

STATE OF UTAH  
OFFICE OF THE ATTORNEY GENERAL



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DEC 8 2005

Part  
Public Record

December 8, 2005

215 322

Secretary  
Surface Transportation Board  
1925 K Street, NW  
Washington, D.C. 2006

Attn:

Re: Petition to Reopen Abandonment  
Docket No. AB-33 (Sub No. 55)



Dear Sir or Madam:

Enclosed herewith is the original Petition to Reopen Abandonment along with 10 copies. We are enclosing a CD containing copies of the petition and exhibits. It is our understanding from a telephone conversation with Rudy Saint-Louis that we do not need to provide hard copies of the exhibits if they are contained on the CD.

I have been told that the filing fee is waived because I am submitting the petition on behalf of the State of Utah, Department of Natural Resources, Division of Parks and Recreation. Additionally, the STB's website did not provide any service list for this matter. Please see the attached mailing certificate and let me know if the petition should be served upon any additional persons.

Please file this petition with the Board and call if anything further is needed at (801) 538-7227. Thank you for your assistance in this matter

Sincerely,

Heather B. Shilton  
Assistant Attorney General  
Division of Parks and Recreation

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Office of Proceedings

DEC 9 2005

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Public Record

215322



**BEFORE THE SURFACE TRANSPORTATION BOARD**

**DOCKET NO. AB-33 (SUB-NO. 55)**

**UNION PACIFIC RAILROAD COMPANY--ABANDONMENT--  
BETWEEN ECHO AND PARK CITY AND  
BETWEEN KEETLEY JUNCTION AND PHOSTON,  
IN WASATCH AND SUMMIT COUNTIES, UTAH**

**STATE OF UTAH, DIVISION OF PARKS AND RECREATION'S  
PETITION TO REOPEN, PARTIALLY VACATE, AND REISSUE OR MODIFY  
CERTIFICATE OF INTERIM TRAIL USE**

The State of Utah, Division of Parks and Recreation ("DPR") files this Petition to Reopen pursuant to the National Trail Systems Act ("Trail Act"),<sup>1</sup> and the Certificate of Interim Trail Use ("CITU").<sup>2</sup> Reopening is necessary because of substantially changed circumstances.

Specifically, Wasatch and Summit Counties' ("Counties") current economic development plan envisions the abandonment of two portions of the railroad right-of-way known as the "Ontario Branch"<sup>3</sup> ("subject right-of-way"). The first portion is located in Wasatch County, from railroad station 82 + 58 (county border), to railroad station 136 + 51 (section line). The second portion,

<sup>1</sup> 49 C.F.R. § 1152.29(c)(2).

<sup>2</sup> On February 13, 1989, the Interstate Commerce Commission and served a Decision and CITU stating, "If the user intends to terminate trail use, it must send the Commission a copy of this certificate and request that it be vacated on a specific date." A copy of the CITU is attached as Exhibit No. 1.

<sup>3</sup> See UP survey dated September 15, 1924, Drawing Number 43110, Profile Number 5042. A digital copy of the survey on CD is included as Exhibit No. 2.

located in Summit County, is from railroad station 0.00 (Keetley Junction) to railroad station 33 + 28 (property boundary between United Park City Mines and Sticking Mayflower). The Division intends to continue operating the remaining portion of the subject right-of way in Summit County from railroad station 33 + 28 to railroad station 82 + 58. Union Pacific Rail Road ("UP"), adjacent landowners United Park City Mines and Deer Meadow Preserve, LLC., elected officials, and other interested persons do not object to vacating portions of the subject right-of-way.<sup>4</sup>

Therefore, to accommodate local community interests and the Counties' economic development plans, DPR respectfully requests that the Board expedite this petition and immediately: (1) Reopen the above captioned abandonment proceeding; (2) Partially vacate the CITU for the subject right-of-way from railroad station 82 + 58 to railroad station 136 + 51, and railroad station 0 + 0 to railroad station 33 + 28; and (3) Reissue or modify the CITU, permitting the Division to remain as trail operator for the remaining portion of the subject right-of-way, from railroad station 33 + 28 to 82 + 58, and the "Park City Branch" right-of-way from milepost -0.2 to milepost 26.88.

#### **BACKGROUND**

On December 29, 1988, UP applied to abandon the 27.6 mile Park City Branch between milepost -0.2 near Echo and milepost 27.4 near Park City; and the 2.5 mile Ontario Branch between milepost 0.0 near Keetley Junction and milepost 2.5 near Phoston. DPR and the Park City Municipal Corporation filed a request for issuance of a CITU covering the entire Ontario

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<sup>4</sup> Letters of support are attached as Exhibit No. 3.

Branch and a portion of the Park City Branch between milepost -0.2 and milepost 26.88 (excluding the portion of the Park City branch between mileposts 26.88 and 27.4). No protests were filed.

On February 13, 1989, the Interstate Commerce Commission ("ICC") issued a Decision and CITU, subject to a public use condition barring UP from disposing of the right-of-way.

On March 13, 1989, the ICC modified its decision and vacated the public use condition because UP agreed to convey ownership of and management responsibility for the subject right-of-way to DPR for interim trail use. Thereafter, DPR acquired UP's fee interest in the rail corridor by Quit Claim Deed.

The Quit Claim Deed conveying ownership of the subject right-of-way to DPR specifically states that DPR must use the right-of-way consistent with Board's decisions and the Trail Act, and preserve the corridor for "future restoration of rail service." But the Counties' economic development plans envision altering the right-of-way, which will prohibit restoration of rail service. The plans provide for a major highway intersecting the right-of-way in several places, and residential and commercial development requiring the relocation and realignment of the right-of-way.

DPR and the Counties share similar objectives: to improve, operate, and maintain public, non-motorized recreation trails, and to connect the Rail Trail to the Jordanelle Basin area. The Counties have acquired the adjacent landowners' property interests to the two portions of the subject right-of-way DPR petitions to vacate. If the Board grants this petition, DPR will transfer

its property interests and maintenance responsibilities for the two portions of the trail to the Counties, who will then relocate, realign and connect the trails to the established trail system.<sup>5</sup>

Therefore, DPR hereby requests that the Board expedite its petition, and pursuant to 49 C.F.R. § 1152.29(c)(2), reopen the abandonment proceeding, partially vacate the CITU, and reissue or modify the CITU as described herein, effective on or before December 15, 2005.

Dated this 8 day of December, 2005.

UTAH ATTORNEY GENERALS OFFICE



Heather B. Shilton  
Assistant Attorney General  
Division of Parks and Recreation  
1594 West North Temple, #300  
Salt Lake City, UT 84116  
(801) 538-7227

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<sup>5</sup> Copies of MOUs setting forth DPR and the Counties' shared objectives and responsibilities for trail development and operation are attached as Exhibit No. 4.

**CERTIFICATE OF SERVICE**

I do hereby certify that on the 9th day of December, 2005, I served a true and correct copy of the foregoing STATE OF UTAH, DIVISION OF PARKS AND RECREATION'S PETITION TO REOPEN, PARTIALLY VACATE AND REISSUE CERTIFICATE OF INTERIM TRAIL USE" by first class, U.S. Mail, postage prepaid to the following:

Thomas L. Low  
Wasatch County Attorney  
805 West 100 South  
Heber City, UT 84032

Robert W. Adkins  
Summit County Attorney  
P.O. Box 128  
Coalville, UT 84017

Robert T. Opal  
Union Pacific Railroad  
1400 Douglas Street, Stop 1580  
Omaha, NE 68179-1580

  
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