



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

May 15, 2008

Via E-Filing

Ms. Anne Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20024

RE: Proposed Abandonment of the Millard Industrial Lead, from Milepost 19.4 to Milepost 22.85, STB Docket No. AB-33 (Sub-No. 260X)

PARTIAL CONCURRENCE FOR INTERIM TRAIL USE

Dear Ms. Quinlan:

The Union Pacific Railroad Company, ("Union Pacific"), has received a request from the Nebraska Trails Foundation, Inc. of Lincoln County, Nebraska, ("NTF"), for a 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 Millard Industrial Lead extending from Milepost 22.85, in Omaha, to Milepost 19.4, in La Vista, a total distance of approximately 3.45 miles in Douglas and Sarpy Counties, Nebraska (the "Line").

The Union Pacific does not concur with the Notice of Interim Trail Use regarding that portion of the Line from Milepost 22.1 to Milepost 22.85 in Omaha, Nebraska.

Therefore, Union Pacific is only willing to negotiate with NTF concerning trail use and supports the NTF's request to negotiate for a period of 180 days with respect to that portion of the Line from Milepost 19.4 in LaVista to Milepost 22.1 in Omaha. A copy of the NTF's request dated May 6, 2008, is attached hereto as Exhibit "A" and is hereby made a part hereof.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.", written over a vertical line that extends downwards from the signature.

Enclosures

cc: NTF

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Nebraska Trails Foundation, Inc.

1644 Woodsvew • Lincoln, NE • 68502-4649 • 402-420-5885

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MAY 15 2008

LAW DEPARTMENT
UNION PACIFIC RR CO.

May 6, 2008

Ann K. Quinlan, Secretary
Surface Transportation Board
395 E Street SW
Washington, DC 20423

RE: Surface Transportation Board, Docket No. AB-33 (Sub-No. 260X)
Union Pacific Railroad Company – Abandonment Exemption in Douglas
and Sarpy Counties, NE

Dear Ms. Quinlan:

Enclosed is a request for “Interim Trail Use” on the rail line cited above.
Also enclosed is a check for \$200 for the fee regarding this request.

This request is advanced by the Nebraska Trails Foundation, Inc. and
Nebraska’s Papio-Missouri Natural Resources District.

Thank you for your attention to this request.

Yours truly,

Ross Greathouse
for Nebraska Trails Foundation, Inc.
3901 South 27th Street
Lincoln, Nebraska 68502

Enclosures: 2

RG:cg





Nebraska Trails Foundation, Inc.

1644 Woodsvlew • Lincoln, NE • 68502-4649 • 402-420-5885

May 6, 2008

Ann K. Quinlan, Secretary
Surface Transportation Board
395 E Street SW
Washington, DC 20423

RE: Surface Transportation Board, Docket No. AB-33 (Sub-No. 260X)
Union Pacific Railroad Company – Abandonment Exemption in Douglas
and Sarpy Counties, NE

Dear Ms. Quinlan:

This comment should be treated as a protest or a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of Nebraska Trails Foundation, Inc., a non-profit organization interested in promoting trail development in the State of Nebraska, which is hereinafter referred to as “Commenter.” This is also being filed on behalf of the Papio-Missouri River Natural Resources District, 8901 South 154th Street, Omaha, Nebraska 68138.

Commenter takes no position on the propriety of discontinuance of current rail service, but Commenter does request issuance of a Notice of Interim Trail Use (NITU) rather than outright abandonment authorization. These comments pertain to the rail line of Union Pacific Railroad Company, with respect to the 3.45 mile portion of its Millard Industrial Lead, extending between Milepost 22.85 in Omaha, NE and Milepost 19.4 in LaVista, NE, in Douglas and Sarpy Counties, NE. The line traverses U.S. Postal Service Zip Codes 68128 and 68137 and includes no stations. The right-of-way is part of a line proposed for abandonment in Docket AB-33 (Sub-No 260X.)

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

A. Public Use Condition

Commenter requests the Surface Transportation Board find that this property is suitable for other public use, specifically trail use,

and to place the following condition on the abandonment:

1. Barring non-public disposition condition sought: *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: This corridor offers an excellent addition to commuter-recreation trails in the Metropolitan Omaha area. This right-of-way is part of the Master Plan for Trails as is shown on an attached map. It will connect the Millard area with LaVista and Papillion which leads to the West Papio Trail and on to the Keystone Trail. It will provide connections between neighborhoods, schools, and parks. It will also provide opportunities for off-street commuting.

The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time to coordinate efforts with local interest groups and to commence negotiations with the Carrier.

2. Preserving trail-related structures condition sought: *An order barring removal or destruction of trail-related structures such as bridges, culverts, ballast and rip/rap; but not removal of tracks, ties and signal equipment.*

Justification: Bridges, culverts, ballast and rip/rap have considerable value for and would certainly facilitate recreational trail purposes. On the other hand, such structures generally have a negative salvage value for a railroad, so their preservation poses no burden on interstate commerce.

The time period requested is 180 days from effective date of the abandonment authorization for the same reason indicated above.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for rail-banking in addition to the public use conditions sought above. Commenter also requests rail-banking and interim trail use. Commenter accordingly makes the following statement:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY.

In order to establish interim trail use and rail-banking under Section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) and 49 C.F.R. 1152.29, Nebraska Trails Foundation, Inc. and Papio-Missouri River Natural Resources District are willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the use is immune from liability, in which case it need only indemnify the Railroad against any potential liability,) and for payment of any and all taxes that may be levied or assessed against the right-of-way owned by the Union Pacific Railroad Company.

A map depicting right-of-way is attached.

The Nebraska Trails Foundation, Inc. and the Papio-Missouri River Natural Resources District acknowledge that use of the right-of-way is subject to the users 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 the statement is being served on the Railroad on the same date it is being served on the Commission.

By my signature below, I certify service on Mack H. Shumate, Jr., Senior General Attorney, Law Department, Union Pacific Railroad, 101 N. Wacker Dr., Rm 1920, Chicago, IL 60606-1718.

Surface Transportation Board
May 6, 2008
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Respectfully submitted,

A handwritten signature in black ink that reads "ROSS GREATHOUSE". The letters are written in a cursive, slightly slanted style.

Ross Greathouse
For Nebraska Trails Foundation, Inc.
3901 South 27th Street, Ste 29
Lincoln, Nebraska 68502

RG:cg

CC: Mack H. Shumate, Jr., UP
Gabriel S. Meyer, UP
Alissa Hackel, UP
Gerry Bowen, Papio-MO NRD
David Scoby, Nebr. Trails Fdn

