

ADVISORY BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
AB-303 (SUB-NO. 31X)

WISCONSIN CENTRAL LTD. --  
NOTICE OF EXEMPTION FOR ABANDONMENT--  
IN HAYWARD, SAWYER COUNTY, WISCONSIN

ENTERED  
Office of Proceedings

NOV 14 2011

Part of  
Public Record

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COUNTY OF SAWYER, WISCONSIN  
MOTION TO EXTEND TIME TO  
NEGOTIATE A NOTICE OF INTERIM TRAIL USE

BACKGROUND

231276

On a service date of December 19, 2007, the Surface Transportation Board (the Board) served notice that Wisconsin Central, LTD (WCL) filed with the Surface Transportation Board a Notice of Exemption pursuant to 49 U.S.C. § 10502 and the Board's regulations at 49 C.F.R. § 1152.50. That Notice of Exemption is for WCL's abandonment of a 1.80 - mile portion of its line of railroad between milepost 100.80 to milepost 102.60 in the City of Hayward, County of Sawyer, Wisconsin. This portion of the line traverses United State Postal Service Zip Code 54843.

On November 29, 2007, the County of Sawyer (CSW) signed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the segment of WCL railroad from milepost 100.80 to milepost 102.60, a total of approximately 1.80 miles.

The Board issued a NITU under 49 C.F.R. § 1152.29, which was served on December 19, 2007, allowing CSW until June 16, 2008, to negotiate a rail banking agreement with WCL.

On June 16, 2008, the Board issued a NITU under 49 C.F.R. § 1152.29, allowing CSW and WCL until December 13, 2008, to negotiate a rail banking agreement with WCL. On December 19, 2008, the Board issued an NITU under 49 C.F.R. § 1152.29 allowing CSW and WCL until June 11, 2009 to negotiate a rail banking agreement.

The Forestry Committee of the Sawyer County Board of Supervisors passed a resolution requesting an additional extension of the negotiating period on Monday, June 8, 2009. Negotiations are currently continuing in good faith between CSW and WCL. However, more time is needed to finalize negotiations. WCL is agreeable to an extension of time to continue negotiations under an NITU condition for the rail corridor between milepost 100.80 and 102.60.

On December 8, 2009, the Forestry Committee of the Sawyer County Board of Supervisors voted to request an extension because, although negotiations continue in good faith, Sawyer County and WCL need more time to conclude the transaction. CSW filed a motion to extend the negotiating period for an additional 180 days, which the Board granted by decision dated December 31, 2009. On June 18, 2010, the Board granted CSW's latest request to extend the negotiating period until December 3, 2010.

On November 19, 2010, CSW requested that WisDOT petition the Board to extend the negotiating period because it is still desired to acquire the property. By decision served December 29, 2010, the Board did extend the negotiating period to June 1, 2011.

On April 28, 2011, CSW requested that WisDOT submit this petition to again extend the negotiating period for 180 days for CSW to evaluate its legal options, including reversion, which would be germane to their negotiations with the WCL for this segment of rail line. By decision dated May 31, 2011, the Board granted the request and extended the NITU negotiating period to November 28, 2011.

Since then, the U.S. Court of Appeals has issued a relevant decision that has informed CSW and its negotiating process. CSW will now be able to move forward with negotiations, with guidance provided by the court decision.

CSW requires additional time to continue its negotiations based on direction from the court decision, and therefore does respectfully request that the Board extend the negotiating period for this segment for an additional 180 days.

**MOTION**

Therefore, CSW moves that the period prescribed to negotiate an interim trail use/rail banking agreement be extended for 180 days for the rail corridor between milepost 100.80 to 102.60, a total of approximately 1.80 miles in the City of Hayward, in Sawyer County, Wisconsin.

Respectfully submitted,



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11/13/11

## CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing Request for NITU extension in regards to AB303 31X, by electronic mail, or regular mail pursuant to 49 C.F.R. §1104.12, this 13<sup>th</sup> day of November, 2011, on all parties of record on the service list.

  
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Wisconsin Department of Transportation  
Office of General Counsel