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SERVICE DATE - SEPTEMBER 15, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 112X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT EXEMPTION--
IN LANCASTER COUNTY, NE

Decided: September 11, 1998

A decision and notice of interim trail use or abandonment (NITU) served on September 24, 1997, established a 180-day period (until March 23, 1998) for the City of Lincoln (the City) to negotiate an interim trail use/rail banking agreement with the Union Pacific Railroad Company (UP) for a portion of the line between milepost 492.88 near 33rd Street and milepost 494.166 at 18th Street, in Lincoln, NE.¹ Thereafter, pursuant to the offer of financial assistance provisions of 49 U.S.C. 10904, Lincoln Lumber Company (LLC) was authorized to acquire the portion of the line between 19th and 24th Streets (mileposts 494.166 and 492.88, respectively). Otherwise, the trail use condition remains viable for the remainder of the line between 24th Street and 33rd Street and the 8,400 square foot parcel between 18th Street and 19th Street. By decision served March 23, 1998, the NITU negotiation period was extended until September 19, 1998.

On August 17, 1998, the City filed a request to extend the NITU negotiation period for an additional 180 days or until March 20, 1999.² The City states that negotiations have been further delayed because the line is being used to deliver grain trains to the Omaha, Lincoln, and Beatrice Railroad Company and to provide service to LLC, while new trackage is being constructed.³ By letter filed August 24, 1998, UP agrees to the extension of the negotiation period.

Because an extension of the negotiation period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d), and the parties agree on the necessity for the extension, the request will be granted.

¹ UP indicated its intent to donate to the University of Nebraska that portion of the line between 18th Street and milepost 494.76 near 10th Street.

² The 180-day period would normally run from September 19, 1998, when the prior trail use negotiation period expired. An extension to March 20, 1999, provides a period that is slightly longer than 180 days but is appropriate under these circumstances. The 180-day period is not statutory. It was adopted in Rail Abandonments--Use of Rights-of-Way as Trails, 2 I.C.C.2d 591, 605 (1986), to promote the expeditious conclusion of negotiations.

³ By decision served July 7, 1998, UP was granted a 1-year extension of time (until September 24, 1999) to exercise the abandonment authority.

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

It is ordered:

1. The City's request to extend the NITU negotiation period is granted.
2. The negotiation period under the NITU is extended to March 20, 1999.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary