

41811
DO

SERVICE DATE – LATE RELEASE AUGUST 22, 2011

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: August 19, 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, between milepost 35.13 and the end of the line at milepost 38.30, near St. Charles, in Kane County, Ill. The exemption was granted 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, the Local Agencies), to negotiate an interim trail use/rail banking agreement with UP for the right-of-way involved in this proceeding. By decision served on March 18, 2011, the NITU negotiating period was extended until September 21, 2011.

By letter filed on August 3, 2011, the City of St. Charles, on behalf of the Local Agencies, requests an extension of the NITU negotiating period for an additional 180 days, until March 21, 2012.¹ The City indicates that the Local Agencies 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 September 21, 2011 deadline. In a letter filed on August 2, 2011, UP states that it supports the Local Agencies' request and is willing to extend the trail use negotiating period to March 21, 2012.

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 An extension to that date would be 182 days in length.

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 until March 21, 2012.

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 March 21, 2012.
3. The decision is effective on its service date.

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