

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-303 (SUB-NO. 43X)

WISCONSIN CENTRAL LTD. –
ABANDONMENT EXEMPTION
IN BARRON COUNTY, WISCONSIN

235432
ENTERED
Office of Proceedings
February 6, 2014
Part of
Public Record

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES (WisDNR)
PETITION FOR NOTICE OF INTERIM TRAIL USE**

BACKGROUND

Wisconsin Central Ltd. (WCL) filed with the Surface Transportation Board (Board) a Notice of Exemption under 49 CFR 1152 Subpart F – Exempt Abandonments to abandon an 0.80-mile line of railroad, extending from milepost 55.2 and ending at milepost 56.0, in Rice Lake, Barron County, WI. The line traverses through United States Postal Service Zip Code 54868.

On January 27, 2014, the Wisconsin Department of Natural Resources (WisDNR) executed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the 080-mile segment of WCL railroad, from milepost 55.2 to milepost 56.0, in Rice Lake, Barron County, WI.

PURPOSE

Wisconsin Department of Transportation (WisDOT) petitions to obtain a notice of interim trail use for interim highway, bicycle, pedestrian and other trail purposes and railbanking pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 for WisDNR for specified segments of the right of way involved in this proceeding. WisDNR will use or preserve the land corridor and related real property for interim public transportation and recreational purposes (including highway, pedestrian and

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other trail), subject to restoration for railroad purposes. WisDOT and WisDNR have agreed to work cooperatively to acquire and use the right of way.

STATE RESPONSIBILITIES

WisDOT is the designated state agency in rail matters in the State of Wisconsin. 49 CFR §1152.2(g); 49 C.F.R. § 266.1 and Ch. 85, Wis. Stats. WisDOT is responsible for all state and federally-aided highway construction and all state and federally-aided airport construction in Wisconsin. Secs. 84.01(2) and 114.32(1) and (5), Wis. Stats. WisDOT has the statutory first right to acquire for present or future transportation, recreational or scenic purposes any property used in operating a railroad that is abandoned in Wisconsin. Sec. 85.09(2), Wis. Stats.

WisDOT has state statutory authority to incorporate trails into the highway right-of-way in sec. 84.06(11), Wis. Stats.:

"(11) State Trails. As a part of any highway improvement or as a separate project under this section, a portion of a hiking trail, cross-country ski trail, bridle trail or bicycle trail under the management of a state agency, municipality or nonprofit may be incorporated into the highway right-of-way, and facilities for safe crossing of the highway may be provided."

WisDNR and WisDOT need the interim trail use designation to fulfill federal and state transportation and environmental responsibilities.

NOTICE OF INTERIM TRAIL USE

WisDOT respectfully requests that the Board provide WisDNR a notice of interim bicycle, pedestrian and other trail use and rail banking condition to accomplish the above public purposes. WisDOT is interested in having WisDNR acquire and use the right of way of the rail line being abandoned for interim bicycle, pedestrian or other trail use and rail banking.

Exhibit 1 is the required Statement of Willingness by WisDNR to assume full responsibility for management of the property, which includes a map showing the location of all the needed property in Barron County, Wisconsin.

WisDOT requests that the Board consider this request despite its late filing. The Board retains jurisdiction because abandonment has not yet been consummated. Although the Statement of Willingness was executed, and this Petition is filed past the deadline of January 24, 2014, consideration of this NITU request is consistent with all Congressional purposes and neither abandonment nor discontinuance permitted by the STB conditioned as requested by WisDNR would be inconsistent with or disruptive of potential future rail use.

WisDNR takes its responsibilities under 49 CFR 1152 Subpart C seriously, and has taken steps to minimize late filing. WisDNR would utilize this corridor for a trail that would connect to the 104-mile Wild Rivers State Trail further into the City of Rice Lake. This project would provide transportation and recreational use to the communities of Rice Lake and Barron County, and does implement the City's long range plan for multi-modal access. This critical extension of the Wild Rivers State Trail to the south end of Rice Lake would stimulate and improve recreation, tourism and the economic future of the area.

CONCLUSION

WisDOT respectfully requests the Board to issue a Notice of Interim Trail Use for the land corridor and related real property, for the 0.80-mile segment of WCL railroad, from milepost 55.2 to milepost 56.0, in Rice Lake, Barron County, Wisconsin to WisDNR. This will allow all forms of

transportation to be provided in a unified, interconnected, economically-efficient, and environmentally sound manner.

Respectfully submitted,

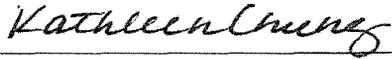
Kathleen Chung

Kathleen Chung, State Bar No. 1032802
Wisconsin Department of Transportation
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P. O. Box 7910
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(608) 266-8810
Attorney for Wisconsin Department of Transportation

February 06, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing Petition for NITU in regards to **AB303 (Sub-No. 43X)**, by electronic mail, or regular mail pursuant to 49 C.F.R. §1104.12, this 6th day of February 2014, on all parties of record on the service list.



