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Law

Thomas J. Healey
Counsel - Regulatory
17641 S Ashland Avenue
Homewood, IL 60430-1339

T - 708-332-4381
F - 708-332-4361
tom.healey@cn.ca

2013

February 26, 2013

Via Overnight Mail

Ms Cynthia T Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street, S W
Washington, DC 20424

FILED

FEB 28 2013

**SURFACE
TRANSPORTATION BOARD**



233867

Re Docket No AB-303 (Sub-No. 40X), Wisconsin Central Ltd —
Abandonment Exemption — Kaukauna, Wisconsin

Dear Ms Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the Verified Notice of Exemption of Wisconsin Central Ltd. dated February 26, 2013, pursuant to 49 C.F.R. § 1152.50. I am also enclosing a check in the amount of \$3,700.00, representing the appropriate fee for this filing.

The Environmental and Historic Reports for this proceeding have already been filed with the Board. Feel free to contact me if you have any questions. Thank you for your assistance in this matter.

ENTERED
Office of Proceedings

FEB 28 2013

Part of
Public Record

Respectfully submitted,

Thomas J Healey
Attorney for
Wisconsin Central Ltd.

Encls.

cc. Wisconsin Department of Transportation

FILE RECEIVED
FEB 28 2013
**SURFACE
TRANSPORTATION BOARD**

233867

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO AB-303 (SUB-NO. 40X)



FILED

FEB 28 2013

SURFACE
TRANSPORTATION BOARD

WISCONSIN CENTRAL LTD.
— ABANDONMENT EXEMPTION —
IN KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN

VERIFIED NOTICE OF EXEMPTION OF
WISCONSIN CENTRAL LTD.
PURSUANT TO 49 C.F.R. § 1152.50

FILE RECEIVED
FEB 28 2013
SURFACE
TRANSPORTATION BOARD

ENTERED
Office of Proceedings
FEB 28 2013
Part of
Public Record

Thomas J. Healey
17641 S Ashland Avenue
Homewood, IL 60430-1345
(708) 332-4381
ATTORNEY FOR
WISCONSIN CENTRAL LTD.

Dated: February 26, 2013

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-303 (Sub-No 40X)

WISCONSIN CENTRAL LTD.
- ABANDONMENT EXEMPTION -
IN KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN

VERIFIED NOTICE OF EXEMPTION OF
WISCONSIN CENTRAL LTD.
PURSUANT TO 49 C.F.R. § 1152.50

Wisconsin Central Ltd. ("WCL") hereby submits this Notice of Exemption pursuant to 49 C.F.R. Part 1152. Subpart F. to abandon its line of railroad in Kaukauna, Outagamie County, Wisconsin, referred to herein as the "line" between milepost 114.00 and milepost 112.90, a distance of 1.10 miles.

In accordance with the requirements of 49 C.F.R. § 1152.50(d)(2), WCL submits the following information:

General Corporation Information: 49 C.F.R. § 1152.22(a)(1)-(2)

WCL is a Class I common carrier by rail which owns and operates approximately 1,800 miles of rail line in four Upper Midwestern states. WCL is a wholly-owned indirect subsidiary of Canadian National Railway Company. The complete name and address of WCL is:

Wisconsin Central Ltd.
17641 S. Ashland Avenue
Homewood, IL 60430-1345

Relief Sought: 49 C.F.R. § 1152.22(a)(3)

Pursuant to the Board's class exemption for the abandonment of out-of-service rail lines, codified at 49 C.F.R. Part 1152, Subpart F, WCL intends to abandon its line of railroad between Mileposts 114.00 to 112.90, a distance of approximately 1.10 miles in Kaukauna, Outagamie County, Wisconsin

Map: 49 C.F.R. § 1152.22(a)(4)

A map of the Line to be abandoned is attached hereto as Exhibit A.

WCL's Representative: 49 C.F.R. § 1152.22(a)(7)

WCL's representative to whom correspondence regarding this abandonment should be sent is:

Thomas J Healey
17641 S. Ashland Avenue
Homewood, IL 60430-1345
(708) 332-4381

ZIP Codes Traversed: 49 C.F.R. § 1152.22(a)(8)

The portion of the Line to be abandoned traverses United States Postal Service ZIP Code 54130

Qualification for Class Exemption: 49 C.F.R. § 1152.50(b)

Per the certificate and verification attached hereto as Exhibit B, WCL certifies that no local revenue traffic has moved over the portion of the Line to be abandoned for at least the last two years, there is no overhead traffic on this trackage that would have to be rerouted over other lines, and no formal complaint filed by a user of rail service on the portion of the Line to be abandoned (or a state or local governmental entity acting on behalf of such user) regarding cessation of service on the proposed abandonment is pending with the Board or any U.S. District Court or has been decided in favor of the complainant during the last two years.

Consummation Date: 49 C.F.R. § 1152.50(d)(2)

WCL will not consummate the proposed abandonment any earlier than May 1, 2013.

Suitability for Other Public Purposes: 49 C.F.R. § 1152.22(e)(4)

WCL does not believe that the right-of-way would be of interest to the State or any other entity as a highway or mass transportation line or other similar public use because it sits in a highly developed urban area with a mature roadway system.

Labor Protection: 49 C.F.R. 1152.50(d)(2)

The level of labor protection applicable in rail line abandonment is that established in *Oregon Short Line Co -- Abandonment -- Goshen*, 360 I.C.C. 91 (1979).

Certificate of Compliance with Notice Requirements: 49 C.F.R. § 1152.50(d)(2)

A certificate that the notice of requirements of 49 C.F.R. § 1152(d)(1) and 49 C.F.R. § 1105.11 have been complied with is attached hereto as Exhibit C.

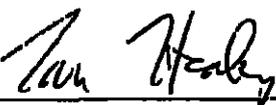
Environmental and Historic Report: 49 C.F.R. §§ 1105.7 and 1105.8

An Environmental and Historic Report, prepared pursuant to 49 C.F.R. §§ 1105.7 and 1105.8, was already filed with the Surface Transportation Board in this proceeding.

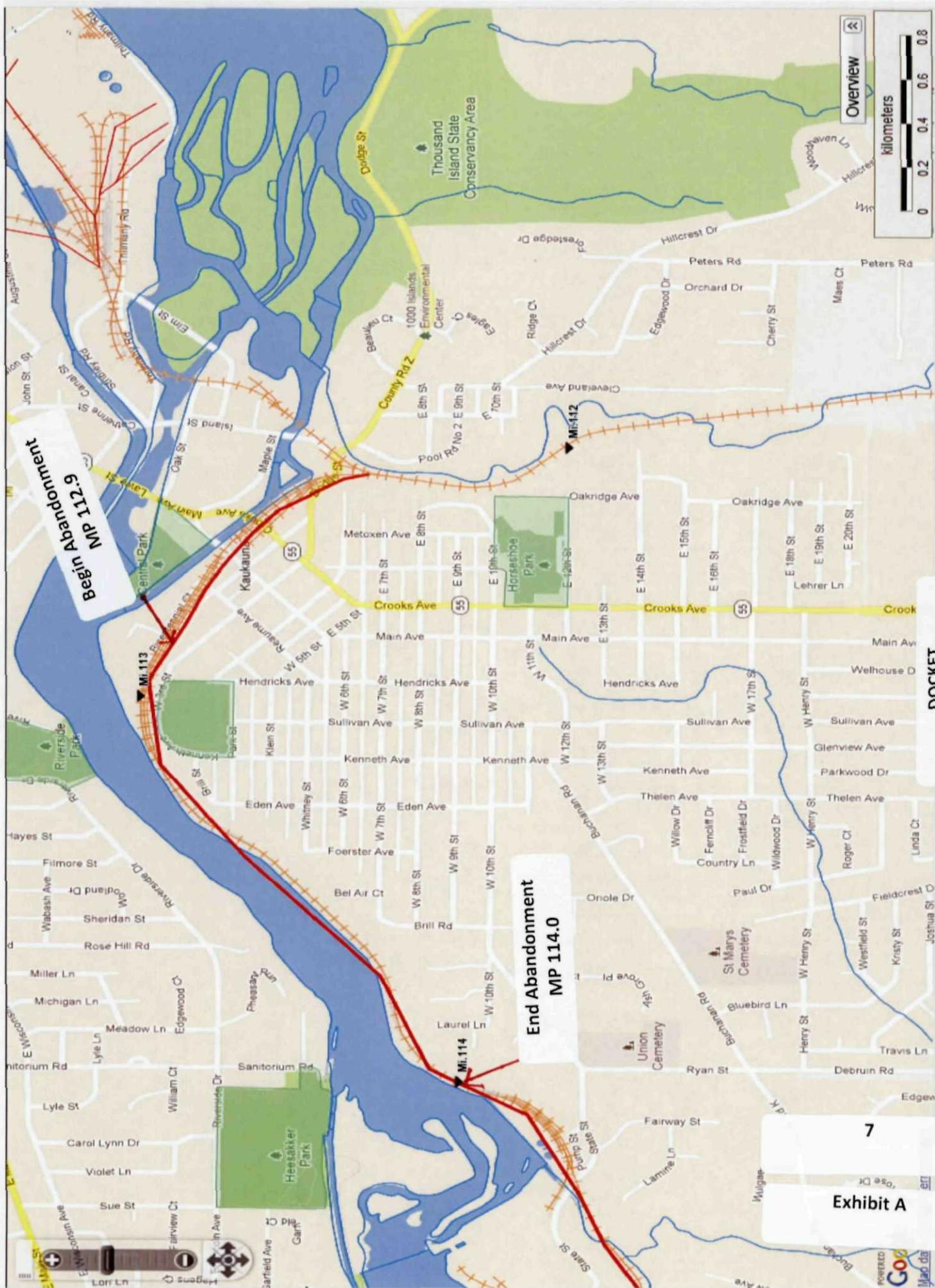
Since filing the Environmental and Historic Report with the Surface Transportation Board, WCL has received correspondence from the US PEA, Washington office, see attached as Exhibit D. The US EPA has stated that since this is a state issue, WCL should contact the Region 5 office. WCL had previously contacted the Region 5 office and has not received a response to date.

WCL has also received a response from Army Corp of Engineers. The Corp stated that if any salvage activities impacted the Fox River, which is adjacent to the rail line, WCL would be required to obtain an Army permit. WCL's abandonment will not affect the Fox River. See correspondence attached as Exhibit F.

Respectfully submitted,

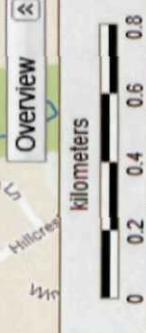
By  _____

Thomas J. Healey
17641 S Ashland Avenue
Homewood, IL 60430-1345
(708) 332-4381
ATTORNEY FOR WISCONSIN CENTRAL LTD



**Begin Abandonment
MP 112.9**

**End Abandonment
MP 114.0**



**DOCKET
AB303 (40X)**

**7
Exhibit A**



EXHIBIT B

DOCKET NO. AB-303 (SUB-NO. 40X)

**WISCONSIN CENTRAL, LTD.
— ABANDONMENT EXEMPTION —
IN KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN**

CERTIFICATE AND VERIFICATION

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

Brian Buchanan, being duly sworn, deposes and says:

1. That no local traffic has moved over the line of Wisconsin Central, Ltd. ("WCL") from milepost 114.00 to 112.90, a distance of 1.10 miles in Kaukauna, Outagamie County, Wisconsin, for at least two years, and that there is no overhead traffic to be rerouted over other lines; and

2. That no formal complaint filed by a user of rail service on the subject line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line is either pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of the complainant within the last two years, and

3. That he has read the foregoing Notice of Exemption, knows the facts therein asserted, and that the same are true as stated.

Date: February 26, 2013



Brian Buchanan
Manager – Network Strategies
Wisconsin Central Ltd

Subscribed and sworn to
before me this 27 day of
February, 2013

Rebecca S Bott
Notary Public

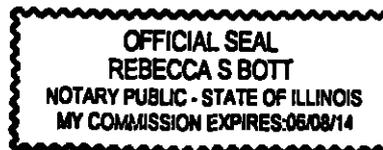


Exhibit B

EXHIBIT C

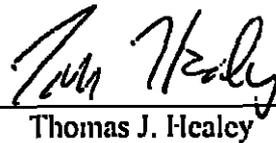
CERTIFICATE

I, Thomas J. Healey, an attorney for Wisconsin Central Ltd, hereby certify that, for the proceeding before the Surface Transportation Board known as Docket No AB-303, (Sub-No. 40X), Wisconsin Central Ltd. — Abandonment Exemption — in Kaukauna, Outagamie County, Wisconsin:

(1) The notice requirements of 49 C.F.R. § 1152.50(d)(1) have been complied with, to-wit: On January 10, 2013, written notice was mailed to the: (a) Wisconsin Department of Transportation, (b) U.S Department of Defense, MTMCTEA, (c) National Center for Recreation and Conservation; and (d) U.S Department of Agriculture (copies of which are attached hereto as Attachments 1-4)

(2) The notice requirements of 49 C F R § 1105.11 have been complied with, to wit. On December 3, 2012, the Environmental Report and Historic Report for this proceeding, which reports have also been filed with the Surface Transportation Board, and the accompanying transmittal letters in the form set forth in 49 C F R. § 1105.11 (a sample of which is attached hereto as Attachment 5) were served by first class mail, postage prepaid, on the parties listed on Attachment 6, which list includes the state historic preservation officer, as required by 49 C F R § 1105.7(b) and § 1105.11

(3) A newspaper notice was published on September 17, 2012, in *The Post-Crescent*, a newspaper of general circulation in Kaukauna, Outagamie County, Wisconsin. The notice alerted the public to the proposed abandonment, to possible reuse alternatives, and to procedures for participating in the STB proceeding. A copy of the notice and Affidavit of Publication are attached to this Certificate as Attachment 7.



Thomas J. Healey

Dated February 26, 2013



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Law

Thomas J. Healey
Counsel - Regulatory
17641 S Ashland Avenue
Homewood, IL 60430-1339
T - 708-332-4381
F - 708-332-4361
tom.healey@cn.ca

January 9, 2013

Wisconsin Department of Transportation
Hill Farms State Transportation Building
4802 Sheboygan Ave.
PO Box 7910
Madison, WI 53707-7910

Re: Docket No. AB-303 (Sub-No. 40X), Wisconsin Central Ltd.
Notice of Exemption in Kaukauna, Outagamie County, Wisconsin

Dear Sir/Madam:

This is to inform you that pursuant to 49 C.F.R. § 1152.50 (Exempt Abandonments and Discontinuance of Service and Trackage Rights), Wisconsin Central Ltd. shall on or after February 4, 2013, file a Notice of Exemption with the Surface Transportation Board for approval to abandon approximately 1.10 miles of railroad line starting at milepost 114.00 and ending at milepost 112.90 in Outagamie County, Kaukauna, Wisconsin. Such line runs through U.S. Postal Zip Code 54130.

The exemption procedures set forth in § 1152.50 are being used in this case because no local traffic has moved over this line for at least two years and any potential overhead traffic on this line can be rerouted over other lines. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Sincerely,

Thomas J. Healey
Attorney for Wisconsin Central Ltd

11

Attachment 1



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Law

Thomas J. Healey
Counsel - Regulatory
17641 S. Ashland Avenue
Homewood, IL 60430-1339
T - 708-332-4381
F - 708-332-4361
tom.healey@cn.ca

January 9, 2013

Military Surface Deployment and Distribution Command
Transportation Engineering Agency
Attn: SDTE-SA (Railroads for National Defense)
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357

Re: Docket No AB-303 (Sub-No. 40X), Wisconsin Central Ltd.
Notice of Exemption in Kaukauna, Outagamie County, Wisconsin

Dear Sir/Madam:

This is to inform you that pursuant to 49 C.F.R. § 1152.50 (Exempt Abandonments and Discontinuance of Service and Trackage Rights), Wisconsin Central Ltd. shall on or after February 4, 2013, file a Notice of Exemption with the Surface Transportation Board for approval to abandon approximately 1.10 miles of railroad line starting at milepost 114.00 and ending at milepost 112.90 in Outagamie County, Kaukauna, Wisconsin. Such line runs through U.S. Postal Zip Code 54130.

The exemption procedures set forth in § 1152.50 are being used in this case because no local traffic has moved over this line for at least two years and any potential overhead traffic on this line can be rerouted over other lines. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Sincerely,

Thomas J. Healey
Attorney for Wisconsin Central Ltd.

Attachment 2



www.cn.ca

Law

Thomas J Healey
Counsel - Regulatory
17641 S. Ashland Avenue
Homewood, IL 60430-1339
T - 708-332-4381
F - 708-332-4361
tom.healey@cn.ca

January 9, 2013

Mr. Thomas Ross, Division Chief
National Center for Recreation and Conservation
National Park Service
1849 C. Street, N.W.
Org Code 2220
Washington, D.C 20420

Re: Docket No. AB-303 (Sub-No. 40X), Wisconsin Central Ltd.
Notice of Exemption in Kaukauna, Outagamie County, Wisconsin

Dear Mr. Ross:

This is to inform you that pursuant to 49 C.F.R. § 1152.50 (Exempt Abandonments and Discontinuance of Service and Trackage Rights), Wisconsin Central Ltd. shall on or after February 4, 2013, file a Notice of Exemption with the Surface Transportation Board for approval to abandon approximately 1.10 miles of railroad line starting at milepost 114.00 and ending at milepost 112.90 in Outagamie County, Kaukauna, Wisconsin. Such line runs through U.S. Postal Zip Code 54130.

The exemption procedures set forth in § 1152.50 are being used in this case because no local traffic has moved over this line for at least two years and any potential overhead traffic on this line can be rerouted over other lines. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Sincerely,

Thomas J. Healey
Attorney for Wisconsin Central Ltd.

Attachment 3



www.cn.ca

Law

Thomas J. Healey
Counsel - Regulatory
17641 S. Ashland Avenue
Homewood, IL 60430-1339
T - 708-332-4381
F - 708-332-4381
tom.healey@cn.ca

January 9, 2013

Ms. Abigail Kimball
Chief, Forest Service
U.S. Department of Agriculture
1400 Independence Ave., S.W.
RM 4NW YATESBG
Washington, DC 20250

Re: Docket No AB-303 (Sub-No. 40X), Wisconsin Central Ltd.
Notice of Exemption in Kaukauna, Outagamie County, Wisconsin

Dear Ms Kimball:

This is to inform you that pursuant to 49 C.F.R. § 1152.50 (Exempt Abandonments and Discontinuance of Service and Trackage Rights), Wisconsin Central Ltd. shall on or after February 4, 2013, file a Notice of Exemption with the Surface Transportation Board for approval to abandon approximately 1.10 miles of railroad line starting at milepost 114.00 and ending at milepost 112.90 in Outagamie County, Kaukauna, Wisconsin. Such line runs through U.S. Postal Zip Code 54130.

The exemption procedures set forth in § 1152.50 are being used in this case because no local traffic has moved over this line for at least two years and any potential overhead traffic on this line can be rerouted over other lines. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Sincerely,

Thomas J. Healey
Attorney for Wisconsin Central Ltd.

Attachment 4



Law

Thomas J. Healey
Counsel - Regulatory
17641 S. Ashland Avenue
Homewood, IL 60430 1339

www.cn.ca

T - 708-332-4381
F - 708 332 4361
tom.healey@cn.ca

December 3, 2012

Re: Wisconsin Central Ltd. Notice of Exemption for Abandonment – Kaukauna, Outagamie County, Wisconsin - Docket AB-303 (Sub-No. 40X)

To Whom It May Concern:

Any time on or after February 4, 2013, Wisconsin Central Ltd. ("WCL") expects to file with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon a railroad line located between milepost 114.00 and milepost 112.90, a distance of 1.10 miles, in Kaukauna, Outagamie County, Wisconsin. Enclosed is an Environmental Report and a Historic Report describing the proposed action and any expected environmental and historical effects, as well as a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the STB's independent environmental and historical analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the STB's environmental and historic review process, please contact their Section of Environmental Analysis (SEA), at the Surface Transportation Board, 395 E Street, SW, Washington, D.C. 20423-0001, (202) 245-0245, and refer to the above docket number.

WCL will file the Environmental Report and Historic Report with the STB on or about December 3, 2012. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to the STB (with a copy to the undersigned) would be appreciated within three weeks. Your comments will be considered by the STB in evaluating the environmental and historical impact of the contemplated action.

If there are any questions concerning this proposal, please contact the undersigned directly at (708) 332-4381 or by mail at the above address.

Sincerely,

Thomas J. Healey
Attorney for Wisconsin Central Ltd.

Encls.

Attachment 5

U.S. Army Corp of Engineers
St Paul District (CEMVA-PA)
190 Fifth Street East
St Paul, MN 55101-1638

U.S Environmental Protection Agency
Office of Water
1200 Pennsylvania Ave., N W
Washington, DC 20460

Mr. Kenneth A Westlake
Chief, NEPA Implementation Section
US EPA Region 5
77 West Jackson Blvd
Chicago, IL 60604

National Park Service
Department of Interior
1849 C Street, N W.
Washington, DC 20240

National Geodetic Survey Information Services
Simon Monroe <Simon.Monroe@noaa.gov>

Mr David M Kennedy, Director
Office of Ocean and Coastal Resource Management
NOAA Ocean Service
1305 East-West Highway
Silver Springs, Maryland 20910

Mr Gregory Hines, RC&D Coordinator
National Resource Conservation Service
3071 Voyager Drive, Suite E
Green Bay, WI 54311-8343

Ms Judith Schuelte
County Board Chairperson
410 S Walnut St
Administration Bldg - 2nd level
Appleton, WI 54911

U.S. Fish & Wildlife Service
2800 Lake Shore Drive East Suite B
Ashland, WI 54806-2427

Wisconsin Department of Natural Resources
DNR Northeast Region HDQRS
2984 Shawano Ave.
Green Bay, WI 543313-6727

Attachment 6

Wisconsin Department of Transportation
Hill Farms State Transportation Building
4802 Sheboygan Ave
PO Box 7910
Madison, WI 53707-7910

Wisconsin Clearing House for Prevention Resources
1552 University Ave
Madison, WI 53726-4085

Wisconsin Department of Administration
PO Box 7868
101 East Wilson Street, 6th Floor
Madison, WI 53707-7868

Wisconsin Department of Administration
Wisconsin Coastal Management Program
PO Box 8944
101 East Wilson Street
Madison, WI 53708-8944

Wisconsin Historical Society
Division of Historic Preservation
Office of Preservation Building
816 State Street
Madison, WI 53706

THE POST-CRESCENT

STATE OF WISCONSIN
OUTAGAMIE COUNTY

CN LAW DEPARTMENT
17641 S ASHLAND AVE
HOMWOOD, IL 60430

Katelyn Fogle

Being duly sworn, doth depose and say that she is an authorized representative of the Appleton Post Crescent, a newspaper published at Appleton, Wisconsin, and that an advertisement of which the annexed is a true copy, taken from said paper, which was published therein on

Account Number:

Ad Number: 6667491

Published Date September 16, 2012

Total Ad Cost: \$53.16

(Signed)



Advertising Assistant

(Date) 9/17/12

Signed and sworn before me



Notary Public, Outagamie County, Wisconsin

My commission expires

3-27-16

Attachment 7

CN LAW DEPARTMENT
Re Ad#, 6667191



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 11 2012

OFFICE OF WATER

Mr. Thomas J. Healey
Counsel Regulatory
17641 S. Ashland Avenue
Homewood, Illinois 60430-1339

Dear Mr. Healey:

Thank you for your letter to the Environmental Protection Agency (EPA) Office of Water requesting comments regarding the Wisconsin Central Ltd. Notice of Exemption for Abandonment – Kaukauna, Outagamie County, Wisconsin – Docket AB-303 (Sub-No. 40X). Since this is a state issue, we have forwarded your letter to our Region 5 office for a response. The office is located at 77 W. Jackson Boulevard, Chicago, Illinois 60604-3507 Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Wanda R. Fields".

Wanda R. Fields
Program Analyst

Exhibit D

19



DEPARTMENT OF THE ARMY
ST PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL MINNESOTA 55101-1678

REPLY TO
ATTENTION

January 31, 2013

Operations
Regulatory (2012-05747-AMN)

Thomas J. Healey
Counsel – Regulatory
17641 S. Ashland Avenue
Homewood, Illinois 60430-1339

Dear Mr. Healey.

We have received the Notice of Exemption for Abandonment you sent for the abandonment of a railroad line located between milepost 114.00 and milepost 112.9, a distance of 1.10 miles, in Kaukauna, Outagamie County, Wisconsin. Based on the limited information that was provided, it is unclear whether or not waters of the United States would be impacted by the proposed project. In lieu of a specific response, please consider the following general information concerning our regulatory program that may apply to the proposed project.

Please note that the Fox River, which is situated directly adjacent to the railroad line to be abandoned, is a navigable water of the United States. If the abandonment work would involve activity in the Fox River, it may be subject to the Corps of Engineers' jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 (Section 10). Section 10 prohibits the construction, excavation, or deposition of materials in, over, or under navigable waters of the United States, or any work that would affect the course, location, condition, or capacity of those waters, unless the work has been authorized by a Department of the Army permit.

If the abandonment work would involve the discharge of dredged or fill material into waters of the United States, it may be subject to the Corps of Engineers' jurisdiction under Section 404 of the Clean Water Act (CWA Section 404). Waters of the United States include navigable waters, their tributaries, and adjacent wetlands (33 CFR § 328.3). CWA Section 301(a) prohibits discharges of dredged or fill material into waters of the United States, unless the work has been authorized by a Department of the Army permit under Section 404. Information about the Corps permitting process can be obtained online at <http://www.mvp.usace.army.mil/regulatory>.

The Corps' evaluation of a Section 10 and/or a Section 404 permit application involves multiple analyses, including (1) evaluating the proposal's impacts in accordance with the National Environmental Policy Act (NEPA) (33 CFR part 325), (2) determining whether the proposal is contrary to the public interest (33 CFR § 320.4), and (3) in the case of a Section 404 permit, determining whether the proposal complies with the Section 404(b)(1) Guidelines (Guidelines) (40 CFR part 230).

Exhibit E

20

Operations
Regulatory (2012-05747-AMN)

- 2 -

If the proposal requires a Section 404 permit application, the Guidelines specifically require that "no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences" (40 CFR § 230.10(a)). Time and money spent on the proposal prior to applying for a Section 404 permit cannot be factored into the Corps' decision whether there is a less damaging practicable alternative to the proposal.

For further information please contact Ann Nye at (651) 290-5859, the Corps' project manager for Outagamie County

Sincerely,



Tamara E. Cameron
Chief, Regulatory Branch