

BEFORE THE
SURFACE TRANSPORTATION BOARD

233987

AB-303 (SUB-No. 40X)

ENTERED
Office of Proceedings
March 28, 2013
Part of Public Record

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

CITY OF KAUKAUNA, WISCONSIN (CKW)
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 known as the Fox River Sub, from milepost 112.9 to milepost 114.0, a distance of 1.10 miles, all within the City of Kaukauna, Outagamie County, Wisconsin. This line traverses United States Postal Service Zip Code 54130.

On March 19, 2013, the Common Council of the City of Kaukauna voted to approve, and the Mayor of the City of Kaukauna did sign a Statement of Willingness to Accept Financial Responsibility for the railroad line portion 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 112.9 to milepost 114.0, a distance of 1.10 miles, all within the City of Kaukauna, Outagamie County, Wisconsin.

FILING FEE WAIVED

PURPOSE

Wisconsin Department of Transportation (WisDOT) files this Petition for Interim Trail Use on behalf of the City of Kaukauna, Wisconsin (“KAU”) 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 CKW for the full right of way involved in this proceeding. WisDOT and KAU 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. KAU currently owns the abutting abandoned railroad corridor trail, which connects to a multi-county trail system. KAU intends to connect the instant corridor with the multi-county trail system. WisDOT supports KAU efforts to acquire and utilize the right of way for public purposes.

STATE AND MUNICIPAL RESPONSIBILITIES

KAU is a city chartered by the State of Wisconsin, pursuant to Chapter 66 of the Wisconsin statutes. Cities are statutorily authorized to acquire real property, and are empowered and required to promote the general welfare of its inhabitants. Secs. 62.04 and 62.22, Wis. Stats.

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.

Pursuant to their respective duties and powers, WisDOT and KAU are working collaboratively to use the corridor for recreational trail use.

NOTICE OF INTERIM TRAIL USE

WisDOT respectfully requests that the Board provide KAU 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 KAU 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 Mayor of the City of Kaukauna, which includes Exhibit 1, a map of the location of all needed property in the City of Kaukauna, Outagamie County, Wisconsin.

KAU'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 KAU 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 112.9 to milepost 114.0, a distance of 1.10 miles, all within the City of Kaukauna, Outagamie County, Wisconsin. This project will allow all forms of transportation to be developed and utilized 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
March 28, 2013

BEFORE THE SURFACE TRANSPORTATION BOARD

AB-303 (SUB-NO. 40X)

**WISCONSIN CENTRAL LTD – ABANDONMENT EXEMPTION –
IN KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN**

**STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY BY CITY OF KAUKAUNA,
WISCONSIN PURSUANT TO 49 CFR 1152.29**

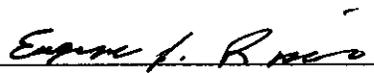
In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, City of Kaukauna, Wisconsin (City) is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, 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, known as the Fox River Sub, extends from the railroad milepost 112.9, in the City of Kaukauna, to railroad milepost 114.0, in the City of Kaukauna, a distance of 1.10 miles all in the City of Kaukauna, Outagamie County, Wisconsin. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-303 (Sub-No. 40X).

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

City acknowledges that use of the right-of-way is subject to the user's continuing to meets 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.

Dated this 19th day of March, 2013.

CITY OF KAUKAUNA, WISCONSIN



Eugene J. Rosin, Mayor

Contact Information:

Robert L. Jakel, AICP
Director of Planning and Community Development
PO Box 890
Kaukauna, WI 54130-0890
920.766.6315
planning@kaukauna-wi.org

