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SERVICE DATE – MARCH 15, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 190X)

UNION PACIFIC RAILROAD COMPANY–ABANDONMENT EXEMPTION–IN DUNN
COUNTY, WI

Decided: March 14, 2006

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 2-mile line of railroad, known as the Menomonie Industrial Lead, extending from milepost 0.90 near Stout Oak Street to milepost 2.90 near 12th Avenue West, in Dunn County, WI. Notice of the exemption was served and published in the Federal Register on January 10, 2003 (68 FR 1510-11). By decision and notice of interim trail use or abandonment (NITU) served on February 7, 2003, the proceeding was reopened and a 180-day period was authorized for the City of Menomonie (the City), acting through the Wisconsin Department of Transportation (WisDOT), to negotiate an interim trail use/rail banking agreement with UP for the right-of-way involved in this proceeding.¹ The negotiating period under the NITU was extended several times, with the latest extension expiring on January 22, 2006.²

On February 27, 2006, WisDOT filed a request to extend the NITU negotiating period for an additional 180 days. WisDOT states that the City and UP are continuing their discussions, and that the abandonment has not been consummated. By letter filed on February 28, 2006, UP states that it supports the request to extend the negotiating period.

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.³ Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d

¹ The decision and notice also made the exemption subject to a salvage condition and a historic preservation condition. By decision served on March 18, 2003, the historic preservation condition imposed on the entire line was modified to limit the condition to the two bridges, D-3 and D-5, located at mileposts 2.12 and 2.38, respectively.

² The most recent extension of the negotiating period under the NITU was authorized by decision served on July 25, 2005.

³ See Rail Abandonments–Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended to July 21, 2006.

This action 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 to July 21, 2006.
3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary