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SERVICE DATE - AUGUST 15, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-402 (Sub-No. 8X)

FOX VALLEY & WESTERN LTD.--ABANDONMENT
EXEMPTION--IN BROWN AND OUTAGAMIE COUNTIES, WI

Decided: August 10, 2001

By decision and notice of interim trail use or abandonment served on March 2, 2001 (March decision), Fox Valley & Western Ltd. (FVW) was granted an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a line of railroad extending from milepost 4.78 west of Green Bay to milepost 38.98 in New London, in Brown and Outagamie Counties, WI. The exemption was made subject to employee protective, historic, environmental, and other conditions.¹

Of the conditions imposed in the March Decision, Condition No. 10 required FVW to retain its interest in and take no steps to alter the integrity of the entire rail line until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA). FVW has requested that the section 106 condition imposed in the March Decision be modified and has submitted to the Board's Section of Environmental Analysis (SEA) a copy of the archaeological survey that was the basis for the section 106 condition. The survey identified 21 prehistoric and historic sites located between specific mileposts along the right-of-way. Based upon SEA's review of the information provided by FVW and consultation with the Oneida Cultural Heritage Department, SEA recommends that the section 106 condition be modified to require FVW to abide by the section 106 condition for the specified sections where the prehistoric and historic sites occur, but to allow FVW to salvage the rest of the rail line. Accordingly, the proceeding will be reopened and the section 106 condition will be modified as set forth in the ordering paragraph below.

As conditioned, this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ In that decision, the Board authorized FVW to negotiate an interim trail use/rail banking agreement with the Wisconsin Department of Transportation, on behalf of the Wisconsin Department of Natural Resources, pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). The trail use negotiating period is scheduled to expire on August 29, 2001.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the historic preservation condition (Condition No. 10) previously imposed in the decision served March 2, 2001, is modified to require that FVW retain its interest in and take no steps to alter the integrity of the rail line located within the boundaries of the Oneida Indian Reservation until completion of the section 106 process of the NHPA, which will determine the effect on cultural and historic resources.
3. All other provisions and environmental conditions imposed in the March 2, 2001 decision in this proceeding will remain in effect.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary