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SERVICE DATE – JANUARY 23, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 222X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—  
IN OUACHITA COUNTY, AR

Decided: January 22, 2008

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 3.6-mile line of railroad on the El Dorado Subdivision, extending from milepost 457.0 near Gilcrest to milepost 460.6 near El Dorado Junction, in Ouachita County, AR. Notice of the exemption was served and published in the Federal Register on May 31, 2006 (71 FR 30978-79). The exemption became effective on June 30, 2006.

By decision and notice of interim trail use or abandonment (NITU) served on June 27, 2006, the proceeding was reopened and a 180-day period was authorized for the City of Camden, AR (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). The trail use negotiation period under the NITU was scheduled to expire on December 27, 2006, but was extended to December 22, 2007, by decisions served on December 26, 2006, and July 16, 2007.<sup>1</sup>

By letter dated December 20, 2007, the City has requested an additional 180-day extension of the NITU negotiating period. By letter dated December 21, 2007, UP states that it is willing to continue to negotiate for interim trail use/rail banking with the City and supports the City's request.

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<sup>1</sup> In addition to interim trail use, the June 27, 2006 decision also imposed a public use condition that expired on December 27, 2006, and that may not be extended, and two environmental conditions. One of the conditions was an historic preservation condition, which was removed by decision served on September 28, 2006. The other environmental condition remains in effect.

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.<sup>2</sup> Under the circumstances, further 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 for an additional 180 days, from December 22, 2007, to June 19, 2008.

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

It is ordered:

1. The City's request to extend the NITU negotiating period for an additional 180 days is granted.
2. The negotiating period under the NITU is extended to June 19, 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

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