



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

226516

February 25, 2010
~~October 25, 2010~~

ENTERED
Office of Proceedings

FEB 25 2010

Part of
Public Record

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

RE: Abandonment Exemption -- from M.P. 550.5 west of Osborne to the end of the Line at M.P. 580.63 west of Stockton, a distance of 30.13 miles in Osborne and Rooks Counties, Kansas; STB Docket No. AB-33 (Sub-No. 269X)

Dear Ms. Brown:

Union Pacific Railroad Company ("Union Pacific") has received a Petition for Issuance of a Notice of Interim Trail Use from Sunflower Recreational Trails, Inc. ("SRT") dated February 9, 2010. SRT is requesting a 180-day period in which to negotiate for the acquisition under the provisions 16 U.S.C. §1247(d) and 49 C.F.R. § 1152.29 regarding that portion of the Union Pacific's right-of-way from Milepost 550.5 west of Osborne to the end of the Line at Milepost 580.63 west of Stockton, a distance of 30.13 miles in Osborne and Rooks Counties, Kansas.

The Union Pacific is willing to negotiating with SRT concerning the acquisition of the subject property for trail use and supports their request for 180-days in which to negotiate. A copy of the SRT's Petition is attached hereto as Exhibit "A" and hereby made a part hereof.

Sincerely yours,

Attachment

cc: Sunflower Recreational Trails, Inc.

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226444

THOMAS F. MCFARLAND

February 9, 2010



By UPS overnight mail

Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: Docket No. AB-33 (Sub-No. 269X), *Union Pacific Railroad Company --
Abandonment Exemption -- in Osborne and Rooks Counties, KS*

Dear Section of Administration Chief:

Enclosed please find an original and 10 copies of Petition For Issuance Of A Notice Of Interim Trail Use, for filing with the Board in the above referenced matter.

Also enclosed is a check in the amount of \$250 for the filing fee.

Very truly yours,

Tom McFarland

Thomas F. McFarland
Attorney for Petitioner

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ENTERED
Office of Proceedings

FEB 17 2010

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Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

UNION PACIFIC RAILROAD
COMPANY -- ABANDONMENT
EXEMPTION -- IN OSBORNE AND
ROOKS COUNTIES, KS

)
) DOCKET NO. AB-33
) (SUB-NO. 269X)
)



PETITION FOR ISSUANCE OF A
NOTICE OF INTERIM TRAIL USE

SUNFLOWER RECREATIONAL TRAILS, INC.
LARRY ROSS, President
P.O. Box 3863
Topeka, KS 66604-6863

Petitioner

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By: THOMAS F. McFARLAND
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Attorney for Petitioner

DATE FILED: February 10, 2010

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

UNION PACIFIC RAILROAD)	
COMPANY -- ABANDONMENT)	DOCKET NO. AB-33
EXEMPTION -- IN OSBORNE AND)	(SUB-NO. 269X)
ROOKS COUNTIES, KS)	

**PETITION FOR ISSUANCE OF A
NOTICE OF INTERIM TRAIL USE**

Pursuant to 49 C.F.R. § 1152.29(a), **SUNFLOWER RECREATIONAL TRAILS, INC.** (SRT), a qualified private organization, hereby respectfully petitions for issuance of a Notice of Interim Trail Use (NITU) providing for a 180-day period for SRT to negotiate with **UNION PACIFIC RAILROAD COMPANY (UP)** for railbanking and interim recreational trail use of the right-of-way between Milepost 550.5 west of Osborne and Milepost 580.63 at the end of line west of Stockton, a distance of 30.13 miles in Osborne and Rooks Counties, Kansas. (Osborne-Stockton line).

An exemption for abandonment of the Osborne-Stockton line became effective on August 28, 2008. However, UP has not consummated abandonment of that line. In a Board decision served December 30, 2009, UP's request to extend the deadline for consummation to June 1, 2010 was granted. Thus, the right-of-way is eligible for railbanking and interim recreation trail use.

The following are included in a Statement of Willingness to Assume Financial Responsibility, attached to this Petition as Appendix 1:

- (1) a map depicting the right-of-way proposed to be acquired;
- (2) a statement of SRT's willingness to assume responsibility for (a) managing the right-of-way; (b) any legal liability arising out of use of the right-of-way; and (c) payment of all taxes assessed against the right-of-way; and
- (3) an acknowledgment that interim trail use is subject to the user's continuing to meet its responsibilities identified above, and to possible reconstruction and reactivation of the right-of-way for rail service.

WHEREFORE, if UP agrees to negotiate, the Board should issue the requested NITU.

Respectfully submitted,

SUNFLOWER RECREATIONAL TRAILS, INC.
LARRY ROSS, President
P.O. Box 3863
Topeka, KS 66604-6863

Petitioner

Thomas F. McFarland

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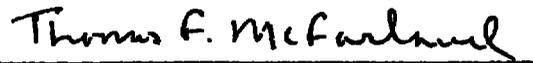
APPENDIX 1

**Statement of Willingness
To Assume Financial Responsibility**

In order to establish interim trail use and rail banking under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1142.29, Sunflower Recreational Trails, Inc. (SRT), 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 (UP). The property extends between railroad Milepost No. 550.5 west of Osborne and Milepost No. 580.63 at the end of line west of Stockton, a distance of 30.13 miles in Osborne and Rooks Counties, KS (Osborne-Stockton line). Abandonment of the Osborne-Stockton line became effective in Docket No. STB AB-33 (Sub-No. 269X).

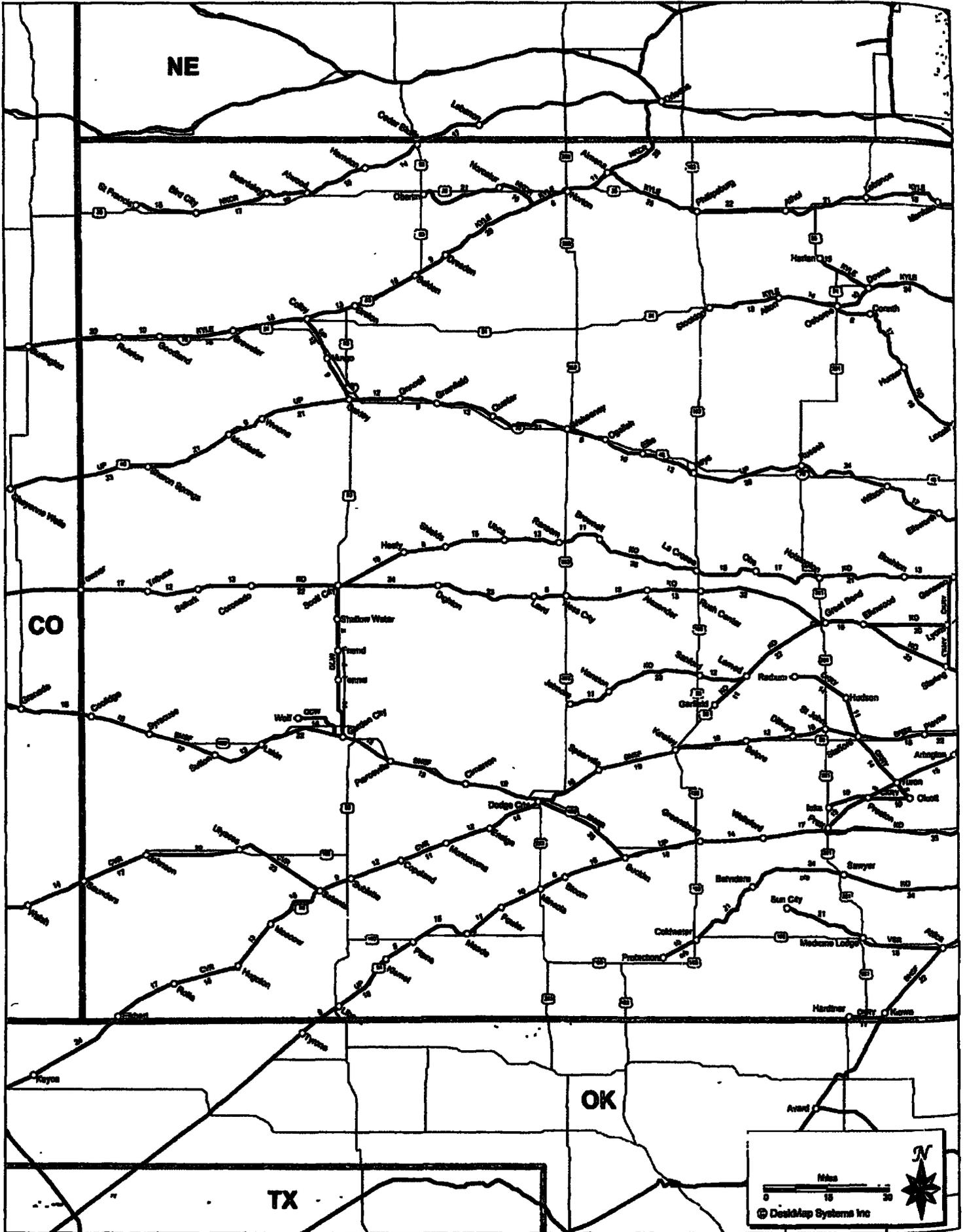
A map of the property depicting the right-of-way is attached.

SRT 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.



Thomas F. McFarland
Attorney for Petitioner

KANSAS



CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2010, I served the foregoing document, Petition For Issuance Of A Notice Of Interim Trail Use, on Mack H. Shumate, Esq., Senior General Attorney, Union Pacific Railroad Company, 101 N. Wacker Dr., Suite 1920, Chicago, IL 60606-1718, mackshumate@up.com, by e-mail and first-class, U.S. mail, postage prepaid.

Thomas F. McFarland

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