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SERVICE DATE - LATE RELEASE MARCH 22, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 202X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN FRANKLIN COUNTY, IA

Decided: March 22, 2005

By decision and notice of interim trail use or abandonment (NITU) served on September 26, 2003, a 180-day period was authorized for the Iowa Trails Council (Iowa Trails), on behalf of the Franklin County Conservation Board, to negotiate an interim trail use/rail banking agreement with Union Pacific Railroad Company (UP) for a 5.90-mile line of railroad known as the Sheffield Industrial Lead, extending from milepost 179.80 near Chapin to milepost 173.90 near Sheffield in Franklin County, IA. The negotiating period under the NITU was extended to March 19, 2005, by decisions served March 22, 2004, and October 12, 2004, for the portion of the line extending from milepost 173.90 near Sheffield, IA, to milepost 178.0 near Chapin, IA. UP consummated abandonment over the remaining portion of the line, extending from milepost 178.0 to milepost 179.80 near Chapin, and reclassified the track as industrial trackage for the benefit of a grain elevator at that location.

On March 17, 2005, Iowa Trails submitted a request for an additional 180-day extension of the negotiating period, stating that the additional time is needed to complete negotiations. On March 18, 2005, UP filed its response in support of the extension request and is willing to continue to negotiate for the portion of the line extending from milepost 173.90 near Sheffield to milepost 178.0 near Chapin.

Where, as here, the carrier has not consummated abandonment of a portion of the line subject to the NITU 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 for that portion of the line. 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). An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended for that portion of the line extending from milepost 173.90 near Sheffield to milepost 178.0 near Chapin for a period of 180 days from March 19, 2005.

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

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended for that portion of the line extending from milepost 173.90 near Sheffield, IA, to milepost 178.0 near Chapin, IA, until September 15, 2005.
3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary