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SERVICE DATE – DECEMBER 10, 2009

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: December 8, 2009

On July 1, 2004, a decision and notice of interim trail use or abandonment (NITU) was served in this proceeding authorizing a 180-day period for the City of Ashland, WI (the City), to negotiate an interim trail use/rail banking agreement with Wisconsin Central Ltd. (WCL) for 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.¹ The negotiating period under the NITU was extended several times, with the latest extension scheduled to expire on December 4, 2009.

By motion filed on December 3, 2009, 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, but that more time is needed to finalize negotiations. In a response filed on December 4, 2009, WCL agreed to 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 has indicated its willingness to continue negotiations by agreeing to an extension, 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 for an additional 180 days, until June 2, 2010. 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.

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

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).

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 2, 2010.
3. This decision is effective on the date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.