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SERVICE DATE - JANUARY 19, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-402 (Sub-No. 5X)

FOX VALLEY & WESTERN LTD.--ABANDONMENT EXEMPTION--
IN KEWAUNEE COUNTY, WI

Decided: January 17, 2001

On August 3, 1998, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the Wisconsin Department of Natural Resources, acting through the Wisconsin Department of Transportation (collectively referred to as WisDNR/DOT), to negotiate an interim trail use/rail banking agreement with Fox Valley & Western Ltd. (FVW) for a 16.7-mile line of railroad, known as the Luxemburg-Kewaunee Line, extending from milepost 18.9 near Luxemburg to milepost 35.6 at the end of the line near Kewaunee, in Kewaunee County, WI. By joint request, the 180-day negotiating period under the NITU was extended by decisions served January 28, 1999, July 22, 1999, January 24, 2000, and July 21, 2000.¹ The latest extension is scheduled to expire on January 19, 2001.

On January 12, 2001, WisDNR/DOT and FVW jointly filed a motion to extend the NITU negotiating period for the line segment between milepost 18.9 and milepost 35.48 for an additional 180 days. The parties state that the negotiations are currently continuing in good faith to reach an agreement for interim trail use/rail banking, but that more time is needed to finalize negotiations.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the negotiating period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d).² Accordingly, the negotiating period for the line segment between milepost 18.9 and milepost 35.48 will be extended for an additional 180 days from January 19, 2001.

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

¹ In the July 21 decision, the NITU negotiating period was extended only for the portion of rail line from milepost 18.9 to milepost 35.48. FVW did not agree to an extension for the line segment between milepost 35.48 and milepost 35.6; therefore, subject to meeting the conditions regarding salvage imposed in the decision served August 3, 1998, FVW was granted permission to fully abandon that segment of the line.

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

It is ordered:

1. The joint motion of WisDNR/DOT and FVW to extend the NITU negotiating period for the portion of the line from milepost 18.9 to milepost 35.48 is granted.
2. The negotiating period under the NITU is extended to July 18, 2001.
3. The decision is effective on its service date.

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

Vernon A. Williams
Secretary