

31221
DO

SERVICE DATE - AUGUST 11, 2000

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-33 (Sub-No. 135X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT
EXEMPTION--IN ST. LOUIS COUNTY, MO
(KIRKWOOD INDUSTRIAL LEAD, KIRK JCT. TO BILLMAN SPUR)

Decided: August 8, 2000

On August 18, 1999, a Decision and Notice of Interim Trail Use or Abandonment (NITU) was served in this proceeding, authorizing a 180-day period for Trailnet, Inc. (Trailnet) to negotiate an interim trail use/rail banking agreement with Union Pacific Railroad Company (UP) over the rail line proposed for abandonment, a 2.18-mile portion of UP's Kirkwood Industrial Lead extending from milepost 13.62 near Kirk Jct. to the end of the line at milepost 15.80 near Billman Spur, in St. Louis County, MO. The 180-day period under the NITU was scheduled to expire on February 18, 2000. By decision served February 17, 2000, the negotiating period was extended to August 16, 2000.

On July 28, 2000, Trailnet filed a request to extend the period in which to complete negotiations until February 18, 2001.¹ On July 31, 2000, UP advised the Board that it concurs with the requested extension of the NITU.

Because UP is agreeable to the extension of the negotiation period, an extension will be granted. Where, as here, the carrier has not consummated the abandonment and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU period may be extended.² Under the circumstances, an 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 NITU negotiating period will be extended to February 18, 2001.

¹ Although the request slightly exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company--Abandonment Exemption--In Jackson, Victoria and Wharton Counties, TX, Docket No. AB-12 (Sub-No. 162X) (STB served May 29, 1996).

² See Rail Abandonment--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company--Abandonment Exemption in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and St. Louis Southwestern Railway Company--Abandonment in Smith and Cherokee Counties, TX, 9 I.C.C.2d 406 (1992).

This decision 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 Trailnet to extend the NITU period is granted.
2. The negotiating period under the NITU is extended to February 18, 2001.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary