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SERVICE DATE – JUNE 8, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 175X)

UNION PACIFIC RAILROAD COMPANY–ABANDONMENT EXEMPTION–
IN HAMILTON COUNTY, IA

Decided: June 6, 2007

On May 8, 2006, a decision and notice of interim trail use or abandonment (NITU) was served (May 8 decision), authorizing a 180-day period for the Iowa Trails Council (Council), on behalf of itself and the Hamilton County Conservation Board, to negotiate an interim trail use/rail banking agreement with Union Pacific Railroad Company (UP), for its Ellsworth Industrial Lead, a 3.2-mile line of railroad, between milepost 0.0, near Jewell, and milepost 3.2, at Ellsworth, in Hamilton County, IA.¹ By decision served on November 2, 2006, the NITU negotiating period was extended through May 3, 2007.

On May 8, 2007, the Council filed a request to extend the NITU negotiating period for an additional 180 days. The Council states that additional time is needed to continue negotiations. By letter filed on May 11, 2007, UP states that it is willing to continue negotiations and supports the Council's request to extend the negotiating period for an additional 180 days.

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.² Under the circumstances, an 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 May 3, 2007 (until October 30, 2007).

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

¹ The May 8 decision also noted that, by decision served on April 28, 2006, the proceeding had been reopened and made subject to a public use condition, an environmental condition, and a historic condition. The public use condition expired on October 25, 2006. The environmental and historic conditions remain in effect.

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

It is ordered:

1. The Council's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended for 180 days, until October 30, 2007.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary