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SERVICE DATE – SEPTEMBER 13, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 201X)

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

Decided: September 12, 2005

By decision and notice of interim trail use or abandonment (NITU) served on September 12, 2003, the Board granted the petition for exemption filed by Union Pacific Railroad Company (UP) for abandonment of a 7.84-mile line of railroad, in the western portion of the Bristow Subdivision, extending from milepost 318.66, near Hampton, to milepost 326.50, near Coulter, in Franklin County, IA. The exemption was subject to public use, environmental, and standard employee protective conditions, as well as a trail use condition authorizing a 180-day period for the Iowa Trails Council (Council), on behalf of the Franklin County Conservation Board, to negotiate an interim trail use/rail banking agreement with UP for the right-of-way involved in this proceeding. The negotiating period was extended through September 1, 2005, by decisions served on March 26, 2004, September 23, 2004, and March 4, 2005.

By letter filed on September 2, 2005, Council requests an extension of the negotiating period for 180 days. Council states that an extension of time is necessary to finalize negotiations. By letter filed on September 6, 2005, UP concurs in the request to extend the NITU.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue negotiations by requesting an extension, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, further 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). Because an extension of the NITU 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), the requested extension will be granted. Accordingly, the NITU negotiating period will be extended to February 28, 2006.

This decision 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 negotiating period under the NITU is extended to February 28, 2006.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary