



Michael J. Barron, Jr.
Counsel
Legal Department

Canadian National/Illinois Central
455 North Cityfront Plaza Drive
Chicago, Illinois 60611-5317
Telephone: (312) 755-7954
Fax: (312) 755-7669
Internet: Michael.Barron@cn.ca



December 19, 2002

Via Overnight Delivery

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, DC 20423-0001

Re: Docket No. AB-402 (Sub-No. 5X), Fox Valley & Western Ltd. —
Abandonment Exemption — Kewaunee County, Wisconsin —
Petition for Extension of Notice of Interim Trail Use

Dear Secretary Williams:

Enclosed please find an original and ten copies of the Joint Motion of Fox Valley & Western Ltd. and Wisconsin Department of Natural Resources to extend the Notice of Interim Trail Use negotiating period deadline currently in place (January 9, 2003) for the above-referenced abandonment by an additional 180 days.

Respectfully submitted,

Michael J. Barron, Jr.
Counsel for Fox Valley & Western Ltd.

Encl.

cc: Mr. Allyn Lepeska, WisDOT

ENTERED
Office of Proceedings

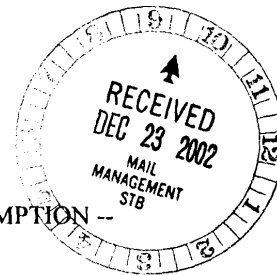
DEC 24 2002

Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-402 (SUB-NO. 5X)

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



WISCONSIN DEPARTMENT OF NATURAL RESOURCES
AND FOX VALLEY & WESTERN JOINT MOTION FOR
AN EXTENSION OF TIME TO REACH AGREEMENT
FOR AN INTERIM TRAIL USE/RAIL BANKING AGREEMENT

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BACKGROUND

Part of
Public Record

On April 15, 1998, the Fox Valley & Western Ltd. (FVW), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon and discontinue service on a line of railroad known as the Luxemburg-Kewaunee Line, extending from railroad milepost 18.9 near Luxemburg to railroad milepost 35.6 at the end of the line near Kewaunee, a distance of 16.7 miles, in Kewaunee County, WI. The line traverses U.S. Postal Service ZIP codes 54205, 54216 and 54217 and includes the stations of Casco Junction near milepost 23.3 and Kewaunee at milepost 34.0.

On December 22, 1997, the State of Wisconsin Department of Natural Resources (WisDNR) signed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the segment of FVW railroad line between Luxemburg Milepost 18.9 to Kewaunee Milepost 35.6, a distance of approximately 16.7 miles in Kewaunee County, WI.

On May 19, 1998, the Wisconsin Department of Transportation on behalf of the Wisconsin Department of Natural Resources filed a request for a notice of interim trail use/rail banking (NITU) under 16 U.S.C. 1247(d) and 49 CFR 1152.29. FVW indicated its willingness to negotiate with WisDNR for interim trail use. The Board issued a NITU under 49 CFR 1152.29, which was served on August 3, 1998,

allowing the WisDNR the full 180 days from date of service to negotiate a rail banking agreement with FVW. The 180-day period under NITU was scheduled to expire on January 30, 1999.

By joint petition filed on January 20, 1999, WisDNR/DOT and FVW filed a request for an extension on the NITU negotiation period for an additional 180 days. The Board issued a NITU under 49 CFR 1152.29, which was served on January 28, 1999, allowing the WisDNR the full 180 days from date of service to negotiate a rail banking agreement with FVW. The 180-day period under NITU was scheduled to expire on July 29, 1999.

By joint petition filed on July 13, 1999, WisDNR/DOT and FVW filed a request for an extension on the NITU negotiation period for an additional 180 days. The Board issued a NITU under 49 CFR 1152.29, which was served on July 16, 1999, allowing the WisDNR until January 25, 2000 to negotiate a rail banking agreement with FVW.

By joint petition filed on January 13, 2000, WisDNR/DOT and FVW filed a request for an extension on the NITU negotiation period for an additional 180 days. The Board issued a NITU under 49 CFR 1152.29, which was served on January 24, 2000, allowing the WisDNR until July 23, 2000 to negotiate a rail banking agreement with FVW.

By joint petition filed on July 12, 2000, WisDNR/DOT and FVW filed a request for an extension on the NITU negotiation period for an additional 180 days. The Board issued a NITU under 49 CFR 1152.29, which was served on July 21, 2000, allowing the WisDNR until January 19, 2001 to negotiate a rail banking agreement with FVW.

On August 11, 2000, FVW filed a notice of consummation for the line between segment milepost 35.48 and 35.6.

By joint petition filed on January 12, 2001, WisDNR/DOT and FVW filed a request for an extension on the NITU negotiation period for an additional 180 days. The Board issued a NITU under 49 CFR 1152.29, which was served on January 19, 2001, allowing the WisDNR until July 18, 2001 to negotiate a rail banking agreement with FVW.

By joint petition filed on July 13, 2001, WisDNR/DOT and FVW filed a request for an extension on the NITU negotiation period for an additional 180 days. The Board issued a NITU under 49 CFR 1152.29, which was served on July 17, 2001, allowing the WisDNR until January 14, 2002 to negotiate a rail banking agreement with FVW.

By joint petition filed on December 26, 2001, WisDNR/DOT and FVW filed a request for an extension on the NITU negotiation period for an additional 180 days. The Board issued a NITU under 49 CFR 1152.29, which was served on January 11, 2002, allowing the WisDNR until July 13, 2002 to negotiate a rail banking agreement with FVW.

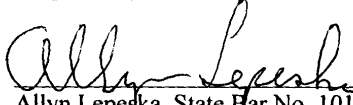
By joint petition filed on July 2, 2002, WisDNR/DOT and FVW filed a request for an extension on the NITU negotiation period for an additional 180 days. The Board issued a NITU under 49 CFR 1152.29, which was served on July 11, 2002, allowing the WisDNR until January 9, 2003 to negotiate a rail banking agreement with FVW.

WisDNR made an initial timely offer to FVW. Negotiations are currently continuing in good faith between WisDNR and FVW. However, more time is needed to finalize negotiations. FVW is agreeable to an extension of time to continue negotiations.

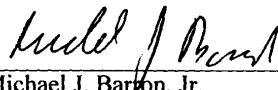
MOTION

Therefore, WisDNR and FVW move that the period prescribed to negotiate an interim trail use/rail banking agreement be extended for 180 days for a portion of the rail line from milepost 18.9 to milepost 35.48.

Respectfully submitted,


Allyn Lepeska, State Bar No. 1013474
Wisconsin Department of Transportation
4802 Sheboygan Avenue, Room 115-B
P. O. Box 7910 Madison, WI 53707-7910
(608) 266-0253
Attorney for Wisconsin Department of
Transportation

12/13/02


Michael J. Barron, Jr.
Counsel
Canadian National/Illinois Central
455 North Cityfront Plaza Drive
Chicago, IL 60611-5317
(312) 755-7954
Attorney for Fox Valley Western Ltd.