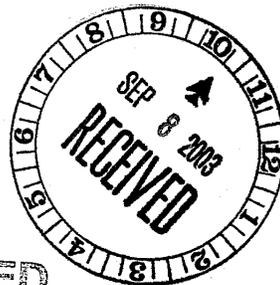


DID # 0102237001



208861

September 5, 2003



VIA U.P.S. OVERNIGHT DELIVERY

FEE RECEIVED

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

SEP 08 2003

**SURFACE
TRANSPORTATION BOARD**

**RE: Docket No. AB-33 (Sub-No. 210X), Union Pacific Railroad Company
- Abandonment - In Maricopa County, Arizona (Creamery Spur from
Milepost 914.3 to Milepost 916.4, a distance of 2.1 miles near
University Drive between Priest Drive and Hayden Road in Tempe,
Arizona**

Dear Mr. Williams:

Pursuant to the Board's exemption procedures for abandonment of rail lines with no local business for at least two years, (49 C.F.R. 1152.50), enclosed are an original and ten (10) copies of a verified Notice of Exemption, including a Certificate of Service and Publication.

Please file the Notice of Exemption in Docket No. AB-33(Sub-No. 210X). Enclosed is a check in the amount of \$2,700.00 to cover the required filing fee. Three (3) computer disks, in WordPerfect format, are included for the Board's use.

Sincerely yours,

ENTERED
Office of Proceedings

SEP 08 2003

Part of
Public Record

Enclosures

O:\ABANDONMENT\33-210x\STB2.wpd

FILED

SEP 08 2003

**SURFACE
TRANSPORTATION BOARD**

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

UNION PACIFIC RAILROAD
101 N. Wacker Dr., Rm. 1920, Chicago, IL 60606-1718
ph. (312) 777-2055 fx. (312) 777-2065

208861

DID # 0102237001

Before the

SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 210X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN MARICOPA COUNTY, ARIZONA
(CREAMERY SPUR)



FEE RECEIVED

SEP 0 8 2003

SURFACE
TRANSPORTATION BOARD

NOTICE OF EXEMPTION

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

FEE RECEIVED

SEP 0 8 2003

SURFACE
TRANSPORTATION BOARD

Dated: September 5, 2003
Filed: September 8, 2003

Before the
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 210X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN MARICOPA COUNTY, ARIZONA
(CREAMERY SPUR)



NOTICE OF EXEMPTION

Union Pacific Railroad Company ("UP") submits this verified Notice of Exemption pursuant to 49 § C.F.R. 1152, Subpart F -- Exempt Abandonments and Discontinuances of Service and Trackage Rights, for an exempt abandonment of the Creamery Spur from Milepost 914.3 to Milepost 916.4, a distance of 2.1 miles near University Drive between Priest Drive and Hayden Road in Tempe, Maricopa County, Arizona (the "Line").

Proposed Consummation Date: 49 C.F.R. § 1152.50 (d)(2)

The abandonment is proposed to be consummated on or after October 28, 2003 (at least 50 days after filing the Notice of Exemption).

Certification: 49 C.F.R. 1152.50(b)

UP certifies that no local traffic has moved over the Line for at least two years; and that no formal complaint filed by a user of rail service on the Line (or filed by a state or local governmental entity acting on behalf of such user) regarding cessation of service over the Line is either pending with this Board or any U.S. District Court or has been decided in favor of the complainant within the said two-year period.

Additional Information Required: 49 C.F.R. 1152.22(a)(1)-(4), (7)-(8) and (e)(4)

(a) General.

(a)(1) The railroads' exact name is Union Pacific Railroad Company.

(a)(2) UP is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(a)(3) UP intends to abandon the Line from milepost 914.3 to milepost 916.4, a distance of 2.1 miles near University Drive between Priest Drive and Hayden Road. The Line is located in Tempe, Maricopa County, Arizona.

(a)(4) A map showing the location of the Line in conjunction with other rail lines, highways and major roads in the area is attached hereto as **Exhibit A** and hereby made a part hereof.

(a)(7) The representative to whom correspondence regarding this abandonment should be sent is:

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

(a)(8) ZIP Code. The Line traverses U. S. Postal Service Zip Code 85281.

(e)(4) Rural and Community Impact. The Line was constructed in segments. The Maricopa and Phoenix Railroad constructed the Line from milepost 914.3 to milepost 915.3 in 1887. The Arizona Eastern Railroad constructed the Line from milepost 915.3 to milepost 916.4 in 1925. Rail weights used were 119-pound continuous welded rail from milepost 914.3 to milepost 915.2 and 136-pound continuous welded rail from milepost 915.2 to milepost 916.4. There appears to be no reasonable alternative to the abandonment. No local traffic has moved over the Line in the past two years, and

there is no overhead traffic on the Line. Given that the Line has not been used for local rail shipments for over twenty-four (24) months, there will be no effect on regional or local transportation systems and patterns and no diversion of traffic to other transportation systems or modes.

Based on information in the UP's possession, there are some restrictions to the title of the Line in that a segment of the right-of-way is over an expired franchise agreement located in a City street with a portion of the remaining right-of-way being reversionary. The right-of-way is not suitable for public purposes (other than described below), including use for roads or highways, conservation activities, nor energy production or transmission, as the Line traverses through the heavily populated areas of Downtown Tempe and the campus of Arizona State University. The area is adequately served by existing roads and utility lines. The Line is suitable for the planned use by the City of Tempe for the construction and operation of the Central Phoenix/East Valley Light Rail Transit Project connecting Tempe with Downtown Phoenix and Sky Harbor Airport. The property is also suitable for recreational trail purposes, namely a bike or jogging path. UP is unaware of any adverse effects on local and existing land use plans. The right-of-way typically ranges in width through the downtown area of Tempe and across the campus of Arizona State University. The topography of the Line is generally flat. Real estate documentation relating to the Line in UP's possession will be made available to those requesting it.

Labor Protection

The interests of railroad employees will be protected by the conditions discussed in Oregon Short Line Railroad Co. -- Abandonment -- Goshen , 360 ICC 91 (1979).

Certifications

Attached hereto as **Exhibit B** and hereby made a part hereof is a Certificate of Service and Publication pursuant to the notice requirements of 49 C.F.R. §§ 1152.50(d)(1), 1105.11 and 1105.12.

Environmental and Historic Report

A copy of the Transmittal Letter of UP's Combined Environmental and Historic report containing the information required by 49 C.F.R. §§ 1105.7 (e) and 1105.8, and delivered in accordance with 49 C.F.R. 1105.11, is attached hereto as **Exhibit C** and hereby made a part hereof. The original and ten (10) copies were sent to Ms. Victoria Rutson, Section of Environmental Analysis (SEA), on July 18, 2003.

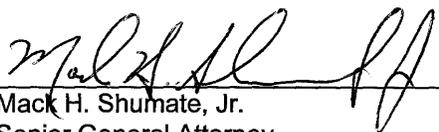
Whether or not the Line or any portion thereof is transferred to Maricopa County, Arizona, all salvage operations, if any, will be performed in accordance with applicable environmental law.

Two (2) additional responses to the Combined Environmental and Historic Report were received by UP and are attached hereto for the Board's review and consideration as **Exhibits D** and **E**, respectively. **Exhibit D** is a letter dated July 3, 2003 from the Arizona State Historic Preservation Office indicating that appropriate contacts be made to meet Section 106 compliance of the National Historic Preservation Act with regard to the two bridges on the Line that are over fifty (50) years old. **Exhibit E** is a letter dated July 22, 2003 from the Natural Resources Conservation Service of the United States Department of Agriculture indicating that the project as planned is exempt from the requirements of the Farmland Protection Policy Act.

Dated this 5th day of September, 2003.

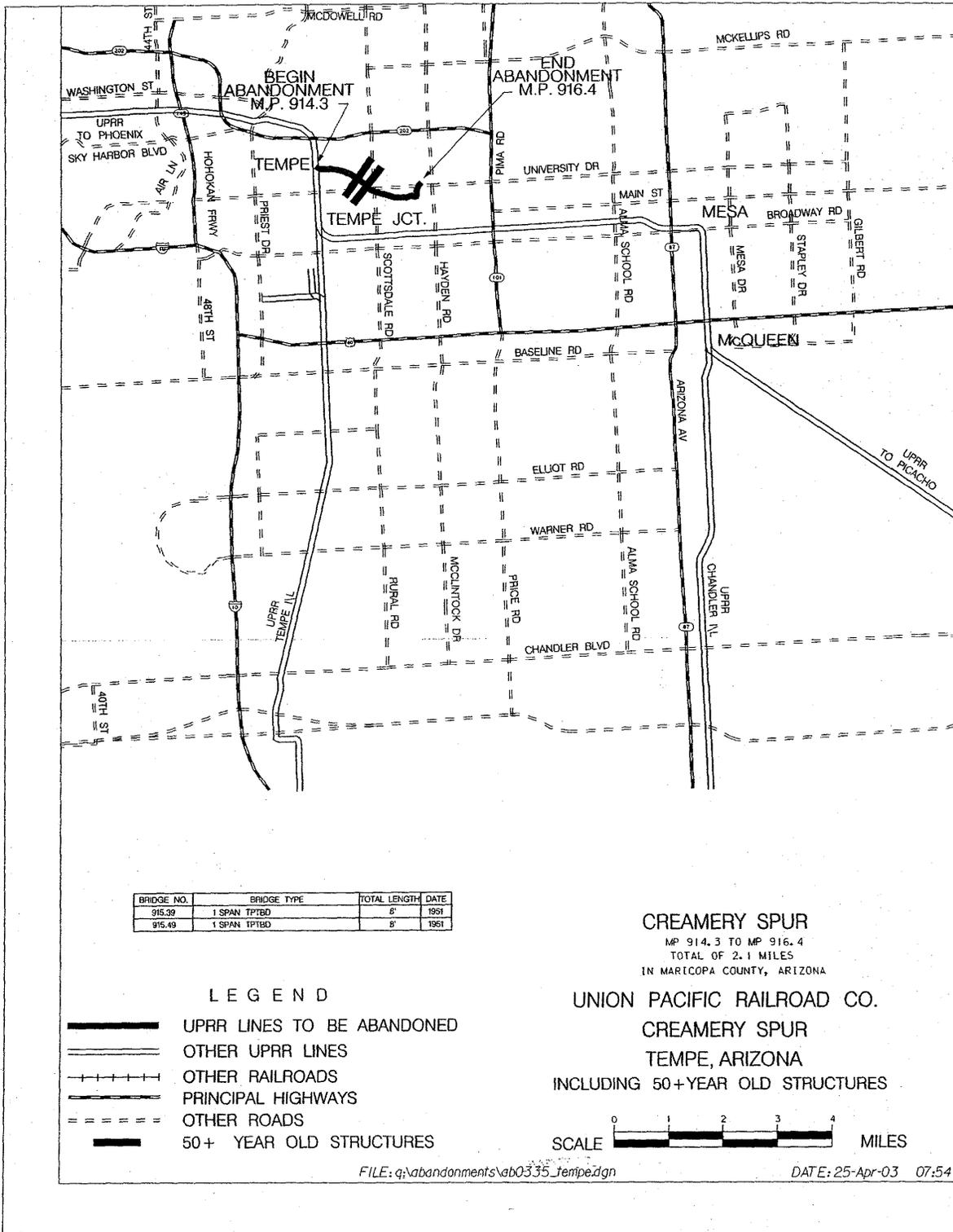
Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY



A handwritten signature in black ink, appearing to read 'Mack H. Shumate, Jr.', is written over a horizontal line.

Mack H. Shumate, Jr.
Senior General Attorney



DOCKET NO. AB-33 (SUB-NO. 210X)
Creamery Spur in Maricopa County, AZ

CERTIFICATE OF SERVICE AND PUBLICATION

49 C.F.R. § 1152.50(d)(1) - Notice

The undersigned certifies that on July 30, 2003 (at least 10 days before a Notice of Exemption is filed), written notice was given of Union Pacific's intent to use the exemption notice procedure to abandon the Creamery Spur in Maricopa County, Arizona in Docket No. AB-33 (Sub-No. 210X). Written notice (a copy of which is attached hereto as Attachment 1) was served on the following:

Arizona Public Service Commission
400 North 5th Street, 19th Floor
Station 9905
Phoenix, AZ 85004

National Park Service
William D. Shaddox
Chief, Land Resources Division
1849 "C" St., N.W., #MS3540
Washington, DC 20240

U.S. Department of Agriculture
Chief of the Forest Service
4th Flr. N.W., Auditors Bldg.
14th St. & Independence Ave., SW
Washington, DC 20250

Military Traffic Management Command
Transportation Engr. Agency
Railroads for National Defense
720 Thimble Shoals Blvd., Su.130
Newport News, VA 23606-2574

49 C.F.R. § 1105.11 - Transmittal Letter For Applicant's Report

The undersigned certifies that on July 21, 2003 (at least 20 days before a Notice of Exemption is filed), a Combined Environmental and Historic Report

pursuant to 49 C.F.R. §§ 1105.7 and 1105.8 was served in Docket No. AB-33 (Sub-No. 210X) for abandonment of the Creamery Spur in Maricopa County, Arizona on the following:

- (1) State Clearinghouse (or alternate)
- (2) State Environmental Protection Agency
- (3) State Coastal Zone Management Agency
- (4) Head of each County
- (5) U.S. Environmental Protection Agency (regional office)
- (6) U.S. Fish and Wildlife Service
- (7) U.S. Army Corps of Engineers
- (8) National Park Service
- (9) U.S. Natural Resources Conservation Service
- (10) The National Geodetic Survey
- (11) State Historic Preservation Office
- (12) Other Agencies Consulted (as listed)

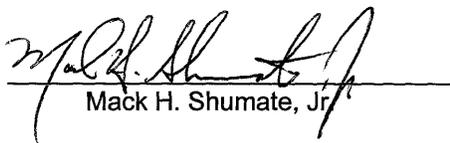
(The Certificate of Service attached to the Combined Environmental and Historic Report lists the names and addresses of the federal, state and local agencies served.)

49 C.F.R. § 1105.12 - Newspaper Notice

The undersigned further certifies that a "Notice of Intent to Abandon or to Discontinue Rail Service" was published in the form prescribed by the Board for a Notice of Exemption. The notice was published one time in a major newspaper in the county in which the Line is located as follows:

<u>County</u>	<u>Newspaper</u>	<u>Date</u>
Maricopa	<i>East Valley Tribune</i>	August 14, 2003

Dated this 5th day of September, 2003.


Mack H. Shumate, Jr.



COPY

July 30, 2003

Arizona Public Service Commission
400 North 5th Street, 19th Floor
Station 9905
Phoenix, AZ 85004

National Park Service
William D. Shaddox
Chief, Land Resources Division
1849 "C" St., N.W., #MS3540
Washington, DC 20240

U.S. Department of Agriculture
Chief of the Forest Service
4th Flr. N.W., Auditors Bldg.
14th St. & Independence Ave., SW
Washington, DC 20250

Military Traffic Management Command
Transportation Engr. Agency
Railroads for National Defense
720 Thimble Shoals Blvd., Su.130
Newport News, VA 23606-2574

**RE: Docket No. AB-33 (Sub-No. 210X), Union Pacific Railroad Company
- Abandonment - In Maricopa County, Arizona (Creamery Spur from
Milepost 914.3 to Milepost 916.4, a distance of 2.1 miles near University
Drive between Priest Drive and Hayden Road in Tempe, Arizona)**

Dear Sirs:

This is notice that Union Pacific Railroad Company ("UP") expects to be filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority for an exempt abandonment of the Creamery Spur from milepost 914.3 to milepost 916.4, a distance of 2.1 miles near University Drive between Priest Drive and Hayden Road in Tempe, Maricopa County, Arizona (the "Line").

The Line traverses U. S. Postal Service Zip Code 85281. The proceeding will be docketed as No. AB-33 (Sub-No. 210X).

The "no business" exemption procedure will be used to abandon the Line, pursuant to the abandonment regulations of the Surface Transportation Board at 49 C.F.R. Section 1152.50. No local traffic has moved over the Line in at least two years and all overhead traffic (which there is none) on the Line can be rerouted. A Notice of Exemption will be filed with the Surface Transportation Board on or after August 11, 2003.

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

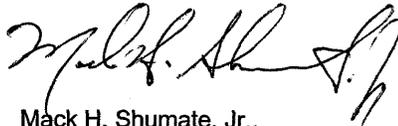
UNION PACIFIC RAILROAD
101 N. Wacker Dr., Rm. 1920, Chicago, IL 60606-1718
ph. (312) 777-2055 fx. (312) 777-2065

July 30, 2003
Page 2

Based on information in our possession, 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.

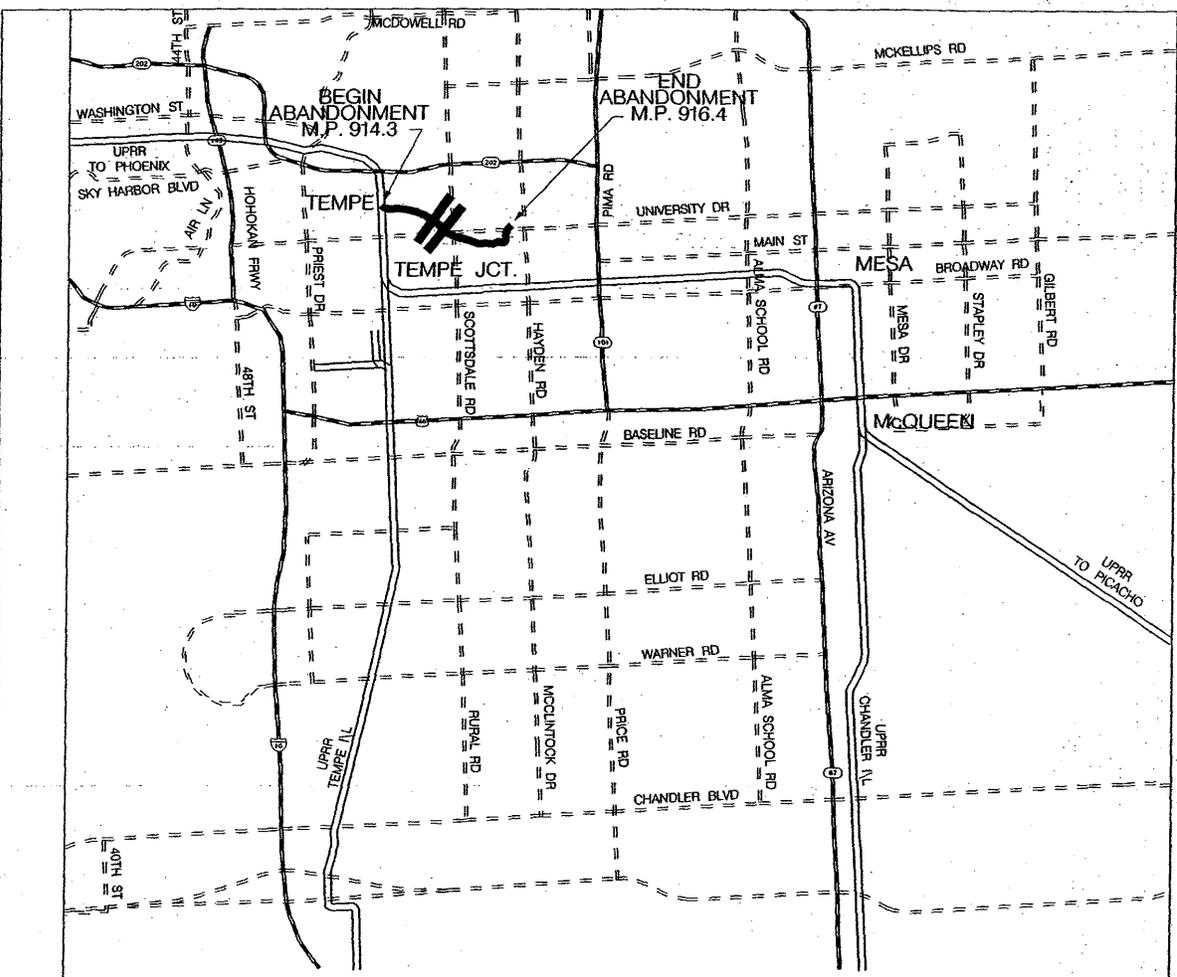
A map showing the Line to be abandoned is attached, for your information as Attachment 1.

Sincerely,

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.", with a stylized flourish at the end.

Mack H. Shumate, Jr.,
Senior General Attorney

Attachment



BRIDGE NO.	BRIDGE TYPE	TOTAL LENGTH	DATE
915.39	1 SPAN TPTBD	8'	1951
915.49	1 SPAN TPTBD	8'	1951

LEGEND

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

CREAMERY SPUR
 MP 914.3 TO MP 916.4
 TOTAL OF 2.1 MILES
 IN MARICOPA COUNTY, ARIZONA
 UNION PACIFIC RAILROAD CO.
 CREAMERY SPUR
 TEMPE, ARIZONA
 INCLUDING 50+ YEAR OLD STRUCTURES

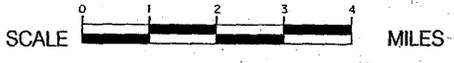


EXHIBIT C
FILE COPY



July 18, 2003

VIA U.P.S. OVERNIGHT

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

Attention: Victoria Rutson

**RE: Docket No. AB-33 (Sub-No. 210X), Union Pacific Railroad Company
- Abandonment - In Maricopa County, Arizona (Creamery Spur from
Milepost 914.3 to Milepost 916.4, a distance of 2.1 miles near
University Drive between Priest Drive and Hayden Road in Tempe,
Arizona)**

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.

Union Pacific anticipates filing a Notice of Exemption in this matter on or after August 11, 2003.

Sincerely,

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.", written over a horizontal line.

Enclosures

O:\ABANDONMENTS\33-210X\STB-Letter.wpd

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

UNION PACIFIC RAILROAD
101 N. Wacker Dr., Rm. 1920, Chicago, IL 60606-1718
ph. (312) 777-2055 fx. (312) 777-2065

"Managing and conserving natural, cultural, and recreational resources"



In reply, please refer to:
SHPO-2003-1445

July 3, 2003

Charles W. Saylor
Union Pacific Railroad Company
1416 Dodge Street
Omaha, Nebraska 68179

RE: Docket No. AB-33 (Sub-No. 210X), Union Pacific Railroad Company
Abandonment in Tempe, Maricopa County, Arizona
Creamery Spur from MP 914.3 to MP 916.4

Janet Napolitano
Governor

**State Parks
Board Members**

**Chair
Suzanne Pfister**
Phoenix

Gabriel Beechum
Casa Grande

John U. Hays
Yarnell

Elizabeth Stewart
Tempe

William C. Porter
Kingman

William Cordasco
Flagstaff

Mark Winkleman
State Land
Commissioner

Kenneth E. Travous
Executive Director

Arizona State Parks
1300 W. Washington
Phoenix, AZ 85007

Tel & TTY: 602.542.4174
www.azstateparks.com

800.285.3703 from
(520 & 928) area codes

General Fax:
602.542.4180

Director's Office Fax:
602.542.4188

Dear Mr. Saylor:

Thank you for submitting documentation on the above referenced undertaking. I have reviewed the material pursuant to 36 CFR Part 800 and have the following comments:

1. Although your letter did not so state, I presume that the proposal to abandon the above referenced property is associated with the Central Phoenix/East Valley Light Rail Transit Project that intends to use this right-of-way as part of its passage through Tempe. Our office is currently in consultation with the Federal Transit Administration and Cities of Phoenix and Tempe regarding this property. Cultural resource survey work identified elements of this property to be eligible for listing in the National Register of Historic Places. Relevant segment include more than the two spans at Mileposts 915.39 and 915.49. Appropriate mitigation for the adverse effects associated with that project has not been finalized. I recommend that you contact CP/EV LRTP officials in order to coordinate mitigation with their historic properties treatment plan.
2. The relevant federal agency reviewing your proposed abandonment should be informed of the coordination needed with the FTA's overall responsibilities for Section 106 compliance and will need to be a party to the historic properties treatment plan.

If you have any further questions or requests, you may contact me at (602) 542-7159, or by e-mail at wcollins@pr.state.az.us.

Sincerely,

William S. Collins, Ph.D.
Deputy State Historic Preservation Officer
State Historic Preservation Office

United States Department of Agriculture



Natural Resources Conservation Service
3003 N. Central Avenue, Suite 800
Phoenix, Arizona 85012-2946
(602) 280-8801
FAX (602) 280-8809

JUL 22 2003

Charles Saylor
Union Pacific Railroad
1416 Dodge Street, Rm. 830
Omaha, Nebraska 68179

Dear Mr. Saylor:

This response is in regard to your letter dated July 18, 2003, abandonment of Creamery Spur from Milepost 914.3 to Milepost 916.4 near University Drive between Priest Drive and Hayden Road in Tempe, Arizona.

The Natural Resources Conservation Service (NRCS) has general responsibility, nationwide, for implementing the Farmland Protection Policy Act (FPPA) and to review projects that may affect prime farmland and/or wetlands associated with agriculture. After reviewing the information provided, the following is noted:

- 1- The proposed new projects if implemented as planned, are exempt from the requirements of the FPPA - as revised in 1994, that excludes land which is already in or is committed to urban development, currently used as water storage, or land that is not prime or unique farmland.
- 2- We do not see any immediate concerns or impacts that would directly affect wetland areas associated with agriculture.

We recommend that any future development projects receive a prime farmland determination prior to any construction activities. Should you have questions, please feel free contact Jeff Schmidt, Community Assistance Coordinator at 602.280.8818. Thank you again for the chance to review the proposed project.

Sincerely,

A handwritten signature in black ink that reads "James A. Briggs".

JAMES A. BRIGGS
Assistant State Conservationist (T)

cc:

Kristin Graham-Chavez, DC, Phoenix, AZ
Jeff Schmidt, Community Assistance Coordinator, NRCS, Phoenix, Arizona

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment.

An Equal Opportunity Provider and Employer