

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 255)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT—IN CARVER AND
SCOTT COUNTIES, MINN.

Decided: April 28, 2011

By decision and certificate of interim trail use or abandonment (CITU) served on April 1, 2008 (April 2008 decision), the Board granted the application filed by Union Pacific Railroad Company (UP) for abandonment of its Chaska Industrial Lead, extending from milepost 38.6, at Merriam, to milepost 33.0, on the east side of Chaska, a distance of 5.6 miles, in Carver and Scott Counties, Minn. The abandonment was subject to public use, environmental, historic preservation, and standard employee protective conditions, as well as a trail use condition authorizing a 180-day period for the Office of Carver County Regional Rail Authority (CCRRA) to negotiate an interim trail use/rail banking agreement with UP for the right-of-way involved in this proceeding.¹ By a series of decisions, the most recent served on January 28, 2011, the deadline to negotiate the CITU was extended to April 30, 2011. In this decision, the Board is again extending the CITU negotiating period.

By a pleading filed on April 15, 2011, CCRRA and the Scott County Regional Rail Authority (SCRRA) (collectively, the Authorities)² jointly request a 6-month extension of the CITU negotiating period for the portion of the right-of-way extending from milepost 38.0 to milepost 33.0.³ The Authorities state that, while they were unable to complete a purchase

¹ The environmental conditions imposed in the April 2008 decision remain in effect. The public use condition expired on October 12, 2008, and by statute cannot be extended. By decision served on September 2, 2010, the Board removed the historic preservation condition and authorized UP to remove 2 bridges located near milepost 36.17.

² CCRRA filed its original CITU and public use request on behalf of The Minnesota River Valley Rail Preservation Project (MRVRPP), a collaboration between CCRRA and 4 other bodies politic existing under Minnesota law and interested in transportation, recreation, and public utilities. SCRRA is one of the bodies politic that comprises MRVRPP.

³ The original CITU included the entire right-of-way, extending from milepost 38.6 to milepost 33.0. In a CITU extension request filed on August 17, 2010, SCRRA excluded the portion of the line from milepost 38.6 to milepost 38.0 from its CITU extension request. In a decision served on September 8, 2010, the Board authorized UP to fully abandon the portion of the right-of-way between milepost 38.6 and milepost 38.0, subject to meeting the outstanding

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agreement and close on the property, they are on track to consummate an agreement with UP for the acquisition of the line. In a pleading filed on April 21, 2011, UP concurs in the request to extend the negotiating period as to the portion of the right-of-way extending from milepost 38.0 to milepost 33.0 for 180 days, until October 27, 2011.

Where, as here, the carrier is willing to continue trail use negotiations, the CITU negotiating period may be extended.⁴ An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. § 1247(d). Accordingly, the CITU negotiating period will be extended for 180 days from April 30, 2011 (until October 27, 2011), for that portion of the line extending from milepost 38.0 to milepost 33.0.

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 CITU negotiating period for the portion of the line between milepost 38.0 and milepost 33.0 is granted.
2. The CITU negotiating period for the portion of the line described above is extended until October 27, 2011.
3. This decision is effective on its service date.

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

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conditions imposed in the April 2008 decision. By letter filed on September 8, 2010, UP stated that it has consummated the abandonment of that portion of the right-of-way.

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