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SERVICE DATE – DECEMBER 22, 2008

SURFACE TRANSPORTATION BOARD

DECISION

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

WISCONSIN CENTRAL LTD.—ABANDONMENT EXEMPTION—IN SAWYER
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 1.80-mile line of railroad between milepost 100.80 and milepost 102.60, in Hayward, Sawyer County, WI. Notice of the exemption was served and published in the Federal Register on November 21, 2007 (72 FR 65645-46). 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).¹ The trail use negotiating period under the NITU was scheduled to expire on June 16, 2008, but, by decision served on that date, the NITU negotiating period was extended to December 13, 2008.

By motion filed December 12, 2008, CSW requests an additional 180-day extension of the NITU negotiating period. CSW states that, since the last extension, the Sawyer County Board of Supervisors has passed a resolution to establish its commitment to use the line for recreational purposes and that negotiations are continuing with WCL. According to CSW, however, more time is needed to finalize negotiations. CSW states that WCL is agreeable to an extension of time to continue negotiations.

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

¹ That decision also imposed five environmental conditions.

² See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

(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 13, 2008 to June 11, 2009.

This decision 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 for an additional 180 days is granted.
2. The negotiating period under the NITU is extended to June 11, 2009.
3. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary