

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB-12 (Sub-No. 184X)

SOUTHERN PACIFIC TRANSPORTATION COMPANY–ABANDONMENT
EXEMPTION–WENDEL-ALTURAS LINE IN MODOC AND LASSEN
COUNTIES, CA

Decided: June 5, 2007

Southern Pacific Transportation Company (SP) filed a petition for exemption under 49 U.S.C. 10505 [now 49 U.S.C. 10502] from the prior approval requirements of 49 U.S.C. 10903-04 to abandon an 85.5-mile rail line between milepost 360.1, near Wendel and milepost 445.6, near Alturas, in Modoc and Lassen Counties, CA. A decision and notice of interim trail use or abandonment (NITU) was served and published in the Federal Register on August 12, 1996 (61 FR 41823-30), authorizing, among other things, a 180-day period for SP to negotiate an interim trail use/rail banking agreement with various parties and governmental agencies for the line.¹ The negotiating period under the NITU was extended several times; the latest extension served on February 28, 2007, extended the negotiation period until June 3, 2007.

On May 17, 2007, U.S. Department of the Interior, Bureau of Land Management (BLM), filed a request to extend the negotiation period under the NITU until September 3, 2007. BLM states that an appraisal of the line as been completed, but more time is needed to negotiate with UP. In a response filed on June 1, 2007, UP agrees to extending the negotiating period until September 3, 2007.

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. Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F3d. 580, 588-90

¹ This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company–Control and Merger–Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company (UP/SP). The common control authorized in UP/SP (see Union Pacific/Southern Pacific Merger, 1 S.T.B. 233 (1996)), was consummated on September 11, 1996. SP was subsequently merged into Union Pacific Railroad Company (UP).

(D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996). An extension of the negotiating period would promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d).² Accordingly, the NITU negotiating period will be extended to September 3, 2007. Given the time that has elapsed since abandonment was authorized, the negotiation parties are urged to conclude their negotiations so that further extensions are not necessary.

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

It is ordered:

1. BLM's request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended to September 3, 2007.
3. The decision is effective on its service date.

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

Vernon A. Williams
Secretary

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