

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: October 31, 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 decision served on September 15, 2008, the NITU negotiating period was extended until October 31, 2008. In this decision, the Board is granting Metro's request to extend the NITU negotiating period until December 31, 2008.

On October 17, 2008, Metro requested an extension of the negotiating period until December 31, 2008. Metro states that Hurricane Ike, which devastated the Galveston and Houston areas the middle of last month, proved to be extremely disruptive for Metro, rendering it impossible for Metro to provide its regularly scheduled transit service for several weeks. Accordingly, although Metro states that concluding the trail use negotiations with UP is important, upper management has been obliged to concentrate exclusively on operational issues during the past month. By letter filed on October 20, 2008, UP concurs with the request to extend the NITU.

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 December 31, 2008.

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 December 31, 2008.
3. This decision is effective on its service date.

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

Anne K. Quinlan  
Acting Secretary