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BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings
February 9, 2015
Part of
Public Record

AB-303 (SUB-NO. 44X)

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

**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 a line of railroad located in Forest County, Wisconsin, referred to herein as the “Line” between the northern edge of Prusinski Lane, at or about milepost 242.21 on the Pembine Sub (formerly milepost 243.00 on the old Shawano Sub) in or around Argonne, Forest County, Wisconsin and ending at milepost 235.85 on the Pembine Sub (formerly milepost 249.38 on the Old Shawano Sub) in Crandon, Forest County, Wisconsin, a distance of approximately 6.4 miles.

On August 4, 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 6.4-mile segment of WCL railroad between the northern edge of Prusinski Lane, at or about milepost 242.21 on the Pembine Sub (formerly milepost 243.00 on the old Shawano Sub) in or around Argonne, Forest County, Wisconsin and ending at milepost 235.85 on the Pembine Sub (formerly milepost 249.38 on the Old Shawano Sub) in Crandon, Forest County, Wisconsin. On

FILING FEE WAIVED

August 18, 2014, at the Board's request, WisDNR executed and filed a corrected Statement of Willingness.

PURPOSE

Wisconsin Department of Transportation (WisDOT) on behalf of WisDNR petitioned the Board 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 promised to use or preserve the land corridor and related real property for interim public transportation and recreational purposes (including highway, pedestrian and other trail), subject to restoration for railroad purposes. WisDOT and WisDNR 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 requested 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 Forest County, Wisconsin.

WisDOT argued that this action would enable WisDNR to pursue transaction negotiations with WCL for the acquisition of this corridor between the cities of Crandon and Argonne, in Forest County, Wisconsin. The acquisition of this corridor would extend the Wolf River State Trail approximately 6.4 miles in Forest County, Wisconsin. WisDNR's cooperative partner, Forest County, would develop and operate this section of the trail along with the existing Wolf River State Trail it already manages. The acquisition of this corridor would also be an important step toward connecting the state trail network, as approved in the State Trails Network Plan. It is a critical link in a connection between the Wolf River State Trail and the Nicolet State Trail to the east.

WisDNR's State of Willingness to Accept Financial Responsibility (SoW) is signed by Mr. Mike Bruhn, who has authority to execute the SoW on behalf of WisDNR.

On service date August 26, 2014, the Board granted the petition and ordered the proceeding reopened for 180 days to permit WisDNR and WCL to reach a trail agreement, until February 22, 2015.

WisDNR now respectfully requests the Board grant an additional 180 days to continue negotiations, which continue in good faith. Since the Board's decision on August 26, 2014, WisDNR has hired an appraiser to appraise the approximately 6.4 miles of corridor between Crandon and Argonne, Wisconsin. On January 19, 2015, WisDNR staff met with officials from WCL to discuss the current status of this and other WisDNR acquisitions from WCL. Both parties confirmed they are still interested in continuing negotiations for this segment. On February 4, 2015, the parties confirmed the mileposts with the appraiser. Once the appraisal is completed and received by WisDNR, WisDNR will review it and continue negotiations with WCL.

WCL has indicated it will concur with this request for 180 additional days to reach a trail use agreement.

CONCLUSION

Therefore, WisDOT respectfully petitions the Board to extend the time period to reach a trail use agreement for the land corridor and related real property, for the segment of WCL railroad between the northern edge of Prusinski Lane, at or about milepost 242.21 on the Pembine Sub (formerly milepost 243.00 on the old Shawano Sub) in or around Argonne, Forest County, Wisconsin and ending at milepost 235.85 on the Pembine Sub (formerly milepost 249.38 on the Old Shawano Sub) in Crandon, Forest County, Wisconsin, a distance of approximately 6.4 miles. This

will allow all forms of transportation to be provided in a unified, interconnected, economically-efficient, and environmentally sound manner.

Respectfully submitted,

Kathleen Chung

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February 9, 2015

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing Petition to Extend Negotiating Period, in regards to **AB303 (Sub-No. 44X)**, by electronic mail, or regular mail pursuant to 49 C.F.R. §1104.12, this 9th day of February, 2015, on all parties of record on the service list.



Kathleen Chung, Attorney
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Wisconsin Department of Transportation
Office of General Counsel