

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: March 8, 2013

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). The exemption became effective on December 10, 2010.¹

By decision and notice of interim trail use or abandonment (NITU) served 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 the 0.92-mile segment between milepost 3.88, in the Village of Howard, and milepost 4.8, at the border of the Oneida Reservation. By a series of decisions, the trail use negotiation period was extended several times, most recently until November 28, 2012.

On November 21, 2012, DNR filed a request for an extension of the negotiating period for an additional 180 days. DNR states that the parties executed an Option to Purchase in January 2012, but the transaction has not yet been completed. As such, DNR requests an extension of time to conclude negotiations. On January 25, 2013, WCL filed a notice stating that, pursuant to 49 C.F.R. § 1152.29(e)(2) and 49 C.F.R. § 1152.50(e), it exercised its abandonment authority and consummated abandonment of the segment between milepost 3.88 and milepost 4.8 effective January 24, 2013.

Under the Trails Act, interim trail use is voluntary between the trail sponsor and the carrier. See Rail Abans.—Use of Rights-of-Way as Trails, 2 I.C.C.2d 591 (1986). Here, WCL did not agree to extend the NITU but rather consummated the abandonment following expiration of the previously imposed negotiating period. Thus, DNR’s request to extend the negotiating period will be denied as moot.

¹ The portion of the line between milepost 4.8 and milepost 5.8 is within the Oneida Reservation. On August 22, 2011, WCL filed a notice of consummation for that portion of the line.

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 denied as moot.
2. This decision is effective on its service date.

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