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SERVICE DATE - AUGUST 25, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 129X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT
EXEMPTION--IN DALLAS AND GUTHRIE COUNTIES, IA
(PERRY BRANCH AND YALE SPUR)

Decided: August 20, 1999

A decision and notice of interim trail use or abandonment (NITU) served February 17, 1999, established a 180-day period for the Iowa Natural Heritage Foundation (INHF) and the Dallas and Guthrie County Conservation Boards to negotiate an interim trail use/rail banking agreement with the Union Pacific Railroad Company (UP) for acquisition of the 11.4 miles of railroad right-of-way involved in this proceeding.¹ The 180-day negotiating period was scheduled to expire on August 16, 1999.²

On August 12, 1999, INHF, on behalf of the Dallas and Guthrie County Conservation Boards, filed a motion to extend the NITU negotiation period until February 28, 2000.³ INHF states that, while it has been actively negotiating and is close to reaching an agreement with UP, more time is needed to resolve certain issues before an interim trail use/rail banking agreement can be finalized. By letter filed August 16, 1999, UP advises that it is agreeable to an extension of the NITU negotiation 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 to extend the NITU negotiating period. See Rail Abandonments - Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987). INHF has shown that the additional time is

¹ The railroad right-of-way extends (1) from milepost 369.0 near Dawson to the end of the line at milepost 374.2 near Herndon (the Perry Branch); and (2) from milepost 54.3 at Herndon to the end of the line at milepost 48.1 at Yale (the Yale Spur), in Dallas and Guthrie Counties, IA.

² The decision also imposed a public use condition under 49 U.S.C. 10905 that is scheduled to expire on September 15, 1999.

³ The 180-day period would normally run from August 16, 1999, when the prior trail use negotiation period was due to expire. An extension to February 28, 2000, provides a period that is slightly longer than 180 days but is appropriate under the circumstances. The 180-day period is not statutory. It was adopted in Rail Abandonments--Use of Rights-of-Way as Trails, 2 I.C.C.2d 591, 605 (1986), to promote the expeditious conclusion of negotiations.

necessary to complete negotiations. An extension of the negotiation 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 negotiation period will be extended until February 28, 2000.

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

It is ordered:

1. INHF's request to extend the NITU negotiation period is granted.
2. The NITU negotiation period is extended until February 28, 2000.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary