

32605  
DO

SERVICE DATE - MARCH 7, 2002

SURFACE TRANSPORTATION BOARD

DECISION<sup>1</sup>

Docket No. AB-12 (Sub-No. 184X)

SOUTHERN PACIFIC TRANSPORTATION COMPANY--ABANDONMENT  
EXEMPTION--WENDEL-ALTURAS LINE IN MODOC AND LASSEN  
COUNTIES, CA

Decided: March 4, 2002

Southern Pacific Transportation Company (SPT) filed a petition for exemption under 49 U.S.C. 10505 [now 49 U.S.C. 10502] from the prior approval requirements of 49 U.S.C. 10903-04 to abandon an 85.5-mile rail line between milepost 360.1, near Wendel and milepost 445.6, near Alturas, in Modoc and Lassen Counties, CA. A decision and notice of interim trail or abandonment (NITU) was served and published in the Federal Register on August 12, 1996 (61 FR 41823-30), authorizing, among other things, a 180-day period for SPT to negotiate an interim trail use/rail banking agreement with various parties and governmental agencies for the 85.5-mile line of railroad. At the request of UP, the negotiating period under the NITU was extended several times. The latest extension expired on August 8, 2001.<sup>2</sup>

On February 25, 2002, U.S. Department of the Interior, Bureau of Land Management (BLM), filed a request to extend the negotiation period under the NITU by 6 months, and preferably 1 year. BLM states that the acquisition of the line from UP may take more than 6 months, due to time needed to establish acquisition value and secure funds. BLM also states that, to date, only preliminary information has been provided by UP and negotiations have not occurred because of UP's uncertainty as to when the line would be available for disposition. By a filing made on February 27, 2002, Rails to Trails Conservancy also requests an extension of the NITU for 1 year and supports BLM's extension request. In its response, UP states that it has not consummated the abandonment and that it is agreeable to an additional trail use negotiation period of 1 year for BLM or other entities to conduct trail use negotiations.

---

<sup>1</sup> This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company--Control and Merger--Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company (UP/SP). The common control authorized in UP/SP, Decision No. 44 (STB served Aug. 12, 1996), was consummated on September 11, 1996.

<sup>2</sup> The negotiation period under the NITU was extended by decisions served February 10, 1997, January 26, 1998, August 5, 1998, July 30, 1999, and August 7, 2000.

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. Under the circumstances, further 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., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). On the basis of the extension requests, including the anticipated time needed to complete trail use negotiations, and UP's response, it appears that the parties are requesting and would need an extension that would run until 1 year after the service date of this decision. Accordingly, the NITU negotiating period will be extended to March 7, 2003.

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

It is ordered:

1. The negotiation period under the NITU is extended to March 7, 2003.
2. The decision is effective on its service date.

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

Vernon A. Williams  
Secretary