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SERVICE DATE—NOVEMBER 16, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 303 (Sub-No. 37X)

WISCONSIN CENTRAL, LTD.—ABANDONMENT
EXEMPTION—IN MARATHON COUNTY, WIS.

Decided: November 15, 2011

On April 5, 2011, 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 (DNR), to negotiate an interim trail use/rail banking agreement with Wisconsin Central, LTD. (WCL) for a 1.14-mile rail line between mileposts 17.50 and 18.64, in Weston, Marathon County, Wis.¹ The negotiating period expired on October 2, 2011.

By motion filed on October 19, 2011, and supplemented on October 24, 2011, DNR requests a 180-day extension of the NITU negotiating period. DNR states that the parties have been negotiating in good faith and that an offer has been made and is being considered, but negotiations have not concluded. In a response filed on October 21, 2011, WCL states that it agrees to the extension request.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue negotiations by agreeing to the extension, the Board retains jurisdiction and the NITU negotiating period may be extended.² 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 Vill. v. Mo. Pac. R.R., 95 F.3d 654, 659 (8th Cir. 1996). Accordingly, the NITU negotiating period will be extended for an additional 180 days, until March 30, 2012.

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

It is ordered:

1. The request by DNR to extend the NITU negotiating period is granted.

¹ Two self-executing environmental conditions were also imposed in the April 5 decision. Those conditions remain in effect.

² See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

2. The NITU negotiating period is extended until March 30, 2012.
3. This decision is effective on the date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.