



LAW OFFICE OF THOMAS W. WILCOX, LLC
1629 K. STREET, NW SUITE 300
WASHINGTON, DC 20006

(202) 508-1065 (O)

(202) 365-8409 (C)

TOM@TWILCOXLAW.COM

WWW.TWILCOXLAW.COM

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February 27, 2024

By E-Filing

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423

RE: STB Docket No. FD 36616, *Savage Tooele Railroad Company –
Construction and Operation Exemption – Line of Railroad in Tooele
County, Utah*

Dear Ms. Brown:

This letter is submitted on behalf of the Petitioner in this proceeding, Savage Tooele Railroad Company (“STR”), for the purpose of notifying the Surface Transportation Board (“Board”) of certain key dates related to the pending Petition for Exemption in this proceeding and the rail construction project it covers. STR asks the Board to take these dates into consideration as it decides the merits of the Petition.

As discussed in prior submissions in this proceeding, on September 11, 2023, STR and the Union Pacific Railroad Company (“UP”) executed a Purchase and Sale Agreement (“PSA”) by which UP will convey to STR MP 1.04 to MP 6.94 of UP’s abandoned former “Warner Branch” rail line in Tooele County, Utah. On February 13, 2024, UP received exemption authority from the Board to reinstate common carrier service over its track from MP 0.0 to MP 1.04, effective March 14, 2024. The PSA contains provisions establishing certain conditions precedent related to the Board’s grant of UP’s and STR’s respective authorities. The provision applicable to UP was mooted by the February 13 decision. As for STR, the PSA created a 210-day “Feasibility Review Period” starting from the September 11, 2023 effective date by which STR may enter UP’s property “for the purpose of performing environmental assessments, soil tests, engineering and feasibility studies of the Property as Buyer may deem necessary to determine the suitability of the soil conditions and other physical conditions of the Property.”

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One of the stated “conditions precedent to sale” under the PSA is STR receiving construction authority from the Board prior to the expiration of the Feasibility Review Period. The Feasibility Period ends on April 8, 2024, and per the PSA the closing of the escrow and property covered by the agreement is to occur within 30 days after that date, unless it is extended. STR does have the right to extend the Feasibility Review Period, but only if it pays UP a significant, nonrefundable sum of money no less than five days prior to the end of the Feasibility Review Period.

The result of the operation of these provisions of the PSA is that if the Board does not grant STR’s Petition prior to April 3, 2024, STR will be forced to expend the required nonrefundable amount to extend the Feasibility Review Period, in addition to continuing to experience the negative ramifications of the tenants and potential tenants of the Lakeview Business Park not being able to plan on railroad service to their facilities.

STR respectfully advises the Board of these facts, and requests that the Board take them into account as it considers the merits of STR’s Petition.

Please do not hesitate to contact the undersigned should you have any questions.

Sincerely,



Thomas W. Wilcox
*Attorney for Savage Tooele Railroad
Company*

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of February, 2024, I served a copy of the foregoing Letter by electronic mail upon all parties of record on the official service list for Docket No. FD 36616.

/ss/ Thomas W. Wilcox
