

BEFORE THE  
SURFACE TRANSPORTATION BOARD

239485

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**AB-303 (SUB-NO. 47X)**

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

ENTERED  
Office of Proceedings  
November 3, 2015  
Part of  
Public Record

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**CITY OF TOMAHAWK  
PETITION FOR NOTICE OF INTERIM TRAIL USE**

**BACKGROUND**

On October 7, 2015, 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 a .49-mile line of railroad, from milepost 132.89 to milepost 133.38, all within the City of Tomahawk, Lincoln County, WI. The line traverses through United States Postal Service Zip Code 54487.

On October 21, 2015, the City of Tomahawk (CTW), a municipality of the State of Wisconsin, signed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the .49-mile segment of WCL railroad, from milepost 132.89 to milepost 133.38, all within the City of Tomahawk, Lincoln County, WI.

**PURPOSE**

The 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 CTW for specified segments of the right of way involved in this proceeding. CTW will use or preserve the land corridor and related real property for interim public transportational and recreational purposes (including highway,

**FILING FEE WAIVED**

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

### STATE AND AGENCY RESPONSIBILITIES

WisDOT is the designated state agency in rail matters in the State of Wisconsin. 49 C.F.R. § 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."**

CTW 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 CTW 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 CTW 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 A** consists of a map showing the location of all the needed property in Lincoln County, Wisconsin.

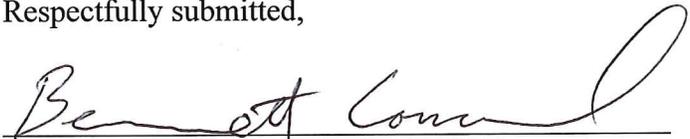
**Exhibit B** is the required Statement of Willingness by CTW to assume full responsibility for management of the property.

CTW's acquisition of the corridor for present and future transportation purposes as stated above is consistent with all Congressional purposes and neither abandonment nor discontinuance permitted by the STB conditioned as requested by CTW would be inconsistent with or disruptive of potential future rail use.

### CONCLUSION

WisDOT respectfully requests the Board to issue a Notice of Interim Trail Use for the land corridor and related real property, for the .49-mile segment of WCL railroad, from milepost 132.89 to milepost 133.38, all within the City of Tomahawk, Lincoln County, Wisconsin to CTW. This will allow all forms of transportation to be provided in a unified, interconnected, economically-efficient, and environmentally sound manner.

Respectfully submitted,



Bennett Conard, State Bar No. 1100005  
Wisconsin Department of Transportation  
4802 Sheboygan Avenue, Room 115-B  
P. O. Box 7910  
Madison, WI 53707-7910  
(608) 266-8810  
Wisconsin Department of Transportation

November 3, 2015

## CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing petition for Notice of Interim Trail Use in regards to AB303 (Sub-No. 47x), by electronic mail or regular mail, pursuant to 49 C.F.R. §1104.12, this 3<sup>rd</sup> day of November, 2015, on all parties of record on the service list.

A handwritten signature in cursive script, reading "Bennett Conard", written over a horizontal line.

Bennett Conard, Attorney  
State Bar no. 1100005  
Wisconsin Department of Transportation  
Office of General Counsel



**DESCRIPTION:**  
 Tomahawk  
 State of Wisconsin  
 United States of America

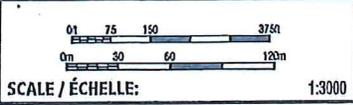
THIS IS NOT A PLAN OF SURVEY  
 CECI N'EST PAS UN PLAN D'ARPENTAGE

**PROPERTY SKETCH**

<b>SUBDIVISION:</b>	Valley (486)
<b>SPUR / ANTENNE:</b>	N/A
<b>MILEAGE / MILLIAIRE:</b>	132.89 - 133.38
<b>DATE:</b>	February 27, 2015



**Subject Lands**  
**WISCONSIN CENTRAL LTD.**  
**AB 303 (SUB NO. 47X)**



**EXHIBIT**  
**A**

tabbles

BEFORE THE  
SURFACE TRANSPORTATION BOARD

AB-303 (SUB-NO. 47X)

WISCONSIN CENTRAL LTD -- ABANDONMENT EXEMPTION --  
IN THE CITY OF TOMAHAWK, LINCOLN COUNTY, WISCONSIN

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY BY  
CITY OF TOMAHAWK, WISCONSIN  
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 City of Tomahawk 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 Canadian National Railway Company and operated by Wisconsin Central Ltd. The property extends from railroad milepost 132.89 to railroad milepost 133.38, a distance of .49 miles in City of Tomahawk, Lincoln County, Wisconsin. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-303 (Sub-No. 47X).

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

The City of Tomahawk 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, (Name of Railroad), on the same date it is being served on the Board.

City of Tomahawk  
(Name of Trail User/Organization)

Date: 10/21/15

By

Name:

Mike Tolvstad  
Mike Tolvstad

Title: Director of Public Works  
Address: P.O. Box 469, Tomahawk, Wisconsin 54487  
Phone number: 715-453-3654  
Email address: dpwdirector@cityoftomahawk.com





**DESCRIPTION:**  
 Tomahawk  
 State of Wisconsin  
 United States of America

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 CECI N'EST PAS UN PLAN D'ARPENTAGE

**PROPERTY SKETCH**

<b>SUBDIVISION:</b>	Valley (486)
<b>SPUR / ANTENNE:</b>	N/A
<b>MILEAGE / MILLIAIRE:</b>	132.89 - 133.38
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**WISCONSIN CENTRAL LTD.**  
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