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SERVICE DATE - SEPTEMBER 9, 2002

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

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

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

Decided: September 6, 2002

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 and the latest extension was scheduled to expire on August 24, 2002.

By letter filed on September 3, 2002, Iowa Trails requests an extension of the negotiating period for an additional 180 days to complete negotiations for the acquisition of the line between mileposts 315.0 and 322.9. By facsimile filed on September 5, 2002, UP states that it is willing to continue to negotiate with Iowa Trails concerning the acquisition of the subject property for an interim recreational trail and supports the Iowa Trails request for an extension of the negotiating period.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended.² Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90

¹ The negotiating period under the NITU was extended by decisions served on February 26, 2001, September 4, 2001, and March 8, 2002. 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.

² See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company—Abandonment in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and SSW Ry. Co.—Aban.—In Smith and Cherokee Counties, TX, 9 I.C.C.2d 406 (1992).

(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 20, 2003.

The requested 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 extension will be granted.

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 February 20, 2003.
3. The decision is effective on its service date.

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

Vernon A. Williams
Secretary