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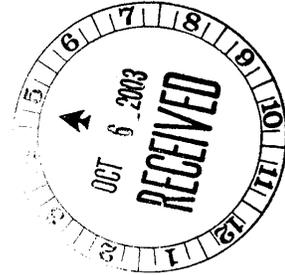
209058

Tracie D. Spear
202.778.9390
Fax: 202.778.9100
tspear@kl.com

October 6, 2003

VIA HAND DELIVERY

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



**Re: Docket No. AB-33 (Sub-No. 210X), Union Pacific Railroad Company –
Abandonment Exemption – In Maricopa County, Arizona (Creamery Spur)**

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of a **Letter Requesting Issuance of a Notice of Interim Trail Use ("NITU")**, pursuant to **49 C.F.R. § 1152.29**. A check in the amount of \$150.00, representing the appropriate fee for this filing, also is enclosed.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Tracie D. Spear'.

Tracie D. Spear

FILED

OCT - 6 2003

Enclosures

**SURFACE
TRANSPORTATION BOARD**

FEE RECEIVED

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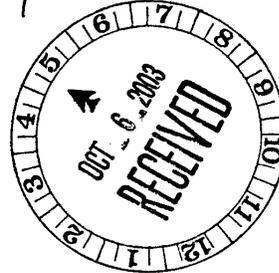
**SURFACE
TRANSPORTATION BOARD**

City of Tempe
P.O. Box 5002
31 East Fifth Street
Tempe, AZ 85280
480-350-8865

October 2, 2003

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**SURFACE
TRANSPORTATION BOARD**

**SURFACE
TRANSPORTATION BOARD**

FILE RECEIVED

OCT - 6 2003

Neil G. Giuliano
Mayor

Barbara J. Carter
Vice Mayor

P. Ben Arredondo
Councilmember

Dennis J. Cahill
Councilmember

Leonard W. Copple
Councilmember

Pamela L. Goronkin
Councilmember

Mark W. Mitchell
Councilmember

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

Re: Docket No. AB-33 (Sub-No. 210X), Union Pacific Railroad Company
Abandonment Exemption - In Maricopa County, Arizona (Creamery Spur)

Dear Secretary Williams:

This letter is filed on behalf of the City of Tempe, Arizona (hereinafter referred to as the "City"), which is interested in promoting trail development in the City of Tempe.

The City requests issuance of a Notice of Interim Trail Use ("NITU") for a portion of the width of the right-of-way (not exceeding 35 feet wide) of Union Pacific Railroad Company's ("UP") Creamery Spur between approximately MP 914.3 and approximately MP 916.4, a distance of approximately 2.1 miles near University Drive between Priest Drive and Hayden Road, in Tempe, Maricopa County, Arizona (the "Subject Line"). The 35-foot width of the Subject Line is measured from the southern boundary of the Creamery Spur.

UP filed a Notice of Exemption to abandon the Subject Line on September 8, 2003. The Surface Transportation Board ("STB") published the Notice of Exemption in the Federal Register on September 26, 2003. The exemption will become effective on October 28, 2003 (unless stayed).

The City makes the following statement:

**STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL
RESPONSIBILITY**

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, the City of Tempe is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of

Mr. Vernon A. Williams
October 2, 2003
Page Two

(unless the use 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.

The property known as the Creamery Spur extends from approximately railroad milepost 914.3 to approximately railroad milepost 916.4, a distance of 2.1 miles near University Drive between Priest Drive and Hayden Road, in Tempe, Maricopa County, Arizona. Only a portion of the width of the right-of-way (located on the southern boundary and not exceeding 35 feet wide) of the Creamery Branch is subject to this NITU request. The right-of-way is part of a line of railroad proposed for abandonment in Finance Docket No. STB AB-33 (Sub-No. 210X).

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

The City of Tempe 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.

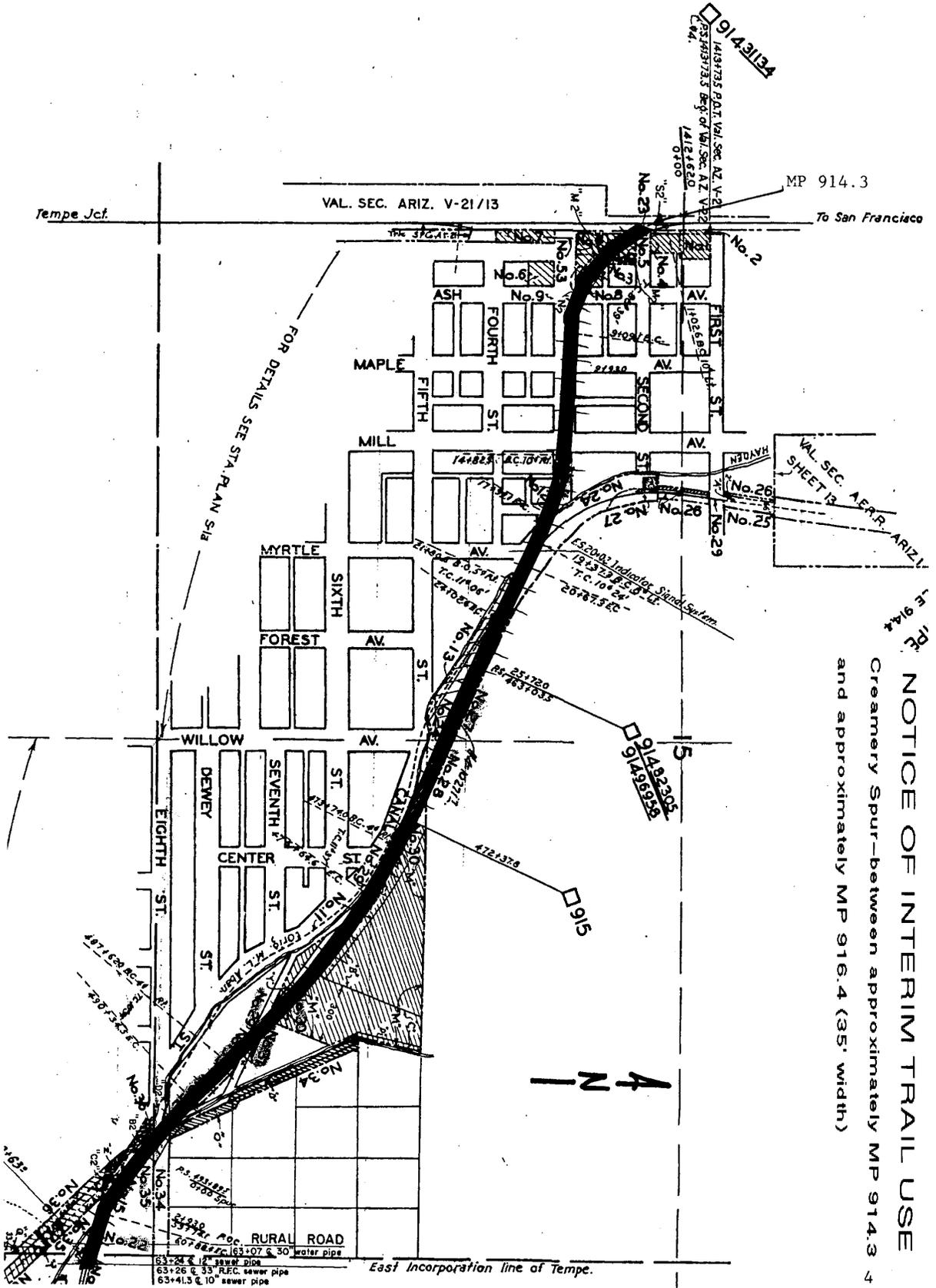
A copy of this statement is being served on the railroad on the same date it is being served on the Board.

In service,



Neil G. Giuliano
Mayor

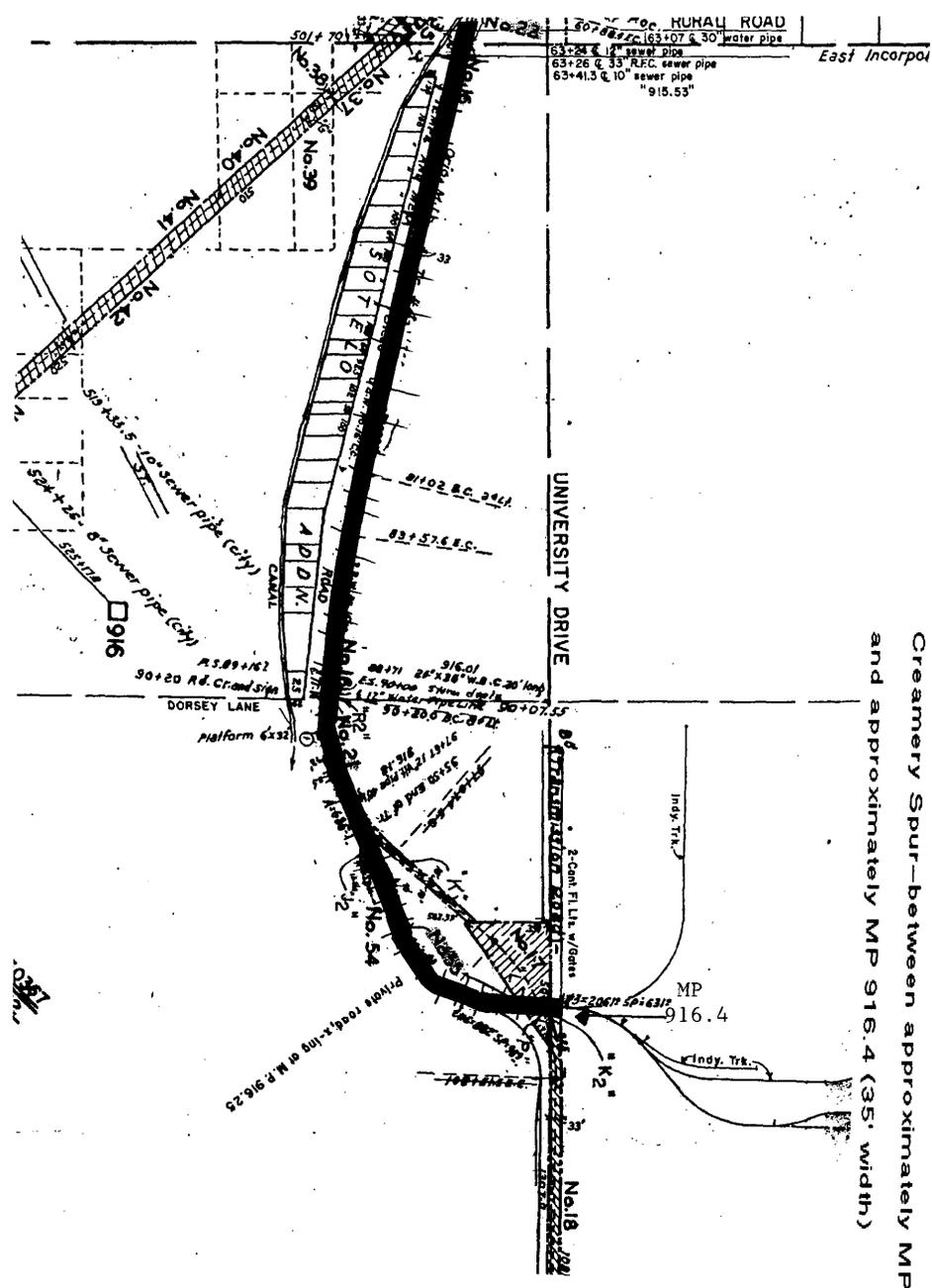
Enclosure



NOTICE OF INTERIM TRAIL USE
 Creamery Spur—between approximately MP 914.3
 and approximately MP 916.4 (35' width)

63+24 & 12" water pipe
 63+26 & 33" R.F.C. sewer pipe
 63+41.5 & 10" sewer pipe

East Incorporation line of Tempe.



NOTICE OF INTERIM TRAIL USE
Creamery Spur—between approximately MP 914.3
and approximately MP 916.4 (35' width)