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SERVICE DATE – JANUARY 8, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-402 (Sub-No. 5X)

FOX VALLEY & WESTERN LTD.–ABANDONMENT EXEMPTION–IN  
KEWAUNEE COUNTY, WI

Decided: January 7, 2003

On August 3, 1998, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the Wisconsin Department of Natural Resources, acting through the Wisconsin Department of Transportation (collectively referred to as WisDNR/DOT), to negotiate an interim trail use/rail banking agreement with Fox Valley & Western Ltd. (FVW) for FVW's 16.7-mile line of railroad, known as the Luxemburg-Kewaunee Line, extending from milepost 18.9 near Luxemburg to milepost 35.6 at the end of the line near Kewaunee, in Kewaunee County, WI. The negotiating period under the NITU was extended a number of times at the joint request of WisDNR/DOT and FVW, and is currently scheduled to expire on January 9, 2003.<sup>1</sup>

On December 23, 2002, WisDNR/DOT and FVW jointly filed a motion to extend the NITU negotiating period for the line segment between milepost 18.9 and milepost 35.48 for an additional 180 days. The parties state that the negotiations to reach an agreement for interim trail use/rail banking are currently continuing in good faith, 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. An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d).<sup>2</sup> Accordingly, the

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<sup>1</sup> The negotiating period under the NITU was extended by decisions served January 28, 1999, July 22, 1999, January 24, 2000, July 21, 2000, January 19, 2001, July 17, 2001, January 10, 2002, and July 11, 2002. In the July 21, 2000 decision, the NITU negotiating period was extended only for the portion of rail line from milepost 18.9 to milepost 35.48. FVW did not agree to an extension of the negotiating period for the line segment between milepost 35.48 and milepost 35.6 and was granted permission to fully abandon that segment of the line, subject to meeting the conditions regarding salvage imposed in the August 3, 1998 decision. On August 11, 2000, FVW filed a notice of consummation for the line segment between milepost 35.48 and milepost 35.6.

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

NITU negotiating period for the line segment will be extended for an additional 180 days from January 9, 2003.

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

It is ordered:

1. The joint motion of WisDNR/DOT and FVW to extend the NITU negotiating period for the line segment between milepost 18.9 and milepost 35.48 is granted.
2. The negotiating period under the NITU is extended for 180 days until July 8, 2003.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary