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SERVICE DATE – MARCH 30, 2007

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 29, 2007

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, September 17, 2004, March 24, 2005, September 14, 2005, April 13, 2006, and October 16, 2006. The latest extension expired on March 10, 2007.

In a letter dated March 5, 2007, and received by the Board on March 12, 2007, the Council filed a request to extend the NITU negotiating period for an additional 180 days. The Council states that additional time is needed to continue negotiations. In a letter filed on March 7, 2007, UP states that it is willing to continue negotiating with the Council and supports the request for an additional 180-day 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.¹ 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). Accordingly, the NITU negotiating period will be extended for an additional 180 days from March 10, 2007. Given the time that has elapsed since abandonment was authorized, the negotiation parties are urged to conclude their negotiations so that further extensions will not be necessary.

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

¹ See *Rail Abandonments—Supplemental Trails Act Procedures*, 4 I.C.C.2d 152, 157-58 (1987).

It is ordered:

1. The request 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 6, 2007.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary