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SERVICE DATE - FEBRUARY 19, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-402 (Sub-No. 8X)

FOX VALLEY & WESTERN LTD.–ABANDONMENT
EXEMPTION–IN BROWN AND OUTAGAMIE COUNTIES, WI

Decided: February 13, 2003

By decision and notice of interim trail use or abandonment (NITU) served March 2, 2001, Fox Valley & Western LTD. (FVW) was granted an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a 34.2-mile line of railroad extending from milepost 4.78 west of Green Bay to milepost 38.98 in New London, in Brown and Outagamie Counties, WI. The NITU authorized FVW to negotiate an interim trail use rail/banking agreement with the Wisconsin Department of Transportation, on behalf of the Wisconsin Department of Natural Resources (WisDNR), pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act).¹ At the request of FVW and WisDNR, the negotiating period under the NITU was extended to August 24, 2002, by decisions served September 5, 2001, and February 25, 2002. By decision served August 20, 2002, the negotiating period under the NITU was extended at the request of FVW and WisDNR to February 18, 2003, for a portion of the right-of-way between milepost 14.9 and milepost 38.98.

By facsimile filed on February 5, 2003, FVW and WisDNR jointly filed a motion for an extension of the trail use negotiating period for the portion of the right-of-way between milepost 14.9 and milepost 38.98. The parties state that an initial timely offer has been made, but that more time is needed to finalize negotiations.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.² An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act. Accordingly, NITU negotiation period will be extended for an additional 180 days from February 18, 2003 (until August 17, 2003), for the portion of the right-of-way between milepost 14.9 and milepost 38.98.

¹ In the September 5 decision, FVW was authorized to abandon the remaining portion of the right-of-way between milepost 14.9 and milepost 38.98 if the environmental conditions imposed in this proceeding have been met.

² See Rail Abandonment–Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).

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

It is ordered:

1. FVW and WisDNR's joint request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to August 17, 2003.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary