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SERVICE DATE - JULY 13, 1998

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: July 6, 1998

By decision and notice of interim trail use or abandonment (NITU) served January 16, 1998, a 180-day period was authorized for the Wisconsin Department of Natural Resources (WisDNR), acting through the Wisconsin Department of Transportation (WisDOT) (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.¹ The 180-day period under the NITU is scheduled to expire on July 15, 1998. In the January 16 decision, we also imposed a 180-day public use condition at the request of Washburn County (County).

On June 29, 1998, WisDNR/DOT and UP filed a joint motion for an extension of the negotiation period for an additional 180 days. The parties state that an initial timely offer has been made and that negotiations are continuing in good faith, but that additional time is needed to finalize negotiations. Also, on June 29, 1998, the County filed a letter requesting an additional 90 days to negotiate with UP for the purchase of the line.

A further extension of the NITU negotiating period is warranted. The requested extension will promote the establishment of trail use 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 use as recreational trails. See Policy Statement of Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990).

Under 49 U.S.C. 10905, the Board's public use jurisdiction expires 180 days from the effective date of the decision approving the abandonment.² The public use condition imposed in

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

² See 49 CFR 1152.28(b); and Rail Abandonments--Public Use Conditions--Revision, 8 I.C.C.2d 392, 395-98 (1992).

the January 16 decision was for the maximum 180-day period; it expires on August 14, 1998, and cannot be extended. Therefore, the extension requested by the County must be denied.

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

It is ordered:

1. The request filed by WisDNR/DOT and UP to extend the NITU negotiation period under the NITU for an additional 180 days is granted.
2. The negotiation period under the NITU is extended to January 11, 1999.
3. The County's request to extend the negotiating period under the public use condition is denied.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary