

31875
DO

SERVICE DATE - MAY 11, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-303 (Sub-No. 21X)

WISCONSIN CENTRAL LTD.--ABANDONMENT EXEMPTION--
IN MARQUETTE COUNTY, MI

Decided: May 10, 2001

Wisconsin Central Ltd. (WCL) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon an approximately 8.84-mile line of its railroad between milepost 154 and milepost 162.84 in Marquette County, MI. Notice of the exemption was served and published in the Federal Register on October 13, 2000 (65 FR 61020-21). On November 14, 2000, a decision and notice of interim trail use or abandonment (NITU) was served, that reopened the proceeding and authorized a 180-day period for the Michigan Department of Natural Resources (MDNR) to negotiate an interim trail use/rail banking agreement with WCL for a portion of the right-of-way between milepost 156.57 and milepost 162.84.¹ The 180-day period under the NITU is scheduled to expire on May 13, 2001.

By facsimile filed May 10, 2001, MDNR requests an additional 180-day extension of the negotiation period. MDNR states that it and WCL are continuing to negotiate an interim trail use/rail banking agreement and expect to complete it within 180 days. Also by facsimile received on May 10, 2001, WCL indicates that it concurs with MDNR's request, but only for the portion of the line between milepost 156.57 to milepost 160.12. WCL states that it intends to let the NITU expire for the portion between milepost 160.12 and milepost 162.84.

Because the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), permits only voluntary interim trail use, the Board cannot extend the NITU for the portion of the right-of-way between milepost 160.12 and milepost 162.84. Where, as here, the carrier is willing to continue

¹ The November 14 decision also imposed environmental conditions that required WCL to: (a) consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic markers; (b) before beginning any salvage activities, submit to the Board's Section of Environmental Analysis (SEA) for review and approval a detailed track salvage work plan that describes WCL's proposed salvage of the right-of-way and addresses in detail the concerns of U.S. Environmental Protection Agency-Region 5 (EPA) regarding salvage and clean-up of the right-of-way (upon its approval of the track salvage work plan, SEA will notify EPA); and (c) consult with the Department of Environmental Quality, Land and Management Division, prior to conducting any salvage operations. The decision also imposed a 180-day public use condition for the entire line that is scheduled to expire on May 13, 2001.

trail use negotiations for the segment between milepost 156.57 to milepost 160.12, the Board may extend the NITU negotiating period for that segment.² Under the circumstances, an extension of the negotiation period is warranted as to that segment and will promote the establishment of trail use and rail banking consistent with the Trails Act. Accordingly, the negotiating period for this segment will be extended to November 9, 2001.

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

It is ordered:

1. The NITU negotiating period for that portion of the line between milepost 156.57 to milepost 160.12 is extended to November 9, 2001.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

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