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FILED

MAR 13 2006

**SURFACE
TRANSPORTATION BOARD**

12 March 2007

Memorandum to Secretary (Att: Ms. Barbara Saddler)
Surface Transportation Board
395 E Street, SW
WDC 20024 (Fed X delivery)

Re: City of Couer d'Alene -- Acquisition Exemption

From: Charles H. Montange



Enclosed for filing is another set of the City's Acquisition and Operation Exemption filing in F.D. 34890. This proceeding involves the same right of way "railbanked" pursuant to 16 U.S.C. § 1247(d) in Union Pacific Railroad -- Abandonment Exemption -- in Kootenai County, ID, AB 33 (Sub-no. 218X), served March 14, 2005. The City sought an exemption from the filing fee requirement under 49 C.F.R. § 1002.2(e)(1). This was denied. I understand that the City submitted the filing fee under separate cover inscribing the wrong proceeding number. Hopefully with this additional set, the pleading can be treated as properly filed, and we apologize for the confusion.

Although this is styled an exemption for acquisition and operation, the City is seeking authorization merely to acquire the regulatory right of reactivation. The City is not seeking to vacate the NITU, and the line at this time would remain in railbanked status.

I served copies of the pleading on Christine M. Smith, Assistant General Counsel for UP, and upon Mark Shumate, Jr., counsel for UP, under the original cover letter dated 22 December 2007.

Encls.

ENTERED
Office of Proceedings

MAR 13 2007

Part of
Public Record

218787



BEFORE THE SURFACE TRANSPORTATION BOARD

City of Coeur d'Alene
-- acquisition and operation exemption--
Union Pacific Railroad Company

Finance Docket 34980

Pursuant to 49 C.F.R. § 1150.31, et seq., City of Coeur d'Alene (Idaho) ("City") hereby gives notice of exemption to acquire and to operate (more specifically, to transfer the right to reactivate rail service for) Union Pacific Railroad Company's ("UP's") line between Milepost ("MP") 2.25 near Meyer Road to MP 7.50, near Beebe Boulevard, Coeur d'Alene, all in Kootenai County, Idaho.

The line in question has previously been authorized for abandonment or for interim trail use and railbanking in Union Pacific Railroad Company -- Abandonment Exemption -- in Kootenai County, ID, AB 33 (Sub-no. 218X), served March 14, 2005. The "Notice of Interim Trail Use" was subsequently extended through January 1, 2007. See id., served Sept. 8, 2006. UP and North Idaho Centennial Trail Foundation (NICTF) reached an interim trail use/railbanking agreement during the extension period, and the line in question has now been railbanked pursuant to 16 U.S.C. § 1247(d).

In BG & CM Railroad, F.D. 34399 & F.D. 34398, served Oct. 17, 2003, at ICC e-Library version p. 4, this Board indicated that transfer of the right to reactivate service over a line regulated under 16 U.S.C. § 1247(d) (interim trail use/railbanking) requires STB authorization. City of Coeur

d'Alene seeks to acquire the right to reactivate rail service over the line, and accordingly makes this notice of exemption to secure appropriate authorization.

As required by 49 C.F.R. § 1150.33, City makes the following representations:

(a) Full name and address of applicant: City of Coeur d'Alene, 710 E. Mullan Ave., Coeur d'Alene, ID 83814.

(b) Representative of applicant who should receive correspondence: Charles H. Montange, 426 NW 162d St., Seattle, WA 98177.

(c) Statement concerning status of agreement: An Agreement providing for the City to acquire the right to reactivate was approved by the City Council on December 19, 2006, and signed by the City on December 20, 2006. The agreement is currently effective, pending STB authorization of the transfer of the right to reactivate.

(d) Operator: City. However, the line is currently railbanked and City intends that the railbanking status be unaffected by this Notice.

(e) Summary.

(1) Name and address of railroad transferring the subject property: Union Pacific Railroad Company, 1400 Douglas Street, Mail Stop 1580, Omaha, NE 68179 Att: Christine M. Smith, Assistant General Counsel.

(2) The proposed time schedule for consummation of the transaction: City proposes to acquire the right to reactivate

upon the earliest effective date (30 days from filing of this notice of exemption) provided under 49 C.F.R. § 1152.32(b). City tenders this Notice for filing on December 26, 2006. Accordingly, City calculates an effective date of January 25, 2006.

(3) Mileposts of the subject property: Milepost ("MP") 2.25 near Meyer Road to MP 7.50, near Beebe Boulevard, Coeur d'Alene, all in Kootenai County, Idaho.

(4) Total route miles: 5.25.

(f) Map. See Exhibit A.

(g) Certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier. See Exhibit B.

Compliance with 49 C.F.R. § 1150.34 (caption summary). See Exhibit C.

Compliance with 49 C.F.R. § 1150.32(e). Inasmuch as expected revenue is projected to be substantially under \$5 million, no further compliance with the notice requirements of § 1150.32(e) is required.

Historic structures and compliance with 49 C.F.R. § 1150.32(d) (requirement that applicant preserve intact all sites and structures more than 50 years old). The line in question in this proceeding has been authorized for abandonment and railbanking. In this process, City understands that UP has complied with all requirements imposed by this Board to implement section 106 of the National Historic Preservation Act,

16 U.S.C. 470, in accordance with this Board's decisions. UP and NICTF closed on their railbanking transaction on December 21, so the line is now railbanked. Under the circumstances, City's ability to affect historic structures pursuant to transfer of the right to reactivate appears non-existent. City thus agrees that it will preserve all sites and structures more than 50 years old until completion of the section 106 process in the event it exercises its right to reactivate.

Verification. See Exhibit D.

Respectfully submitted,



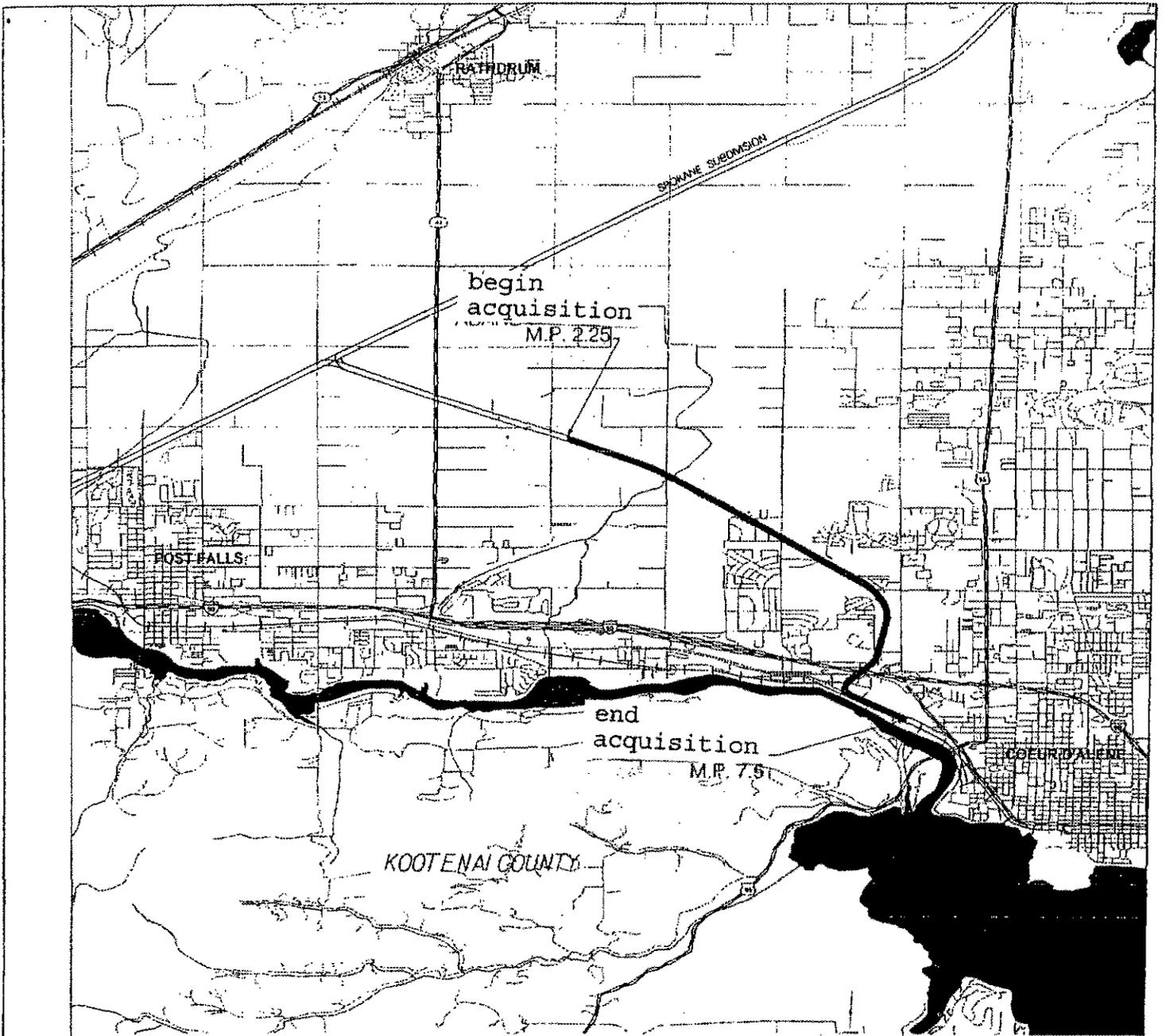
Charles H. Montange
426 NW 162d St.
Seattle, WA 98177
(206) 546-1936
for City of Coeur d'Alene

