

SERVICE DATE – NOVEMBER 22, 2011

SURFACE TRANSPORTATION BOARD

DECISION AND MODIFIED NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

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

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

Decided: November 21, 2011

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, Wis. (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, Wis.¹ The negotiating period under the NITU was extended several times, with the latest extension scheduled to expire on November 24, 2011.

By motion filed on November 14, 2011, the City sought an extension of the negotiating period for the entire line for an additional 180 days. By letter filed on November 18, 2011, however, the City amended its request, indicating that because the western portion of the line has been deeded to the City, it seeks to extend the NITU only for the eastern portion of the line, extending from Ellis Avenue to milepost 435.35. The City states that negotiations over the eastern portion of the property will conclude when responsibility for the cleanup of possible contamination of the former railroad corridor is settled. The City adds that it and WCL remain actively interested in consummating the transaction for this portion of the line. WCL agrees to the City's 180-day extension request for the eastern portion of the line.

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 trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. § 1247(d).² The NITU served in this proceeding on July 1, 2004, is vacated as to the western portion of the line, extending from the connection to the private spur to Ellis Avenue. A modified NITU is issued permitting the City to negotiate for trail use for the remaining portion of the line, from Ellis Avenue to milepost 435.35. Accordingly, the NITU negotiating period for the eastern portion of the line will be extended for an additional 180 days from November 24, 2011, to May 22, 2012,

¹ Six environmental conditions were also imposed in that decision.

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

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

It is ordered:

1. The proceeding is reopened.
2. The NITU served in this proceeding on July 1, 2004, is vacated with respect to the western portion of the line extending to Ellis Avenue.
3. A modified NITU is issued permitting the City to negotiate for trail use for the remaining portion of the line extending easterly from Ellis Avenue to milepost 435.35.
4. The City's request to extend the NITU negotiating period for the eastern portion of the line is granted until May 22, 2012.
4. This decision is effective on the date of service.

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