

UNION PACIFIC RAILROAD COMPANY

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

ENTERED
Office of Proceedings

NOV 22 2002

Part of
Public Record



DID # 0102084001

November 21, 2002

RONALD J. CUCHNA
GENERAL SOLICITOR
312-777-2040

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 UPS NEXT DAY AIR

206698

Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street, N.W., Room 504
Washington, DC 20423-0001



Attention: Victoria Rutson

**RE: Docket AB-33 (Sub-No. 198X), Union Pacific Railroad Company
Abandonment Exemption - In Alameda County, CA (Ninth Street Electric
Industrial Lead from M.P. 0.00 South of Powell Street to M.P. 1.40 near
Heinz Avenue, a Distance of 1.40 Miles**

Dear Ms. Rutson:

Pursuant to 49 U.S.C. §10502, Union Pacific Company submits the original and ten (10) copies of a Petition for Exemption, with Verification, to abandon the above-referenced rail line. The Certificate of Service and Publication pursuant to 49 C.F.R. §1152.60(d) and 49 C.F.R. §1105.12 is attached to the petition.

Also enclosed is a draft Federal Register notice pursuant to 49 C.F.R. §1152.60(c). Three computer diskettes containing the draft Federal Register notice, as well as the Petition for Exemption and Certificate of Service and Publication is also enclosed.

Please file the Petition for Exemption in Docket No. AB-33 (Sub-No. 198X). Enclosed is a voucher for \$4,700 for the filing fee.

FILED
NOV 22 2002
SURFACE
TRANSPORTATION BOARD

Sincerely yours,

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

FEE RECEIVED
NOV 22 2002
SURFACE
TRANSPORTATION BOARD

Enclosures

00001

Surface Transportation Board
Section of Environmental Analysis
November 20, 2002
Page 2

cc (w/ enclosures):

MTMCTEA
Attn: Railroads for National Defense
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-2574

U. S. Department of the Interior
National Park Service
Recreation Resources Assistance Div.
P.O. Box 37127
Washington, D.C. 20013-7127

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor NW, Auditors Building
14th Street & Independence Ave., S.W.
Washington, D.C. 20250

Executive Director
Public Utilities Commission of The State of California
Attn: Tack Joe - Rail Safety
505 Van Ness
San Francisco, CA 94102

Rail Program Manager
Planning Division
California Transportation Department
1120 N Street
Sacramento, CA 95814

Transportation Planner
Department of Transportation
1120 N Street
Sacramento, CA 95814

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Surface Transportation Board
Section of Environmental Analysis
November 20, 2002
Page 3

Alameda County Supervisors
County Courthouse
1221 Oak Street, Suite 536
Oakland, CA 94612

Shirley Dean, Mayor
2180 Milvia Street
Berkeley, CA 94704

John Flores, City Manager
1333 Park Avenue
Emeryville, CA 94608

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DRAFT FEDERAL REGISTER NOTICE
[49 C.F.R. § 1152.60(c)]

STB No. AB-33 (Sub-No. 198X)
Notice of Petition for Exemption to Abandon or
to Discontinue Service



On November 22, 2002, Union Pacific Railroad Company filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the abandonment and discontinuance of service on the Ninth Street Electric Industrial Lead from M.P. 0.00 south of Powell Street in the City of Berkeley to M.P. 1.40 at the end of the Line north of Heinz Avenue in the City of Emeryville, Alameda County, California (the "Line"). The Line traverses U. S. Postal Service Zip Codes 94608 and 94710. The proceeding has been docketed as No. AB-33 (Sub-No.198X). There are no agency stations on the Line.

The Line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected as required by 49 U.S.C. 10903(b)(2).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

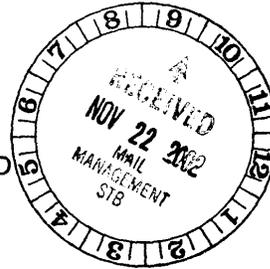
All interested persons should be aware that following abandonment of rail service and salvage of the Line, the Line may be suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR Part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis, telephone (202) 565-1545.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

206698



Before the
SURFACE TRANSPORTATION BOARD

FEE RECEIVED

NOV 22 2002

SURFACE
TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 198X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --

IN ALAMEDA COUNTY, CALIFORNIA
(NINTH STREET ELECTRIC INDUSTRIAL LEAD)

PETITION FOR EXEMPTION

FILED

NOV 22 2002

SURFACE
TRANSPORTATION BOARD

ENTERED
Office of Proceedings

NOV 22 2002

Part of
Public Record

UNION PACIFIC RAILROAD COMPANY

Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive
Room 1920
Chicago, IL 60606
Tel: 312/777-2055
Fax: 312/777-2065

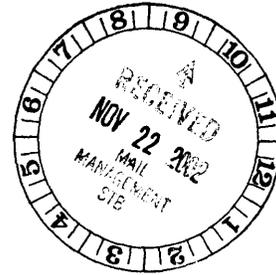
Dated: November 21, 2002

Filed: November 22, 2002

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ENTERED
Office of Proceedings
NOV 22 2002
Part of
Public Record

Before the
SURFACE TRANSPORTATION BOARD



Docket No. AB-33 (Sub-No. 198X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --

IN ALAMEDA COUNTY, CALIFORNIA
(NINTH STREET ELECTRIC INDUSTRIAL LEAD)

FEE RECEIVED

NOV 22 2002

SURFACE
TRANSPORTATION BOARD

PETITION FOR EXEMPTION

I.

