

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 289X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN
PULASKI COUNTY, ARK.

Decided: November 22, 2011

In this decision, an extension is granted for negotiating a trail use/rail banking agreement.

Union Pacific Railroad Company (UP) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 4.04-mile portion of its Camp Robinson Spur extending from milepost 345.64 to the end of the line at milepost 349.68, in Pulaski County, Ark. Notice of the exemption was served and published in the Federal Register on October 21, 2010 (75 Fed. Reg. 65,047-48). The exemption became effective on November 20, 2010.

By decision and notice of interim trail use or abandonment (NITU) served on November 19, 2010 (November 2010 decision), the proceeding was reopened and a 180-day period was authorized for the City of North Little Rock (City) to negotiate an interim trail use/rail banking agreement with UP for the right-of-way involved in this proceeding, pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act), until May 18, 2011. By decision served on May 13, 2011, the NITU negotiation period was extended until November 14, 2011.

On November 14, 2011, UP filed a request for an extension of the NITU negotiating period to December 31, 2011. UP states that negotiations with the City for acquisition of the line for trail use has been completed and an agreement has been signed, but that more time is needed to close the transaction. In a response filed on November 15, 2011, the City states that it agrees to UP's extension request.

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 NITU negotiating period may be extended.¹ Under the circumstances, further extension of the negotiating periods 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

¹ See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

(8th Cir. 1996). Accordingly, the NITU negotiating period will be extended until December 31, 2011.

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

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended until December 31, 2011.
3. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.