Kathleen Chung, Attorney
State Bar no. 1032802
Wisconsin Department of Transportation
Office of General Counsel

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-303 (SUB-NO. 43X)

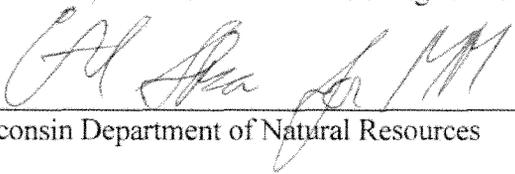
WISCONSIN CENTRAL LTD
-- ABANDONMENT EXEMPTION --
BARRON COUNTY, WISCONSIN

**STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY BY
STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
PURSUANT TO 49 CFR 1152.29**

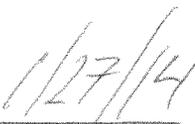
In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR § 1152.29, the State of Wisconsin Department of Natural Resources (WDNR) is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by the Wisconsin Central Ltd. and operated by Wisconsin Central Ltd. The property extends from railroad milepost 56.0 to railroad milepost 55.2 in Rice Lake, Wisconsin, a distance of approximately 0.8 miles in Barron County, Wisconsin. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-303 (Sub-No. 43X).

A map depicting the property depicting the right-of-way is attached as **Exhibit 1**.

WDNR acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad, Wisconsin Central Ltd., on the same date it is being served on the Board.



Wisconsin Department of Natural Resources



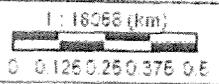
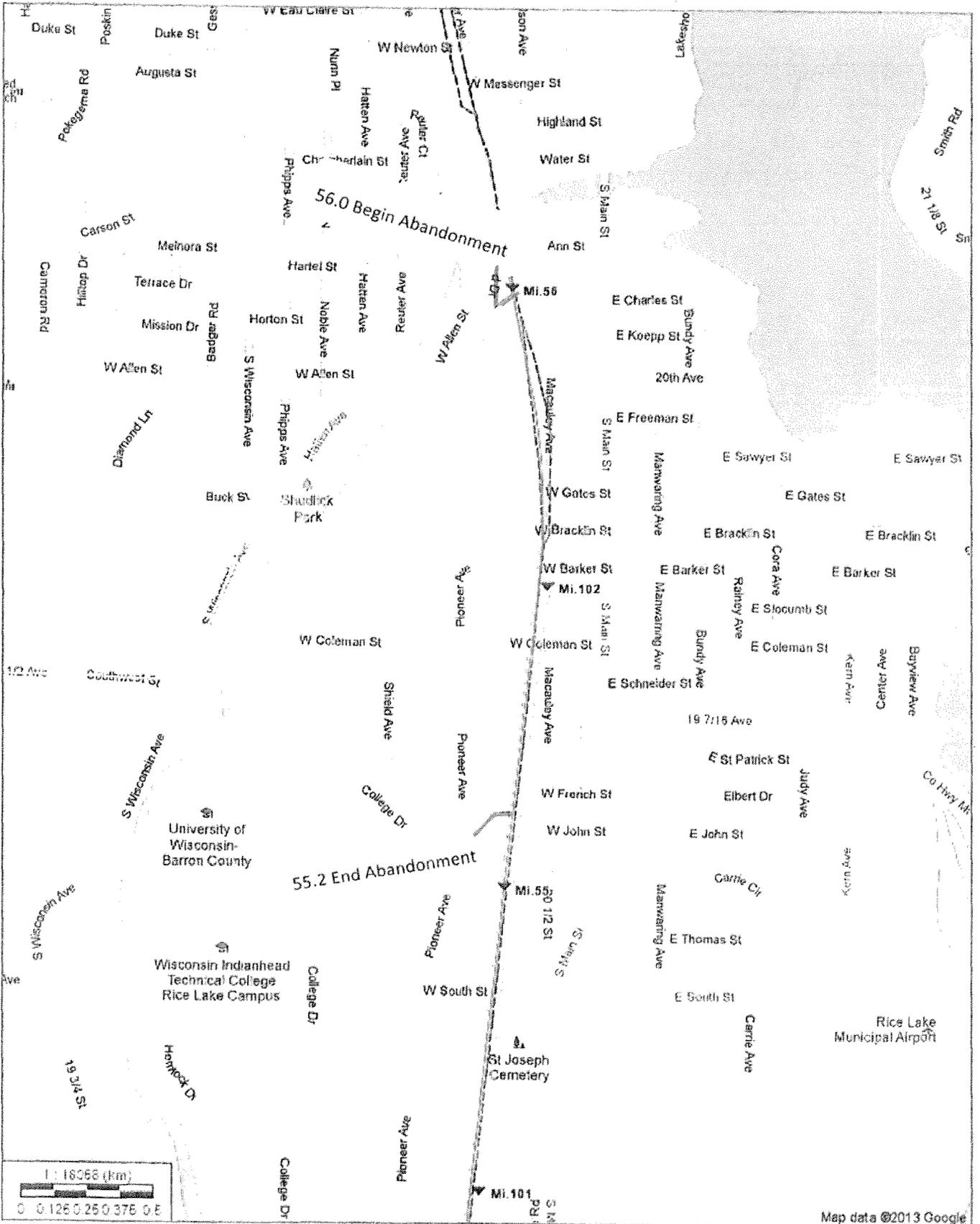
Date

By: Matt Moroney
Deputy Secretary
101 S Webster Street, Madison, WI 53703

WDNR contact:
Brigit Brown
State Trails Coordinator
101 S Webster Street, Madison, WI 53703
608-266-2183
brigit.brown@wisconsin.gov



"EXHIBIT 1"



Map data ©2013 Google

The map image is not up to scale