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SERVICE DATE - LATE RELEASE JANUARY 11, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 114X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT EXEMPTION--  
IN WASHBURN COUNTY, WI

Decided: January 11, 1999

On January 16, 1998, a decision and notice of interim trail use or abandonment (NITU) was served, authorizing a 180-day period for the Wisconsin Department of Natural Resources, acting through the Wisconsin Department of Transportation (collectively referred to as WisDNR/DOT), to negotiate an interim trail use/rail banking agreement with Union Pacific Railroad Company (UP) for UP's 12.68-mile line of railroad known as the Hayward Industrial Lead, extending from milepost 83.32 near Trego to milepost 96.0 near Hayward Junction, in Washburn County, WI.<sup>1</sup> By decision served July 13, 1998, the negotiation period under the NITU was extended an additional 180 days until January 11, 1999.

By letter filed on September 14, 1998, UP and WisDNR/DOT advised the Board that the easterly .8-mile segment of the right-of-way from milepost 95.2 to milepost 96.0 was not subject to negotiations because the segment is subject to acquisition for railroad purposes by Wisconsin Central Limited.

On September 21, 1998, the Washburn County Transit Commission (WCTC), a new negotiation party, filed a request for issuance of a NITU so that it could negotiate with UP for the portion of the line extending from milepost 83.32 to milepost 95.2. By decision served on October 8, 1998, a NITU was served, authorizing WCTC to negotiate an interim trail use/rail banking agreement with UP until January 11, 1999, when the 180-day period under the NITU is scheduled to expire.

On January 6, 1999, WisDNR/DOT and WCTC jointly filed a request for an extension of the NITU negotiation period for an additional 180 days. WisDNR/DOT acknowledges and welcomes WCTC's commitment to preserve this rail corridor and states that WCTC plans to work with WisDNR/DOT in the acquisition and management of the right-of-way. By letter dated January 6, 1999, UP agreed to the extension of the negotiation period.

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<sup>1</sup> Notice of the exemption was published in the Federal Register on October 20, 1997 (62 FR 54504).

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.<sup>2</sup> Under the circumstances, further 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). Accordingly, the NITU negotiating period will be extended for an additional 180 days from January 11, 1999.

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

It is ordered:

1. WisDNR/DOT's and WCTC's request to extend the NITU negotiation period is granted.
2. The negotiation period under the NITU is extended until July 10, 1999.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

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<sup>2</sup> See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).