

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 218X)

UNION PACIFIC RAILROAD COMPANY–ABANDONMENT EXEMPTION–IN
KOOTENAI COUNTY, ID

Decided: September 8, 2006

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments and Discontinuances of Service and Trackage Rights to abandon a 5.25-mile line of railroad known as the Coeur d’Alene Industrial Lead from milepost 2.25 near Feeley Spur to milepost 7.50 near Gibbs, in Kootenai County, ID. Notice of the exemption was served and published in the Federal Register on December 16, 2004 (69 FR 75379-80).¹ Under 49 CFR 1152.50(d)(3), the exemption was scheduled to become effective on January 15, 2005, but a formal expression of intent to file an offer of financial assistance (OFA) was timely filed by Pan American Railway, Inc. (PARI) to purchase the entire line.

On March 10, 2005, PARI notified the Board that it had decided not to go forward with the OFA, and therefore the OFA process was terminated. By a decision and notice of interim trail use or abandonment (NITU) served on March 14, 2005: (1) the proceeding was reopened; (2) the OFA process was terminated; (3) the exemption was made effective on the decision service date, subject to conditions; and (4) a 180-day period was authorized for the North Idaho Centennial Trail Foundation (NICTF) to negotiate an interim trail use/rail banking agreement with UP for the right-of-way, until September 10, 2005. An extension of the negotiating period until September 10, 2006, was granted by decision served September 21, 2005.

On August 28, 2006 NICTF filed a request to extend the NITU negotiation period until January 1, 2007. NICTF states that its representatives and UP have met recently and that it has made a realistic and substantial offer to acquire the corridor and that the offer is being reviewed by UP. On September 1, 2006, UP advised the Board that it agrees to the extension request.

¹ By decision served January 14, 2005, the proceeding was reopened and the exemption was made subject to environmental conditions requiring that UP: (1) retain its interest in and take no steps to alter the historic integrity of the line and all sites and structures on the line until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f; and (2) consult with the Idaho Department of Environmental Quality prior to salvage activities to ensure that the proposed abandonment and salvage of the Coeur d’Alene Industrial Lead Line would not pose any adverse impacts to human health and safety.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. Under the circumstances, an extension of the negotiating period is warranted and will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d).² Accordingly, the negotiating period will be extended until January 1, 2007.

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

It is ordered:

1. NICTF's request for an extension of the NITU negotiation period is granted.
2. The negotiation period under the NITU is extended to January 1, 2007.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

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