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SERVICE DATE – LATE RELEASE JUNE 12, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 263X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN
COOK COUNTY, IL

Decided: June 12, 2009

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon the Weber Industrial Lead from milepost 5.8 near Wilson Avenue, Chicago, to milepost 9.5 near Touhy Avenue, Skokie, in Cook County, IL, a distance of 3.7 miles. Notice of the exemption was served and published in the Federal Register on November 18, 2008 (73 FR 68497). The notice was scheduled to become effective on December 18, 2008.

On December 17, 2008, a decision and notice of interim trail use or abandonment (NITU) was served in this proceeding authorizing a 180-day period for (1) the Village of Lincolnwood, IL (the Village) to negotiate an interim trail use/rail banking agreement with UP for a portion of UP's Weber Industrial Lead located in the Village of Lincolnwood, from approximately milepost 8.4 at Devon Avenue to the border with the Village of Skokie, IL, at approximately milepost 9.45 near Touhy Avenue, a distance of approximately 1.05 miles, and (2) the City of Chicago, acting by and through its Department of Transportation, to negotiate an interim trail use/rail banking agreement with UP for that portion of the Weber Industrial Lead from milepost 5.8 near Wilson Avenue to the border with the Village at approximately milepost 8.4 near Devon Avenue, a distance of approximately 2.6 miles.¹ The negotiating periods under the NITU are scheduled to expire on June 16, 2009.

By letter filed on June 1, 2009, the Village seeks an extension of the negotiating period for an additional 180 days, until December 13, 2009. The Village states that it has ordered an appraisal of the property for budget purposes and has continued its development of plans for use of the right-of-way. The Village further states that it has appropriated monies in its 2009-2010 budget for acquisition of the property and has applied for a grant to support the proposed trail use of the property. However, because the Village does not expect to receive a decision on its grant application until November 2009, it requests an extension of the negotiating period in order to complete its trail plan and to continue negotiating with UP to a successful conclusion. In a

¹ The December 17 decision also imposed a self-executing environmental condition requiring UP, prior to commencement of any salvage activities, to consult with the U.S. Army Corps of Engineers—Chicago District regarding potential permitting requirements under section 404 of the Clean Water Act (33 U.S.C. 1344).

response filed on June 2, 2009, UP states that it is willing to negotiate with the Village and supports the extension request.

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 Accordingly, the NITU negotiating period will be extended until December 13, 2009.

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

It is ordered:

1. The Village's request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended until December 13, 2009.
3. This decision is effective on the date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary

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