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SERVICE DATE – NOVEMBER 12, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 153X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN MONROE COUNTY, IA

Decided: November 10, 2004

On September 1, 2000, a decision and notice of interim trail use or abandonment (NITU) was served in this proceeding, authorizing a 180-day period for the Iowa Trails Council (Iowa Trails) to negotiate an interim trail use/rail banking agreement with the Union Pacific Railroad Company (UP) for a segment of rail line (the southern segment of the Oskaloosa Subdivision) extending between milepost 315.1 and milepost 322.9, in Monroe County, IA. The negotiating period was extended several times¹ with the latest extension expiring on October 12, 2004.

By letter filed on November 9, 2004, Iowa Trails requests an extension of the negotiating period for an additional 180 days to complete negotiations for the acquisition of the right-of-way between mileposts 315.0 and 322.9. Iowa Trails avers that the parties have not yet been able to complete negotiations. UP states that it is willing to continue to negotiate with Iowa Trails and supports the request to extend the negotiating period.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue 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. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the requested extension will be granted.

¹ The negotiating period under the NITU was extended by decisions served on February 26, 2001, September 4, 2001, March 8, 2002, September 9, 2002, February 20, 2003, August 18, 2003, February 13, 2004, and April 15, 2004. The February 26, 2001 decision also amended the NITU to the extent necessary to implement interim trail use/rail banking for that portion of the right-of-way between milepost 315.0 and milepost 315.1, thereby authorizing the parties to negotiate an agreement for trail use between milepost 315.0 and milepost 322.9.

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 to extend the interim trail use negotiating period is granted.
2. The negotiating period under the NITU is extended to April 10, 2005.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary