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SERVICE DATE - FEBRUARY 1, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 105X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT EXEMPTION--
IN KANE COUNTY, IL

Decided: January 28, 1999

By decision and notice of interim trail use or abandonment (NITU) served on April 29, 1997, a 180-day period was authorized for the City of Elgin, IL (the City), to negotiate an interim trail use/rail banking agreement with the Union Pacific Railroad Company (UP) for a 2.8-mile segment of the East Elgin Industrial Lead between milepost 41.0 near Elgin Junction and milepost 43.8 near East Elgin, in Kane County, IL. At the City's request, the 180-day negotiating period was extended through October 21, 1998, by decisions served November 4, 1997, and April 23, 1998. By decision served November 6, 1998, the City was granted a 90-day extension of the negotiating period, through January 19, 1999, for that portion of the line between milepost 43.0 and the end of the line at milepost 43.8.¹

On January 13, 1999, the City filed a request for an additional 180-day extension of the negotiating period for the remaining portion of the line (between milepost 43.0 and milepost 43.8). The City states that it has agreed to a contract and that the agreement has been submitted to UP for final approval and execution but that UP needs additional time to complete its review and make a final decision. By letter filed January 19, 1999, UP agrees with this extension request. On January 26, 1999, the National Association of Reversionary Property Owners (NARPO),² filed a letter opposing the request for an extension and criticizing the length of the negotiation process, but recognizing that only .8-mile of right-of-way remains under discussion.

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 to extend the NITU negotiating period for the segment between mileposts 43.0 and 43.8.³ Under the circumstances, a further extension is warranted and will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C.

¹ The other portion of the line between milepost 41.0 and milepost 43.0 could be fully abandoned on October 22, 1998, and UP has given notice that it consummated abandonment of that segment effective October 22, 1998.

² NARPO represents numerous property owners along the right-of-way in this proceeding.

³ See Rail Abandonments - Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

1247(d). Accordingly, the NITU negotiating period for the portion of the line discussed above will be extended for an additional 180 days from January 19, 1999. The Board expects, however, that parties will complete negotiations in a timely manner. Therefore, the parties are encouraged to reach a resolution on the possible sale of the line to the City so that further extensions of the trail use/rail banking negotiating period are not necessary.

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 negotiating period is granted.
2. The NITU negotiating period is extended until July 18, 1999.
3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary