

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 303 (Sub-No. 31X)

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

Decided: December 28, 2010

Wisconsin Central Ltd. (WCL) filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 1.80-mile line of railroad between milepost 100.80 and milepost 102.60, in Hayward, Sawyer County, Wis. Notice of the exemption was served and published in the Federal Register on November 21, 2007 (72 Fed. Reg. 65,645-46). The exemption became effective on December 21, 2007.

By decision and notice of interim trail use or abandonment (NITU) served on December 19, 2007, the proceeding was reopened and a 180-day period was authorized for Wisconsin Department of Transportation, on behalf of the County of Sawyer Wisconsin (CSW) to negotiate an interim trail use/rail banking agreement with WCL for the right-of-way involved in this proceeding pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act).<sup>1</sup> The negotiating period under the NITU was extended several times, with the latest extension expiring on December 3, 2010.

By motion filed on December 16, 2010, CSW requests an additional 180-day extension of the NITU negotiating period. CSW indicates that communications between the parties continue and that the parties are still negotiating for CSW to acquire the right-of-way. 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 is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended.<sup>2</sup> 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). An extension of time will promote the establishment of trails and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period will be extended for 180 days, from December 3, 2010 to June 1, 2011. Given the time that has elapsed since abandonment was

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<sup>1</sup> That decision also imposed 5 environmental conditions.

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

granted, the negotiating parties are urged to conclude their negotiations so that further extensions are not necessary.

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

It is ordered:

1. CSW's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to June 1, 2011.
3. This decision is effective on its service date.

By the Board, Julia M. Farr, Acting Director, Office of Proceedings.