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SERVICE DATE - FEBRUARY 2, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 137X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT AND DISCONTINUANCE OF
TRACKAGE RIGHTS EXEMPTION--IN ADA COUNTY, ID

Decided: January 31, 2000

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 the "Boise Cutoff," an 18.2-mile line of railroad on the Boise Subdivision, from milepost 424.80 near Orchard to milepost 443.0 near Hillcrest, in Ada County, ID. Notice of the exemption was served and published in the Federal Register on July 8, 1999 (64 FR 36968-69). The exemption became effective on August 7, 1999. On July 15, 1999, Ada County (County), a political subdivision of the State of Idaho, and the Treasure Valley Regional Public Transportation Authority (Treasure Valley) filed separate requests for the issuance of a notice of interim trail use (NITU) for the entire line under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and for a public use condition under 49 U.S.C. 10905, in order to negotiate with UP for acquisition of the right-of-way for use as a recreational trail. On July 20, 1999, the City of Boise (City) filed a request for a 180-day public use condition for the entire line to afford local governments an opportunity to pursue acquisition of the right-of-way, structures, and rails for public use as a regional commuter rail system.

On August 6, 1999, a NITU was served authorizing a 180-day period for the County and Treasure Valley to negotiate an interim trail use/rail banking agreement with UP. The August 6 decision also imposed (a) a 180-day public use condition that required UP to keep intact the right-of-way, including bridges, trestles, culverts and tunnels until February 3, 2000, and (b) a 90-day public use condition that required UP to keep the track, ties and signal equipment intact until November 5, 1999. By decision served November 4, 1999, the 90-day public use condition was further extended to February 3, 2000, at the request of the City.¹

On January 21, 2000, UP filed a request to extend the NITU negotiation period until August 3, 2000.² UP states that it has been actively negotiating with the City, which is interested in trail

¹ Under 49 U.S.C. 10905, the Board may prohibit the disposal of rail properties that are proposed to be abandoned and suitable for public purposes for a period of not more than 180 days after the effective date of the decision approving or exempting the abandonment.

² The 180-day period would normally run from February 3, 2000, when the prior trail use negotiation period is due to expire. An extension to August 3, 2000, provides a period that is

use, but it does not appear that an agreement will be reached by February 3, 2000. UP also states that it has not fully consummated the abandonment.³

The requested extension of the negotiation period under the NITU will be granted. It will promote the establishment of trail use and rail banking consistent with the Trails Act. The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail service by permitting and encouraging their interim use as recreational trails. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990).

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

It is ordered:

1. The negotiating period under the NITU is extended to August 3, 2000.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

slightly longer than 180 days but is appropriate under the circumstances. The 180-day period is not statutory. It was adopted in Rail Abandonments--use of Rights-of-Way as Trails, 2 I.C.C.2d 591, 605 (1986), to promote the expeditious conclusion of negotiations.

³ By letter filed August 12, 1999, UP notified the Board that on August 7, 1999, it had discontinued rail operations over the line.