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SERVICE DATE - NOVEMBER 6, 1998
SURFACE TRANSPORTATION BOARD
DECISION

STB Docket No. AB-33 (Sub-No. 105X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT EXEMPTION--
IN KANE COUNTY, IL

Decided: November 3, 1998

By decision and notice of interim trail use or abandonment (NITU) served on April 29, 1997, a 180-day period was authorized for the City of Elgin, IL (the City), to negotiate an interim trail use/rail banking agreement with the Union Pacific Railroad Company (UP) for a 2.8-mile segment of the East Elgin Industrial Lead between milepost 41.0 near Elgin Junction and milepost 43.8 near East Elgin, in Kane County, IL. At the City's request, the 180-day negotiating period was extended through October 21, 1998, by decisions served November 4, 1997, and April 23, 1998.

On October 16, 1998, the City filed a request for an additional 90-day extension of the negotiating period. It states that the parties have reached a tentative agreement for implementation of the proposed interim trail use, but only for that portion of the subject line between milepost 43.0 and the end of the line at milepost 43.8. The City states that additional time is needed to finalize the contract documents. By letter filed October 28, 1998, UP agrees with this request for an extension of the NITU for that portion of the line between mileposts 43.0 and 43.8.

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 for the segment between mileposts 43.0 and 43.8.¹ Under the circumstances, a further extension is warranted and will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period for the portion of the line discussed above will be extended for an additional 90 days from October 21, 1998.

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

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

It is ordered:

1. The City's request to extend the NITU negotiating period for that portion of the line between milepost 43.0 and the end of the line at milepost 43.8 is granted. The remaining portion of the line between milepost 41.0 and milepost 43.0 could be fully abandoned on October 22, 1998, and UP has given notice that it consummated abandonment of the segment between mileposts 41.0 and 43.0, effective October 22, 1998.

2. The NITU negotiating period for that portion of the line between milepost 43.0 and the end of the line at milepost 43.8 is extended until January 19, 1999.

3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary