

SURFACE TRANSPORTATION BOARD

DECISION AND MODIFICATION OF CERTIFICATE OF INTERIM TRAIL  
USE OR ABANDONMENT

STB Docket No. AB-33 (Sub-No. 156)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT—IN HARRIS, FORT BEND,  
AUSTIN, WHARTON AND COLORADO COUNTIES, TX

Decided: December 1, 2006

On November 8, 2000, the Board served a decision and certificate of interim trail use (CITU) or abandonment (November 2000 decision), authorizing Union Pacific Railroad Company (UP) to abandon a 49.42-mile line of railroad known as the Bellaire Subdivision, extending from milepost 3.48 near Bellaire Junction in Houston, to milepost 52.9 near Chesterville, in Harris, Fort Bend, Austin, Wharton and Colorado Counties, TX. In the November 2000 decision, the Board also authorized a 180-day period for the Sierra Club (Houston Chapter) and the Houston Area Bicyclists Alliance and, separately, The Metropolitan Transit Authority of Harris County, Texas (METRO) to negotiate an interim trail use/rail banking agreement with UP for the entire right-of-way under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and 49 CFR 1152.29. The CITU negotiating period was extended by decision served on June 28, 2001. UP and METRO then entered into a Trails Act agreement.

On November 14, 2006, METRO, pursuant to 49 CFR 1152.29(c)(2), filed a notice of intent to terminate interim trail use/rail banking for a portion of the 100-foot-wide right-of-way. The portion of the right-of-way on which METRO proposes to terminate interim trail use is a strip of land of varying width extending between milepost 15.65, at or near Dairy Ashford Road, and milepost 20.76, at or near Barker Cypress Road, a distance of approximately 5.11 miles in Harris County. METRO indicates that the strip of land at its widest point would be approximately 95 feet wide and would always leave, at any one point, no fewer than 5 feet of the original right-of-way for rail banking and interim trail use by METRO. Approximately 29.15 acres of the original right-of-way would no longer be part of the CITU.

The purpose of terminating the interim trail use on this portion of the property is to permit the conveyance by METRO to the Harris County Toll Road Authority (Authority), which seeks the land for construction and operation of a toll road lane for the Westpark Tollway. In exchange, the Authority will convey to METRO, the trail sponsor, by fee simple, parcels of land comprising a parallel strip of land of varying width immediately to the south of and abutting the strip of land being conveyed to the Authority. Thus, METRO states that it will continue to have a 50-foot wide corridor between the referenced mileposts to permit the future restoration of rail service and interim trail use on this 49.42-mile right-of-way—no fewer than 5 feet to continue to

be held by it as the trail sponsor under the Trails Act and the remainder, up to 45 feet in width, to be held by METRO in fee simple. METRO states that the configuration of the parcels making up the strip of land to be conveyed to METRO has been designed to provide for appropriate curvatures for the future restoration of rail service.

Upon issuance of a decision modifying the CITU, METRO indicates that the conveyances by METRO and the Authority will take place by simultaneous exchange of deeds, which will be recorded in the real property records of Harris County. Thus, METRO requests that the portion of the CITU pertaining to the 29.15 acres of the original right-of-way to be exchanged with the Authority be vacated as of December 1, 2006. For its part, METRO states that, at no time, will it own a right-of-way less than 50 feet in width between milepost 15.65 and milepost 20.76 so as to permit the restoration of rail service at some point in the future, if warranted, and interim trail use.

METRO has complied with the requirements of 49 CFR 1152.29(c)(2) regarding a request to vacate a CITU. Whenever a trail manager intends to terminate trail use over a portion of the right-of-way and sends the Board a request that a CITU be vacated in part, the Board will reopen the proceeding and vacate the CITU. Further, METRO has served its request on UP. Therefore, METRO's request to vacate the CITU will be granted with respect to 29.15 acres of the right-of-way, effective on December 1, 2006, as requested.

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

It is ordered:

1. This proceeding is reopened.
2. METRO's request to vacate the CITU for the 29.15 acres of the right-of-way described above is granted.
3. The CITU, served on November 8, 2000, is vacated with respect to 29.15 acres of the right-of-way, effective as of December 1, 2006. The CITU will remain in effect for the remainder of the right-of-way described in the November 2000 decision.

4. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary