

28729
DO

SERVICE DATE - LATE RELEASE DECEMBER 16, 1997

SURFACE TRANSPORTATION BOARD¹

DECISION

Docket No. AB-303 (Sub-No. 13X)

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

Decided: December 12, 1997

By decision and notice of interim trail use or abandonment (NITU) served February 7, 1995, a 180-day period was provided for Wisconsin Central Ltd. (WCL) and the Wisconsin Department of Natural Resources (WisDNR) to negotiate an interim trail use/rail banking agreement for WCL's 13.9-mile rail line between milepost 183.0 at Greenleaf and milepost 196.9 at Green Bay, in Brown County, WI. WCL's willingness to negotiate trail use was contingent on the failure of on-going negotiations with the Escanaba & Lake Superior Railroad Company (E&LS) for the latter's acquisition of the line for continuing rail service. The initial 180-day negotiating period expired on August 6, 1995, but was extended through July 27, 1997, by decisions served December 21, 1995, February 9, 1996, September 12, 1996, and February 12, 1997.

In a joint petition filed November 18, 1997, WCL and WisDNR state that the negotiations between WCL and E&LS are currently in arbitration, that the line has not been abandoned, and that WCL remains willing to negotiate interim trail use/rail banking with WisDNR if E&LS fails to purchase the active rail line pursuant to the arbitration decision. They request an additional 180-day extension of the NITU negotiating period to commence either from the date that negotiations with E&LS for purchase of the line fail or from the effective date of this decision.

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (1995) (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the ICCTA provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the ICCTA. This decision relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this decision applies the law in effect prior to the ICCTA, and citations are to the former sections of the statute, unless otherwise indicated.

Under the circumstances, a further extension of the NITU negotiating period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d).² Accordingly, the NITU negotiating period will be extended for an additional 180 days from July 27 (the date the prior negotiating period expired), as is customary under 49 CFR 1152.29.

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

It is ordered:

1. The NITU negotiating period is extended through January 23, 1998.
2. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary

² 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 to extend the NITU negotiating period. See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company--Abandonment in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and St Louis Southwestern Railway Company--Abandonment in Smith and Cherokee Counties, TX, Docket No. AB-39 (Sub-No. 12) (ICC served Mar. 27, 1992).