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TRANSPORTATION BOARD**

Del D. Borgsdorf

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December 23, 2002

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Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K St., NW, Rm 711
Washington, DC 20423

Re: Union Pacific Railroad-Abandonment Exemption in Santa Clara County, California
Docket No. AB_33_197_X

Dear Mr. Williams:

This request is filed on behalf of the City of San Jose which is a government agency interested in transportation and open space issues, hereinafter referred to as "proponent." Proponent requests issuance of a Public Use Condition as well as an Interim Trail Use Condition rather than an outright abandonment authorization between M.P. 20.94 near Minnesota to M.P. 21.9 near Lonus. Proponent has had initial discussions with the local Union Pacific Railroad representative, Mr. Rich Gooch. Mr. Gooch has indicated a willingness on the part of Union Pacific to support Proponent's request.

A. Public Use Condition

Proponent asks the STB to find that this property is suitable for other public use, specifically trail use and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the rail corridor will enable the City to connect the Coyote Creek Trail to the Los Gatos Creek trail, thereby greatly enhancing both the recreational and transportation uses of the trail. In addition, the corridor provides a linkage to a large regional park (Happy Hollow Park and Zoo, and provides important wildlife habitat and open space in an area of the City that is currently underserved. The time period sought is 180 days from the effective date of the abandonment authorization. Proponent needs this much time because we have not had the opportunity to complete negotiations with the carrier and are attempting to secure the required funding to purchase the line.

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. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, Proponent also makes the following request:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 C.F.R. §1152.29, the City of San Jose is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by Union Pacific Railroad.

The property, known as the San Jose Industrial Lead extends from railroad milepost 20.9 near Minnesota to railroad milepost 21.9 near Lonus in Santa Clara County, California. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-33 (Sub No. 197x).

A map depicting the right-of-way is enclosed.

The City of San Jose 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.

By my signature below, I certify service upon Mack H. Shumate, Jr, Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606 by U.S. Mail, postage prepaid, first class, this 23rd day of 2002.

Respectfully submitted,



Del D. Borgsdorf
City Manager
on behalf of: City of San Jose, California

Enclosure – Map

Enclosure – Filing Fee

