

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 200X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN FRANKLIN AND BUTLER COUNTIES, IA

Decided: August 13, 2008

On September 26, 2003, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the Iowa Trails Council (Council), on behalf of the Franklin and Butler Counties Conservation Boards, to negotiate an interim trail use/rail banking agreement with Union Pacific Railroad Company (UP) for a 23.61-mile line of railroad, known as the eastern portion of the Bristow Subdivision, extending from milepost 318.36 near Hampton to milepost 294.75 near Allison, in Franklin and Butler Counties, IA. The negotiating period under the NITU was extended by decisions served from 2004 to 2008. The latest extension expired on July 30, 2008.

On August 8, 2008, the Iowa Natural Heritage Foundation (INHF), on behalf of Franklin County, Butler County, and the Council, filed a request to extend the NITU negotiating period to August 30, 2008. INHF states that parties negotiated a donation/purchase agreement in June 2008 but that the closing date was scheduled for August 11, 2008. INHF states that additional time is necessary to allow for the transaction closing and filing of deeds to occur within the time frame. In a letter dated August 8, 2008, UP states that it consents to an additional extension through August 30, 2008.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction, and the NITU negotiating period may be extended.¹ Under the circumstances, an extension of the negotiating period is warranted. See *Birt v. STB*, 90 F.3d 580, 588-90 (D.C. Cir. 1996); *Grantwood Village v. Missouri Pac. R.R. Co.*, 95 F.3d 654, 659 (8th Cir. 1996). Accordingly, the NITU negotiating period will be extended to August 30, 2008.

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

¹ See *Rail Abandonments—Supplemental Trails Act Procedures*, 4 I.C.C.2d 152, 157-58 (1987).

It is ordered:

1. The request of INHF to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to August 30, 2008.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary