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SERVICE DATE – NOVEMBER 22, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 251X)

UNION PACIFIC RAILROAD COMPANY–ABANDONMENT  
EXEMPTION–IN DANE COUNTY, WI

Decided: November 21, 2005

Union Pacific Railroad Company (UP) and Wisconsin & Southern Railroad Company (WSOR) jointly filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments and Discontinuances of Service for UP to abandon and WSOR to discontinue service over a 4.4-mile line of railroad, known as the Central Soya Line, Harvard Subdivision, between milepost 85.5 in the City of Madison and milepost 89.9 in the City of Fitchburg, in Dane County, WI. Notice of the exemption was served and published in the Federal Register on May 2, 2005 (70 FR 22758). On May 31, 2005, a decision and notice of interim trail use or abandonment (NITU) was served, reopening the proceeding and authorizing a 180-day period for Wisconsin Department of Natural Resources (WisDNR), to negotiate an interim trail use/rail banking agreement with UP under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), for the right-of-way involved in this proceeding.<sup>1</sup> The negotiating period under the NITU is scheduled to expire on November 28, 2005.

On November 2, 2005, Wisconsin Department of Transportation (WisDOT) filed a request on behalf of WisDNR for a 180-day extension of the negotiation period. WisDOT states that negotiations are currently continuing in good faith between UP, WSOR and WisDNR, but more time is needed to finalize negotiations. By facsimile filed on November 17, 2005, UP states that it supports the extension request.

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<sup>1</sup> The May 31, 2005 decision also imposed conditions requiring that UP: (a) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act; and (b) consult with the Environmental Protection Agency, Region 5 (Kathleen Kowal, 312-353-5206), prior to commencement of any salvage activities, concerning removal and salvage methods to be used by UP during the proposed abandonment, the final disposition of cross-ties preserved with creosote, right-of-way access during salvage operations, procedures for storing and fueling of construction equipment, soil erosion and stormwater runoff mitigation practices to be utilized during abandonment activities, revegetation methods, and bridge and culvert maintenance activities following abandonment.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiation period may be extended. Under the circumstances, an extension of the negotiating period is warranted and will promote the establishment of trail use and rail banking consistent with the Trails Act.<sup>2</sup> Accordingly, the negotiating period will be extended to May 27, 2006.

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

It is ordered:

1. WisDOT's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to May 27, 2006.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

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