

33820
DO

SERVICE DATE - JULY 18, 2003

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 16, 2003

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 Belmond, in Wright, Franklin and Cerro Gordo Counties, IA. The negotiation period was extended several times; the latest extension was scheduled to expire on July 9, 2003.¹

On July 8, 2003, ITC requested an additional extension of the negotiating period. The same day UP advised that it supports the 180-day 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. Under the circumstances, an 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). On basis of the extension request and UP's response, the NITU negotiating period will be extended for an additional 180 days from July 9, 2002 (until January 5, 2004).²

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

¹ The most recent extension of the negotiation period under the NITU was authorized by decision served January 2, 2003.

² See *Rail Abandonments—Supplemental Trails Act Procedures*, 4 I.C.C.2d 152, 157-58 (1987).

It is ordered:

1. ITC's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to January 5, 2004.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary