

BALL JANIK LLP

A T T O R N E Y S

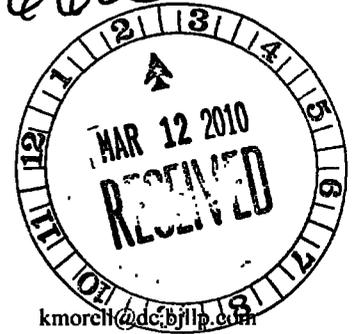
1455 F STREET, NW, SUITE 225
WASHINGTON, D.C. 20005

www.balljanik.com

TELEPHONE 202-638-3307
FACSIMILE 202-783-6947

KARL MORELL

226603



March 12, 2010

BY HAND DELIVERY

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-001

Re: STB Docket No. AB-6 (Sub-No. 471X), BNSF Railway Company –
Discontinuance Of Trackage Rights Exemption -- In Alameda
County, CA

Dear Ms. Brown:

Attached for filing are the original and ten copies of a Notice of Exemption under 49 C.F.R. 1152.50. Also attached is a check covering the \$3,700 filing fee.

Please time and date stamp the extra copy of the Notice and return it with our messenger.

If you have any questions, please call me.

Sincerely,

A handwritten signature in black ink that reads 'Karl Morell'.

Karl Morell

ENTERED
Office of Proceedings
MAR 12 2010
Part of
Public Record

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD



STB DOCKET NO. AB-6 (SUB-NO. 471X)

BNSF RAILWAY COMPANY
-- DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION --
IN ALAMEDA COUNTY, CA

NOTICE OF EXEMPTION

ENTERED
Office of Proceedings

MAR 12 2010

Part of
Public Record

FEE RECEIVED

MAR 12 2010

SURFACE
TRANSPORTATION BOARD

FILED

MAR 12 2010

SURFACE
TRANSPORTATION BOARD

Kristy D. Clark
General Attorney
BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131

Karl Morell
Of Counsel
Ball Janik LLP
1455 F St., N.W.
Suite 225
Washington, D.C. 20005
(202) 638-3307

Attorneys for:
BNSF RAILWAY COMPANY

Dated: March 12, 2010



BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. AB-6 (SUB-NO. 471X)

BNSF RAILWAY COMPANY
-- DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION --
ALAMEDA COUNTY, CA

NOTICE OF EXEMPTION

BNSF Railway Company ("BNSF") files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 to discontinue its trackage rights over a 2.04-mile rail line located in Alameda, CA (the "Line").

1. Proposed consummation date.

The proposed consummation date is April 27, 2010.

2. Certification required by 49 C.F.R. § 1152.50(b).

The required certification is attached hereto as Exhibit A.

3. Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7), and (8), and (e)(4).

(a) General.

(1) Exact name of applicant.

BNSF Railway Company

(2) Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

BNSF is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(3) Relief sought.

BNSF seeks to use the class exemption at 49 C.F.R. § 1152.50 to discontinue its trackage rights over the rail line approximately 2.04 miles in length located between mileposts 0.00 and 2.04 in Alameda CA.¹ No local or overhead traffic has moved over the Line over two years. There are no stations on the Line.

(4) Map.

A Map of the Line is attached as Exhibit B.

(7) Name, title, and address of representative of applicant to whom correspondence should be sent.

Karl Morell
Ball Janik LLP
1455 F St., N.W., Suite 225
Washington, DC 20005
(202) 638-3307

(8) List of all United States Postal Service ZIP Codes that the line proposed for discontinuance traverses.

The Line traverses ZIP Code 94501.

(e) Rural and community impact.

¹ One of BNSF's predecessors, The Atchison, Topeka and Santa Fe Railway Company acquired the trackage rights in 1982. *See* Finance Docket No. 30073, *The Atchison, Topeka and Santa Fe Railway Company – Trackage Rights Exemption – Over Southern Pacific Transportation Company and Alameda Belt Line* (not printed), served December 22, 1982. The Line is currently owned by Alameda Beltline Railroad (“ABL”). ABL is in the process of selling the Line, as well as the remainder of ABL's rail lines, to the City of Alameda, CA. *See* STB Finance Docket 34798, *City of Alameda – Acquisition Exemption – Alameda Beltline Railroad* (not printed), served January 11, 2006.

- (4) Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.

The Line, for the most part, is located within city streets and, therefore, not appropriate for a public use other than a road. In any event, BNSF does not own the Line and, therefore, cannot transfer the Line for other public purposes.

4. The level of labor protection.

The interests of railroad employees who may be adversely affected by the proposed discontinuance will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co. – Abandonment – Goshen*, 360 I.C.C. 91 (1979).

