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SERVICE DATE – MARCH 18, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 284X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN KANE
COUNTY, ILL.

Decided: March 15, 2011

In this decision, an extension is granted for negotiating a trail use/rail banking agreement.

By decision and notice of notice of interim trail use or abandonment (NITU) served on September 22, 2010 (September 2010 decision), the Board granted Union Pacific Railroad Company (UP) an exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903 to abandon a 3.17-mile line of railroad known as the St. Charles Industrial Lead, extending from milepost 35.13 to the end of the line at milepost 38.30, near St. Charles, in Kane County, Ill., subject to public use, trail use, and standard employee protective conditions.

In the September 2010 decision, a 180-day period was authorized to permit public use negotiations and to permit the County of Kane, Forest Preserve District of Kane County, St. Charles Park District, and the City of St. Charles (collectively, Proponents), to negotiate an interim trail use/rail banking agreement with UP for the right-of-way involved in this proceeding. The NITU negotiating period and the public use condition expire on March 21, 2011.

On February 28, 2011, Proponents filed a request for an extension to September 21, 2011.¹ Proponents indicate that they have been gathering information and have been in contact with UP, but that it does not appear that the parties will be able to finalize negotiations by the March 21 deadline. On March 10, 2011, UP replied that it supports Proponents' request and is willing to extend the trail use negotiating period to September 21, 2011.

Where, as here, the carrier is willing to continue trail use negotiations, the NITU negotiating period may be extended.² An extension of time will promote the establishment of

¹ Proponents do not distinguish between an extension of the public use condition and an extension of the trail use negotiation period under the NITU. Under 49 U.S.C. § 10905, a public use condition may not be extended beyond 180 days. Proponents' request therefore is construed as pertaining only to the trail use negotiating period under the NITU.

² See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

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 to September 21, 2011.

This decision 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 negotiation period is granted.
2. The negotiating period under the NITU is extended to September 21, 2011.
3. The decision is effective on its service date.

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