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



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JAN 28 2008
SURFACE
TRANSPORTATION BOARD

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January 28, 2008

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Part of
Public Record

VIA E-Filing

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

Re: Proposed Abandonment of the Chesterville Industrial Lead from M. P. 52.9 near Chesterville to M. P. 61.2 near Eagle Lake, a distance of 8.3 miles in Colorado and Wharton Counties, Texas; STB Docket No. AB-33 (Sub-No. 253X)

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. 253X). Enclosed is a credit authorization voucher in the amount of \$3,200.00 for the filing fee.

Sincerely yours,

Mack H. Shumate, Jr.

Enclosures

O:\Abandonments\33-253X\STB-Not-Ltr.doc

bcc: w/ Enclosures

Ray Allamong, Mailstop 1350
Lynda Prucha, Mailstop 1580
Joe Bateman, Mailstop 1560
Mark Jensen, Mailstop 1690
Gregg Larsen, Mailstop 1690

Before the
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 253X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN COLORADO AND WHARTON COUNTY TEXAS
(CHESTERVILLE INDUSTRIAL LEAD)

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

Dated: January 28, 2008
Filed: January 29, 2008

Before the
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 253X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN COLORADO AND WHARTON COUNTY, TEXAS
(CHESTERVILLE INDUSTRIAL LEAD)

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 Chesterville Industrial Lead from Milepost 52.9 near Chesterville to Milepost 61.2 near Eagle Lake, a distance of 8.3 miles in Colorado and Wharton Counties, Texas (the "Line").

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

The abandonment is proposed to be consummated on or after March 19, 2008 (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 either is pending with this Board or any U.S. District Court or

has been decided in favor of the complainant within the two-year period. UP further certifies that there is no overhead traffic on the Line.

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 52.9 near Chesterville to Milepost 61.2 near Eagle Lake, a distance of 8.3 miles. The Line is located in Colorado and Wharton Counties, Texas.

(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 Codes 77434 and 77435.

(e)(4) **Rural and Community Impact.** The Line was originally constructed by the San Antonio and Aransas Pass Railway in 1889 and 1890. The Line is currently comprised of a combination of 113, 114 and 119 pound jointed rail put down in 1984.

UP's interest in the Line consists of a retained railroad operating easement over the track and right-of-way owned by the Metropolitan Transit Authority of Harris County, Texas ("METRO"). METRO has no common carrier obligation. UP is only abandoning its retained railroad operating easement to provide the common carrier service on this segment as retained in UP's previous sale to METRO.

The abandonment of the Line will have no adverse effect on shippers. The Line is in poor condition and freight shipping activity by railroad has been relocated off the Line. There is no industrial relocation proposed or foreseen on the Line that could produce rail traffic sufficient to justify the required rehabilitation of the Line. There is no overhead traffic on the Line. After abandonment, the sole station on the Line Chesterville, will be equidistant approximately eight (8) miles, from the BNSF Railway Company at Wallis, Texas and the UP at Eagle Lake, Texas. Chesterville lies on county roads 2764 and 1093. Road 2764 connects to Alternate U. S. 90 approximately four miles south; Road 1093 runs southwestward approximately five miles to Eagle Lake. Interstate 10, the major highway in the area, lies approximately 15 to 20 road miles from Chesterville depending on the route chosen.

It is possible the Line could be suitable for interim trail use. Otherwise, UP does not believe the property is suitable for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission, in that the area is adequately served by existing roads and utility lines. Based on information in UP's possession, the Line does not contain federally granted right-of-way. Any documentation 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 November 2, 2007. The State Historic Preservation Officer was supplied with photos of the bridge structure that were fifty (50) years old or older at that time. In response, the State Historic Preservation Officer by stamped letter dated March 12, 2007, determined that no historic properties were affected by the proposed abandonment and that the project could proceed. A copy of this letter was included with the UP Combined Environmental and Historic Report filed on November 5, 2007.

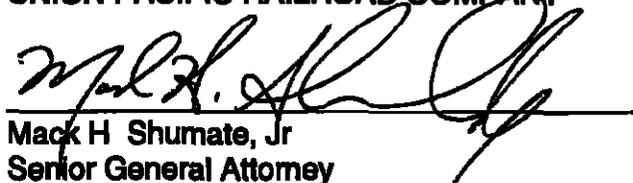
Attached hereto as **Exhibit D** and hereby made a part hereof is a letter from the Department of the Army, Corps of Engineers dated October 25, 2007 and received by UP on November 6, 2007. In part, this letter recommends that a wetland delineation be

performed for the project area involving the West Bernard Creek. I contacted Mr. Cris Wrbas as directed in the letter and informed him that the UP had already sold the Line including the track structure to METRO and that the abandonment only involves UP's remaining freight easement in the Line and that UP will not salvage any portion of the Line. Mr. Wrbas indicated that a wetland delineation is only required if the Line is to be salvaged or modified in some way that could cause a discharge of dredge or fill material into the West Bernard Creek. Therefore, UP respectfully requests that the Board condition the requested authority to abandon the Line regarding the Army Corps of Engineers' recommendation for a wetland delineation only if UP salvages all or any portion of the Line. In that UP has transferred all of its right, title and interest in the real property and track structure to METRO, subject only to the freight easement for operations, UP has no right to perform any salvage activities on the Line

Dated this 28th day of January, 2008.

Respectfully submitted,

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



BRIDGE NO.	BRIDGE TYPE	TOTAL LENGTH	DATE
0230	21 SPAN RAIL TIMBER PILE TRUSS/LE OPEN DECK (1900)	87	1948
0430	3 SPAN RAIL TIMBER PILE TRUSS/LE OPEN DECK (1900)	37	1948
0737	3 SPAN RAIL TIMBER PILE TRUSS/LE OPEN DECK (1900)	47	1948
0830	1 SPAN RAIL TIMBER PILE TRUSS/LE OPEN DECK (1900)	87	1948
0870	1 SPAN RAIL TIMBER PILE TRUSS/LE OPEN DECK (1900)	17	1948

- LEGEND**
- UPRR LINES TO BE ABANDONED
 - OTHER UPRR LINES
 - OTHER RAILROADS
 - RAILROADS (abandoned)
 - PRINCIPAL HIGHWAYS
 - OTHER ROADS
 - 50+ YEAR OLD STRUCTURES

CHESTERVILLE INDUSTRIAL LEAD

MP 52.9 TO MP 61.2
 8.0 MILES IN COLORADO COUNTY
 0.3 MILES IN WHARTON COUNTY
 TOTAL OF 8.3 MILES

**UNION PACIFIC RAILROAD CO
 CHESTERVILLE INDUSTRIAL LEAD
 TEXAS**

INCLUDING 50+ YEAR OLD STRUCTURES



FILE: G:\abandonment\stab0253_Chesterville_v8.dgn MODEL: abandonment DATE: 05-Feb-07 08:04

**DOCKET NO. AB-33 (SUB-NO. 253X)
Chesterville Industrial Lead in Colorado and Wharton Counties, Texas**

CERTIFICATE OF SERVICE AND PUBLICATION

49 C.F.R. § 1152.50(d)(1) - Notice

The undersigned certifies that on December 10, 2007 (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 and discontinue service on the Chesterville Industrial Lead from Milepost 52.9 near Chesterville to Milepost 61.2 near Eagle Lake, a distance of 8.3 miles in Colorado and Wharton Counties, Texas in Docket No. AB-33 (Sub-No. 253X). Written notice (a copy of which is attached hereto as Attachment 1) was served on the following:

Public Utility Commission
of Texas
1701 North Congress Avenue
PO Box 13326
Austin, Texas 78711-3326

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

National Park Service
Intermountain Region
12795 Alameda Parkway
Denver, CO 80228

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

49 C.F.R. § 1105.11 -

The undersigned certifies that on November 2, 2007 (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. 253X) for

abandonment and discontinuance of the Chesterville Industrial Lead in Colorado and Wharton Counties, Texas 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 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>
Colorado	<i>Columbus Banner Press</i>	December 27, 2007
Wharton	<i>El Campo Leader-News</i>	December 26, 2007

Dated this 28th day of January, 2008.


Mack H. Shumate, Jr.



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

COPY

November 2, 2007

VIA UPS OVERNIGHT

Surface Transportation Board
Section of Environmental Analysis
395 E Street, S.W., Room 1149
Washington, DC 200024

Attention: Victoria Rutson

Re: Proposed Abandonment of the Chesterville Industrial Lead from M. P. 52.9 near Chesterville to M. P. 61.2 near Eagle Lake, a distance of 8.3 miles in Colorado and Wharton Counties, Texas; STB Docket No. AB-33 (Sub-No. 253X)

Dear Ms. Rutson:

Enclosed for filing in the above-referenced docket are 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 an Application for Abandonment in this matter on or after November 26, 2007.

Sincerely yours,

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

Enclosures

O:\ABANDONMENTS\33-253X\EHRLetter.doc



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1228
GALVESTON TX 77553-1228

October 25, 2007

REPLY TO
ATTENTION BY:

Compliance Section

SUBJECT: SWG-2007-350; Jurisdictional Determination, Proposed Railroad Abandonment in Wharton and Colorado Counties, Texas

Mr. Charles W. Saylor
1400 Douglas Street
Mail Stop 1580
Omaha, Nebraska 68179

Dear Mr. Saylor:

This office received the February 8, 2007, request for a jurisdictional determination for abandonment of an existing railroad corridor. The project area is located from M.P. 52.9 near Chesterville to M.P. 61.2 near Eagle Lake, a distance of 8.3 miles in Wharton and Colorado Counties, Texas.

Based on our review of the 2004 Eagle Lake and Lissie infrared aerial photographs, the Eagle Lake USGS topographical map, the USFWS National Wetland Inventory map, and your submitted information, we have determined that the project area contains waters of the United States subject to our jurisdiction. Specifically, West Bernard Creek a tributary of the San Bernard River located within the project area. Additionally, there appears to be contiguous and adjacent wetlands of this tributary within the project site. The placement of fill into this tributary and wetlands is subject to Section 404 of the Clean Water Act (CWA). Section 404 of the CWA regulates the discharge of dredge and/or fill material into any waters of the United States, including adjacent wetlands. It is recommended that a wetland delineation be performed on the above referenced project area and submitted to our office for review prior to any work being performed.

This determination has been conducted to identify the limits of USACE CWA jurisdiction for the particular site identified in this request. However, this determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

This letter contains an approved jurisdictional determination for your subject site. Please see the enclosed sheets regarding the administrative appeal process for jurisdictional determinations: Notification of Appeals Process (NAP) fact sheet and Request for Appeal (RFA) form. If you object to this determination, you may request an administrative appeal under USACE regulations

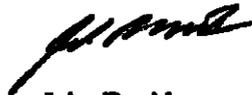
at 33 CFR Part 331. If you request to appeal this determination, you must submit a completed RFA form to the Southwest Division Office at the following address:

Mr. James Gilmore
Appeal Review Officer, CESWD-BTO-R
U.S Army Corps of Engineers
1100 Commerce Street, Room 8E9
Dallas, Texas 75242-0216
(Telephone: 469-487-7061; FAX: 469-487-7190)

In order for an RFA to be accepted by USACE, USACE must determine that it is complete, meets the criteria for appeal under 33 CFR Part 331.5, and has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **December 24, 2007**

This approved jurisdictional determination is valid for five years from the date of this letter unless new information warrants a revision prior to the expiration date. If you have questions concerning this matter, please reference file number **SWG-2007-350** and contact Mr. Chris Wrbas at the letterhead address or by telephone at 409-766-3089.

Sincerely,



John Davidson
Unit Leader

Enclosures