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VIA E-FILING

The Honorable Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S.W., Room 100
Washington, DC 20423-0001

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**RESPONSE TO LETTER DATED NOVEMBER 6, 2009
FROM MR. JOHN J. RESS, an individual,
Entered in the Record by the Office of Proceedings on November 24, 2009**

Re: Abandonment Exemption and Discontinuance of Operations over the Weber Industrial Lead from M.P. 5.8 near Wilson Avenue to M.P. 9.5 near Touhy Avenue, a distance of 3.7 miles in Cook County, Illinois; STB Docket No. AB-33 (Sub-No. 263X)

Dear Ms. Brown:

This is in response to the "Statement of Facts" filed by John J. Ress with the Surface Transportation Board ("Board" or "STB") on or about November 24, 2009 concerning the above-referenced matter.

It is the opinion of the Union Pacific Railroad Company ("UP") that the statement of facts submitted to the Board by Mr. John J. Ress mischaracterizes the current status of the law and regulations with regard to the abandonment of railroads in the United States of America and presents a partial misrepresentation of the cited decision in *Becker v. Surface Transportation Board*, 132 F.3d 60, 328 U.S. App.D.C. 5, December 30, 1997.

Contrary to the law that was in effect when the T&P Railway, Inc. sought to abandon a line of railroad referenced in *Becker v. Surface Transportation Board, id.*, in accordance with current regulations 49 CFR 1152.29 and 49 CFR 1152.50(e), a line of railroad cannot be considered abandoned until a Notice of Consummation has been filed with the STB. This was not the status of the law when the Notice of Interim Trail Use ("NITU") expired, as referenced in *Becker*, on November 27, 1993. With regard to the subject abandonment, UP has not filed a consummation notice with the STB concerning the Weber Line. On the contrary, UP has entered into trail use negotiations with both the Village of Lincolnwood and the City of Chicago for that portion of the Line located in the respective municipalities. In fact, the negotiation period has been voluntarily extended for both municipalities as is permitted under the 49 CFR 1152.29.

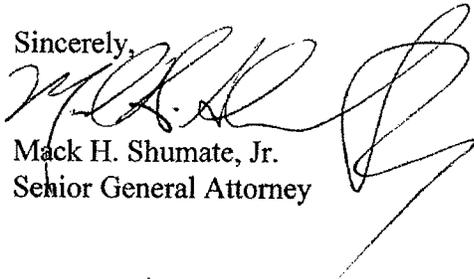
Salvaging of a track structure from the right-of-way of a railroad line does not equate to abandonment of a line and it is typically the expected activity for a line that will eventually be added to trail use in accordance with a NITU. Upon execution of trail use agreements with the municipalities, the right-of-way will not only be used for the trail but is effectively land banked for future railroad operations should public convenience and necessity dictate resumption of service.

The subject Weber Line, after completion of agreements for interim trail use, will remain a line of railroad upon which current operations are discontinued but will not be an abandoned line of railroad.

UP has been and remains in voluntary negotiations with both the Village of Lincolnwood and the City of Chicago in accordance with the NITU as extended to date. At no time has the UP consummated the abandonment of the Weber Line, which is the subject matter of STB Docket No. AB-33 (Sub-No. 263X).

Therefore, UP respectfully rejects the allegation submitted by Mr. John Ress that the STB does not have jurisdiction over the subject matter and further rejects the statement that UP has consummated the abandonment with regard to the Weber Line.

Sincerely,



Mack H. Shumate, Jr.
Senior General Attorney

cc: Village of Lincolnwood
City of Chicago