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SERVICE DATE – DECEMBER 22, 2014

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 33 (Sub-No. 298X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN FREEBORN COUNTY, MINN.

Decided: December 19, 2014

Union Pacific Railroad Company (UP) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a line of railroad, known as the Hartland Subdivision, from milepost 119.65 at Curtis, to the point of connection with the Albert Lea Subdivision, and to the end of UP ownership at milepost 107.0 near Hartland, a distance of 12.65 miles, in Freeborn County, Minn. Notice of the exemption was served and published in the Federal Register on June 22, 2011 (76 Fed. Reg. 36,617). By decision and notice of interim trail use or abandonment (NITU) served on July 21, 2011, the proceeding was reopened and a 180-day period was authorized for the County of Freeborn, Minn. (the County) to negotiate an interim trail use/rail banking agreement with UP for the right-of-way. By a series of decisions, the last of which was served on July 7, 2014, the NITU negotiating period has been extended to January 1, 2015.

On December 10, 2014, the County filed a motion to extend the NITU negotiating period “for an additional 180 days from January 6, 2015.” UP filed a response agreeing to an extension of that duration, but only for the portion of the right-of-way from milepost 119.50 to milepost 107.0, a distance of 12.5 miles. According to UP, the reduction in the length of the potential trail (to which UP indicates the County agrees) is for railroad operation and safety reasons. UP states that it will retain the remaining segment from milepost 119.50 to milepost 119.65 in its railroad system.

Where, as here, the carrier is willing to continue trail use negotiations, the NITU negotiating period may be extended.¹ An extension of the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period will be extended only for the portion of the right-of-way from

¹ See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C. 2d 152, 157-58 (1987).

milepost 119.50 to milepost 107.0, until July 5, 2015.² The NITU for the segment from milepost 119.50 to milepost 119.65 is vacated. See 49 C.F.R. § 1152.29(d)(2).³

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

It is ordered:

1. This proceeding is reopened.
2. The NITU served on July 21, 2011, is modified, and the NITU for the segment of the right-of-way from milepost 119.50 to milepost 119.65 is vacated.
3. The County's request to extend the NITU negotiating period is granted in part, as discussed above.
4. The negotiating period under the NITU is extended only with respect to the portion of the right-of-way from milepost 119.50 to milepost 107.0, until July 5, 2015.
5. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

² Because both parties agree, the requested extension will be for "180 days from January 6, 2015"—i.e., to July 5, 2015—even though the current period expires on January 1, not January 6.

³ The County's motion also refers to an extension "for public use negotiations." However, the public use condition under 49 U.S.C. § 10905 imposed in the July 21, 2011 decision expired after 180 days (on January 18, 2012) and may not be renewed. See 49 U.S.C. § 10905; 49 C.F.R. § 1152.28(b); and Rail Abans.—Public Use Conditions—Revision, 8 I.C.C. 2d 392, 395-98.