'll give you the normal two months then the petition will be sent.

From: John N. Venice [JNVENICE@UP.COM]
Sent: Thursday, December 13, 2012 3:13 PM
To: Baer, Gregory - DOT
Subject: Stipulation for STH 26 overhead structure

Hello Greg-

I received the Stipulation for the new STH 26 structure over the UPRR today.

It looks like the latest plan set that I have for the STH 26 project is 30% plans which were submitted to me on November 8th. As info I cannot process the Stipulation for signature without 100% Final plan approval from my structures folks, or a sentence in the agreement to the effect that no work shall begin on UPRR R/O/W until final plans are approved.

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