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SERVICE DATE - FEBRUARY 17, 2000

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-33 (Sub-No. 135X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT
EXEMPTION--IN ST. LOUIS COUNTY, MO
(KIRKWOOD INDUSTRIAL LEAD, KIRK JCT. TO BILLMAN SPUR)

Decided: February 16, 2000

By Decision and Notice of Interim Trail Use or Abandonment (NITU), served August 18, 1999, the Board granted the petition by Union Pacific Railroad Company (UP) for an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a 2.18-mile portion of UP's Kirkwood Industrial Lead, extending from milepost 13.62 near Kirk Jct. to the end of the line at milepost 15.80 near Billman Spur, in St. Louis County, MO. At the request of Trailnet, Inc. (Trailnet), an interim trail use/rail banking condition was imposed under 49 CFR 1152.29 and the National Trails System Act, 16 U.S.C. 1247(d), providing Trailnet a 180-day period to negotiate an interim trail use/rail banking agreement with UP. The negotiating period under the NITU is scheduled to expire on February 18, 2000.

On February 4, 2000, Trailnet filed a request to extend the NITU for 180 days. On February 11, 2000, UP advised the Board that it concurs with the requested 180-day extension of the NITU.

Because UP is agreeable to the extension of the negotiation period, an extension will be granted. Where as here, the carrier has not consummated the abandonment and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU period may be extended.¹ 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), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended for 180 days from February 18, 2000.

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

¹ See Rail Abandonment--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company--Abandonment Exemption in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and St. Louis Southwestern Railway Company--Abandonment in Smith and Cherokee Counties, TX, 9 I.C.C.2d 406 (1992).

It is ordered:

1. The request filed by Trailnet to extend the NITU period is granted.
2. The negotiating period under the NITU is extended to August 16, 2000.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary