



FILING FEE WAIVED



Office of Transportation

December 20, 2002

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

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206962 ENTERED
Office of Proceedings
DEC 30 2002
Part of
Public Record

Re: Union Pacific-Abandonment-Alameda County AB-33 (Sub-no. 198x)

Dear Mr. Williams:

This comment should be treated as a protest or a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of the City of Berkeley which is a city, which is hereinafter referred to as 'Commenter'.

While not taking a position on the merits of this abandonment, Commenter requests a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between The Berkeley/Emeryville border and Milepost 1.40 at the end of the Line north of Heinz Avenue in Berkeley.

Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, Commenter 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, City of Berkeley 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 and operated by Union Pacific.

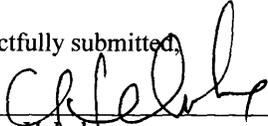
The property, known as the Ninth Street Electrical Industrial Lead extends from railroad milepost 0.00 near Powell Street in Emeryville to railroad milepost 1.40 near Heinz Avenue in Berkeley a distance of 1.40 miles in Alameda County, California. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-33 (Sub-no. 198x)

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

City of Berkeley 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 Union Pacific by U.S. Mail, postage prepaid, first class, this 20th day of December, 2002.

Respectfully submitted,



Carolyn Helmke

on behalf of: The City of Berkeley

