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SERVICE DATE – FEBRUARY 7, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 187X)

UNION PACIFIC RAILROAD COMPANY–ABANDONMENT EXEMPTION–
IN BOONE AND DALLAS COUNTIES, IA

Decided: February 4, 2005

On January 13, 2003, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the Iowa Natural Heritage Foundation (INHF), on behalf of the Boone and Dallas County Conservation Boards, the City of Perry, and the Iowa Trails Council, to negotiate an interim trail use/rail banking agreement with the Union Pacific Railroad Company (UP) for approximately 12.2 miles of a line of railroad known as the Ankeny Subdivision, extending from milepost 341.1 near Slater to the end of the line at milepost 353.5 near Woodward (Equation 346.4–346.6) in Boone and Dallas Counties, IA. The negotiating period under the NITU was scheduled to expire on July 12, 2003, but was extended by decisions served on August 15, 2003, February 6, 2004, and August 27, 2004. The latest extension expired on January 10, 2005.

On January 28, 2005, INHF filed a request for an extension of the negotiating period until July 10, 2005. INHF states that it is continuing to negotiate with UP, but that more time is needed to finalize negotiations. On January 31, 2005, UP advised that it has received a request from INHF for an extension of the negotiating period. UP states that it supports INHF's request and is willing to continue the negotiations.

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. Under the circumstances, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the negotiating period will be extended to July 10, 2005.¹

¹ Although the request slightly exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., CSX Transportation, Inc.–Abandonment Exemption–in

(continued...)

This action 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 negotiating period is granted.
2. The NITU negotiating period is extended until July 10, 2005.
3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary

¹(...continued)

Jefferson County, AL, STB Docket No. AB-55 (Sub-No. 613X) (STB served Oct. 22, 2004).