Att(s): Exhibit A -- Map
Exhibit B -- Revenue Certificate
Exhibit C -- Caption Summary
Exhibit D -- Verification

cc: Mack H. Shumate Jr.
Union Pacific R. Co.
101 North Wacker Drive, Room 1920
Chicago, IL 60606

Exhibit A

Map

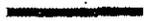
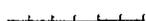


NOTE:
THERE ARE NO STRUCTURES +50

A TOTAL OF 5.25 MILES
IN KOOTENAI COUNTY, IDAHO

COEUR D'ALENE INDUSTRIAL LEAD
UNION PACIFIC RAILROAD CO.
COEUR D'ALENE INDUSTRIAL LEAD
FEELEY SPUR TO GIBBS, IDAHO

LEGEND

-  UPRR LINES TO BE ACQUIRED
-  OTHER UPRR LINES
-  OTHER RAILROADS
-  PRINCIPAL HIGHWAYS
-  OTHER ROADS



DATE: 09-Mar-04 08:51

Exhibit B

Revenue Certification

I, Michael C. Gridley, City Attorney, City of Coeur d'Alene, 710 E. Mullan Ave., Coeur d'Alene, ID 83814, hereby certify that expected annual revenues from this line will be well below the revenue limitations for a Class III railroad and are expected to be less than \$1 million per year.

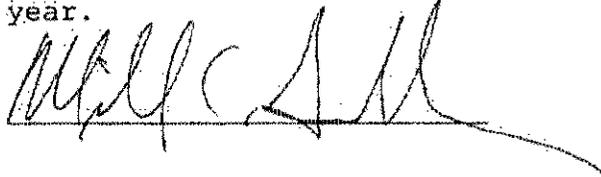
A handwritten signature in black ink, appearing to read "Michael C. Gridley", written over a horizontal line.

Exhibit C

Caption Summary
pursuant to
49 C.F.R. § 1150.34

BEFORE THE SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

City of Coeur d'Alene
-- acquisition and operation exemption--
Union Pacific Railroad Company

Finance Docket 34980

City of Couer d'Alene (City) filed a notice of exemption to acquire from Union Pacific Railroad Company (UP) all UP's rights to reactivate rail service on UP's line between Milepost ("MP") 2.25 near Meyer Road to MP 7.50, near Beebe Boulevard, Coeur d'Alene, all in Kootenai County, Idaho.¹

Comments must be filed with the Board and served on City's representative: Charles H. Montange, 426 NW 162d St., Seattle, WA 98177, telephone (206) 546-1936; fax (206) 546-3739.

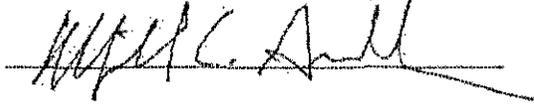
The notice is filed under § 1150.31. If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

¹ The line was authorized for interim trail use or abandonment in Union Pacific Railroad Company -- Abandonment Exemption -- in Kootenai County, ID, AB 33 (Sub-no. 218X), served March 14, 2005.

Exhibit D

Verification

I, Michael C. Gridley, declare under penalty of perjury (a) that I am the City Attorney for the City of Coeur d'Alene (Idaho), and (b) that the statements contained in the Notice of Exemption of which this Verification is a part are true and correct.

A handwritten signature in black ink, appearing to read "Michael C. Gridley", is written over a horizontal line.

Executed on: December 21, 2006.