



## Wisconsin Department of Transportation

www.dot.wisconsin.gov

Scott Walker  
Governor

Mark Gottlieb, P.E.  
Secretary

**Office of General Counsel**  
4802 Sheboygan Ave., Rm. 115B  
P.O. Box 7910  
Madison, WI 53707-7910

Telephone: 608-266-8810  
FAX: 608-267-6734  
E-mail: ogc.exec@dot.wi.gov

June 29, 2012

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

232519

ENTERED  
Office of Proceedings  
June 29, 2012  
Part of  
Public Record

ELECTRONIC FILING

**RE: STB Finance Docket No. AB303 (Sub No. 39X)**  
Wisconsin Central Ltd. – Abandonment Exemption – Manitowoc County,  
Wisconsin

Dear Ms. Brown:

Wisconsin Department of Transportation is the state rail agency. Enclosed for filing is a Petition for NITU by the Wisconsin Department of Transportation on behalf of the Wisconsin Department of Natural Resources, in the above listed Docket.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen Chung".

Kathleen Chung  
Attorney

Attachments

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

**AB-303 (SUB-No. 39X)**

WISCONSIN CENTRAL LTD.  
- ABANDONMENT EXEMPTION -  
IN MANITOWOC 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 Verified Notice of Exemption under 49 C.F.R. § 1152 Subpart F – Exempt Abandonments to abandon a portion of its railroad line from milepost 69.0 in Newton, Wisconsin to end of WCL’s ownership at milepost 62.2 in Cleveland, Wisconsin, in Manitowoc County, a distance of approximately 6.8 miles.

On June 21, 2012, the Secretary of the Wisconsin Department of Natural Resources (WisDNR) signed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 CFR § 1152.29. This statement is for the entire portion of WCL railroad line referenced in WCL’s Verified Notice, extending from milepost 69.0, in Newton, Wisconsin to the end of WCL’s ownership at milepost 62.2 in Cleveland, Wisconsin, all in Manitowoc County, Wisconsin.

## PURPOSE

Wisconsin Department of Transportation (WisDOT) files this Petition for Interim Trail Use 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. WisDOT and WisDNR have agreed to work cooperatively to acquire and use the right of way.

## STATE AND COUNTY 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.

Good cause exists to accept the late-filed trail use statement, because there is public benefit in allowing the trail use negotiations to go forward to preserve the corridor. Further, required signatures were recently obtained, and herein filed upon receipt. 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.

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 69.0 in Newton, Wisconsin to end of WCL's ownership at milepost 62.2 in Cleveland, Wisconsin, in Manitowoc County, a distance of approximately 6.8 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, 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  
June 29, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused the foregoing Petition for NITU in regards to AB303 39X, by electronic mail, or regular mail pursuant to 49 C.F.R. §1104.12, this 29<sup>th</sup> day of June 2012, on all parties of record on the service list.

  
\_\_\_\_\_

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

BEFORE THE  
SURFACE TRANSPORTATION BOARD

AB-303 (SUB-NO. 39X)

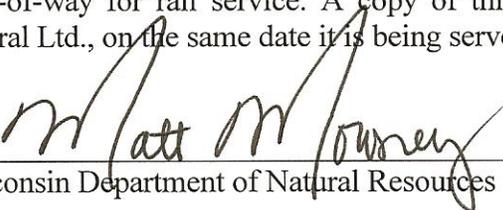
WISCONSIN CENTRAL LTD  
-- ABANDONMENT EXEMPTION --  
MANITOWOC COUNTY, WISCONSIN

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 62.2 in Cleveland, Wisconsin, to railroad milepost 69 in Newton, Wisconsin, a distance of approximately 6.8 miles in Manitowoc County, Wisconsin. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-303 (Sub-No. 39X).

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

  
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

# Exhibit 1

Docket No. AB-303 (Sub-No. 39X)  
Wisconsin Central Ltd. -- Abandonment  
Exemption -- In Manitowoc County, WI

