

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 175X)

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

Decided: April 23, 2008

On May 8, 2006, a decision and notice of interim trail use or abandonment (NITU) was served (May 8 decision), authorizing a 180-day period for the Iowa Trails Council (Council), on behalf of itself and the Hamilton County Conservation Board, to negotiate an interim trail use/rail banking agreement with Union Pacific Railroad Company (UP), for its Ellsworth Industrial Lead, a 3.2-mile line of railroad, between milepost 0.0, near Jewell, and milepost 3.2, at Ellsworth, in Hamilton County, IA.¹ By decisions served on November 2, 2006, June 8, 2007, and October 30, 2007, the negotiating period under the NITU was extended, and now is scheduled to expire on April 27, 2008.

On April 15, 2008, the Council filed another request to extend the NITU negotiating period for an additional 180 days. The Council states that additional time is needed to complete negotiations. UP states that it is willing to continue negotiations and supports the Council's request to extend the negotiating period for an additional 180 days.

Where, as here, the carrier is willing to continue trail use negotiations, the NITU negotiating period may be extended.² An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended for an additional 180 days from April 27, 2008, to October 24, 2008.

¹ The May 8 decision also noted that, by decision served on April 28, 2006 (April 28 decision), the proceeding had been reopened and made subject to a public use condition, an environmental condition, and a historic condition. The public use condition expired on October 25, 2006, and may not be extended. The section 106 historic preservation condition was removed by decision served on August 7, 2007. The environmental condition, imposed in the April 28 decision, remains in effect.

² See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

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

It is ordered:

1. The Council's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended for 180 days, until October 24, 2008.
3. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary