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

June 8, 2006



**VIA UPS NEXT DAY AIR**

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

ENTERED  
Office of Proceedings

JUN 12 2006

Part of  
Public Record

Attention: Victoria Rutson

**RE: Proposed Abandonment of the El Dorado Subdivision from Milepost 457.0 near Gilcrest to Milepost 460.6 near El Dorado Junction, a distance of 3.6 miles in Ouachita County, Arkansas; STB Docket No. AB-33 (Sub-No. 222X)**

Dear Ms. Rutson:

Union Pacific Railroad Company ("Union Pacific") has received a request from Michael W. Frey, Esq. representing the City of Camden, Arkansas requesting the issuance of a Certificate or Notice of Interim Trail Use pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 regarding that portion of the Union Pacific's right-of-way known as the El Dorado Subdivision from M. P. 457.0 near Gilcrest to M. P. 460.6 near El Dorado Junction, a distance of 3.62 miles in Ouachita County, Arkansas (the "Line").

The Union Pacific is willing to negotiate with the City of Camden concerning the acquisition of the subject property for trail use and supports the City's request to negotiate for a period of 180 days. A copy of the City's request is attached hereto as Exhibit "A" and hereby made a part hereof.

Ten (10) additional copies of this letter with exhibits are enclosed for the Board's use and distribution.

Sincerely yours,

Mack H. Shumate, Jr.

Enclosures

# MICHAEL W. FREY

Attorney and Counselor at Law  
119 Van Buren NW  
Camden, AR 71701

Telephone: (870) 836-0481  
Facsimile: (870) 836-5711  
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Please reply to:  
P.O. Box 715  
Camden, AR 71711-0715

7 June 2006

*Via fax: (312) 777-2065*

Mr. Mack H. Shumate, Jr.  
Union Pacific Railroad Company  
101 North Wacker Drive, Room 1920  
Chicago, Illinois 60606

**RE: *Docket Number AB-33 (Sub-No. 222X  
Union Pacific Railroad Company  
Abandonment Exemption in Ouachita County, Arkansas***

Dear Mr. Shumate:

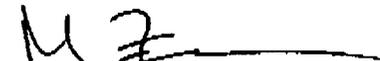
I am the City Attorney for Camden, Arkansas. The City is seeking to be designated as an Interim Trail User in the above abandonment case.

Pursuant to my conversations with Ray Allamong, please find following drafts of the City's Request for your review and consideration. I would appreciate any guidance or comments you may provide. The first is a letter request that follows the format outlined by the STB. The second is an actual Request for filing with the STB.

I am available to discuss how to proceed at any time convenient for you.

Thank you for your time and consideration.

Very truly yours,

  
Michael W. Frey  
Attorney at Law

MWF

CC: Ray Allamong  
Kristian Ehrhorn



# MICHAEL W. FREY

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7 June 2006

Vernon A Williams, Secretary  
Surface Transportation Board  
Washington, D.C. 20423-0001

**RE: *Union Pacific Railroad Company  
Abandonment in Ouachita County, Arkansas  
Docket Number AB-33 (Sub-No. 222X)***

Dear Secretary Williams:

This request is filed on behalf of the City of Camden, Arkansas, which is a political subdivision, hereinafter referred to as "proponent".

Proponent requests issuance of a Public Use Condition as well as an Interim Trail Use Condition rather than an outright abandonment authorization between milepost 457.0 to milepost 460.6 of the El Dorado Subdivision in Ouachita County, Arkansas.

## **A. Request For Public Use Condition**

Proponent asks the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An Order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. Justification for this condition is that the rail corridor will make an excellent recreational trail and conversion of the property to trail use is in accordance with local plans. The proponent has recently constructed a harbor, marina and park on the Ouachita River that will join the proposed trail. The time period sought is 180 days from the effective date of the abandonment authorization. Proponent needs this much time to review title information, complete a trail plan and begin negotiations with the carrier.

2. An Order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reasons stated hereinabove.

**B. Request For Interim Trail Use**

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, proponent also makes the following request:

**STATEMENT OF WILLINGNESS TO ASSUME  
FINANCIAL RESPONSIBILITY**

In order to establish interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 CFR §1152.29, the proponent is willing: to indemnify Union Pacific Railroad Company from any potential liability arising from the use of the right-of-way; to assume full responsibility for management of the right-of-way; and, to assume full responsibility for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by Union Pacific Railroad Company.

The property, known as the El Dorado Subdivision, extends from railroad milepost 457.0 near Gilcrest, to railroad milepost 460.6 near El Dorado Junction, a distance of 3.6 miles in Ouachita County, Arkansas. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-33 (Sub-No. 222X).

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

The proponent 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 Railroad Company, c/o Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, Illinois 60606, by U.S. Mail, postage pre-paid, first class, this 7<sup>th</sup> day of June, 2006.

Respectfully submitted,

Michael W. Frey  
City Attorney

On behalf of  
The City of Camden, Arkansas

MWF

CC: Mr. Mack H. Shumate, Jr., Representative for Union Pacific Railroad Company  
Mayor Chris Claybaker

# MICHAEL W. FREY

Attorney and Counselor at Law  
119 Van Buren NW  
Camden, AR 71701

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Please reply to:  
P.O. Box 715  
Camden, AR 71711-0715

7 June 2006

Vernon A Williams, Secretary  
Surface Transportation Board  
Case Control Unit, Suite 713  
1925 K Street NW  
Washington, D.C. 20423-0001

**RE: Docket Number AB-33 (Sub-No. 222X  
Union Pacific Railroad Company  
Abandonment Exemption in Ouachita County, Arkansas**

Dear Mr. Williams:

I am the City Attorney for Camden, Arkansas. Please find enclosed an original and ten copies of a Request for Issuance of a Notice of Interim Trail Use for filing with the Board in the above referenced matter. It is my understanding that the filing fee is waived pursuant to 49 C.F.R. §1002.2. A copy is also herewith being served on the applicant's representative.

Thank you for your time and consideration. Please advise if anything further is required.

I will await further directives from the Board.

Very truly yours,

Michael W. Frey  
Attorney at Law

MWF

CC: Mr. Mack H. Shumate, Jr., Representative for Union Pacific Railroad Company  
Mayor Chris Claybaker

**BEFORE THE SURFACE TRANSPORTATION BOARD**

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**Docket No. AB-33 (Sub-No. 222X)**

**UNION PACIFIC RAILROAD COMPANY  
-- ABANDONMENT EXEMPTION --  
IN OUACHITA COUNTY, ARKANSAS  
(EL DORADO SUBDIVISION)**

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**REQUEST FOR INTERIM TRAIL USE  
and  
STATEMENT OF WILLINGNESS TO ASSUME  
FINANCIAL RESPONSIBILITY**

**Submitted by the City of Camden, Arkansas as Interim Trail User**

Pursuant to 49 CFR Section 1152.29 (a), the City of Camden, Arkansas ("City") hereby requests that the Board issue a Notice of Interim Trail Use (NITU) authorizing the City to negotiate with the Union Pacific Railroad Company (UP) during a 180 day period for rail banking and interim recreational trail use of the right of way involved in this proceeding as well as the potential acquisition of the property in fee.

In order to establish interim trail use and rail banking under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, the City is willing to assume full responsibility for any potential legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against, the right-of-way owned by UP and operated by UP.

The property, known as the El Dorado Subdivision, extends from railroad milepost 457.0 near Gilcrest, to railroad milepost 460.6 near El Dorado Junction, a distance of 3.6 miles in Ouachita County, Arkansas. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-33 (Sub-No. 222X).

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

The City of Camden 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.

Respectfully Submitted,  
The City of Camden, Arkansas

By:

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Michael W. Frey  
City Attorney  
P.O. Box 715  
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