



City of Chicago
Richard M. Daley, Mayor

Department of Transportation

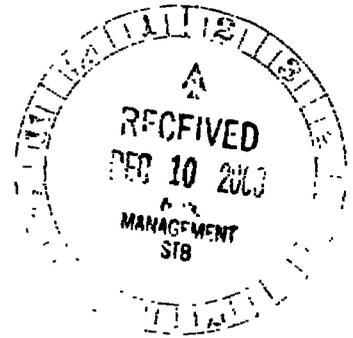
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24169

December 9, 2008

VIA OVERNIGHT MAIL AND E-FILING



Ms. Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Mack H. Shumate, Jr.
101 North Wacker Drive, Room 1920
Chicago, IL 60606

Re: Union Pacific Railroad Company--Abandonment Exemption and Discontinuance of Operations over the Weber Industrial Lead from Milepost 5.8 near Wilson Avenue, Chicago, to Milepost 9.5 near Touhy Avenue, Skokie, a Distance of 3.7 Miles in Cook County, IL; STB Docket No. AB-33 (Sub-No. 263X)

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 the City of Chicago, an Illinois municipal corporation, acting by and through its Department of Transportation ("Commenter").

While not taking a position on the merits of this abandonment, Commenter requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization for the portion of the Weber Industrial Lead traversing the City of Chicago from milepost 5.8 near Wilson Avenue to the border with the Village of Lincolnwood at approximately milepost 8.4 near Devon Avenue, a distance of approximately 2.6 miles (the "Corridor"). The Village of Lincolnwood has filed a similar trail use/rail banking request on the portion of the rail line traversing the village, and the City of Chicago intends to work with the Village of Lincolnwood to the extent possible to develop and connect the trail across jurisdictional boundaries.

A. Public Use Condition.

Commenter requests the Board to find that this Corridor is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

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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. The justification for this condition is that the City of Chicago has included the Corridor in its 1997 *Bicycle Facilities Development Plan* and in the forthcoming *Chicago Trails Plan*. The conversion of the Corridor to recreational trail use is also consistent with the *Greenways and Trails Plan* of the Chicago Metropolitan Agency for Planning, and the City has secured funds from that agency's FY 2009 program for right-of-way and engineering for the Corridor. The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time because we have not had an opportunity to assemble or to review title, appraisal and environmental information, complete a trail engineering plan or commence 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 reason as 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 makes the following request:

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, the City of Chicago is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by Union Pacific Railroad Company and operated by Union Pacific Railroad Company.

The Corridor extends from milepost 5.8 near Wilson Avenue to approximately milepost 8.4 near Devon Avenue, a distance of

approximately 2.6 miles, lying within the City of Chicago. The right-of-way is part of the Weber Industrial Lead proposed for abandonment in STB Docket No. AB-33 (Sub-No. 263X).

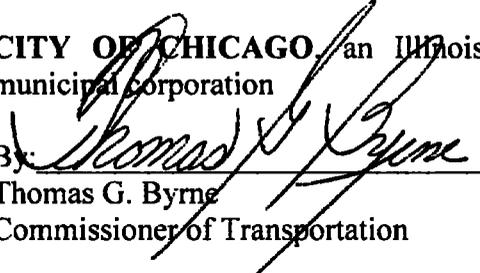
A map depicting the right-of-way is attached.

The City of Chicago 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. By my signature below, I certify service upon Union Pacific Railroad Company, Attn: Mack H. Shumate, Jr., 101 North Wacker Drive, Room 1920, Chicago, IL 60606, by U.S. Mail, postage prepaid, first class, this 9th day of December, 2008.

Pursuant to 49 C.F.R. § 1002.2(e)(1), the filing fee for this request is waived.

Respectfully submitted,

CITY OF CHICAGO, an Illinois
municipal corporation

By: 
Thomas G. Byrne
Commissioner of Transportation