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SERVICE DATE - JANUARY 28, 1999

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: January 25, 1999

By decision and notice of interim trail use or abandonment (NITU) served on August 3, 1998, a 180-day period was authorized 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)¹ 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 180-day period under the NITU is scheduled to expire on January 30, 1999.

In a joint petition filed on January 20, 1999, WisDNR/DOT and FVW request an extension of the NITU negotiating period for an additional 180 days. The joint petitioners state that WisDNR/DOT made an initial timely offer to FVW and that negotiations are 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.² Under the circumstances, further extension of the negotiating period is warranted and will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended for an additional 180 days from January 30, 1999.

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 petition of WisDNR/DOT and FVW is granted.
2. The negotiating period under the NITU is extended for 180 days until July 29, 1999.

¹ FVW is a wholly owned subsidiary of Wisconsin Central Transportation Corporation.

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

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3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary