

206071

UNION PACIFIC RAILROAD COMPANY

LAW DEPARTMENT
101 NORTH WACKER DRIVE, SUITE 1920
CHICAGO, ILLINOIS 60606
FAX NO. 312-777-2065

RONALD J. CUCHNA
GENERAL SOLICITOR
312-777-2040

ENTERED
Office of Proceedings

AUG 20 2002

Part of
Public Record



August 19, 2002



GEORGE H. BRANT
312-777-2051
MACK H. SHUMATE, JR.
312-777-2055
DANIEL R. LA FAVE
312-777-2046
LINDA J. COYLE
312-777-2056
THOMAS W. CUSHING
312-777-2053
FREDERICK P. JOHNSTON, JR.
312-777-2047

VIA U.P.S OVERNIGHT

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 "K" Street, N.W.
Washington, D.C. 20423-0001

RE: Docket No. AB33- (Sub-No. 170), Union Pacific Railroad Company --Abandonment and Discontinuance of Operation--in Polk County, IA (Bell Avenue Industrial Lead in Des Moines, IA)

RESPONSE TO FILING OF REQUEST FOR PUBLIC USE CONDITION AND REQUEST FOR INTERIM TRAIL USE BY THE CITY OF DES MOINES, POLK COUNTY, IA

Dear Mr. Williams:

Pursuant to 49 U.S.C. § 1152.9 Perspective Use of Rights of Way for Interim Trail Use and Rail Banking, the Union Pacific Railroad Company ("UP") received via facsimile a request for interim trail use from the City of Des Moines ("City") dated August 14, 2002, a copy of which is attached hereto as Exhibit "A" and hereby made a part hereof. In the Statement of Willingness to Assume Financial Responsibility, the City indicated that it was interested in obtaining a Notice of Interim Trail Use for the entire Bell Avenue Industrial Lead (the "Lead") which extends from milepost 221.1 near S.E. 18th and Vine Streets to 217.38 near S.W. 30th Street, all in the City of Des Moines, Polk County, Iowa.

With respect to the Lead for which the City seeks interim trail use, the UP is agreeable to negotiating with the City for the disposition of the Lead. Therefore, the UP has no objection to the City's request that the STB issue a Notice of Interim Trail Use with regard to the Lead extending from milepost 221.1 through and including milepost 217.38.

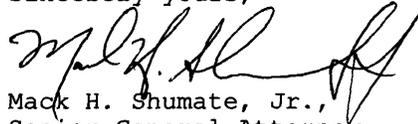
With regard to the City's request for a Public Use Condition for that portion of the Lead from milepost 219.32 to milepost 217.38 pursuant to 49 CFR § 1152.28, the UP respectfully requests that this request be denied in light of the fact that the City's

Vernon Williams, Secretary
August 19, 2002
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request for a public use condition was not timely filed within 45 days after the UP's application to abandon the Lead was filed with the Board. (See 49 CFR § 1152.28(a)(3)) However, as stated above, UP is willing to negotiate with the City concerning the public use of the Lead under the interim trail use provisions referenced above.

Enclosed for the Board's use are ten (10) additional copies.

Sincerely yours,



Mack H. Shumate, Jr.,
Senior General Attorney

cc: All Parties of Record

Post-it® Fax Note	7671	Date	8-15-02	# of pages	5
To	Mack Shumate	From	John Herzina		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	777-2065	Fax #			

August 14, 2002

Mr. Vernon A. Williams
 Secretary
 Surface Transportation Board
 1925 K Street, NW, Room 711
 Washington, DC 20423-0001

Re: Request for Interim Trail Use and Request for Public Use Condition regarding Union Pacific Railroad Company Abandonment in Polk County, Iowa, STB Docket Number AB-33 (Sub-No. 170)

Dear Mr. Williams:

This request is filed on behalf of the City of Des Moines, Iowa, which is a municipality interested in advancing transportation and recreation opportunities, which is hereinafter referred to as "Proponent".

The rail corridor proposed for abandonment extends from Union Pacific Railroad (UPRR) milepost 221.1 near SE 18th and Vine Streets in Des Moines, Polk County, Iowa to UPRR milepost 217.38 near SW 30th Street in Des Moines, a distance of approximately 3.72 miles. The said rail corridor is proposed for abandonment in STB Docket No. AB-33 (Sub-No. 170).

Proponent requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use, rather than an outright abandonment.

A. Request for Interim Trail Use

Proponent requests the STB to find that a portion of said rail corridor proposed for abandonment, to wit from Southeast 14th Street-Highway 65/69 (UPRR milepost 220.57) to its terminus at SW 30th Street (UPRR milepost 217.38), is suitable for trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the above described portion of the rail corridor, other than the tracks, ties and signal equipment, except for trail use on reasonable terms.
2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes.

A map depicting the rail corridor proposed for abandonment, and the portion of the rail corridor proposed for a recreational and bicycle/pedestrian transportation trail use, is attached.



OFFICE OF THE CITY MANAGER
 CITY HALL
 500 EAST F. RST STREET
 DES MOINES, IOWA 50309 - 1001
 (515.281.4131)

ALL AMERICA CITY 1949, 1976, 1981



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The trail would connect from the western city limits at 63rd Street and McKinley Avenue and would connect to the Water Works Park trail system, the Gray's Lake trail system, and the downtown trail system via a historic bridge across the Raccoon River at SW 5th Street.

Justification for this condition is as follows:

The City's long range transportation plan calls for the establishment of a Southwest Connector Arterial within the next 10 to 15 years. The rail corridor in question is along the route of the Southwest Connector Arterial identified in the City's long range transportation plan. The rail corridor would make an excellent connector arterial, including a recreational and bicycle/pedestrian transportation trail. The recreational and bicycle/pedestrian transportation trail would provide a relocation route for the Great Western Trail, which will have to be relocated as part of expansion of the Des Moines International Airport.

In addition, the recreational and bicycle/pedestrian transportation trail would connect Kruidenier Trail at Gray's Lake with Riverpointe Trail along the Bell Avenue Industrial Lead to the Jackson Street Bridge as well as be a future connection for an East Des Moines Trail proposal linking the City of Des Moines recreational trails with the City of Pleasant Hill recreational trails.

The City requests that the interim trail use condition be imposed for an initial period of 180 days from the effective date of the abandonment authorization. Imposition of the trail use condition would allow the City an opportunity to commence negotiations for the acquisition of the corridor, which is vital to the City's long range transportation plan. The City acknowledges that given the long range nature of its planning for the Southwest Connector Arterial, no funding has been identified in its Capital Improvements Program (CIP) for street right-of-way design or for the acquisition of any property for said Southwest Connector Arterial, and that obtaining funding for such planning and acquisition may require in excess of said 180 day period.

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 CFR §1152.29, the Proponent City of Des Moines, Iowa 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 owned by Union Pacific Railroad Company and operated by Union Pacific Railroad Company subsequent to the transfer of ownership to the City.

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The Proponent City of Des Moines, Iowa 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.

B. Request for Public Use Condition

Proponent requests the STB to find that a portion of said rail corridor proposed for abandonment, to wit from Southwest 9th Street (UPRR milepost 219.32) to its terminus at SW 30th Street (UPRR milepost 217.38), is suitable for other public use, specifically as a connector arterial street including a recreational and bicycle/pedestrian transportation trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the above described portion of the rail corridor, other than the tracks, ties and signal equipment, except for public use as above described on reasonable terms.
2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes.

A map depicting the rail corridor proposed for abandonment, and the portion of the rail corridor proposed for public use as a connector arterial, including a recreational and bicycle/pedestrian transportation trail use, is attached.

Justification for this condition is as follows: The City's long range transportation plan calls for the establishment of a Southwest Connector Arterial within the next 10 to 15 years. Said Southwest Connector Arterial would connect to West Des Moines at 63rd Street and McKinley Avenue and extend east and north to SW 9th Street south of the Central Business District. The rail corridor would make an excellent connector arterial, including a recreational and bicycle/pedestrian transportation trail. Conversion of the rail corridor to a connector arterial, including a recreational and bicycle/pedestrian transportation trail use, is in accordance with local plans.

The City requests that the public use condition be imposed for an initial period of 180 days from the effective date of the abandonment authorization. Imposition of the public use condition would allow the City an opportunity to commence negotiations for the acquisition of the corridor, which is vital to the City's long range transportation plan. The City acknowledges that given the long range nature of its planning for the Southwest Connector Arterial, no funding has been identified in its Capital Improvements Program (CIP) for street right-of-way design or for the acquisition of any property for said Southwest Connector Arterial, and

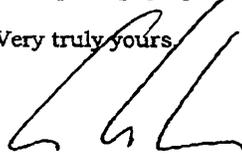
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that obtaining funding for such planning and acquisition may require in excess of said 180 day period.

The City's contact person for purposes of discussing the trail use request is Mr. Don Tripp, Director of Parks and Recreation. Mr. Tripp can be contacted at (515) 237-1452. The City's contact person for purposes of discussing the public use request is Mr. Jeb Brewer, City Engineer. Mr. Brewer can be contacted at (515) 283-4920. Deputy City Attorney Terrence L. Timmins will be the City's legal counsel with regard to this matter. Mr. Timmins can be contacted at (515) 283-4130.

By my signature below, I certify service upon Union Pacific Railroad Company, 1416 Dodge Street, Omaha, Nebraska 68179, by overnight mail, postage prepaid, this 14th day of August, 2002.

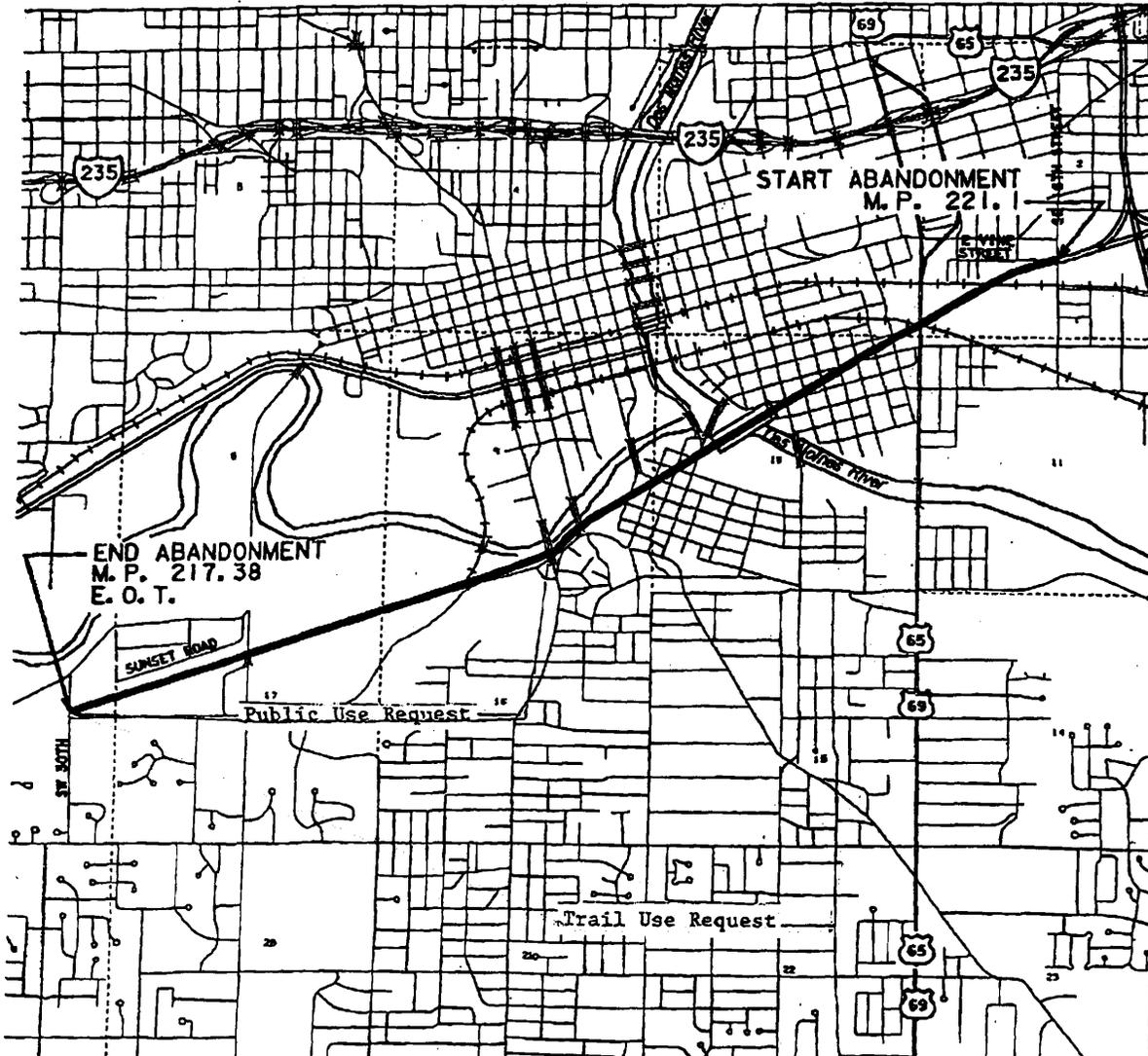
Very truly yours,



Eric A. Anderson
City Manager
On behalf of the Proponent City of
Des Moines, Iowa

EAA/jmw

Attachment



BELL AVENUE INDUSTRIAL LEAD

MP 217.38 TO MP 221.1
 BELL AVENUE IND. LEAD A TOTAL OF 3.63 MILES
 IN POLK COUNTY, IOWA

LEGEND

- UPRR LINES TO BE ABANDONED
- OTHER UPRR LINES
- OTHER RAILROADS
- 50+ YEAR OLD STRUCTURES
- PRINCIPAL HIGHWAYS
- OTHER ROADS

STATION	MILE POST	AGENCY
DES MOINES		MO

BRIDGE NO.	BRIDGE TYPE	TOTAL LENGTH	DATE
219.79	THROUGH TRUSS PINNED - G.B.	820'	1893

UNION PACIFIC RAILROAD CO.
BELL AVENUE INDUSTRIAL LEAD
 INCL. 50+ YEAR OLD STRUCTURES

SCALE MILES

Q:\abandonments\ab0218.dgn
 Date: 08-10-2000