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SERVICE DATE - DECEMBER 24, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-303 (Sub-No. 25X)

WISCONSIN CENTRAL LTD.—ABANDONMENT EXEMPTION—  
IN LANGLADE, MENOMINEE AND SHAWANO COUNTIES, WI

Decided: December 22, 2003

By decision and notice of interim trail use or abandonment (NITU) served on January 5, 2001, the Board granted the petition for exemption filed by Wisconsin Central Ltd. (WCL) for abandonment of a 34.3-mile line of railroad known as the White Lake-Shawano Line, between milepost 280 north of White Lake and milepost 314.3 north of Shawano, in Langlade, Menominee, and Shawano Counties, WI. The exemption was subject to environmental, historic preservation, and standard employee protective conditions, as well as a trail use condition authorizing a 180-day period, until July 4, 2001, for the Wisconsin Department of Natural Resources (WisDNR) to negotiate an interim trail use/rail banking agreement with WCL. WCL was also required to file a notice of abandonment consummation by January 5, 2002. The decision was scheduled to become effective on February 4, 2001. Subsequently, by decision served on February 2, 2001, the January 5 decision was stayed until further order with respect to trail use/rail banking in Menominee County that was authorized. In all other respects, the January 5 decision took effect as scheduled on February 4, 2001. In a decision served on July 3, 2001, as corrected on July 10, 2001, the negotiating period under the NITU was extended until December 31, 2001, with the stay remaining in effect for the portion of the line in Menominee County. By decisions served on December 28, 2001, and February 27, 2002, the NITU negotiating period and the deadline to exercise abandonment authority were extended to May 31, 2002.<sup>1</sup> By decisions served on June 7, 2002, November 27, 2002, May 23, 2003, and November 21, 2003, the NITU negotiating period except for that portion of the line in Menominee County (between mileposts 287 and 299.5) was extended until May 20, 2004.<sup>2</sup>

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<sup>1</sup> A petition for judicial review of the Board's decision allowing interim trail use/rail banking in Menominee County was filed in the United States Court of Appeals for the District of Columbia Circuit in Menominee Indian Tribe of Wisconsin et al. v. STB et al., No. 01-1100 (D.C. Cir. filed Mar. 2, 2001). On May 24, 2002, that Court granted the parties' joint unopposed motion to dismiss the petition. The Board's stay is now moot.

<sup>2</sup> By letter filed on June 5, 2002, WCL informed the Board that it has consummated the abandonment of the line between milepost 287 and milepost 299.5.

By a decision and notice of interim trail use or abandonment served on December 30, 2002, a NITU request was granted for the Stockbridge-Munsee Community (the Tribe) to negotiate an interim trail use/rail banking agreement with WCL for a portion of the right-of-way approximately from milepost 303 to milepost 306.4 in Shawano County until June 28, 2003. By decision served on June 26, 2003, the negotiating period was extended until December 25, 2003.

On December 16, 2003, the Tribe filed a request for extension of the NITU for 180 days, until June 22, 2004. The Tribe states that the NITU discussions are still continuing. By letter filed December 16, 2003, WCL concurs in the request to extend the NITU, but would like the NITU to expire on May 20, 2004.<sup>3</sup>

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.<sup>4</sup> 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 until May 20, 2004, for the portion of the line described above.

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

It is ordered:

1. The Tribe's request to extend the NITU negotiating period is granted in part for that portion of the right-of-way approximately from milepost 303 to milepost 306.4 in Shawano County, WI.
2. The NITU negotiating period for that portion of the right-of-way is extended until May 20, 2004.

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<sup>3</sup> Trail use/rail banking is voluntary and can only be implemented if an abandoning railroad agrees to negotiate an agreement. See section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). Therefore, the negotiating period may be extended only until May 20, 2004.

<sup>4</sup> See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

3. This decision is effective on the date of service.

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

Vernon A. Williams  
Secretary