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SERVICE DATE - MAY 2, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 145X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN STANISLAUS COUNTY, CA

Decided: April 26, 2002

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 5.62-mile line of railroad over the Tidewater Subdivision from milepost 26.43 near McHenry to milepost 32.05 in Modesto, in Stanislaus County, CA. Notice of the exemption was served and published in the Federal Register on April 14, 2000 (65 FR 20263-64). On May 15, 2000, a decision and notice of interim trail use or abandonment (NITU) was served, that reopened the proceeding and authorized a 180-day period for the City of Modesto (City) to negotiate an interim trail use/rail banking agreement with UP for a portion of the right-of-way between milepost ± 26.43 (a point 30 feet north of the north line of the proposed Pelandale Expressway) and milepost ± 30.63 (at Needham Street), a distance of 4.2 miles. The NITU negotiating period was extended by decisions served October 23, 2000, April 26, 2001, and October 31, 2001, and is currently scheduled to expire on May 7, 2002.

On April 19, 2002, the City filed a request for a 180-day extension of the negotiation period until November 3, 2002. The City states that the extension is necessary in order for UP to correct the milepost error in the southern terminus of the right-of-way. Also on April 19, 2002, UP filed a reply stating that it has been determined that the milepost used for Needham Street in the original NITU request was in error, and that Needham Street is located at milepost 30.30 rather than milepost 30.63 as previously indicated. UP states that it has been determined that the actual point where its ownership begins is at Ninth and “P” Streets, which is milepost 30.35 and UP requests that the Board amend the NITU to reflect the correct milepost.¹ UP further states that it is agreeable to the extension request.

All parties agree that the northern segment of the right-of-way under the NITU is between milepost 26.43 and milepost 30.35 (at Ninth and “P” Streets), a distance of 3.92 miles in lieu of 4.2 miles. Therefore, UP’s request to modify the NITU is granted. The negotiation period under

¹ UP states that the southern segment of the right-of-way is located on a franchise granted by the City to UP, and that it was the intent of the parties that only the northern segment was suitable for trail use and the parties agreed upon a trail use condition for this northern segment. However, it is now determined that the northern segment actually begins at Ninth and “P” Streets, where the City franchise ends.

the NITU for that portion of the right-of-way between milepost 26.43 and milepost 30.35 will be extended for 180 days to November 3, 2002.

An extension of the negotiation period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d) (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 trail 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 NITU in this proceeding is amended as requested to modify the referenced milepost 30.63 (at Needham) to milepost 30.35 (at Ninth and "P" Streets), and the NITU negotiating period for the line segment between milepost 26.43 and milepost 30.35 is extended to November 3, 2002.

2. The decision is effective on its service date.

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

Vernon A. Williams
Secretary