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SERVICE DATE - APRIL 26, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 145X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT
EXEMPTION--IN STANISLAUS COUNTY, CA

Decided: April 18, 2001

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances of Service and Trackage Rights to abandon a 5.62-mile line of railroad over the Tidewater Subdivision from milepost 26.43 near McHenry to milepost 32.05 in Modesto, in Stanislaus County, CA. Notice of the exemption was served and published in the Federal Register on April 14, 2000 (65 FR 20263-64). On May 15, 2000, a decision and notice of interim trail use or abandonment (NITU) was served, that reopened the proceeding and authorized a 180-day period for the City of Modesto (City) to negotiate an interim trail use/rail banking agreement with UP for a portion of the right-of-way between milepost ± 26.43 (a point 30 feet north of the north line of the proposed Pelandale Expressway) and milepost ± 30.63 (at Needham Street), a distance of 4.2 miles.¹ The 180-day period under the NITU was extended through May 12, 2001, by decision served October 23, 2000.

On March 30, 2001, the City filed a request for a 180-day extension of the negotiation period until November 8, 2001. The City states that UP has provided it with a draft agreement, and that the extension is necessary in order to complete its review and to give the parties an opportunity to negotiate a final agreement. By letter filed April 13, 2001, UP advised that it concurs with the extension request.

The negotiation period under the NITU will be extended for 180 days to November 8, 2001. An extension of the negotiation period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail service by permitting and encouraging their interim trail use as recreational trails. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990).

¹ The May 15 decision also imposed environmental conditions that required UP to: (a) consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying eight geodetic markers identified on the line; (b) consult with the California Department of Toxic Substances Control and comply with the Department's request to complete a Preliminary Endangerment Assessment covering the line prior to commencing salvage operations; and (c) consult with the Resources Board of the State of California prior to conducting salvage operations to determine if permits are required under California statutes.

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 is extended to November 8, 2001.
2. The decision is effective on its service date.

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

Vernon A. Williams
Secretary