5. Certification.

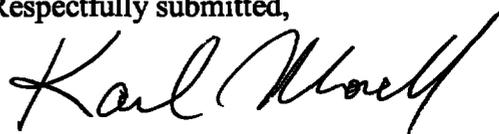
Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.12 are attached as Exhibit C.

6. Environmental and Historic Reports.

This proceeding is excepted from environmental reporting requirements under 49 C.F.R § 1105.6(c)(6) (discontinuance of trackage rights where the line will continue to be operated) and from historic reporting requirements under 49 C.F.R. § 1105.8(a) (because excepted by 49 C.F.R. § 1105.6(c)(6)). *See* STB Docket No. AB-156 (Sub-No. 25X), *Delaware and Hudson Railway Company, Inc. – Discontinuance of Trackage Rights – In Susquehanna County, Pa and Broome, Tioga, Chemung, Steuben, Allegany, Livingston, Wyoming, Erie, and Genesee Counties, NY* (not printed), served January 19, 2005.

Kristy D. Clark
General Attorney
BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131

Respectfully submitted,



Karl Morell
Of Counsel
Ball Janik LLP
1455 F St., N.W.
Suite 225
Washington, D.C. 20005
(202) 638-3307

Attorneys for:
BNSF RAILWAY COMPANY

Dated: March 12, 2010

EXHIBIT A

**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

STATE OF TEXAS)
) **ss.**
TARRANT COUNTY)

I, Kimberly Cuccaro, being duly sworn depose and state that I am Manager Joint Facilities for BNSF Railway Company ("BNSF"), that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.

I hereby certify that BNSF has not handled any local traffic to or from a customer over the rail line located between mileposts 0.00 and 2.04 in Alameda, CA (the "Line") for at least two (2) years prior to the date hereof. Also, BNSF has not handled any overhead traffic on the Line for at least two (2) years prior to the date hereof. Further, no formal complaint filed by a user of rail service on the Line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period.

The foregoing certification is made on behalf of BNSF by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned.



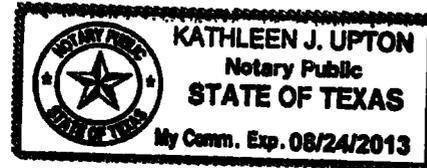
Kimberly Cuccaro
Manager Joint Facilities

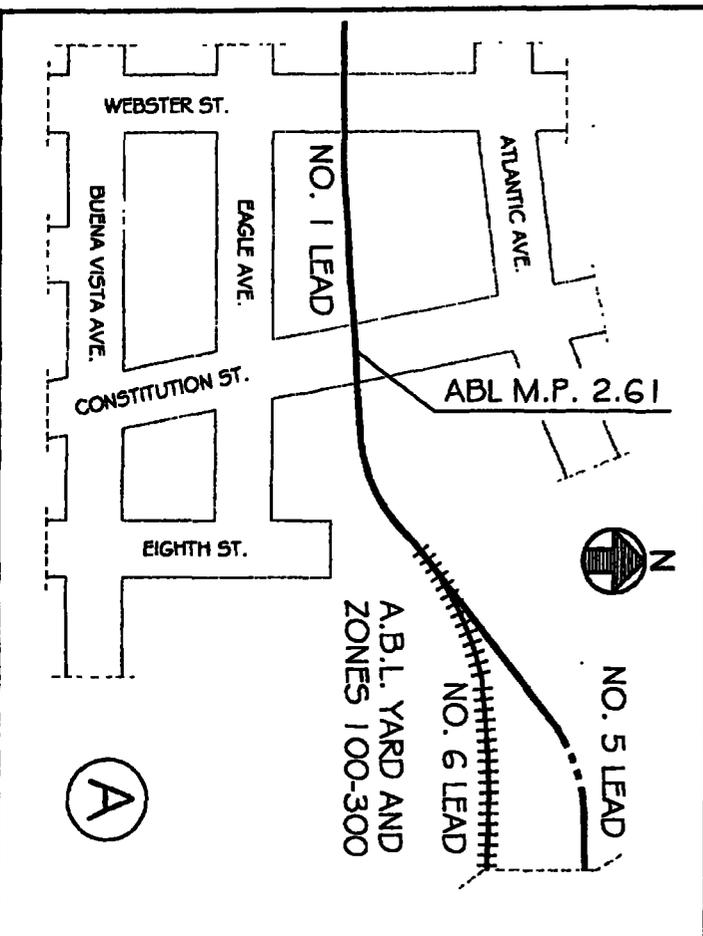
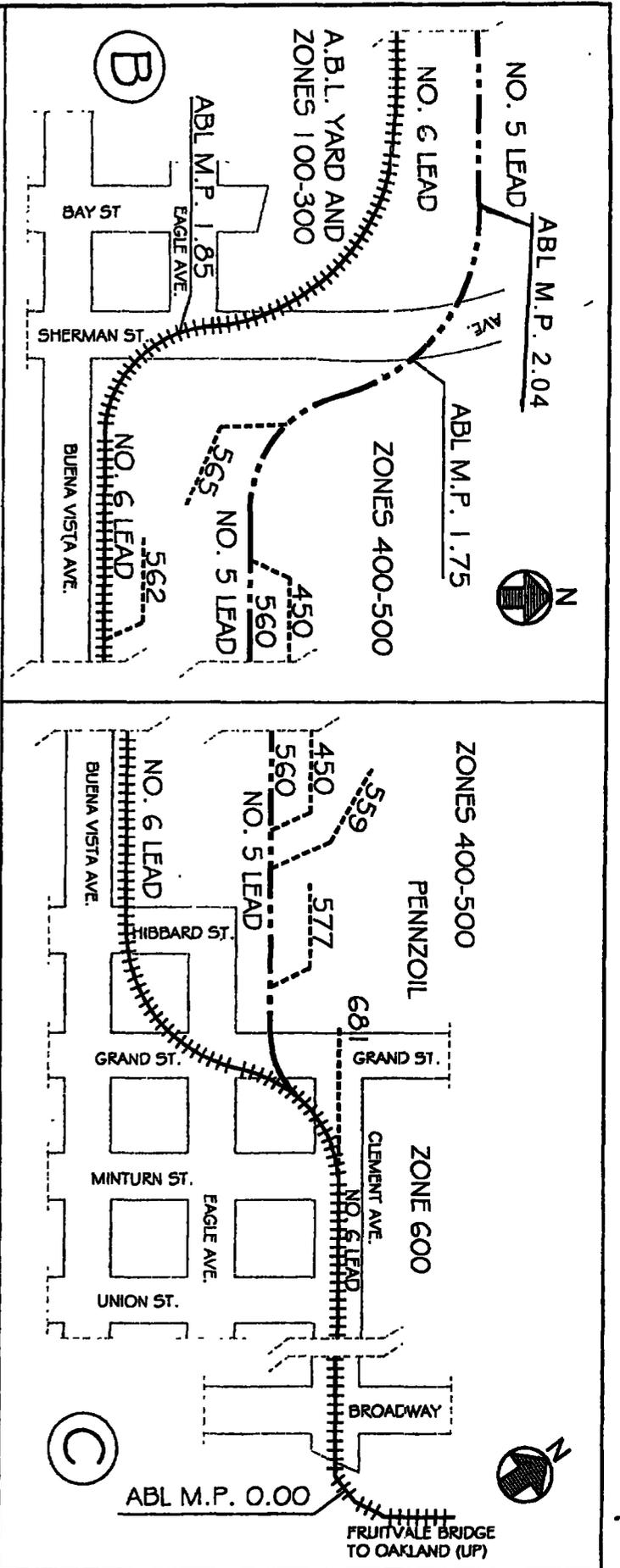
SUBSCRIBED AND SWORN TO before me this 11 day of March, 2010.

My Commission Expires: 8/24/2013



Kathleen J. Upton
Notary Public





LEGEND:

- NO. 1 LEAD
- NO. 5 LEAD
- NO. 6 LEAD
- OTHER

ABL NOT AUTHORIZED FOR ABANDONMENT
 INCLUDING ALL UNION PACIFIC TRACKAGE RIGHTS

FIGURE 1 OF 2

DATE: NOV. 2005

SCALE: N.T.S.

DRAWN: FDB

REVISED: 12-6-05

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed discontinuance of trackage rights in STB Docket No. AB-6 (Sub-No. 471X) was mailed via first class mail on February 25, 2010 to the following parties:

State Public Service Commission

California Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812

California Department of Transportation
1120 N Street
Sacramento, CA 95814

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Military Traffic Management Command

MTMCTEA
ATTN: SDTE-SA (Railroads for National Defense)
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357

National Park Service

U.S. Department of Interior - National Park Service
Recreation Resources Assistance Division
1849 C Street, NW
Washington, DC 20240-0001

National Park Service
RTCA Program
1111 Jackson Street, Suite 700
Oakland, CA 94607

U.S. Department of Agriculture

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor N.W., Yates Building
201 14th Street, S.W.
Washington, DC 20250

Dated: March 12, 2010


Karl Morell

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed discontinuance of trackage rights in STB Docket No. AB-6 (Sub-No. 471X) was published on March 5, 2010 in The Berkley Voice, a newspaper of general circulation in Alameda County, CA as required by 49 C.F.R. § 1105.12.

Dated: March 12, 2010


Karl Morell