

30921  
DO

SERVICE DATE - LATE RELEASE MARCH 23, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 130X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT  
EXEMPTION--IN POCAHONTAS, BUENA VISTA AND CLAY COUNTIES, IA  
(ROYAL BRANCH)

Decided: March 23, 2000

A decision and notice of interim trail use or abandonment (NITU) served March 29, 1999, established a 180-day period for the Iowa Trails Council (ITC) to negotiate an interim trail use/rail banking agreement with the Union Pacific Railroad Company (UP) for acquisition of the 25.25 miles of railroad right-of-way that is the subject of this proceeding.<sup>1</sup> By decision served October 1, 1999, the 180-day negotiating period was extended to March 23, 2000.<sup>2</sup>

On March 16, 2000, ITC filed a request to extend the NITU negotiation period for an additional 180 days from March 23, 2000. ITC states that it needs the additional time in order to conclude negotiations under the terms of the National Trails System Act, 16 U.S.C. 1247(d). By letter filed on March 20, 2000, UP advises that it is agreeable to a 180-day extension of the NITU negotiation period.

On March 22, 2000, Farmers for Our Land (FFOL), a group of persons identifying themselves as adjoining landowners, filed a letter in opposition to any further extension of the NITU negotiating period. FFOL argues that much of the land can easily be reverted to farmland and that the right-of-way is in the middle of prime farmland with little or no scenery for a bicyclist or nature lover. FFOL enclosed letters from some of the farmers and local governmental authorities in the community stating specifically why they oppose any further NITU extension and why they support the return of this land to farm use. FFOL indicates that its opposition to any further NITU extension is based on the desire of some of its farmer members to negotiate with UP to purchase the land.

---

<sup>1</sup> The railroad right-of-way extends between milepost 477.10 near Laurens and the end of the line at milepost 502.35 near Royal, in Pocahontas, Buena Vista and Clay Counties, IA.

<sup>2</sup> The decision also imposed a public use condition under 49 U.S.C. 10905 that expired on October 25, 1999.

FFOL states, “We (the farmer) would like the opportunity to negotiate with Union Pacific to purchase this land ourselves.”<sup>3</sup>

In acting on a request to extend a NITU, as in granting a request that the Board issue a NITU, the Board’s role is purely ministerial. If the proponent of a trail and the railroad satisfy the requirements of the Board’s regulations, the agency must issue the NITU. The ITC has shown that the additional time is necessary to complete negotiations, procured the assent of the UP to the extension of the NITU, and complied with the regulations at 49 CFR 1152.29. The requested extension will therefore be granted. Accordingly, the NITU negotiation period will be extended until September 19, 2000.

Extension of the trail use negotiation period does not require the railroad to reach an agreement with ITC and does not rule out negotiations with other interested persons for other purposes.<sup>4</sup> Thus, FFOL and its members may also negotiate with UP to acquire the land.

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

It is ordered:

1. ITC’s request to extend the NITU negotiation period for an additional 180 days is granted.
2. The NITU negotiation period is extended until September 19, 2000.

---

<sup>3</sup> FFOL’s letter in opposition was not served on the parties and therefore normally would not be considered. Because, as explained below, the Board is carrying out a purely ministerial function here, no prejudice to any other party results from addressing FFOL’s comment. Thus, the Board sees no reason to reject the pleading.

<sup>4</sup> See, e.g., Union Pacific Railroad Company--Abandonment Exemption--In Pocahontas, Buena Vista and Clay Counties, IA (Royal Branch), Decision and Notice of Interim Trail Use or Abandonment, STB Docket No. AB-33 (Sub-No. 130X) (STB served Mar. 29, 1999), slip op. at 3, where, in this same proceeding, the Board stated that, with respect to the public use condition imposed in that decision, “UP is not required to deal exclusively with ITC but may engage in negotiations with other interested persons.”

STB Docket No. AB-33 (Sub-No. 130X)

3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary