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SERVICE DATE - MARCH 15, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 112X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT EXEMPTION--
IN LANCASTER COUNTY, NE

Decided: March 14, 2001

A decision and notice of interim trail use or abandonment (NITU) served on September 24, 1997, established a 180-day period (until March 23, 1998) for the City of Lincoln (the City) to negotiate an interim trail use/rail banking agreement with the Union Pacific Railroad Company (UP) for a portion of the line between milepost 492.88 near 33rd Street and milepost 494.166 at 18th Street, in Lincoln, NE. Thereafter, pursuant to the offer of financial assistance (OFA) provisions of 49 U.S.C. 10904, Lincoln Lumber Company (LLC) acquired the portion of the line between 19th and 24th Streets on December 8, 1997.¹ Otherwise, the trail use condition remains viable for the remainder of the line between 24th Street and 33rd Street and the 8,400-square foot parcel between 18th Street and 19th Street. Subsequent decisions served on March 23 and September 15, 1998, March 19 and September 10, 1999, and March 20 and September 6, 2000, extended the NITU negotiation period until March 12, 2001.

On March 9, 2001, the City requested an extension of the NITU negotiation period for an additional 90 days or until June 10, 2001. The City states that, although negotiations continue to be delayed, the parties still desire to enter into an interim trail use agreement. Apparently, UP needs to use the line to deliver grain trains to the Omaha, Lincoln, and Beatrice Railroad Company, and to provide service to LLC, while new track is being constructed. By letter filed March 12, 2001, UP agrees to the extension of the negotiation period until June 10, 2001.

Even if the negotiation period expires, when a carrier consents to continue negotiations and has not consummated abandonment of the line at the end of the previously imposed period, the Board continues to have jurisdiction to grant an extension. Because an extension of the negotiation period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d), and the rail carrier has indicated its willingness to continue negotiations by requesting an extension of the negotiation period, the request will be granted. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990). Accordingly, the NITU negotiation period will be extended until June 10, 2001.

¹ UP notified the Board that it conveyed the portion of the line that was subject to the OFA to LLC on November 8, 2000.

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

It is ordered:

1. The City's request to extend the NITU negotiation period is granted.
2. The negotiation period under the NITU is extended to June 10, 2001.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary