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SERVICE DATE – DECEMBER 2, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 303 (Sub-No. 36X)

WISCONSIN CENTRAL LTD.—ABANDONMENT EXEMPTION—
IN BROWN COUNTY, WIS.

Decided: December 1, 2011

This decision grants an extension of time to negotiate a trail use/rail banking agreement.

Wisconsin Central Ltd. (WCL) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 1.92-mile line of railroad between milepost 3.88, in the Village of Howard, Wis., and milepost 5.8, on the Oneida Tribe of Indians of Wisconsin Reservation (“Oneida Reservation”), in Brown County, Wis. Notice of the exemption was served and published in the Federal Register on November 10, 2010 (75 Fed. Reg. 69,152). By decision and notice of interim trail use or abandonment (NITU) served on December 9, 2010, the proceeding was reopened and a 180-day period was authorized for the Wisconsin Department of Natural Resources (DNR) to negotiate, under the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act), an interim trail use/rail banking agreement with WCL for a 0.92-mile segment of the right-of-way between milepost 3.88, in the Village of Howard, and milepost 4.8, at the border of the Oneida Reservation.¹ By decision served on May 31, 2011, the NITU negotiating period was extended until December 4, 2011.

On November 17, 2011, the Wisconsin Department of Transportation (WisDOT) filed, on behalf of DNR, a request for an extension of the negotiating period for an additional 180 days. WisDOT states that good faith negotiations between DNR and WCL are continuing, but that additional time is needed because the transaction may be combined with other real estate transactions. By letter filed on November 22, 2011, WCL concurs with the extension request.

Where, as here, the carrier is willing to continue trail use negotiations, the NITU negotiating period may be extended. An extension of the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act.² Accordingly, the

¹ The rest of the line, between milepost 4.8 and milepost 5.8, is within the Oneida Reservation. On August 22, 2011, WCL filed a notice pursuant to 49 C.F.R. §§ 1152.29(e)(2) and 1152.50(e) that it consummated abandonment of that portion of the line on August 19, 2011.

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

NITU negotiating period will be extended for an additional 180 days from December 4, 2011, to June 1, 2012.

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

It is ordered:

1. DNR's request to extend the NITU negotiating period is granted.
2. The period for WCL and DNR to negotiate an interim trail use/rail banking agreement under the NITU is extended to June 1, 2012.
3. This decision is effective on its service date.

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