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SERVICE DATE - OCTOBER 18, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 145X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN STANISLAUS COUNTY, CA

Decided: October 16, 2002

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights to abandon a 5.62-mile line of railroad over the Tidewater Subdivision from milepost 26.43 near McHenry to milepost 32.05 in Modesto, in Stanislaus County, CA. Notice of the exemption was served and published in the Federal Register on April 14, 2000 (65 FR 20263-64). On May 15, 2000, a decision and notice of interim trail use or abandonment (NITU) was served, that reopened the proceeding and authorized a 180-day period for the City of Modesto (City) to negotiate an interim trail use/rail banking agreement with UP for the portion of the right-of-way between milepost ± 26.43 (a point 30 feet north of the north line of the proposed Pelandale Expressway) and milepost ± 30.63 (at Needham Street), a distance of 4.2 miles. The NITU negotiating period was subsequently extended to May 7, 2002. By decision served May 2, 2002, the NITU negotiating period was extended to November 3, 2002, for the portion of the right-of-way between milepost 26.43 and milepost 30.35.¹

On September 30, 2002, the City filed a request for a 180-day extension of the negotiation period until May 2, 2003. The City states that the parties have encountered some unexpected difficulties in identifying third party leases and other agreements applicable to the property to be covered by the rail banking agreement, which leases and agreements will be assigned to Modesto. The City also states that the parties have not worked out the property description applicable for one portion of the rail banked premises, and that it may not be possible to complete the process prior to November 4, 2002. On October 11, 2002, UP advised the Board that it supports the extension request.

¹ The May 2, 2002 decision noted that UP had informed the Board that the milepost used for Needham Street in the original NITU request was in error, and that Needham Street is located at milepost 30.30, rather than milepost 30.63 as previously indicated, and that UP's ownership begins at Ninth and "P" Streets, which is milepost 30.35. In the same decision, the NITU was therefore amended to modify the referenced milepost from 30.63 (at Needham) to 30.35 (at Ninth and "P" Streets). The NITU thus covers a distance of 3.92 miles in lieu of 4.2 miles.

The negotiation period under the NITU will be extended for 180 days to May 2, 2003. An extension of the negotiation period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail service by permitting and encouraging their interim trail use as recreational trails. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990).

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

It is ordered:

1. The negotiating period under the NITU is extended to May 2, 2003.
2. The decision is effective on its service date.

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

Vernon A. Williams
Secretary