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SERVICE DATE - OCTOBER 12, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 202X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN FRANKLIN COUNTY, IA

Decided: October 8, 2004

By decision and notice of interim trail use or abandonment (NITU) served on September 26, 2003, a 180-day period was authorized for the Iowa Trails Council (Iowa Trails), on behalf of the Franklin County Conservation Board, to negotiate an interim trail use rail/banking agreement with Union Pacific Railroad Company (UP) for a 5.90-mile line of railroad known as the Sheffield Industrial Lead, extending from milepost 179.80 near Chapin to milepost 173.90 near Sheffield in Franklin County, IA. The negotiating period under the NITU was scheduled to expire on March 24, 2004. By decision served March 22, 2004, the negotiating period was extended to September 20, 2004, for the portion of the line extending from milepost 173.90 near Sheffield, to milepost 178.0 near Chapin. By letter dated September 16, 2004, UP advised that it had consummated abandonment over the remaining portion of the line extending from milepost 178.0 to milepost 179.80 near Chapin, and that it had reclassified that track as industrial trackage for the benefit of a grain elevator at that location.

On September 29, 2004, Iowa Trails filed a request for an additional 180-day extension of the negotiating period, stating that the additional time is needed to complete negotiations. Concurrently, UP filed its response in support of the extension request and is willing to continue to negotiate for the portion of the line extending from milepost 173.90 near Sheffield, to milepost 178.0 near Chapin.

Where, as here, the carrier has not consummated abandonment of the portion of the line subject to the NITU 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. Under the circumstances, an extension of the negotiating period 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 U.S. 1149 (1997). An extension of time 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 will be extended for the portion of the line extending from milepost 173.90 near Sheffield, to milepost 178.0 near Chapin, for a period of 180 days from September 20, 2004.

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

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended for the portion of the line extending from milepost 173.90 near Sheffield, IA, to milepost 178.0 near Chapin, IA, until March 19, 2005.
3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary