

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-303 (SUB-No. 42X)

WISCONSIN CENTRAL LTD.
- ABANDONMENT EXEMPTION -
IN BROWN COUNTY, WISCONSIN

234930
ENTERED
Office of Proceedings
October 17, 2013
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 petition for exemption from the provisions of 49 U.S.C. §10903, pursuant to 49 U.S.C. §10502 and 49 C.F.R. § 1152 Subpart F – Exempt Abandonments, to abandon a portion of its railroad line, from milepost 97.75 and ending at milepost 98.08 in Denmark, Brown County, Wisconsin, a distance of approximately 0.33 miles. This line traverses United States Postal Service Zip Code 54208.

On October 14, 2013, the Deputy Secretary of the Wisconsin Department of Natural Resources did execute the attached Statement of Willingness to Accept Financial Responsibility for the railroad line portion pursuant to 49 C.F.R. §1152.29, and is authorized to do so. This statement is for the entire portion of WCL railroad line referenced in WCL’s petition, extending from milepost 97.75 to milepost 98.08, a distance of 0.33 miles, Denmark, Brown County, Wisconsin.

FILING FEE WAIVED

PURPOSE

Wisconsin Department of Transportation (WisDOT) files this Petition for Interim Trail Use on behalf of the Wisconsin Department of Natural Resources (WisDNR) pursuant to 49 C.F.R. § 1152.29(a) and 49 C.F.R. § 1152.29(b)(3). 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 the full right of way involved in this proceeding. WisDOT and WisDNR will 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. WisDNR currently owns the abutting abandoned railroad corridor trail, which connects to a multi-county trail system. WisDNR intends to work with the existing shipper, United Cooperative, to satisfy their freight rail needs, and also connect the corridor with the multi-county trail system upon completion of United Cooperative use, or in conjunction with its use. WisDNR will negotiate with WCL and United Cooperative to reach an agreement that fulfills all parties' needs, and preserves the corridor for future restoration to railroad purposes. WisDOT supports WisDNR efforts to acquire and utilize the right of way for public purposes.

STATE AND USER RESPONSIBILITIES

WisDNR is a statutory agency of the State of Wisconsin, and is dedicated to working with the citizens and businesses of Wisconsin while preserving and enhancing the natural resources of Wisconsin.

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. §§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. § 85.09(2), Wis. Stats.

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

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.

The Board retains jurisdiction because abandonment has not yet been consummated. Finally, WCL has indicated to WisDNR that it is willing to enter into trail negotiations.

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. WisDNR will also work with the existing shipper to allow necessary freight service to continue, while seeking a public use, and preserving the corridor for future rail service.

Included in this petition is a Statement of Willingness to Assume Financial Responsibility, executed by the Wisconsin Department of Natural Resources (WisDNR), which includes Exhibit 1, a map of the location of all needed property in Manitowoc, Wisconsin.

WisDNR'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 Board conditioned as requested by WisDNR would be inconsistent with or disruptive of potential future rail use.

CONCLUSION

WisDOT respectfully requests the Board to accept this Petition and issue a Notice of Interim Trail Use for the land corridor and related real property referenced in this proceeding, that WCL railroad line from milepost 97.75 to milepost 98.08 in Denmark, Wisconsin, in Brown County, a distance of approximately 0.33 miles, 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

4802 Sheboygan Avenue, Room 115-B

P.O. Box 7910

Madison, WI 53707-7910

(608) 266-8810

October 14, 2013

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-303 (SUB-NO. 42X)

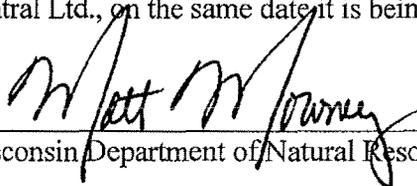
WISCONSIN CENTRAL LTD
-- ABANDONMENT EXEMPTION --
BROWN COUNTY, WISCONSIN

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 97.75 to railroad milepost 98.08 in Denmark, Wisconsin, a distance of approximately 0.33 miles in Brown County, Wisconsin. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-303 (Sub-No. 42X).

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

10/14/13
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

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing Petition for NITU in regards to AB303 (Sub-No. 42X), by electronic mail, or regular mail pursuant to 49 C.F.R. §1104.12, this 14th day of October 2013, on all parties of record on the service list.



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