

213478



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Office of Proceedings

MAR 4 2005

Part of
Public Record

March 3, 2005



VIA UPS NEXT DAY AIR

Mr. Vernon Williams, Secretary
Surface Transportation Board
1925 "K" Street, N.W., Room 504
Washington, DC 20423-0001

FILED
MAR 04 2005
SURFACE
TRANSPORTATION BOARD

RE: Docket No. AB-33 (Sub-No.195X), Union Pacific Railroad Company - Abandonment of the Sugar House Branch from Milepost 0.0 near Roper to the east of the line branch at Milepost 2.74 near Sugar House, a distance of 2.74 miles in Salt Lake County, Utah

Dear Mr. Williams:

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. 195X). Further, enclosed is Union Pacific's voucher for \$5,000 for the filing fee.

FILED
MAR 4 2005
SURFACE TRANSPORTATION BOARD

Sincerely yours,

Enclosures

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

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

CC: 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

Public Service Commission of Utah
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84111

Salt Lake County Council
2001 South State Street, Suite N2100
Salt Lake City, UT 84190-0001

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213478

BEFORE THE
SURFACE TRANSPORTATION BOARD

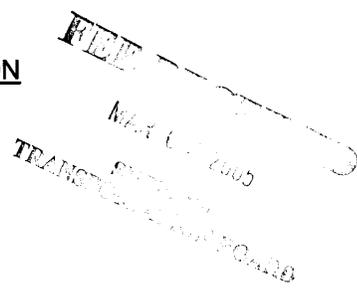


Docket No. AB-33 (Sub-No. 195X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --

IN SALT LAKE COUNTY, UTAH
(SUGAR HOUSE BRANCH)

PETITION FOR EXEMPTION



FILED
MAR 04 2005
SURFACE
TRANSPORTATION BOARD

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: March 3, 2005
Filed: March 4, 2005

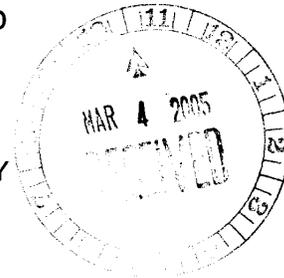
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BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 195X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --

IN SALT LAKE COUNTY, UTAH
(SUGAR HOUSE BRANCH)



PETITION FOR EXEMPTION

I.

INTRODUCTION

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 and discontinuance of service over the Sugar House Branch Line from milepost 0.0 near Roper to the end of the branch line at milepost 2.74 near Sugar House, a distance of 2.74 miles in Salt Lake County, Utah (the "Line"). There are no shippers on the Line that will be adversely affected by the proposed abandonment. The Line is currently owned by Utah Transit Authority ("UTA") and UP's abandonment of UP's interest in the Line and discontinuance of its operations over the Line will not alter the current physical status of the Line.

There is no practicable possibility for substantial new rail business on the Line. There is no overhead traffic on the Line. UP proposes to abandon its freight operating easement and trackage rights over the Line. The Line is currently owned by UTA. In 2002, the Line served two customers, Harbison Walker Refractories

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("Harbison") and Burton Lumber Company ("Burton Lumber"). Harbison received cars in 2002 and then relocated off the UP railroad network in 2003. Burton Lumber was an active shipper on the Line until it relocated to another UP served location in Salt Lake City in October of 2003. Therefore, there is no customer impact associated with the proposed abandonment.

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, Iowa, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming. The Line runs from milepost 0.0 near Roper to the end of the branch at milepost 2.74 near Sugar House, a distance of 2.74 miles, in Salt Lake County, Utah and is currently owned by UTA.

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

Mack H. Shumate, Jr.
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 and discontinuance of service over the Sugar House Branch from milepost 0.0 near Roper to the end of the branch at milepost 2.74 near Sugar House, a distance of 2.74 miles, in Salt Lake County, Utah. UP proposes to abandon its freight operating easement and trackage rights over the Line. The Line is currently owned by UTA. In 2002, the Line served two customers, Harbison Walker Refractories ("Harbison") and Burton Lumber Company ("Burton Lumber"). Harbison received cars in 2002 and then relocated off the UP railroad network in 2003. Burton Lumber was an active shipper on the Line until it relocated to another UP served location in Salt Lake City in October of 2003. Therefore, there is no customer impact associated with the proposed abandonment.

The Line was constructed in 1900 by the Denver and Rio Grande Western Railway. It is constructed primarily with 90-pound rail. The Line was sold to UTA in September, 2002.

The Line traverses U.S. Postal Service Zip Codes 84106, 84115 and 84119.

A map of the Line proposed for abandonment in solid black is attached hereto as **Attachment 1** and is hereby made a part hereof. Other rail lines in the area, principal highways and other roads are shown on the map. The map indicates that there are no bridges or structures that are over fifty (50) years old.

The following station will be closed as a result of the proposed abandonment: Sugar House at milepost 2.74. The station at Roper at milepost 0.0 is on the UP's main line and will continue to be served.

IV.

SHIPPER INFORMATION

The proposed abandonment will have no adverse effect on any shippers on the Line. In 2002, the Line served two customers, Harbison Walker Refractories ("Harbison") and Burton Lumber Company ("Burton Lumber"). Harbison received cars in 2002 and then relocated off the UP railroad network in 2003. Burton Lumber was an active shipper on the Line until it relocated to another UP served location in Salt Lake City in October of 2003. Therefore, there is no customer impact associated with the proposed abandonment. The shipping profile for Burton Lumber Company is as follows:

Burton Lumber Company
1170 South 4400 West
Salt Lake City, UT 84104

2002:

Lumber, Rough or Dressed, STCC 24211, 271 cars, 23,581 tons.
Prefabricated Structural Members, STCC 24391, 2 cars, 183 tons
Oriented Strand Board, STCC 24991, 336 cars, 31,532 tons

Total: 609 cars, 55,296 tons.

The Salt Lake City area is also served by the Burlington Northern and Santa Fe Railroad and numerous major highways are available to potential shippers including but not limited to Interstates 80, 15, and 215.

V.

REASONS FOR THE ABANDONMENT AND DISCONTINUANCE

The abandonment will have no adverse effect on shippers on the Line.

There is no reasonable alternative to the abandonment. It is apparent that the area of Salt Lake City serviced by the Line is actively undergoing a fundamental change away from industrial use, so UP is of the reasoned opinion that there is little possibility, if any, that a significant new rail-oriented industry would locate on the Line. The Line has not been a route for overhead traffic and is not in service at the present time.

Since there are no longer any customers located on the Line, there will be no adverse impact from the proposed abandonment. Burton Lumber is now utilizing UP service at another location in Salt Lake City. Harbison Walker chose to relocate to a location in Salt Lake City that is not rail served. The Salt Lake City and Salt Lake County areas are also served by the Burlington Northern and Santa Fe Railroad and numerous major highways are available to potential shippers including but not limited to Interstates 80, 15, and 215.

While UP does not believe the property is generally suitable for public roads or highways, conservation uses and/or energy production or transmission uses, given the fact that UTA has acquired ownership of the Line indicates to UP that UTA does have potential uses for all or portions of the Line as part of UTA's future mass transportation program. This area is adequately served by existing roads and utility lines at the present time.

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

VI.

REASONABLE ALTERNATIVE: VIABILITY

There appears to be no reasonable alternative to the abandonment. There will be no adverse effect on the former shippers on the Line in that they have all ceased using the Line. Given the absence of current rail activity and the low probability of any future business, abandonment is warranted. While UP does not believe the property is generally suitable for public roads or highways, conservation uses and/or energy production or transmission uses, given the fact that UTA has acquired ownership of the Line indicates to UP that UTA does have potential uses for all or portions of the Line as part of UTA's future mass transportation program. This area is adequately served by existing roads and utility lines at the present time.

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 2.74 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, in that the former shippers on the Line have chosen either to cease or to transfer their shipping operations to truck or other rail lines on the UP and has therefore eliminated all potential for rail freight activity on the Line.

VIII.

LAND AREA, FEDERAL GRANT INFORMATION, AND PUBLIC USE

The Line is generally fifty (50) feet in width and is adjacent to very good agricultural land and passes through several small towns. The topography of the land is mostly level to slightly hilly.

While UP does not believe the property is generally suitable for public roads or highways, conservation uses and/or energy production or transmission uses, given the fact that UTA has acquired ownership of the Line indicates to UP that UTA

does have potential uses for all or portions of the Line as part of UTA's future mass transportation program. This area is adequately served by existing roads and utility lines at the present time. Given the customer relocations, there will be no effect on regional or local transportation systems or patterns. There will be no diversion to other modes or systems.

At this time, UP knows of no historic sites or structures or archeological resources on the Line or in the project area. **Attachment 1** hereto indicates that there are no structures on the Line which are over fifty (50) years old. UP believes that there is nothing in the scope of the project that merits historical comment and that any archeological sites within the scope of the right-of-way would have previously been disturbed during the construction and maintenance of the Line. In that the Line is currently owned by the UTA and will not be removed as a result of this abandonment, there is no potential for historic sites, structures or archeological resources to be disturbed as a result of the proposed petition to abandon.

Based on information in UP's possession, the Line does not contain federally granted right-of-way. Any documentation in UP's possession concerning the Line and this Petition for Exemption will be made available 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 (the "CEHR") which was served on October 21, 2004. A copy of the CEHR transmittal letter is attached hereto as **Attachment 2**. The original and ten (10) copies of the CEHR were sent to Ms. Victoria Rutson, Section of Environmental Analysis, on October 20, 2004, for filing.

Subsequent to the filing of the combined CEHR no additional letters were received by UP from any federal, state or local governmental agency concerning any conditions to be imposed on the abandonment.

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 3rd day of March, 2005.

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., Senior 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.

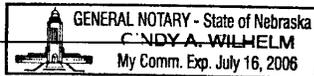
Dated at Omaha, Nebraska, this tenth day of January, 2005.


Raymond E. Allamong, Jr.

SUBSCRIBED AND SWORN TO
before me this tenth day of
January, 2005.


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. 195X) 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

Public Service Commission of Utah
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84111

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

Salt Lake County Council
2001 South State Street, Suite N2100
Salt Lake City, UT 84190-0001

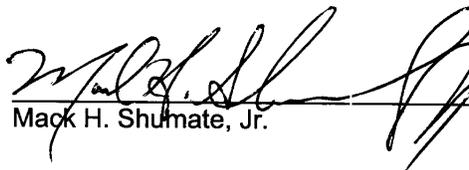
U.S. Department of Agriculture
Chief of the Forest Service
4th Floor NW, Auditors Building
14th Street & Independence Ave., S.W.
Washington, D.C. 20250

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>
Salt Lake	<i>Salt Lake Tribune</i>	February 11, 2005

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 3rd day of March, 2005.


Mack H. Shumate, Jr.

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

STB No. AB-33 (Sub-No. 195X)
Notice of Petition for Exemption to Abandon or
to Discontinue Service

On March 4, 2005, 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 over the Sugar House Branch from milepost 0.0 near Roper to the end of the branch at milepost 2.74 near Sugar House, a distance of 2.74 miles in Salt Lake City, Salt Lake County, Utah (the "Line"). The Line traverses through U.S. Postal Zip Codes 84106, 84115 and 84119. There are no shippers on the Line that will be adversely affected by the proposed abandonment. The Line for which the abandonment and discontinuance exemption request was filed includes the station at Sugar House, Salt Lake County, Utah near milepost 2.74.

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).

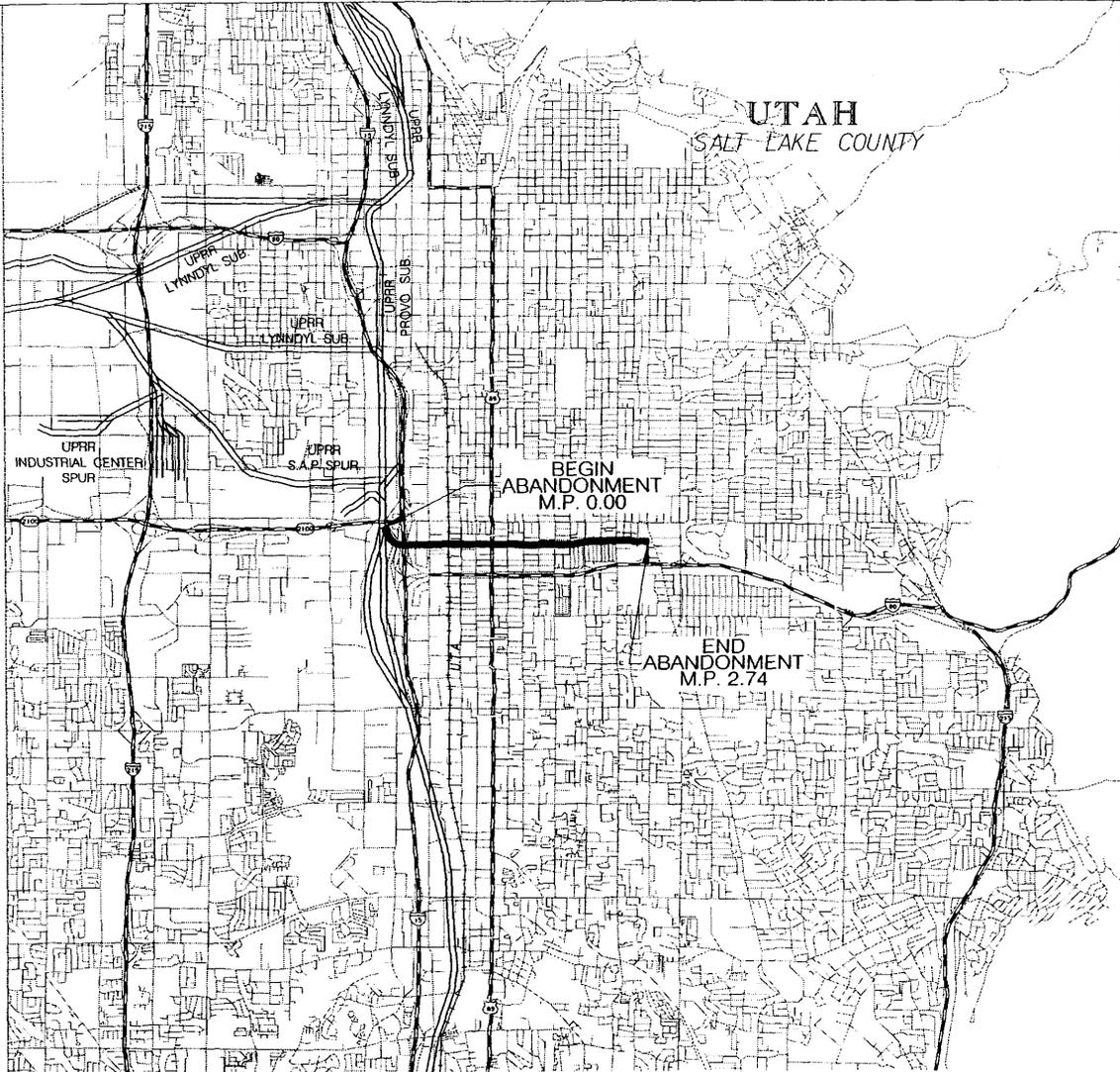
Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

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.

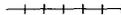
Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR Part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis,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



NOTE: THERE ARE NO 50+ YEAR OLD STRUCTURES

LEGEND

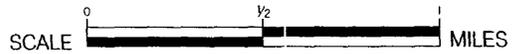
-  UPRR LINES TO BE ABANDONED (OWNED BY UTAH TRANSIT AUTHORITY)
-  OTHER UPRR LINES
-  OTHER RAILROADS
-  PRINCIPAL HIGHWAYS
-  OTHER ROADS
-  50+ YEAR OLD STRUCTURES

SUGAR HOUSE BRANCH

MP 0.0 TO MP 2.74
TOTAL OF 2.74 MILES
IN SALT LAKE COUNTY, UTAH

UNION PACIFIC RAILROAD CO.

SUGAR HOUSE BRANCH
SALT LAKE CITY, UTAH
INCLUDING 50+ YEAR OLD STRUCTURES





October 20, 2004

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. 195X), Union Pacific Railroad Company
- Abandonment Exemption - In Salt Lake County, Utah from M.P. 0.0 to
M.P. 2.74 (Sugar House Branch)**

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 Petition for Exemption in this matter on or after November 10, 2004.

Sincerely,

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

Enclosures

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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