



REVISED
OPERATIONS COMMITTEE
NOVEMBER 18, 2004

SUBJECT: UNION PACIFIC RIGHT-OF-WAY DEBRIS COMPLAINTS

ACTION: RECEIVE AND FILE

RECOMMENDATION

Receive and file report on debris and rubbish issues on the Union Pacific's Right-of-Way adjacent to Metro's Blue Line Right-of-Way.

ISSUE

At the October 2004 Operations committee, staff was directed to report back to the November Operations Committee on the condition of Union Pacific's Right-of-Way adjacent to Metro's Blue Line Right-of-Way.

DISCUSSION

The Union Pacific (UP) railroad right-of-way (ROW) that runs parallel to the Blue Line right-of-way for approximately 12 miles has been a continual source of complaints from neighboring communities due to Union Pacific's lack of care to remove accumulated trash and overgrown vegetation, with approximately 14 blocks being the greatest community eye sore. Metro staff efforts requesting UP to maintain their own ROW in a timely manner have proven to be time consuming as UP is non-responsive in resolving complaints about their ROW.

The UP western region manager over vegetation control and ROW management indicated to Metro Staff that since the UP railroad did not contribute to the trash and debris incident(s), they do not need to respond as these issues are considered to be community issues that the communities should handle. The UP currently supports only an annual ROW "cleaning", which includes primarily vegetation control.

Entry into a rail right-of-way is controlled by penal code 602 and subject to a permission process for safety and liability purposes. As a rail operator, violating UP right-of-way access is not recommended for several reasons including safety and liability considerations.

Obtaining permission to enter a ROW is subject to additional expense should the UP require a flag person be present.

NEXT STEPS

~~As a first step, Facilities Maintenance has contacted UP to obtain a right of entry permit to conduct an immediate clean up of the most unsightly 14 blocks the UP ROW, at a cost to Metro of approximately \$4,000.00, excluding any required UP flagman expense. We are awaiting a response.~~

Next, Chief Executive Officer, Roger Snoble, and staff will ~~send written communication-~~ communicate directly with ~~to~~ Union Pacific to initiate development of a memorandum of understanding (MOU) between Metro and the UP. On November 9, 2004, Gerald Francis, General Manager of Rail Operations, met with Union Pacific's Director of Track to tour the ROW. Under the proposed MOU, Metro will provide improved periodic maintenance of the ROW for an agreed upon compensation. Metro will provide the maintenance through our own local contract resources and bill UP on a reimbursement basis once an agreement is obtained. Union Pacific is now evaluating how they will handle the situation.

Staff will also forward future UP right-of-way complaints to the attention of City Managers and District representatives for assistance until an MOU is in place or the UP resolves the matter by other means.

Facilities Maintenance will promote improvement in documentation to ultimately help control dumping on UP right-of-way property. To facilitate enforcement, Metro will recommend cities install signage indicating *No Dumping, No Littering, and No Trespassing* with the appropriate California Penal Codes (C.P.C. 374.3, C.P.C. 374.4, and C.P.C. 602) along the curb of the city street. Combined with the recommendation that adjacent street curbs be painted red, there will then be in place the notice necessary to initiate code enforcement within the separate jurisdictions.

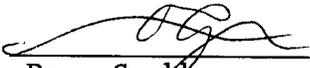
Should complaints be received after distribution of the letter notifying City Managers, Metro will respond to complainants in writing, providing contact information for Union Pacific, the applicable City Manager and Code Enforcement Manager to address their concerns. This effort will aid the community complainants in directing their concerns to the appropriate party for resolution.

Facilities Maintenance staff will report on progress to the Board in 90 days.

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Roger Snoble
Chief Executive Officer