

SERVICE DATE – MARCH 23, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 260X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN DOUGLAS AND SARPY COUNTIES, NEB.

Decided: March 22, 2011

By decision and notice of interim trail use or abandonment (NITU) served on July 25, 2008 (July 2008 decision), the Board, under 49 U.S.C. § 10502, exempted from the prior approval requirements of 49 U.S.C. § 10903 the abandonment by Union Pacific Railroad Company (UP) of a 3.45-mile line of its Millard Industrial Lead extending between milepost 22.85, in Omaha, and milepost 19.4, in La Vista, in Douglas and Sarpy Counties, Neb., subject to trail use, public use, environmental, and standard employee protective conditions. In this decision, the Board is granting the request by the Nebraska Trails Foundation, Inc. (NTFI), on its own behalf and that of the Papio-Missouri River Natural Resources District (District), to extend the interim trail use/rail banking negotiation period.

The July 2008 decision authorized NTFI, on its own behalf and that of the District, to negotiate with UP for interim trail use/rail banking until February 20, 2009, for a portion of the line extending between milepost 19.4 in La Vista and milepost 22.1 in Omaha, under the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act).¹ By a series of decisions, the most recent served on November 2, 2010, the trail use negotiation period under the NITU was extended until April 10, 2011.

By letter filed on March 14, 2011, NTFI, on its own behalf and that of the District, submitted a request for an additional 180-day extension of the negotiating period. By letter filed on March 16, 2011, UP advised that it supports the request and is willing to continue to negotiate for interim trail use/rail banking with NTFI for the portion of the line extending between milepost 19.4 in La Vista and milepost 22.1 in Omaha.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.² An extension of the NITU negotiating period will promote the

¹ As noted, in addition to interim trail use, the July 2008 decision imposed a public use condition that expired on February 20, 2009, and that may not be extended, and 3 environmental conditions that remain in effect.

² See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

establishment of trail use and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period will be extended for that portion of the line extending between milepost 19.4 in La Vista and milepost 22.1 in Omaha, from April 10, 2011, to October 7, 2011.

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 negotiation period is granted.
2. The negotiating period under the NITU is extended for that portion of the line extending between milepost 19.4 in La Vista and milepost 22.1 in Omaha, from April 10, 2011, to October 7, 2011.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.