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SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: May 13, 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 condition imposed authorizing public use negotiations for 180 days from the effective date of the exemption (until May 19, 2011). The November 2010 decision also included a Notice of Interim Trail Use (NITU) permitting 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), for 180 days from the service date of that decision (until May 18, 2011).

On April 25, 2011, the City filed a request to extend both the public use condition and the NITU negotiating period for an additional 180 days. The City indicates that the Arkansas Highway and Transportation Department has not yet approved the appraisal on the property, preventing the City from providing the appraisal to UP to advance negotiations. In a response filed on May 5, 2011, UP states that it is willing to continue negotiating with the City and supports the extension request.

The request to extend the public use condition will be denied, but the request to extend the NITU negotiating period will be granted. By statute, a public use condition cannot be extended beyond 180 days.¹ On the other hand, where, as here, the carrier is willing to continue

¹ 49 U.S.C. § 10905.

trail use negotiations, the NITU negotiating period may be extended.² An extension of time will promote the establishment of trails and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period will be extended for an additional 180 days, until November 14, 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 November 14, 2011.
3. The request to extend the public use condition is denied.
4. This decision is effective on its service date.

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

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