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SERVICE DATE – DECEMBER 11, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 253X)

UNION PACIFIC RAILROAD COMPANY–ABANDONMENT EXEMPTION–  
IN COLORADO AND WHARTON COUNTIES, TX

Decided: December 10, 2008

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon an 8.3-mile line of railroad known as the Chesterville Industrial Lead, extending from milepost 52.9 near Chesterville to milepost 61.2 near Eagle Lake, in Colorado and Wharton Counties, TX. Notice of the exemption was served and published in the Federal Register on February 15, 2008 (73 FR 8928-29). By decision and notice of interim trail use or abandonment (NITU) served on March 24, 2008, the proceeding was reopened and a 180-day period was authorized for Metropolitan Transit Authority of Harris County, TX (Metro), to negotiate an interim trail use/rail banking agreement with UP for the right-of-way involved in this proceeding. By decisions served on September 15, 2008, and October 31, 2008, the NITU negotiating period was extended until December 31, 2008. In this decision, the Board is granting Metro’s request to extend the NITU negotiating period until February 27, 2009.

On November 20, 2008, Metro filed a request for an extension of the NITU negotiating period until February 27, 2009. Metro states that it is seeking approval by its Board of Directors of the Interim Trail Use/Rail Banking Agreement and Assignment and Deed Without Warranty at its next meeting, which is scheduled for mid-December. With the holiday season intervening, however, Metro expresses concern that it might not be able to get signed copies of the agreement to UP for review by its real estate department and execution by the appropriate UP official by December 31, 2008. Metro adds that it is authorized to state that UP concurs in the extension request.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An 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).<sup>1</sup> Accordingly, the NITU negotiating period will be extended until February 27, 2009.

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

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<sup>1</sup> See Rail Abandonments–Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

It is ordered:

1. Metro's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended until February 27, 2009.
3. This decision is effective on its service date.

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

Anne K. Quinlan  
Acting Secretary