



BUILDING AMERICA®

301012

ENTERED
Office of Proceedings
August 21, 2020
Part of
Public Record

VIA E-FILE

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

**RE: Union Pacific Railroad Company--Abandonment Exemption--In Harris County, TX, STB
Docket No. AB-33 (Sub-No. 343X)**

Dear Ms. Brown:

I am hereby e-filing the Verified Notice of Exemption of Union Pacific in the above-referenced docket. The filing fee of \$4,400.00 was paid using Pay.gov.

Sincerely,

/s/ Jeremy Berman

Jeremy Berman

FILED
August 21, 2020
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
August 21, 2020
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-33 (Sub-No. 343X)

**UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN HARRIS COUNTY, TX**

Verified Notice of Exemption

UNION PACIFIC RAILROAD COMPANY

Jeremy M. Berman
General Attorney
1400 Douglas Street STOP 1580
Omaha, NE 68179
(402) 544-4735
jmberman@up.com

Dated: August 21, 2020

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-33 (Sub-No. 343X)

**UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN HARRIS COUNTY, TX**

Notice of Exemption

Union Pacific Railroad Company ("UP") submits this verified Notice of Exemption pursuant to 49 § C.F.R. 1152, Subpart F -- Exempt Abandonments and Discontinuances of Service and Trackage Rights for an exempt abandonment of service on a portion of the Houston Navigation Lead from Milepost 0.98 to Milepost 1.31 and from Milepost 1.71 to Milepost 2.62, a distance of 1.24 miles in Harris County, Texas (the "Line").

Proposed Consummation Date: 49 C.F.R. § 1152.50(d)(2)

The abandonment will not be consummated until at least 50 days after filing this Notice of Exemption.

Certification: 49 C.F.R. 1152.50(b)

UP certifies that no local or overhead traffic has moved over the Line for at least two years. Therefore, there is no need to reroute any traffic. UP further certifies that no formal complaint filed by a user of rail service on the Line (or filed by a state or local governmental entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Board or any U.S. District Court, or has been decided in favor of the complainant within the two-year period.

Additional Information Required: 49 C.F.R. 1152.22(a)(1)-(4), (7)-(8) and (e)(4)

(a) General.

(a)(1) The railroad's exact name is Union Pacific Railroad Company.

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

(a)(3) UP intends to abandon the portion of the Houston Navigation Lead in Houston TX, from Milepost 0.98 to Milepost 1.31 and from Milepost 1.71 to Milepost 2.62, a distance of 1.24 miles in Harris County, Texas.

(a)(4) A map showing the location of the Line in relation to other rail lines, highways, and major roads in the area is attached as **Exhibit 1**.

(a)(7) The representative to whom correspondence regarding this abandonment and discontinuance should be sent is:

Jeremy M. Berman
General Attorney
1400 Douglas St, #1580
Omaha, NE 68179
402-544-4735 (Tel.)
402-501-0129 (FAX)
jmberman@up.com

(a)(8) ZIP Codes. The Line traverses U.S. Postal Service Zip Codes 77002 and 77003.

(e)(4) Rural and Community Impact.

It is UP's intention to salvage the track material still and sell the right of way to the Houston Greater East End Management District. The salvage process would begin with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right-of-way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) would be removed. Next the wooden ties would be raised from among the ballast with a tool designed for minimum disruption of the ground material. The ties would then be separated into three groups as follows: (1) good quality ties that would be re-used in rail service, (2) landscape-quality ties that

would be re-sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into truck trailers or containers and shipped by UP's contractor to an EPA approved disposal site or to a cogeneration plant.

Culverts and right-of-way grading would remain intact so as not to alter the prevailing water flows along the Line. Ballast would typically be left in place, but might be removed if it is of exceptional quality - thus suitable for resale - or to make the right of way more suitable for a planned future use. Finally, all road crossings would be removed and remediated, then resurfaced with gravel, asphalt or concrete, as required by governing authority. Any railroad signals would also be dismantled and removed.

UP's salvage work for abandonments is always performed by experienced rail material salvagers. Each salvage contract includes detailed information on any environmental or historical conditions imposed by the Board. Completed work is independently inspected by a UP maintenance official to ensure compliance with UP standards of quality and all contractual obligations, including Board imposed conditions, if applicable.

The Line proposed for abandonment consists primarily of fee property. Based upon information in UP's possession, the Line does not contain federally granted right-of-way. Any documentation in UP's possession will be made available to those requesting it.

After the proposed abandonment, the Houston area would continue to receive rail service from UP via several routes. Houston is also well served by major highways and by numerous local roads.

No local traffic has moved to or from the Line in the past two years and there is no overhead traffic. No complaint regarding cessation of service has been filed, is

pending, or has been ruled upon in favor of a complainant in at least two years.

A map of the Line is attached hereto as **Exhibit 1**.

Labor Protection

The interests of railroad employees will be protected by the conditions discussed in Oregon Short Line Railroad Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

Certifications

Attached as **Exhibit 2** is a Certificate of Service and Publication, pursuant to the notice requirements of 49 C.F.R §§ 1152.50(d)(1), 1105.11 and 1105.12.

Environmental and Historic Report

A copy of the cover letter which accompanied UP's Combined Environmental and Historic Report ("CEHR"), containing the information required by 49 C.F.R. §§ 1105.7(e) and 1105.8, and delivered in accordance with 49 C.F.R. 1105.11, is attached as **Exhibit 3**. The CEHR was electronically filed with the Office of Environmental Analysis (OEA), on April 23, 2020. Since filing the CEHR, UP received additional comments from the Texas Historical Commission (attached as **Exhibit 4**) and the Texas Commission on Environmental Quality (attached as **Exhibit 5**).

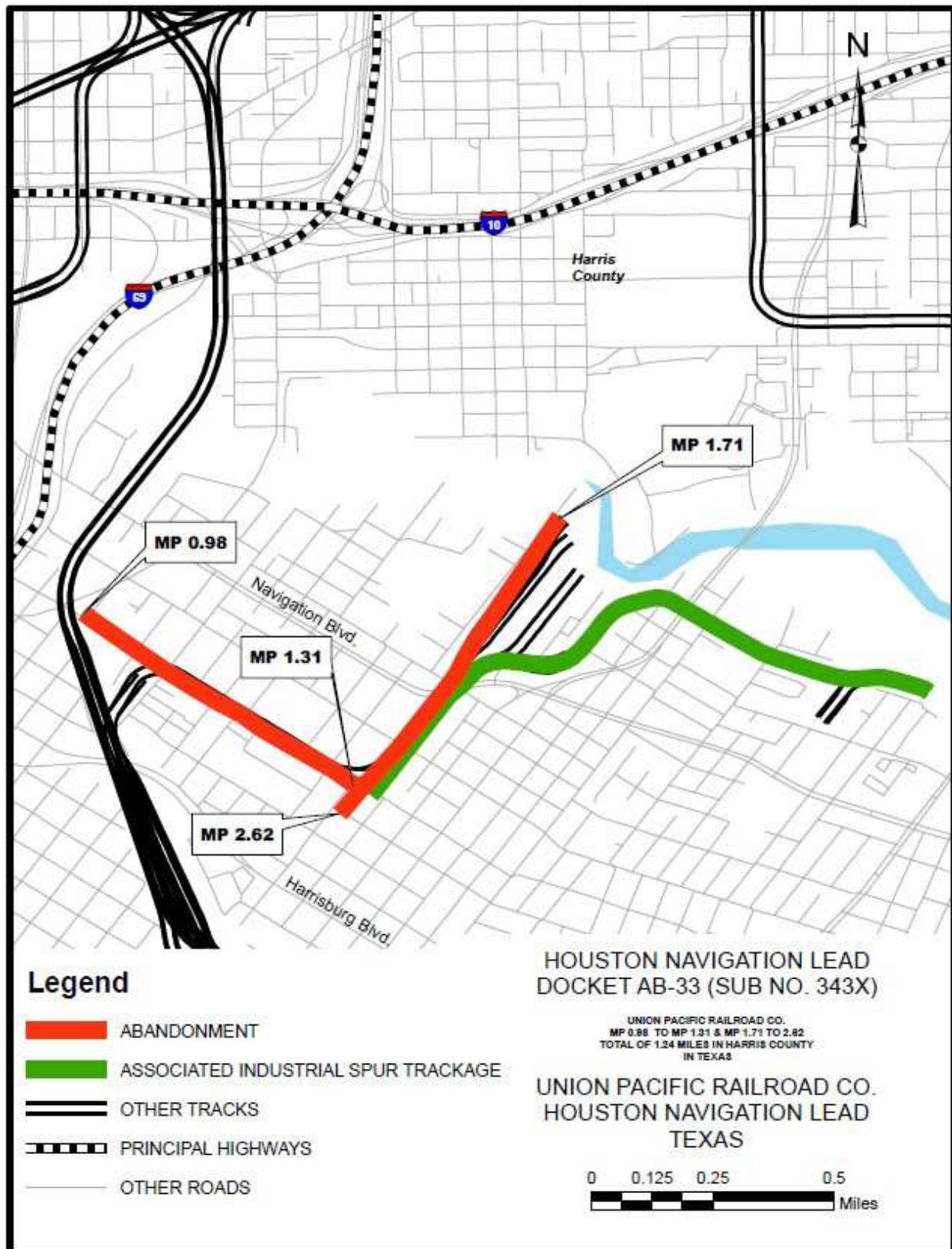
Dated this 21st day of August, 2020.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY

/s/ Jeremy Berman

Jeremy M. Berman
General Attorney
1400 Douglas Street STOP 1580
Omaha, NE 68179
(402) 544-4735
jmb@up.com



DOCKET NO. AB-33 (Sub-No. 343X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN HARRIS COUNTY, TX

CERTIFICATE OF SERVICE AND PUBLICATION

49 C.F.R. § 1152.50(d)(1) – Notice

The undersigned certifies that on April 30, 2020 (at least 10 days before a Notice of Exemption is filed), written notice was given by Union Pacific stating Union Pacific's intent to file this Notice of Exemption. Said written notice (a copy of which is attached hereto as **Attachment 1**) was served on the following:

Governor's Office of Budget and Planning
P.O. Box 12428
Austin, TX 78711

National Park Service
1849 C Street NW
Washington, DC 20240

Chief of the Forest Service
U. S. Department of Agriculture
4th Floor, N.W. Auditors Bldg.
1400 Independence Ave. SW
Washington, DC 20250-1111

Headquarters – Military Surface Deployment &
Distribution Command
ATTN: Transportation Engineering Agency
(SDTE-SA)
Railroads for National Defense Program
1 Soldier Way
Scott AFB, IL 62225

49 C.F.R. § 1105.11 – Transmittal Letter for Applicant’s Report

The undersigned certifies that on April 23, 2020 (at least 20 days before a Notice of Exemption is filed), a Combined Environmental and Historic Report pursuant to 49 C.F.R. § 1105.7 and 1105.8 was served in Docket No. AB-33 (Sub-No. 343X on the following:

- (1) State Clearinghouse (or alternate)
- (2) State Environmental Protection Agency
- (3) Head of each County
- (4) U.S. Environmental Protection Agency, Regional Office
- (5) U.S. Fish and Wildlife Service
- (6) U.S. Army Corps of Engineers
- (7) National Park Service
- (8) U.S. Natural Resources Conservation Service
- (9) The National Geodetic Survey
- (10) Other Agencies Consulted (As Listed)
- (11) State Historic Preservation Office

(This Certificate of Service attached to Combined Environmental Historic Reports lists the names and addresses of the federal, state and local agencies.)

49 C.F.R. § 1105.12 – Newspaper Notice

The undersigned further certifies that a “Notice of Intent to Abandon and Discontinue Service” was published in the form prescribed by the Board for a Notice of Exemption (Copy Attached as **Attachment 2**). The Notice was published one time in a major newspaper in the county in which the Line is located as follows:

<u>County</u>	<u>Newspaper</u>	<u>Date</u>
Harris	Baytown Sun	May 12, 2020

Dated this 21st day of August, 2020

/s/ Jeremy Berman

Jeremy M. Berman



BUILDING AMERICA®

April 30, 2020

Governor's Office of Budget and Planning
P.O. Box 12428
Austin, TX 78711

National Park Service
1849 C Street NW
Washington, DC 20240

Chief of the Forest Service
U. S. Department of Agriculture
4th Floor, N.W. Auditors Bldg.
1400 Independence Ave. SW
Washington, DC 20250-1111

Headquarters – Military Surface Deployment &
Distribution Command
ATTN: Transportation Engineering Agency
(SDTE-SA)
Railroads for National Defense Program
1 Soldier Way
Scott AFB, IL 62225

**RE: Union Pacific Railroad Company--Abandonment Exemption--In Harris County, TX, STB
Docket No. AB-33 (Sub-No. 343X)**

Dear Sir or Madam:

Please be advised that Union Pacific Railroad Company ("UP") expects to file with the United States Surface Transportation Board ("STB"), on or after May 13, 2020, a Notice of Exemption seeking authority to abandon a portion line of railroad known as the Houston Navigation Lead, located in Houston, in Harris County, Texas, extending from Milepost 0.98 to Milepost 1.31 and from Milepost 1.71 to Milepost 2.62, a distance of 1.24 miles (the "Line"). The Line traverses U.S. Postal Service Zip Codes 77002 and 77003.

A Notice of Exemption to abandon service on the Line pursuant to 49 C.F.R. §1152.50 will be filed with the STB on or after May 13, 2020.

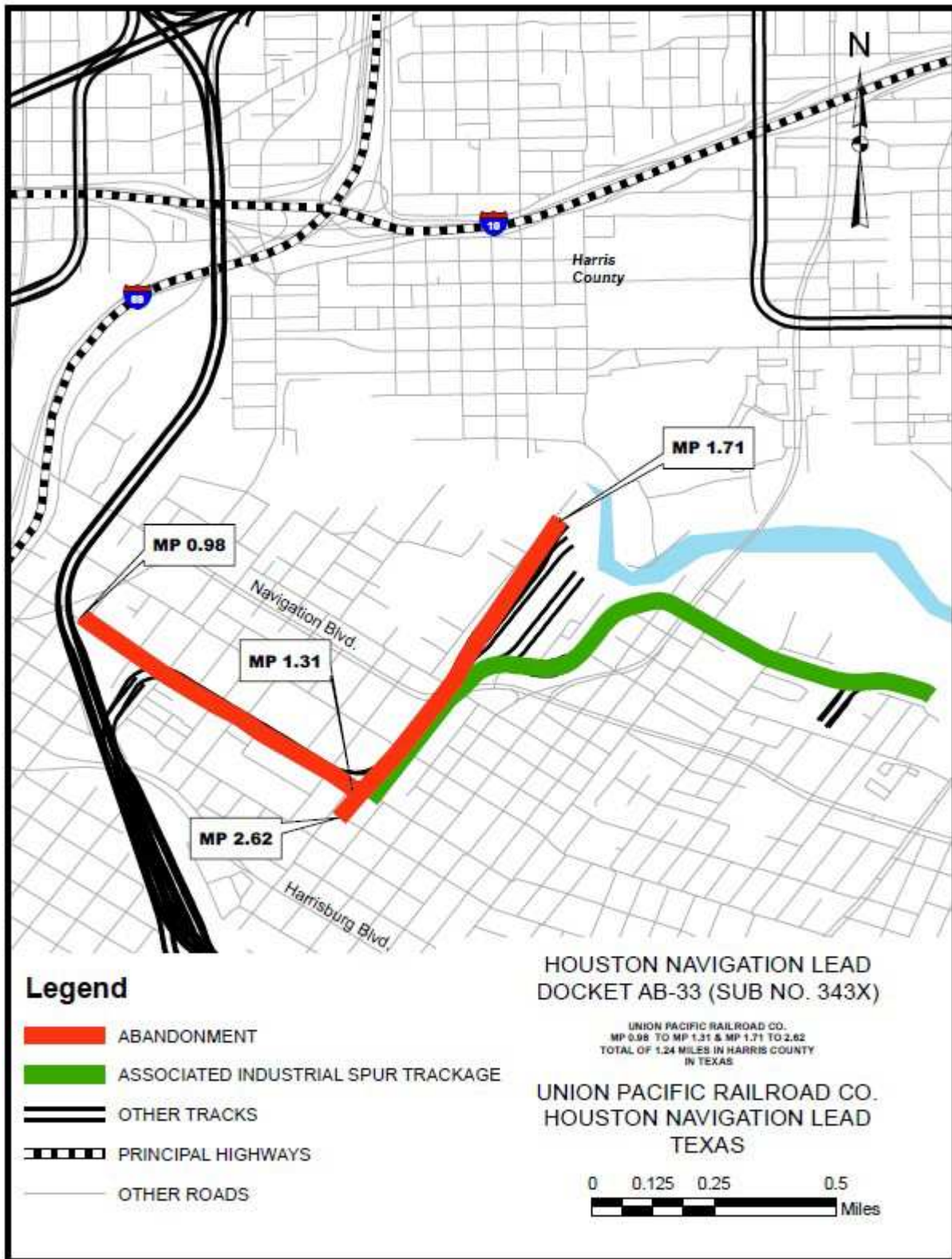
Based on information in UP's possession, the Line does not contain federally granted right-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

A map showing the segment of Line to be abandoned is attached for your information.

Sincerely,

/s/ Jeremy Berman

Jeremy Berman



Attachment 2

The Baytown Sun
1301 Memorial Drive
Baytown, Texas 77520
281-422-8302

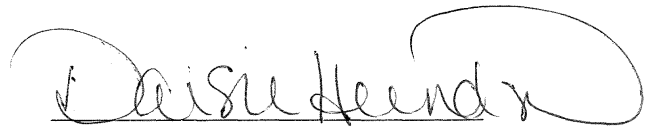
AFFIDAVIT OF PUBLICATION

Union Pacific Railroad Company
1400 Douglas St. MS 1580
Omaha, NE 68179
Attn: Lori Casey

COUNTY OF HARRIS

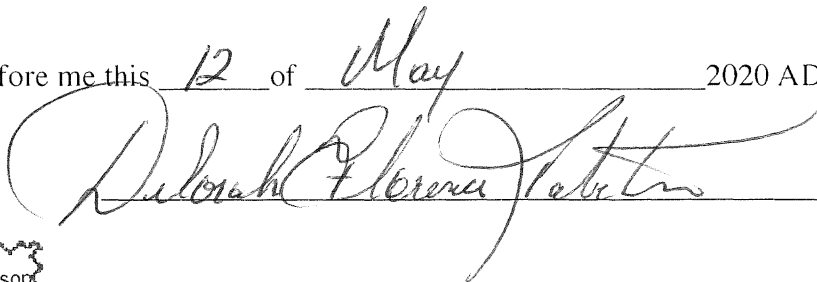
Reference: Notice of Intent to Abandon Rail Service

Before me, the undersigned authority, on this day personally appeared, Daisie Herndon who being duly sworn, deposes and says that she is an agent of the Baytown Sun: that said newspaper is regularly published in Harris County and generally circulated in Harris and Chambers Counties, Texas: that the attached notice was published on the following date.


Daisie Herndon, Agent

Printed: May 12, 2020

Subscribed and sworn before me this 12 of May 2020 AD





NOTICE OF INTENT TO ABANDON RAIL SERVICE

UNION PACIFIC RAILROAD COMPANY (UP) GIVES NOTICE THAT ON OR AFTER May 13, 2020, it intends to file with the Surface Transportation Board, Washington, D.C., a notice of exemption under 49 C.F.R. Part 1152, Subpart F – Exempt Abandonments permitting the abandonment and discontinuance of service on a line of railroad known as the Houston Navigation Lead, located in Houston, Harris County, Texas, extending from Milepost 0.98 to Milepost 1.31 and from Milepost 1.71 to Milepost 2.62, a distance of 1.24 miles. The Line traverses U.S. Postal Service Zip Codes 77002 and 77003. The proceeding has been docketed as No. AB-33 (Sub-No. 343X).

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Office of Environmental Analysis (OEA), Surface Transportation Board, 395 E Street, SW, Washington, DC 20423 or by calling that office at (202) 245-0291.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails used also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of Proceedings, 395 E Street, SW, Washington, DC 20423 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on the applicant's representative. [See 49 CFR 1104.12(a)] Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (866) 254-1792. Copies of any comments or requests for conditions should be served on UP's representative: Jeremy M. Berman, General Attorney, 1400 Douglas St., STOP 1580, Omaha, NE 68179, 402-544-4735.

UNION PACIFIC RAILROAD COMPANY



NOTICE TO PUBLISHER

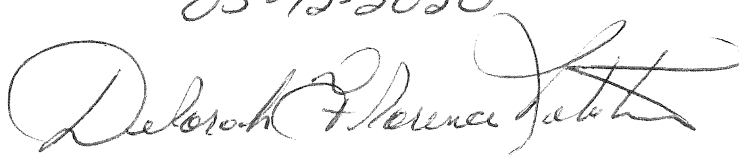
To: The Baytown Sun
1301 Memorial Drive
Baytown, TX 77520

From: Lori Casey, Sr. Assistant
Union Pacific Railroad
1400 Douglas St. Mailstop 1580
Omaha, NE 68179
402-544-2210
ljcasey@up.com

Re: Notice Of Intent To Abandon Rail Service

Please publish the attached Notice once in the Baytown Sun newspaper on Tuesday, May 12, 2020. Immediately thereafter, please issue an Affidavit/Proof of Publication and forward it to Lori Casey via email at ljcasey@up.com and send a hard copy, via U.S. Mail, to the following address:

Attn: Lori Casey
Union Pacific Railroad
1400 Douglas St., Mail Stop 1580
Omaha, NE 68179

05-12-2020






BUILDING AMERICA®

Exhibit 3

April 23, 2020

VIA US Mail

TO: Attached Service List

**RE: Union Pacific Railroad Company--Abandonment Exemption--In Harris County, TX, STB
Docket No. AB-33 (Sub-No. 343X)**

To whom it may concern:

On or after May 13, 2020, Union Pacific Railroad Company ("UP") expects to be filing with the Surface Transportation Board ("STB" or "Board") a Notice of Exemption seeking authority to abandon a portion of the Houston Navigation Lead in Houston, Texas, from Milepost 0.98 to Milepost 1.31 and from Milepost 1.71 to Milepost 2.62, a distance of 1.24 miles in Harris County, Texas (the "Line"). Attached is a Combined Environmental and Historic Report describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

Union Pacific is providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Office of Environmental Analysis (OEA), Surface Transportation Board, Washington, DC, Telephone (202) 245-0291 and refer to the above Docket No. AB-33 (Sub-No. 343X). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to OEA (with a copy to our representative) would be appreciated within 3 weeks.

Your comments will be considered by the Board in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact our representative directly. Our representative in this matter is Jeremy M. Berman who may be contacted by telephone at 402-544-4735 or by mail at 1400 Douglas St., Stop 1580, Omaha, NE 68179.

Sincerely,

s/ Jeremy M. Berman

Jeremy M. Berman

Attachment

Service List:**State Clearinghouse (or Alternate):**

Texas Department of Transportation
Rail Division
125 E. 11th St.
Austin, Texas 78701-2483

State Environmental Protection Agency:

Richard A. Hyde, MC 109
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

State Coastal Management Program:

Texas General Land Office
Coastal Management Program
PO Box 12873
Austin, TX 78711-2873

Environmental Protection Agency (Regional Office):

U.S. Environmental Protection Agency - Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270

State of Texas Historic Preservation Office:

Texas Historical Commission Main Office
P.O. Box 12276
Austin, Texas 78711

U.S. Fish and Wildlife Service:

U.S. Fish and Wildlife Service
Southwest Region (2) Office
P.O. Box 1306, Room 4012
Albuquerque, NM 87103-1306

U.S. Army Corps of Engineers:

U.S. Army Corps of Engineers
Galveston District
P.O. Box 1229
Galveston, TX 77553-1229

National Park Service (Regional Office):

Sue Masica, Regional Director
National Park Service – Intermountain Region
12795 W. Alameda Parkway
Lakewood, CO 80228

Head of Harris County, Texas:

Harris County Judge Lina Hidalgo
1001 Preston, Suite 911
Houston, Texas 77002

U.S. Natural Resources Conservation Service:

U.S. Natural Resources Conservation Service
101 S. Main Street
Temple, TX 76501

National Geodetic Survey:

Geodetic Services Division
SSMCC-3 #9340
NOAA N/NGS12
Room 9452
1315 E-W Highway
Silver Spring, Maryland 20910-3282



Project Review: 202011309
noreply to: jmberman, reviews

04/29/2020 02:08 PM

* PROCEED WITH CAUTION - This email was sent from outside the Company *

Re: Project Review under Section 106 of the National Historic Preservation Act and/or the Antiquities Code of Texas

THC Tracking #202011309

Union Pacific Railroad Company - Abandonment Exemption, STB Docket No. AB-33 (Sub-No. 343X), Navigation Lead
Houston, TX

Dear Client:

Thank you for your submittal regarding the above-referenced project. This response represents the comments of the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission (THC), pursuant to review under Section 106 of the National Historic Preservation Act.

The review staff led by Justin Kockritz has completed its review and has made the following determinations based on the information submitted for review:

Above-Ground Resources

- THC/SHPO concurs with information provided.
- No historic properties are present or affected by the project as proposed. However, if historic properties are discovered or unanticipated effects on historic properties are found, work should cease in the immediate area; work can continue where no historic properties are present. Please contact the THC's History Programs Division at 512-463-5853 to consult on further actions that may be necessary to protect historic properties.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions concerning our review or if we can be of further assistance, please email the following reviewers: justin.kockritz@thc.texas.gov

This response has been sent through the electronic THC review and compliance system (eTRAC). Submitting your project via eTRAC eliminates mailing delays and allows you to check

the status of the review, receive an electronic response, and generate reports on your submissions. For more information, visit <http://thc.texas.gov/etrac-system>.

Sincerely,

For Mark Wolfe, State Historic Preservation Officer
Executive Director, Texas Historical Commission

Please do not respond to this email.

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 10, 2020

Jeremy Berman
Union Pacific Railroad
1400 Douglas Street
Omaha, Nebraska 68179

Via: E-mail

Re: TCEQ NEPA Request #2020-099. Railroad Abandonment Exemption. Harris County.

Dear Mr. Berman,

The Texas Commission on Environmental Quality (TCEQ) has reviewed the above-referenced project and offers the following comments:

In accordance with the general conformity regulations in 40 CFR Part 93, this proposed action was reviewed for air quality impact. The proposed action is located in Harris County, which is designated nonattainment for the ozone National Ambient Air Quality Standards (NAAQS) with a classification of serious for the 2008 eight-hour ozone NAAQS and a classification of marginal for the 2015 eight-hour ozone NAAQS. General conformity requirements apply for federal actions in Harris County according to the higher, serious classification.

Volatile organic compounds (VOC) and nitrogen oxides (NO_x) are precursor pollutants that lead to the formation of ozone. A general conformity demonstration may be required when the total projected direct and indirect VOC or NO_x emissions from an applicable action are equal to or exceed the *de minimis* emissions level, which is 50 tons per year (tpy) for ozone NAAQS serious nonattainment areas. Based on the information provided to the TCEQ, the emissions from this proposed action are expected to be below the general conformity *de minimis* threshold and are not anticipated to impact the state implementation plan.

The Office of Water does not anticipate significant long term environmental impacts from this project as long as construction and waste disposal activities associated with it are completed in accordance with applicable local, state, and federal environmental permits, statutes, and regulations. We recommend that the applicant take necessary steps to ensure that best management practices are used to control runoff from construction sites to prevent detrimental impact to surface and ground water.

Any debris or waste disposal should be at an appropriately authorized disposal facility.

Thank you for the opportunity to review this project. If you have any questions, please contact the agency NEPA coordinator at (512) 239-0010 or NEPA@tceq.texas.gov

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Vise".

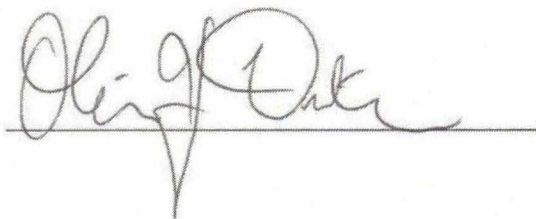
Ryan Vise,
Division Director
External Relations

VERIFICATION

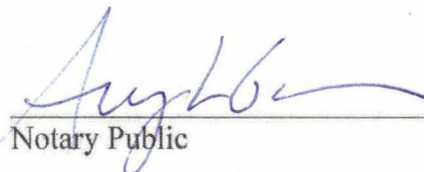
State of Nebraska)
) ss:
County of Douglas)

I, Olin H. Dirks, Manager – Commercial and Interline Strategy, for Union Pacific Railroad Company declare under penalty of perjury, under the laws of the United States of America, that I have read the forgoing document and that its assertions are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this verification on behalf of Union Pacific Railroad Company.

Dated at Omaha, Nebraska, this 10th day of August, 2020.



SUBSCRIBED AND SWORN TO
before me this 10th day of
August, 2020.



Notary Public

