

204722

BEFORE THE
SURFACE TRANSPORTATION BOARD



Docket No. AB-33 (Sub-No. 170)

UNION PACIFIC RAILROAD COMPANY

—ABANDONMENT AND DISCONTINUATION OF OPERATION—

IN POLK COUNTY, IOWA

(BELL AVENUE INDUSTRIAL LEAD IN DES MOINES, IOWA)

MOTION FOR PROTECTIVE ORDER

ENTERED
Office of the Secretary
FEB 08 2002
Part of
Public Record

MID-AMERICA RAILROAD, L.L.C.

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ATTORNEYS FOR MID-AMERICA

Dated: February 7, 2002
Filed: February 8, 2002

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing motion was served upon the following:

Union Pacific Railroad Company
Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive, #1920
Chicago, IL 60606
(by fax)

Ringling Brothers and Barnam
and Bailey Circus
8607 Westwood Center Drive
Vienna, VA 22182
(by regular mail)

Des Moines Water Works
2201 Valley Drive
Des Moines, IA 50321
(by regular mail)

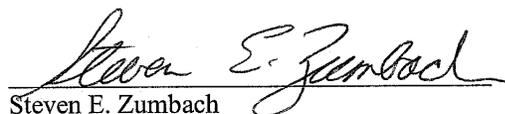
Iowa Interstate Railroad, Ltd.
Terry Bailey
1300 Des Moines Building
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Des Moines, IA 50309
(by regular mail)

Iowa Transportation Department
Modal Division
Tom Jackson
800 Lincoln Way
Ames, IA 50010
(by regular mail)

Smurfit-Stone Container Corporation
Jim Shelley
2201 Bell Avenue
Des Moines, IA 50321
(by regular mail)

Dated this 7th day of February, 2002.

MID-AMERICA RAILROAD, L.L.C.



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Pursuant to 49 C.F.R. § 1104.14, Mid-America hereby petitions the Board to file under seal Exhibit B of the accompanying Appeal. The Exhibit contains Mid-America's confidential financial statements. Maintenance of these statements under seal is absolutely necessary. *Electronic Access to Case Filings* (STB Ex Parte No. 576) (STB served February 6, 2002). These statements constitute trade secrets of Mid-America and could, if publicly disclosed, severely damage Mid-America's competitive vitality. Because the parties have not entered into a protective agreement shielding this information from public disclosure, Mid-America moves the Board to adopt the Protective Order and Undertaking attached to this Motion. These documents are modeled after those adopted by the Board in *Trinidad Railway, Inc. Abandonment Exemption — In Las Animas County, CO*, Docket No. AB-573X (STB served January 15, 2002).

Respectfully submitted,

A handwritten signature in cursive script that reads "Steven E. Zumbach". The signature is written in dark ink and is positioned above a horizontal line.

Steven E. Zumbach

William D. Bartine

Holly M. Logan

Christopher M. Miller

BELIN LAMSON McCORMICK

ZUMBACH FLYNN, P.C.

ATTORNEYS FOR MID-AMERICA

APPENDIX

Protective Order

1. For the purposes of this Protective Order, "confidential information" means information contained in Exhibit B of Mid-America's Appeal of the initial decision by the Director of the Office of Proceedings rejecting Mid-America's OFA. Exhibit B constitutes Mid-America's most recent financial statements.
2. The confidential information shall be used for the purpose of this and any related Board proceedings, or any judicial review proceeding arising therefrom, and not for any other business, commercial or competitive purpose.
3. The confidential information shall not be disclosed in any way except to counsel for Union Pacific that have signed the attached undertaking and upon good cause showing of legitimate need as determined by the Board, and the information may be used solely in connection with this and any related Board proceedings, or any judicial review proceeding arising therefrom.
4. Any documents containing the confidential information must be destroyed, and notices of such destruction must be served on the Board at the completion of this and any related Board proceedings, or any judicial review proceeding arising therefrom, whichever comes later.
5. If the Board retains the confidential information, it shall, in order to keep it confidential, treat the information in accordance with the procedure set forth at 49 CFR 1104.14.
6. If Union Pacific intends to use the confidential information at hearings in this proceeding or in any related Board proceedings, or in any judicial review proceeding arising therefrom, it shall submit any documents setting forth or revealing such confidential information to the Board, or the reviewing court as appropriate, under seal, and shall accompany such submission with a written request to the Board or the court to (i) restrict attendance at the hearing during discussion of such confidential information, and (ii) restrict access to the portion of the record or briefs reflecting discussion of such confidential information in accordance with this Protective Order.
7. All parties must comply with all of the provisions stated in this Protective Order unless good cause, as determined by the Board, is shown by any party to warrant suspension of any of the provisions herein.

Undertaking

I, _____ have read the Protective Order governing the filing of confidential information by Mid-America in STB Docket No. AB-33 (Sub-No. 170) and understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any data or information obtained under this Undertaking, or to use or permit the use of any techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and preservation of evidence and argument in STB Docket No. AB-33 (Sub-No. 170) or any judicial review proceedings taken or filed in connection therewith. I further agree not to disclose any data or information obtained under this Protective Order to any person who is not also bound by the terms of this order and has executed an Undertaking in the form hereof.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking, and that Mid-America shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.

Dated: _____

Name
Position/Affiliation