

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 168X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN HARDIN COUNTY, IA (ELDORA JUNCTION LINE IN ELDORA, IA)

Decided: April 20, 2004

By decision and notice of interim trail use or abandonment (NITU) served on April 8, 2003, the Board granted to 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 segment of line, known as the Eldora Junction Line, extending from milepost 5.10 to milepost 6.22, a distance of 1.12 miles, in Eldora, Hardin County, IA. Also, in response to a request by the City of Eldora, IA, and the Iowa Natural Heritage Foundation (collectively, the City) that the Board issue a NITU for the line, and in light of UP's willingness to enter into trail use negotiations with the City, the Board issued a NITU for a 180-day negotiating period that extended until October 5, 2003. By decision served October 22, 2003, the negotiating period under the NITU was extended to April 8, 2004.

By letter filed on April 13, 2004, the City requests another extension of the NITU negotiating period. In its letter, the City states that it has submitted an offer to purchase the corridor and that UP is currently considering the offer. Consequently, the City states that it needs more time to finalize the acquisition and trail use agreement and asks for an extension to October 8, 2004.¹ Finally, the City asserts that UP has taken no actions inconsistent with trail use and rail banking. In a letter filed that same date, UP states that it is willing to continue to negotiate with the City and supports the request to extend the negotiating period.

Even if a negotiating period expires, when a carrier consents to continue negotiations and has not consummated abandonment of the line, the Board continues to have jurisdiction to grant an extension. Because an extension of the NITU negotiating period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d), and the rail carrier has indicated its willingness to continue negotiations, the request will be granted. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990). Accordingly, the extension will be granted.

¹ Although the request slightly exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company—Abandonment Exemption—In Jackson, Victoria and Wharton Counties, TX, Docket No. AB-12 (Sub-No. 162X) (STB served May 29, 1996).

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 interim trail use negotiating period is granted.
2. The negotiating period under the NITU is extended to October 8, 2004.
3. This decision is effective on its date of service.

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

Vernon A. Williams
Secretary