

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 261)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT—IN NEW MADRID,
SCOTT, AND STODDARD COUNTIES, MO.

Decided: June 24, 2011

By decision and certificate of interim trail use or abandonment (CITU) served on June 17, 2009 (June 2009 decision), the Board, under 49 U.S.C. § 10903, granted the application of Union Pacific Railroad Company (UP) for authority to abandon its Essex-to-Miner Line, from milepost 196.7, near Essex, to milepost 216.27, near Miner, a distance of 19.57 miles, in New Madrid, Scott, and Stoddard Counties, Mo. The abandonment authority was granted subject to public use, environmental, and standard employee protective conditions, as well as a certificate of interim trail use or abandonment authorizing a 180-day period for the City of Sikeston (the City) to negotiate an interim trail use/rail banking agreement with UP. The deadline to negotiate a CITU was extended twice, most recently to June 7, 2011.

On June 3, 2011, the City filed a letter notifying the Board that it has been engaged in negotiations with UP regarding a trail use agreement but, to date, those negotiations have not led to the completion of a final agreement. The City requests that the Board grant an extension of the negotiating period for an additional 90 days in order to permit it and UP to continue their ongoing negotiations. On June 20, 2011, UP responded that it supports the City's request and is willing to extend the negotiating period an additional 90 days, to September 5, 2011.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue negotiations, the Board retains jurisdiction and the CITU negotiating period may be extended. See Rail Aban.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987). Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Vill. v. Mo. Pac. R.R., 95 F.3d 654, 659 (8th Cir. 1996). Accordingly, the CITU negotiating period will be extended for an additional 90 days, to September 5, 2011.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

1. The City's request to extend the CITU negotiating period for an additional 90 days is granted.
2. The CITU negotiating period is extended to September 5, 2011.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.