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SERVICE DATE - LATE RELEASE MAY 4, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-303 (Sub-No. 20X)

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

Decided: May 4, 2005

On November 17, 1999, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the State of Wisconsin Department of Natural Resources (WisDNR) to negotiate an interim trail use/rail banking agreement with Wisconsin Central Ltd. (WCL) for a 1.63-mile line of railroad between milepost 198.37 and milepost 200 in Green Bay, Brown County, WI. The negotiating period under the NITU was extended several times for the portion of the right-of-way from milepost 198.37 to milepost 199.84. The latest extension was scheduled to expire on April 21, 2005.¹

By letter filed on April 14, 2005, WisDNR and WCL jointly seek an extension of the negotiating period with respect to the portion of the line between mileposts 198.37 and 199.84 for an additional 180 days. The parties state that negotiations are currently continuing in good faith, but that more time is needed to finalize negotiations. Also, by facsimile received on April 14, 2005, WCL states that it withdraws as a party to the extension request, but is agreeable to the extension request of WisDNR.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended for an additional 180 days from April 21, 2005 (until October 18, 2005).

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

¹ The most recent extension of the negotiation period under the NITU was authorized by decision served October 15, 2004.

It is ordered:

1. WisDNR's request to extend the NITU negotiation period is granted.
2. The negotiation period under the NITU is extended for 180 days until October 18, 2005.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary