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SERVICE DATE – MARCH 24, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 200X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN FRANKLIN AND BUTLER COUNTIES, IA

Decided: March 23, 2005

On September 26, 2003, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the Iowa Trails Council (Council), on behalf of the Franklin and Butler Counties Conservation Boards, to negotiate an interim trail use/rail banking agreement with Union Pacific Railroad Company (UP) for a 23.61-mile line of railroad, known as the eastern portion of the Bristow Subdivision, extending from milepost 318.36 near Hampton to milepost 294.75 near Allison, in Franklin and Butler Counties, IA. The negotiating period under the NITU was extended by decisions served on March 24, 2004, and September 17, 2004. The latest extension expired on March 19, 2005.

On March 21, 2005, the Council filed a motion to extend the NITU negotiating period for an additional 180 days. The Council states that additional time is needed to complete negotiations. On March 18, 2005 (prior to the receipt of the Council's NITU extension request), the Board received a letter from UP stating that it agrees to the request for an extension.

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, further 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). Accordingly, the NITU negotiating period will be extended to September 15, 2005.

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

It is ordered:

1. The motion of the Council to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended for 180 days until September 15, 2005.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary