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SERVICE DATE - JULY 29, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 143X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT AND DISCONTINUANCE OF
TRACKAGE RIGHTS EXEMPTION—IN WRIGHT, FRANKLIN AND CERRO GORDO
COUNTIES, IA

Decided: July 24, 2002

On February 10, 2000, a decision and notice of interim trail use or abandonment (NITU) was served, authorizing a 180-day period for Iowa Trails Council and the Wright County Conservation Board, a county government agency (collectively, ITC), to negotiate an interim trail use/rail banking agreement with the Union Pacific Railroad Company (UP) for the 12.38-mile line of railroad over the Thornton Industrial Lead (formerly known as the Fort Dodge Branch) from milepost 17.14 near Thornton to milepost 29.52 near Belmont, in Wright, Franklin and Cerro Gordo Counties, IA. The negotiation period was extended several times and the latest extension was scheduled to expire on July 14, 2002.¹

On July 12, 2002, ITC requested an additional 180-day extension of the negotiating period. ITC states that it has been unable to complete negotiations for acquisition of the right-of-way within the time period allowed. On July 18, 2002, UP advised that it 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 Under the circumstances, further extension of the negotiation 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). Accordingly, the NITU negotiating period will be extended to January 10, 2003.

¹ The negotiation period under the NITU was extended by decisions served August 1, 2000, February 2, 2001, August 2, 2001, and January 3, 2002.

² See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company—Abandonment in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and SSW Ry. Co.—Aban.—In Smith and Cherokee Counties, TX, 9 I.C.C.2d 406 (1992).

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

It is ordered:

1. The negotiating period under the NITU is extended to January 10, 2003.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary