

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 303 (Sub-No. 36X)

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

Decided: May 31, 2011

Wisconsin Central Ltd. (WCL) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 1.92-mile line of railroad between milepost 3.88, in the Village of Howard, Wis., and milepost 5.8, on the Oneida Tribe of Indians of Wisconsin Reservation (“Oneida Reservation”), in Brown County, Wis.¹ Notice of the exemption was served and published in the Federal Register on November 10, 2010 (75 Fed. Reg. 69,152). The exemption became effective on December 10, 2010.

By decision and notice of interim trail use or abandonment (NITU) served December 9, 2010, the proceeding was reopened and a 180-day period was authorized for the Wisconsin Department of Natural Resources (DNR) to negotiate, under the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act), an interim trail use/rail banking agreement with WCL for a 0.92-mile segment of the right-of-way between milepost 3.88, in the Village of Howard, and milepost 4.8, at the border of the Oneida Reservation. The trail use negotiation period under the NITU is scheduled to expire on June 7, 2011.

By letter filed on May 4, 2011, DNR submitted a request for a 180-day extension of the NITU negotiating period (until December 4, 2011). DNR stated that it believes that negotiations will be successful and will produce an agreement for interim trail use, but that negotiations have not yet concluded. By letter filed on May 20, 2011, WCL states that it concurs with DNR’s extension request.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.² Because an extension of the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act, the requested extension will be granted. Accordingly, as requested by the parties, the NITU negotiation period will be extended 180 days, until December 4, 2011.

¹ The portion of the line between milepost 4.8 and milepost 5.8 is within the Oneida Reservation.

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

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

It is ordered:

1. DNR's request to extend the NITU negotiating period is granted.
2. The period for WCL and DNR to negotiate an interim trail use/rail banking agreement under the NITU is extended to December 4, 2011.
3. This decision is effective on its service date.

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