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SERVICE DATE – DECEMBER 22, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-303 (Sub-No. 26X)

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

Decided: December 19, 2008

Wisconsin Central Ltd. (WCL) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 0.48-mile line of railroad from milepost 435.35 on Ashland's lakefront and traveling 2,552 feet to a point where it connects to a private spur that used to serve the C. Reiss Coal Company in Ashland, Ashland County, WI. Notice of the exemption was served and published in the Federal Register on June 3, 2004 (69 FR 31453-54). By decision and notice of interim trail use or abandonment (NITU) served on July 1, 2004, the proceeding was reopened and a 180-day period was authorized for the City of Ashland, WI (the City), to negotiate with WCL pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), for the right-of-way involved in this proceeding.¹ The negotiating period under the NITU was extended several times, with the latest extension expiring on December 9, 2008.

By motion filed on December 12, 2008, the City seeks an extension of the negotiating period for an additional 180 days. The City states that negotiations are currently continuing in good faith between it and WCL. The City further states that, although the parties have secured a memorandum of understanding and are drafting final sale documents, more time is needed to finalize negotiations. In a response filed on December 15, 2008, WCL expressed its agreement with the City's extension request.

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.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 Village v. Missouri Pac. R.R. Co. 95 F.3d 654, 659 (8th Cir. 1996). Accordingly, the NITU negotiating period will be extended until June 7, 2009. Given the time that has elapsed since abandonment was granted, the negotiating parties are again urged to conclude their negotiations so that further extensions are not necessary.

¹ Six environmental conditions were also imposed in that decision.

² See Rail Abandonments—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. The City's request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended until June 7, 2009.
3. This decision is effective on the date of service.

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

Anne K. Quinlan
Acting Secretary