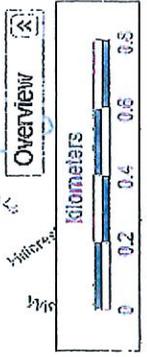
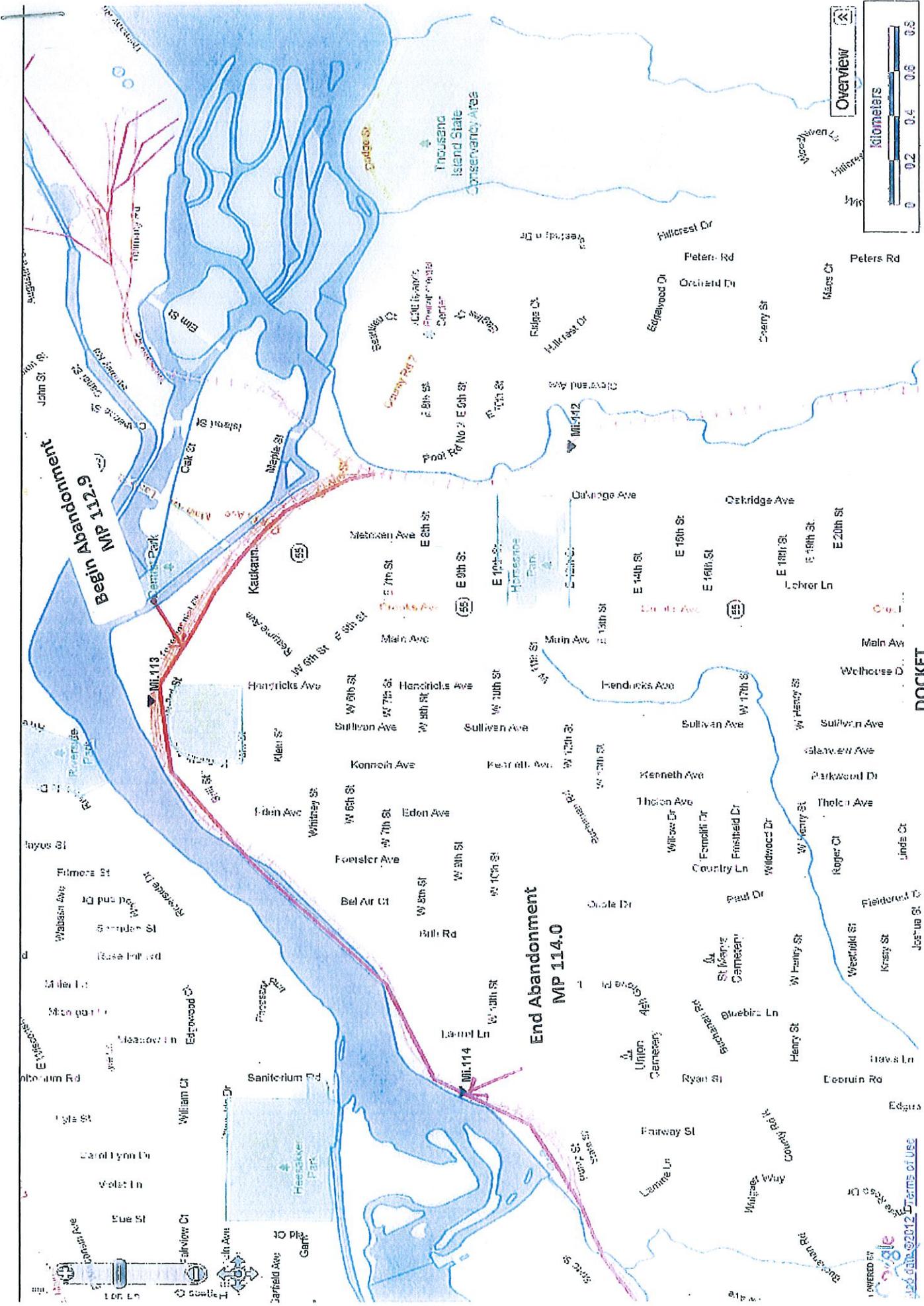
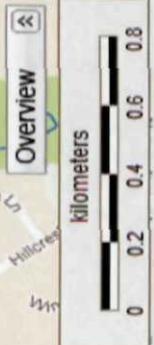
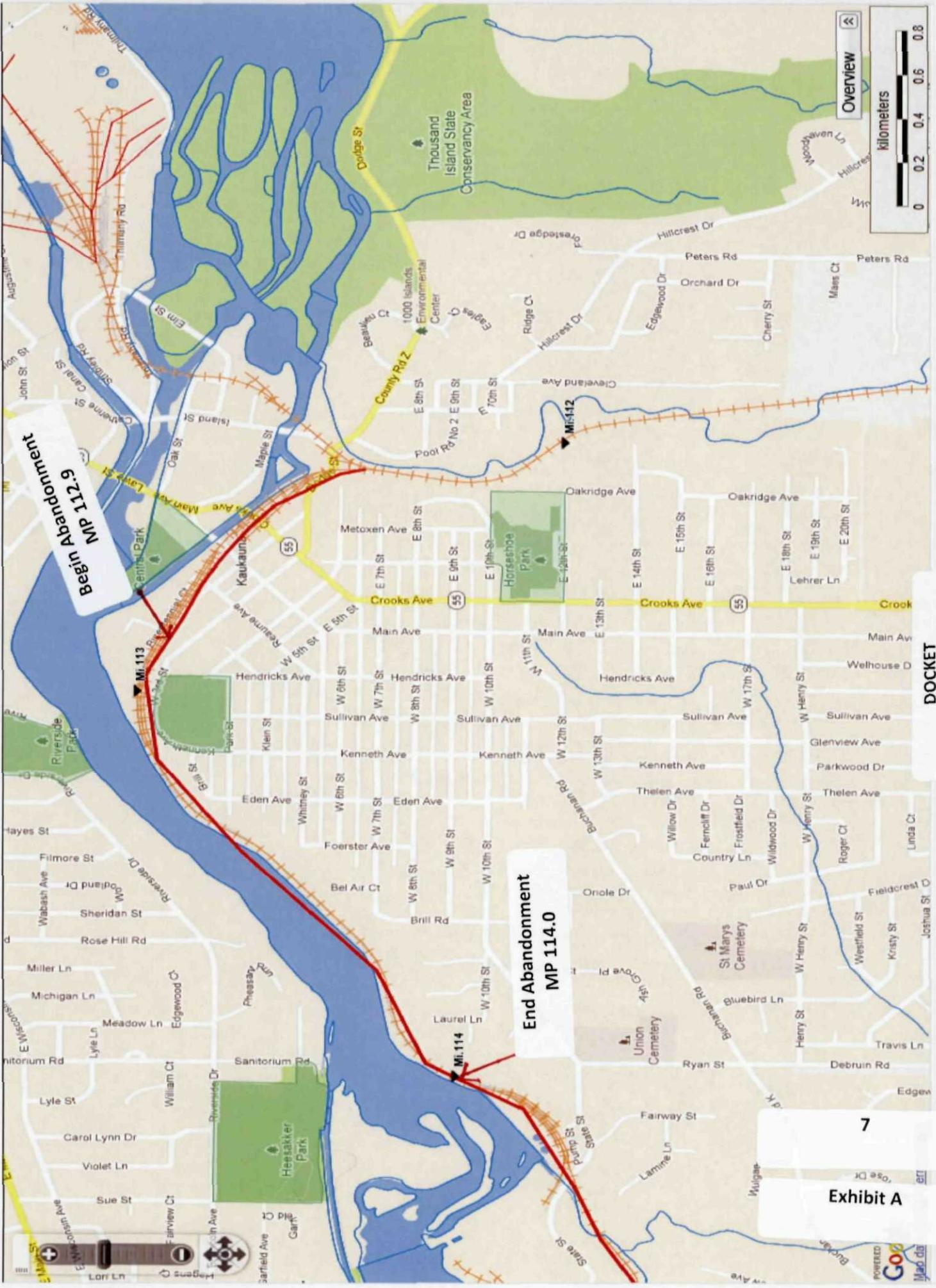


Exhibit I

DOCKET
AR303 (40X)

APR 2012
www.muni.com
 TERMS OF USE



DOCKET
AB303 (40X)

7
Exhibit A



CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing Petition for NITU in regards to AB303 40, by electronic mail, or regular mail pursuant to 49 C.F.R. §1104.12, this 28th day of March 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