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SERVICE DATE - MARCH 5, 2001

SURFACE TRANSPORTATION BOARD

DECISION

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: February 27, 2001

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) for the rail line proposed for abandonment, a 2.18-mile segment of the 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. At the request of Trailnet, the negotiating period under the NITU was extended by decisions served February 17 and August 11, 2000. The latest extension was scheduled to expire on February 18, 2001.

On February 9, 2001, Trailnet filed a request to reduce the mileage subject to the NITU to a 2.034-mile segment between mileposts 13.766 and 15.80 and to extend the period in which to complete negotiations until August 18, 2001. On February 15, 2001, UP advised the Board that it concurs with both of Trailnet's requests.¹

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 for the Kirkwood Industrial Lead between milepost 13.766 and milepost 15.80 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

¹ On September 13, 1999, UP advised the Board that it had discontinued service on the entire 2.18-mile line. In light of Trailnet's current request to change the area subject to the NITU, UP now states that, in compliance with 49 CFR 1152.29(e)(2), it will exercise the abandonment authorized in this proceeding for that portion of the line between milepost 13.62 and milepost 13.766, as of February 18, 2001.

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).

U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended to August 18, 2001.

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

It is ordered:

1. The negotiating period under the NITU for the Kirkwood Industrial Lead between milepost 13.766 and milepost 15.80 is extended to August 18, 2001.
2. The decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams
Secretary