INTRODUCTION

FILED

NOV 22 2002

SURFACE
TRANSPORTATION BOARD

Union Pacific Railroad Company ("UP") hereby petitions the Board, pursuant to 49 U.S.C. §10502, to grant an exemption from 49 U.S.C. §§10903 in order to permit abandonment of operations over the Ninth Street Electric Industrial Lead from Milepost 0.00 south of Powell Street in Emeryville, California to Milepost 1.40 at the end of the Line north of Heinz Avenue in Berkeley, California, a distance of 1.40 miles in Alameda County, California. There are no shippers on the Line that will be adversely affected by the proposed abandonment.

The last active shipper on the Line during the last two (2) years was Minnesota Corn Processors, formerly Liquid Sugars, ("Minnesota Corn Processors"), which ceased utilizing rail service and closed its location on the Line in September, 2001. The shipper has since relocated off the Line. Since the only active shipper since the beginning of 2000 has left the Line, the proposed abandonment should present no adverse effects

to shippers. The Line, which is located between Emeryville and Berkeley, is within one mile of and parallel to UP's Martinez Subdivision rail line, which will continue to serve surrounding communities and the shipping customers located in the area. Given the Line's location in the Oakland metropolitan area, there are numerous major streets and highways which provide access to the area, and significant ocean port facilities lie nearby. It is unlikely that new rail-oriented customers would locate along the Line since development trends are moving away from such locations. The Line does not handle overhead traffic.

UP seeks exemption of this proposed abandonment from regulation under 49 U.S.C. §10903 in accordance with 49 U.S.C. §10502 and the Rules applicable thereto at 49 C.F.R. §1121 and 49 C.F.R. §1152 and the Special Rules at 49 C.F.R. §1152.60.

II.

PETITIONER'S BACKGROUND AND REPRESENTATIVE

UP has rail operations in the States of Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming. UP owns and operates the Line proposed for abandonment which is located in the towns of Emeryville and Berkeley in Alameda County, California.

The name, address and telephone number of UP's representative is listed below:

Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive
Room 1920
Chicago, IL 60606
Tel: 312/777-2055
Fax: 312/777-2065

III.

LINE DESCRIPTIONS, ZIP CODE INFORMATION AND MAP

The proposed action involves the abandonment of the Ninth Street Electric Industrial Lead from Milepost 0.00 south of Powell Street in Emeryville to Milepost 1.40 at the end of the Line north of Heinz Avenue in Berkeley, a distance of 1.40 miles in Alameda County, California.

The Line to be abandoned was constructed by Southern Pacific Railroad Company in 1911. Rail weight is unknown. After abandonment, the Line will be salvaged and the UP's real property interest in the right-of-way that is not in the nature of a franchise in public thoroughfares will likely be sold to local governments or adjacent landowners.

The Line traverses U.S. Postal Service Zip Codes 94608 and 94710.

A map of the Line is attached hereto as **Attachment 1** and hereby made a part hereof.

IV.

SHIPPER INFORMATION

The last active shipper on the Line was Minnesota Corn Processors, formerly Liquid Sugars, ("Minnesota Corn Processors"), which ceased utilizing rail service and

closed its location on the Line in September, 2001. The shipper has since relocated off the Line. Minnesota Corn Processors' activity in 2000 and January through September 2001 was as follows:

Year 2000:

STCC 2036110, corn syrup, 2 cars, 186 tons
STCC 2046115, syrup, 548 cars, 57,356 tons
STCC 2061625, sugar products, 1 car, 94 tons
STCC 2061690, molasses nec, 21 cars, 2021 tons
STCC 2061710, blackstrap molasses, 5 cars, 480 tons
STCC 2062110, sugar, 2 cars, 204 tons
STCC 2093316, Vegetable oil, 7 cars, 588 tons
STCC 2099330, Syrup nec, 2 cars, 193 tons
STCC 2093356, nut oil, 1 car, 75 tons

Year 2000 Total: 589 cars, 61,197 tons

January-September, 2001:

STCC 2046118, syrup, 105 cars, 11,177 tons
STCC 2061690, molasses nec, 14 cars, 1347 tons
STCC 2061710, blackstrap molasses, 1 car, 96 ton
STCC 2062110, sugar, 16 cars, 1628 tons
STCC 2099330, syrup rec, 1 car, 97 tons

January-September, 2001 Total: 137

Since the only active shipper since the beginning of 2000 has left the Line, the proposed abandonment should present no adverse effects to shippers. The Line, which is located between Emeryville and Berkeley, is within one mile of and parallel to UP's Martinez Subdivision rail line, which will continue to serve surrounding communities and the shipping customers located in the area. Given the Line's location in the Oakland metropolitan area, there are numerous major streets and highways which provide access to the area, and significant ocean port facilities lie nearby. It is unlikely that new rail-oriented customers

along the Line since development trends are moving away from such locations. The Line does not handle overhead traffic.

V.

REASONS FOR THE ABANDONMENT

There appears to be no reasonable alternative to the abandonment. Since the only active shipper since the beginning of 2000 has left the Line, the proposed abandonment should present no adverse effects to shippers. The Line, which is located between Emeryville and Berkeley, is within one mile of UP's Martinez Subdivision rail line, which will continue to serve surrounding communities and the shipping customers located in the area. Given the Line's location in the Oakland metropolitan area, there are numerous major streets and highways which provide access to the area, and significant ocean port facilities lie nearby. It is unlikely that new rail-oriented customers would locate along the Line since development trends are moving away from such locations. The Line does not handle overhead traffic.

The UP is of the opinion that the proposed abandonment would be beneficial to the UP and interstate commerce.

REASONABLE ALTERNATIVE: VIABILITY

There appears to be no reasonable alternative to the abandonment. There will be no adverse effect on the former sole shipper, Minnesota Corn Processors. Given the absence of current rail activity and the low probability of any future business, abandonment is warranted. Abandonment will also permit the Cities of Emeryville and Berkeley to make various planned improvements to local streets and other facilities.

VII.

THE EXEMPTION STANDARDS HAVE BEEN MET

A. The abandonment requires an exemption from 49 U.S.C. §10903.

Abandonment of rail lines requires authorization and approval of the Board pursuant to 49 U.S.C. §10903. However, 49 U.S.C. §10502 requires the Board to exempt a transaction when it finds: (1) continued regulation is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. §10101; and (2) either the transaction is of limited scope or Board regulation is not necessary to protect shippers from an abuse of market power. UP's proposal for abandonment and discontinuance of operations clearly satisfies the standards for exemption under 49 U.S.C. §10502.

Detailed scrutiny by the Board under 49 U.S.C. §10903 is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. §10101. An exemption will minimize UP's administrative expense and the cost, preparation and review associated with progressing the proposed abandonment in a full application proceeding. An exemption will expedite regulatory action and will reduce regulatory barriers to exit from the Line consistent with Sections 10101(2) and (7). An exemption will foster sound economic conditions in the transportation industry consistent with Section 10101(5), by permitting UP's abandonment of the Line and avoiding the need to retain and operate a rail line that will not be used by any shipper.

The proposed abandonment is clearly a transaction of "limited scope." The Line is only 1.40 miles long and will have no recurring local traffic. In addition, regulation of this abandonment is not needed to protect shippers from an abuse of market power,

since (i) the only former local shipper has moved to a location off the Line and (ii) the Line parallels the UP's Martinez Subdivision which is within one mile of the Line and will continue to serve the surrounding communities and shipping customers located in the area.

VIII.

LAND AREA, FEDERAL GRANT INFORMATION, AND PUBLIC USE

The right-of-way is approximately 1.40 miles in length. This is an urban rail line primarily in the street of flat topography. The Line had once been used for inter-urban passenger service and in recent years, was used to serve certain industries in Emeryville and Berkeley, California. Based on information in the UP's possession, the Line proposed for abandonment consists of fee interests which are not in the public right-of-way and are non-reversionary and franchise rights in public rights of way. The franchises will expire at the time of abandonment. The property involved does not include any federally granted right-of-way.

The right-of-way has been offered to various public agencies. The communities of Emeryville and Berkeley are interested in the Line for street improvements. The proposed abandonment will facilitate street improvements. The cities are also interested in portions of the right-of-way for beautification projects. There is no interest in trail use.

Based on information in UP's possession, the Line does not contain federally granted rights of way. Any documentation so related to the Line, including real estate

documentation, in Petitioner's possession will be made available promptly to those requesting it.

IX.

LABOR

UP is agreeable to the labor protection conditions imposed in abandonment proceedings as prescribed in Oregon Short Line R. Co. - Abandonment - Goshen, 360 ICC 91 (1979).

X.

ENVIRONMENTAL AND HISTORIC REPORT.

The required environmental and historic information is contained in the Combined Environmental and Historic Report which was served on October 4, 2002. A copy of the Report is attached hereto as **Attachment 2**. The original and ten (10) copies were sent to Ms. Victoria Rutson, Section of Environmental Analysis, on October 3, 2002, for filing.

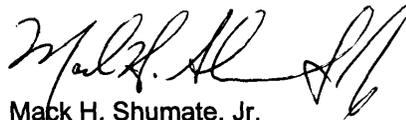
Subsequent to the filing of the combined Environmental and Historic Report the following letter was received on November 8, 2002 from the Office of Historic Preservation - Department of Parks and Recreation, Sacramento, California, dated November 4, 2002, a copy of which is attached hereto as **Attachment 3** and hereby made a part hereof.

WHEREFORE, Union Pacific Railroad Company respectfully requests that the Board issue a decision exempting the proposed abandonment from the provisions of 49 U.S.C. §10903 and direct that the exemption be effective on the date of the Board's decision.

Dated this 21st day of November, 2002.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY



Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive
Room 1920
Chicago, IL 60606
Tel: 312/777-2055
Fax: 312/777-2065

VERIFICATION

STATE OF NEBRASKA)
) ss:
COUNTY OF DOUGLAS)

I, RAYMOND E. ALLAMONG, JR., Manager Rail Line Planning of Union Pacific Railroad Company, declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing document and that its assertions are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this verification on behalf of Union Pacific Railroad Company. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, I know that these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

Dated at Omaha, Nebraska, this 25th day of October, 2002.

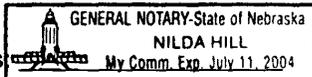
Raymond E. Allamong, Jr.
Raymond E. Allamong, Jr.

SUBSCRIBED AND SWORN TO
before me this 29th day of
October, 2002.

Wendy Hill

Notary Public

My Commission expires



CERTIFICATE OF SERVICE AND PUBLICATION

The undersigned hereby certifies that a copy of the foregoing Petition for Exemption in Docket No. AB-33 (Sub-No. 198X) by Union Pacific Railroad Company was served on the date indicated below by mailing a copy, first class mail postage prepaid to the following:

MTMCTEA

Attn: Railroads for National Defense
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-2574

U. S. Department of the Interior
National Park Service
Recreation Resources Assistance Div.
P.O. Box 37127
Washington, D.C. 20013-7127

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor NW, Auditors Building
14th Street & Independence Ave., S.W.
Washington, D.C. 20250

Executive Director
Public Utilities Commission of The State
of California
Attn: Tack Joe - Rail Safety
505 Van Ness
San Francisco, CA 94102

Rail Program Manager
Planning Division
California Transportation Department
1120 N Street
Sacramento, CA 95814

Transportation Planner
Department of Transportation
1120 N Street
Sacramento, CA 95814

Alameda County Supervisors
County Courthouse
1221 Oak Street, Suite 536
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Shirley Dean, Mayor
2180 Milvia Street
Berkeley, CA 94704

John Flores, City Manager
1333 Park Avenue
Emeryville, CA 94608

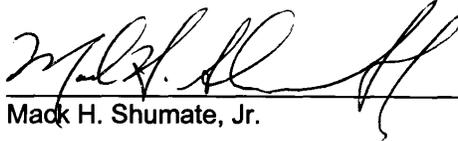
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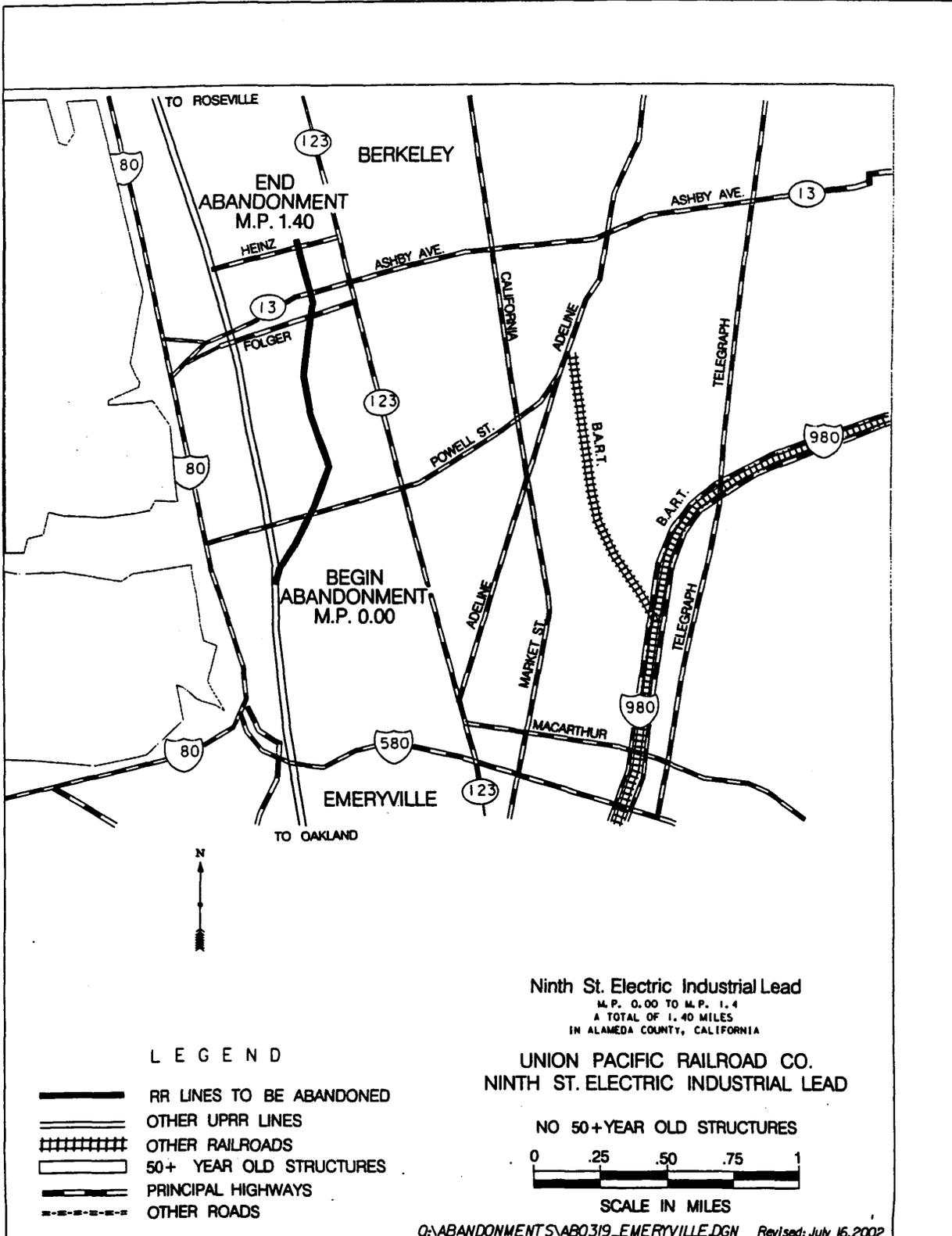
The undersigned further certifies that a notice of the abandonment was published one time in the County where the rail line is located as follows:

<u>County</u>	<u>Newspaper</u>	<u>Date</u>
Alameda	<i>Alameda Times Star</i>	October 23, 2002

The above newspaper is generally circulated in the county where the rail line is located. The Notice as published was in the form prescribed by the Board for a Petition for Exemption at 49 CFR 1105.12.

Dated this 21st day of November, 2002.


Mack H. Shumate, Jr.



UNION PACIFIC RAILROAD COMPANY

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

FILE

RONALD J. CUCHNA
GENERAL SOLICITOR
312-777-2040



GEORGE H. BRANT
312-777-2051
MACK H. SHUMATE, JR.
312-777-2055
DANIEL R. LA FAVE
312-777-2048
LINDA J. COYLE
312-777-2056
THOMAS W. CUSHING
312-777-2053
FREDERICK P. JOHNSTON, JR.
312-777-2047

October 3, 2002

VIA U.P.S. OVERNIGHT DELIVERY

Surface Transportation Board
Section of Environmental Analysis
1925 "K" St., N.W., Room 504
Washington, DC 20423-0001

Attention: Victoria Rutson

**RE: Docket AB-33 (Sub-No. 198X), Union Pacific Railroad Company
Abandonment Exemption - In Alameda County, CA (Ninth Street
Electric Industrial Lead from M.P. 0.00 South of Powell
Street to M.P. 1.40 near Heinz Avenue, a Distance of 1.40
Miles**

Dear Ms. Rutson:

Enclosed for filing in the above-referenced docket is the original and ten (10) copies of a Combined Environmental and Historic Report prepared pursuant to 49 C.F.R. §1105.7 and §1105.8, with a Certificate of Service, and a transmittal letter pursuant to 49 C.F.R. §1105.11. Three (3) computer diskettes are also enclosed.

Union Pacific anticipates filing a Petition of Exemption in this matter on or after October 24, 2002.

Sincerely yours,

Mack H. Shumate, Jr.
Senior General Attorney

Enclosures

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Before the
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 198X)

UNION PACIFIC RAILROAD COMPANY
– ABANDONMENT EXEMPTION –
IN ALAMEDA COUNTY, CALIFORNIA
(NINTH STREET ELECTRIC INDUSTRIAL LEAD)

Combined Environmental and Historic Report

UNION PACIFIC RAILROAD COMPANY
Mack H. Shumate, Jr., Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX

Dated: October 3, 2002
Filed: October 4, 2002

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Before the
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 198X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN ALAMEDA COUNTY, CALIFORNIA
(NINTH STREET ELECTRIC INDUSTRIAL LEAD)

Combined Environmental and Historic Report

Union Pacific Railroad Company ("UP") submits this Combined Environmental and Historic Report pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, for an exempt abandonment and discontinuance of service from M.P. 0.00 south of Powell Street to M.P. 1.40 at the end of the Line north of Heinz Avenue in near Emeryville, Alameda County, California (the "Line").

The Line traverses U. S. Postal Service Zip Codes 94608 and 94710.

The UP anticipates that a Petition For Exemption to abandon the Line will be filed at the STB on or after October 24, 2002.

A map of the Line is attached as **Attachment No. 1**. UP's letter to federal, state and local government agencies is marked **Attachment No. 2**. Responses received to the letter to date are attached and sequentially numbered as indicated below.

ENVIRONMENTAL REPORT
49 C.F.R. § 1105.7(e)

(1) **Proposed action and alternatives.** Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

Response: The proposed action involves the abandonment and discontinuance of service of the Ninth St. Electric Industrial Lead from M.P. 0.00 south of Powell Street to M.P. 1.40 at the end of the Line north of Heinz Avenue near Emeryville, Alameda County, California. The last active shipper on the Line was Minnesota Corn Processors, formerly Liquid Sugars, ("Minnesota Corn Processors"), which ceased utilizing rail service and closed its location on the Line in September, 2001. The shipper has since relocated off the Line. Minnesota Corn Processors' activity in 2000 and January through September 2001 was as follows:

Year 2000:

STCC 2036110, corn syrup, 2 cars, 186 tons
STCC 2046115, syrup, 548 cars, 57,356 tons
STCC 2061625, sugar products, 1 car, 94 tons
STCC 2061690, molasses nec, 21 cars, 2021 tons
STCC 2061710, blackstrap molasses, 5 cars, 480 tons
STCC 2062110, sugar, 2 cars, 204 tons
STCC 2093316, Vegetable oil, 7 cars, 588 tons
STCC 2099330, Syrup nec, 2 cars, 193 tons
STCC 2093356, nut oil, 1 car, 75 tons

Year 2000 Total: 589 cars, 61,197 tons

January-September, 2001:

STCC 2046118, syrup, 105 cars, 11,177 tons
STCC 2061690, molasses nec, 14 cars, 1347 tons
STCC 2061710, blackstrap molasses, 1 car, 96 ton
STCC 2062110, sugar, 16 cars, 1628 tons
STCC 2099330, syrup rec, 1 car, 97 tons

January-September, 2001 Total: 1

Since the only active shipper since the beginning of 2000 has left the Line, the proposed abandonment should present no adverse effects to shippers. The Line, which is located between Emeryville and Berkeley, parallels within one mile UP's Martinez Subdivision, which will continue to serve surrounding communities and the shipping customers located in the area. Given the Line's location in the Oakland metropolitan area, there are numerous major streets and highways which provide access to the area, and significant ocean port facilities lie nearby. It is unlikely that new rail-oriented customers would locate along the Line since development trends are moving away from such locations. The Line does not handle overhead traffic.

The Line to be abandoned was constructed by Southern Pacific Railroad Company in 1911. Rail weight is unknown. After abandonment, the Line will be salvaged and the UP's real property interest in the right-of-way that is not in the nature of a franchise in public thoroughfares will likely be sold to local governments or adjacent landowners.

There appears to be no reasonable alternative to the abandonment. There will be no adverse effect on the former sole shipper, Minnesota Corn Processors. Given the absence of current rail activity and the low probability of any future business,

abandonment is warranted. Abandonment will also permit the City of Emeryville to make various planned improvements to local streets and other facilities.

Based on information in the UP's possession, the Line proposed for abandonment consists of fee interests which are not in the public right-of-way and are non-reversionary and franchise rights in public rights of way. The franchises will expire at the time of abandonment. The property involved does not include any federally granted right-of-way.

A map of the Line is attached as **Attachment No. 1**.

(2) Transportation system. Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

Response: Given the absence of shipper activity, the proposed action should have no effect on regional or local transportation systems or patterns. There will be no diversion to other transportation modes.

(3) Land use. (i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

(iii) If the action effects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.

Response: (i) UP is unaware of any adverse effect on local and existing land use plans, and in fact, is consistent with such plans for local redevelopment. The Alameda County Board of Supervisors has been contacted. To date no response has been received.

(ii) The United States Natural Resources Conservation Service has been contacted. To date UP has received no response.

(iii) The California Coastal Commission has been contacted. To date UP has received no response.

(iv) The communities of Emeryville and Berkeley are interested in the Line for street improvements. The proposed abandonment will facilitate street improvements. The cities are also interested in portions of the right-of-way for beautification projects. There is no interest in trail use.

(4) **Energy.** (i) Describe the effect of the proposed action on transportation of energy resources.

(ii) Describe the effect of the proposed action on recyclable commodities.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

Response: (i) There will be no effects on the transportation of energy resources.

(ii) There are no recyclable commodities moved over the Line.

(iii) There will be no increase in energy consumption from the abandonment.

(iv)(A)(B) There will be no rail-to-motor diversion of this magnitude.

(5) Air. (i) If the proposed action will result in either:

(A) an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

(B) an increase in rail yard activity of at least 100% (measured by carload activity), or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. § 10901 (or § 10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in §§ (5)(i)(A) will apply.

Response: There is no such effect anticipated.

(5) Air. (ii) If the proposed action affects a class 1 or nonattainment area under the Clean Air Act, and will result in either:

(A) an increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, or

(B) an increase in rail yard activity of at least 20% (measured by carload activity), or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505), or a case involving the reinstatement of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

Response: There will be no increase in rail traffic, rail yard activity, or truck traffic as a result of the proposed action.

(5) **Air.** (iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

Response: The proposed action will not affect the transportation of ozone depleting materials.

(6) **Noise.** If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

(i) an incremental increase in noise levels of three decibels Ldn or more or

(ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area and quantify the noise increase for these receptors if the thresholds are surpassed.

Response: Not applicable.

(7) **Safety.** (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal

with accidental spills; and the likelihood of an accidental release of hazardous materials.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

Response: (i) The proposed action will have no detrimental effects on public health and safety.

(ii) The proposed action will not affect the transportation of hazardous materials.

(iii) There are no known hazardous material waste sites or sites where known hazardous material spills have occurred on or along the subject right-of-way.

(8) Biological resources. (i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

Response: (i) The U. S. Fish and Wildlife Service has been contacted. To date we have received no response.

(ii) UP is not aware of any wildlife sanctuaries or refuges, or of any National or State parks or forests, that will be affected by the proposed abandonment.

(9) Water. (i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

Response: (i) The California Office of Planning and Research and the California Environmental Protection Agency have been contacted. To date UP has received no response.

(ii) The U.S. Army Corps of Engineers has been contacted. To date UP has received no response.

(iii) It is not anticipated there will be any requirements for Section 402 permits.

(10) **Proposed Mitigation.** Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Response: There are no known adverse environmental impacts.

HISTORIC REPORT
49 C.F.R. § 1105.8(d)

(1) A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action:

Response: See Attachment No. 1.

(2) A written description of the right-of-way (including approximate widths to the extent known), and the topography and urban and/or rural characteristics of the surrounding area:

Response: This is an urban rail line primarily in the street of flat topography. The Line had once been used for inter-urban passenger service and in recent years, was used to serve certain industries in Emeryville and Berkeley, California.

(3) Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area:

Response: There are no railroad structures or bridges that are 50 years old or older.

(4) The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations to the extent such information is known:

Response: Not applicable.

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:

Response: See the preceding pages for a brief history and description of carrier operations.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic:

Response: Not applicable.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the

project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities):

Response: There are no railroad structures or bridges that are 50 years old or older.

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain:

Response: UP does not have any such readily available information.

(9) Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified nonrailroad owned properties or group of properties immediately adjacent to the railroad right-of-way. Photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the locations and type of the site (i.e., prehistoric or native American):

Response: Not applicable.

Dated this 3rd day of October, 2002.

Respectfully submitted,



UNION PACIFIC RAILROAD COMPANY

Mack H. Shumate, Jr., Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX

CERTIFICATE OF SERVICE
OF THE
COMBINED ENVIRONMENTAL AND HISTORIC REPORT

The undersigned hereby certifies that a copy of the foregoing Combined Environmental and Historic Report in Docket No. AB-33 (Sub-No. 198X) for the Ninth Street Electric Industrial Lead in Alameda County, California was served by first class mail on the 3rd day of October, 2002 on the following:

State Clearinghouse (or alternate):

Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

State Environmental Protection Agency:

California Environmental Protection Agency
1001 I Street
Sacramento, CA 95814

**State Coastal Zone Management Agency
(if applicable):**

California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

Head of each County:

Alameda County Supervisors
County Courthouse
1221 Oak Street, Suite 536
Oakland, CA 94612

**Environmental Protection Agency
(regional office):**

U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, CA 94105

U.S. Fish and Wildlife:

U.S. Fish & Wildlife Service, Region 1
911 NE 11th Avenue
Portland, OR 97232-4181

U.S. Army Corps of Engineers:

U.S. Army Engineer District
Sacramento
1325 J Street
Sacramento, CA 95814

National Park Service:

William D. Shaddox
Chief, Land Resources Division
National Park Service
Department of the Interior
1849 "C" St., N.W., #MS2540
Washington, D.C. 20240

**U.S. Natural Resources Conservation
Service:**

State Conservationist
Natural Resource Conservation Service
430 G Street, #4164
Davis, CA 95616-4164

National Geodetic Survey:

National Geodetic Survey
Edward J. McKay, Chief
Spatial Reference System Division
NOAA N/NGS2
1315 E-W Highway
Silver Spring, MD 20910-3282

State Historic Preservation Office:

California Department of Parks and Recreation
Office of Historic Preservation
P. O. Box 942896
Sacramento, CA 94296-0001

City of Berkeley:

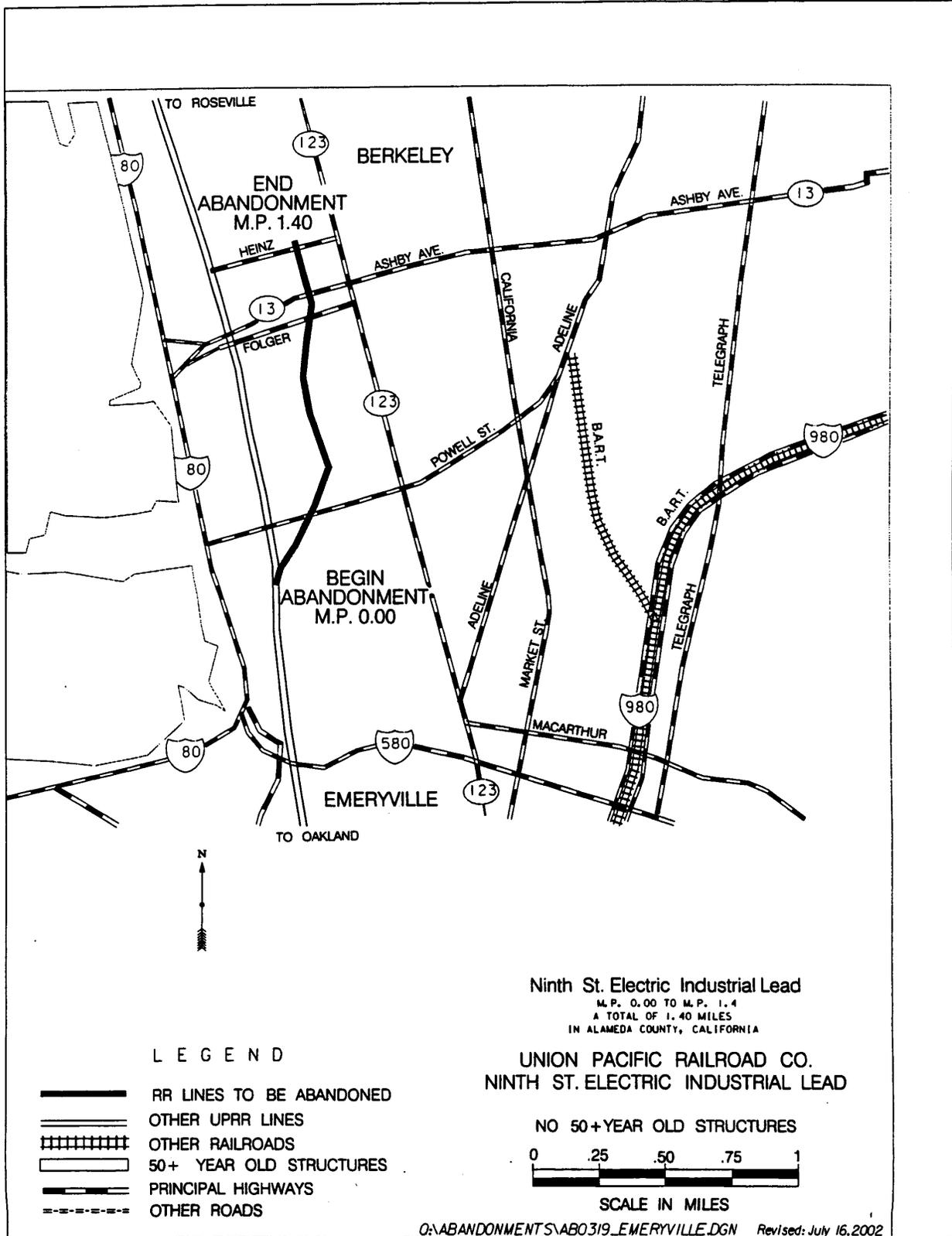
Shirley Dean, Mayor
2180 Milvia Street
Berkeley, CA 94704

City of Emeryville:

John Flores, City Manager
1333 Park Avenue
Emeryville, CA 94608

Dated this 3rd day of October, 2002


Mack H. Shupate Jr.



CHARLES W. SAYLORS
DIRECTOR-LEGAL SUPPORT SERVICES

UNION PACIFIC RAILROAD COMPANY

1416 DODGE STREET
OMAHA, NEBRASKA 68179
(402) 271-4861



August 28, 2002

State Clearinghouse (or alternate):

Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

State Environmental Protection Agency:

California Environmental Protection Agency
1001 I Street
Sacramento, CA 95814

State Coastal Zone Management Agency

(if applicable):
California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

Head of each County:

Alameda County Supervisors
County Courthouse
1221 Oak Street, Suite 536
Oakland, CA 94612

Environmental Protection Agency

(regional office):
U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, CA 94105

U.S. Fish and Wildlife:

U.S. Fish & Wildlife Service, Region 1
911 NE 11th Avenue
Portland, OR 97232-4181

U.S. Army Corps of Engineers:

U.S. Army Engineer District
Sacramento
1325 J Street
Sacramento, CA 95814

National Park Service:

William D. Shaddox
Chief, Land Resources Division
National Park Service
800 North Capitol Street, NE., Room 500
Washington, D.C. 20002

U.S. Natural Resources Conservation Service:

State Conservationist
Natural Resource Conservation Service
430 G Street, #4164
Davis, CA 95616-4164

National Geodetic Survey:

National Geodetic Survey
Edward J. McKay, Chief
Spatial Reference System Division
NOAA N/NGS2
1315 E-W Highway
Silver Spring, MD 20910-3282

State Historic Preservation Office:

California Department of Parks and Recreation
Office of Historic Preservation
P. O. Box 942896
Sacramento, CA 94296-0001

Re: Proposed Abandonment of the Ninth St. Electric Industrial Lead from M. P. 0.00 south of Powell Street to M. P. 1.40 near Heinz, a distance of 1.40 miles near Emeryville, Alameda County, California; STB Docket No. AB-33 (Sub-No. 198x)

RECEIVED

00034

SEP - 8 2002
LAW DEPARTMENT
UNION PACIFIC R.R. CO.

Dear Sirs:

Union Pacific Railroad Company plans to request authority from the Surface Transportation Board (STB) to abandon and discontinue service on the Ninth St. Electric Industrial Lead from M. P. 0.00 south of Powell Street to M. P. 1.40 near Heinz, a distance of 1.40 miles near Emeryville, Alameda County, California. A map of the proposed track abandonment shown in black is attached.

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 40 C.F. R. Part 1105.7, this is to request your assistance in identifying any potential effects of this action as indicated in the paragraphs below. We do not anticipate any adverse environmental impacts; however, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide us with a written response that can be included in an Environmental Report, which will be sent to the STB.

LOCAL AND/OR REGIONAL PLANNING AGENCIES. State whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

U. S. SOIL CONSERVATION SERVICE. State the effect of the proposed action on any prime agricultural land.

U. S. FISH AND WILDLIFE SERVICE (And State Game And Parks Commission, If Addressed). State (1) whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects, and, (2) whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

STATE WATER QUALITY OFFICIALS. State whether the proposed action is consistent with applicable Federal, State or Local water quality standards. Describe any inconsistencies.

U. S. ARMY CORPS OF ENGINEERS. State (1) whether permits under Section 404 of the Clean Water Act (33 U.S. C. § 1344) are required for the proposed action and (2) whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

U. S. ENVIRONMENTAL PROTECTION AGENCY AND STATE ENVIRONMENTAL PROTECTION (OR EQUIVALENT AGENCY). (1) Identify any potential effects on the surrounding area, (2) identify the location of hazardous waste sites and known hazardous material spills on the right-of-way and list the types of hazardous materials involved, and (3) state whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action.

Thank you for your assistance. Please send your reply to Union Pacific Railroad, Mr. Chuck Saylor, 1416 Dodge Street, Room 830, Omaha, NE, 68179. If you need further information, please contact me at (402) 271-4861.

Yours truly,

Charles W. Saylor
Charles W. Saylor

Attachment

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

P.O. BOX 942896
SACRAMENTO, CA 94296-0001
(916) 653-6624 Fax: (916) 653-9824
cahistpo@ohp.parks.ca.gov



November 4, 2002

Reply To: PROJECT NUMBER LISTED BELOW

Mack H. Shumate, Jr, Senior General Attorney
Union Pacific Railroad Company
Law Department
101 North Wacker Drive, Suite 1920
Chicago, IL 60606

Re: Proposed Railroad Abandonments

Dear Mr. Shumate:

You have provided me with the results of your efforts to determine for the benefit of the Surface Transportation Board (STB), whether the abandonments listed below may affect historic properties. You have done this, and are consulting with me, in order to enable the FCC to comply with Section 106 of the National Historic Preservation Act and implementing regulations codified at 36 CFR Part 800.

- STB021004A - Abandonment of the Lakewood Industrial Lead from M.P. 16.50 near Cover Street to the end of the Line at M.P. 17.35 South of Wardlow Street, a Distance of 0.85 Miles in Lakewood and Long Beach, CA
- STB021004B - Abandonment of the San Jose Industrial Lead from M.P. 19.60 near Valbrick to M.P. 22.45 near Cahill, CA
- STB021007A - Abandonment of the Ninth Street Electric Industrial Lead from M.P. 0.00 south of Powell Street to M.P. 1.40 near Heinz Avenue, near Emeryville, CA

You have done this, and are consulting with me, in order to enable the STB to comply with Section 106 of the National Historic Preservation Act and implementing regulations codified at 36 CFR Part 800.

I have reviewed the documentation furnished and considered your recommendation to the STB that there were no historic properties affected by these undertakings. Based on that review, I have the following comments:

- 1) I concur in your recommendation that no historic properties will be affected by these undertakings.
- 2) I would not object to an official finding by the STB that no historic properties will be affected by these undertakings.
- 3) I will assume that the STB has made this finding unless I hear to the contrary from them within 15 calendar days after you have furnished them with a copy of this letter.
- 4) Be advised that under certain circumstances, such as unanticipated discovery or a change in project description, the STB may have additional responsibilities for this undertaking under 36 CFR Part 800.

Thank you for considering historic properties during project planning. If you have any questions, please call Natalie Lindquist at (916) 654-0631 or e-mail at nlind@ohp.parks.ca.gov.

Sincerely,

Dr. Knox Mellon
State Historic Preservation Officer

00037

RECEIVED

NOV 6 8 2002

LAW DEPARTMENT
UNION PACIFIC RR CO.