

2-22-93

**BEFORE THE
SURFACE TRANSPORTATION BOARD
AB-303 (SUB-NO. 25X)
WISCONSIN CENTRAL LTD.-- ABANDONMENT EXEMPTION--
IN LANGLADE, MENOMINEE AND SHAWANO COUNTIES, WISCONSIN**

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES
PETITION FOR EXTENSION OF NOTICE OF INTERIM TRAIL USE**

BACKGROUND

On September 19, 2000, the Wisconsin Central Ltd. (WCL) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903-5¹ to abandon a line of railroad known as the White Lake Shawano Line, between milepost 280 north of White Lake and milepost 314.3 north of Shawano, in Langlade, Menominee and Shawano Counties, WI, a distance of 34.3 miles. The line traverses U.S. Postal Service Zip Codes 54491, 54150, 54128 and 54166 and includes stations at White Lake (milepost 282.8), Neopit (milepost 296.8) and Thornton (milepost 312.0)

On October 12, 2000, the Wisconsin Department of Natural Resources signed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the segment of WCL railroad line at White Lake Milepost 280.0 to Shawano Milepost 314.3, a distance approximately 34.3 miles in Langlade, Menominee and Shawano Counties, Wisconsin.

¹ WCL's petition states that it seeks exemptions from the provisions of 49 U.S.C. 10903-5, thus evidently including the exemption from the Offer of Financial Assistance (OFA) requirements of 49 U.S.C. 10905. WCL has not submitted evidence to establish that the proposed exemptions from sections 10904 and 10905 meet the criteria of 49 U.S.C. 10502. The Board indicated in a footnote that WCL's request as to those two provisions will not be considered

287 and 299.5). By letter filed on June 5, 2002, WCL informed the Board that it had consummated the abandonment of the line between milepost 287 and 299.5.

On November 15, 2002, WisDNR filed a petition for extension of the NITU for 180 days. By decision served on November 27, 2002 the Board extended the negotiating period under the NITU until May 26, 2003 excepting the portion in Menominee County (between mileposts 287 and 299.5). By decision served on December 30, 2002, the Board granted an NITU to the Stockbridge-Munsee Community to negotiate over a portion of the right-of-way approximately from milepost 303 to milepost 306.4 in Shawano County until June 28, 2003.

On May 19, 2003, WisDNR and WCL filed a petition for extension of the NITU for 180 days. By decision served on May 23, 2003, the Board extended the negotiating period under the NITU until November 22, 2003.

On November 10, 2003, WisDNR and WCL filed a petition for extension of the NITU for 180 days. By decision served on December 24, 2003 the Board extended the negotiating period under the NITU until May 20, 2004. The Board also granted an NITU to the Stockbridge-Munsee Community to negotiate over a portion of the right-of-way approximately from milepost 303 to milepost 306.4 in Shawano County until May 20, 2004. WCL reached an agreement with WisDNR to purchase the right-of-way from milepost 280 to milepost 287.

On May 13, 2004, WisDNR and WCL filed a petition for extension of the NITU for 180 days. By decision served on May 19, 2004 the Board extended the negotiating period under the NITU until November 16, 2004. The Board also granted an NITU to the Stockbridge-Munsee Community to negotiate over a portion of the right-of-way approximately from milepost 303 to milepost 306.4 in Shawano County until November 16, 2004.

The Board issued a NITU under 49 CFR 1152.29, which was served on November 10, 2005, allowing the WisDNR and/or the Stockbridge-Munsee Community until May 10, 2006, to negotiate a rail banking agreement with WCL.

On April 27, 2006, WisDNR filed a petition for extension of the NITU for 180 days. By decision served on May 9, 2006 the Board extended the negotiating period under the NITU until November 6, 2006. The Board also granted an NITU to the Stockbridge-Munsee Community to negotiate over a portion of the right-of-way approximately from milepost 303 to milepost 306.4 in Shawano County until November 6, 2006.

On October 25, 2006, WisDNR filed a petition for extension of the NITU for 180 days. By decision served on November 6, 2006 the Board extended the negotiating period under the NITU until May 5, 2007. The Board also granted an NITU to the Stockbridge-Munsee Community to negotiate over a portion of the right-of-way approximately from milepost 303 to milepost 306.4 in Shawano County until May 5, 2007.

On April 25, 2007, WisDNR filed a petition for extension of the NITU for 180 days. By decision served on May 16, 2007 the Board extended the negotiating period under the NITU until November 1, 2007. The Board also granted an NITU to the Stockbridge-Munsee Community to negotiate over a portion of the right-of-way approximately from milepost 303 to milepost 306.4 in Shawano County until November 1, 2007.

On October 22, 2007, WisDNR filed a petition for extension of the NITU for 180 days. The Board granted the petition by decision served on November 1, 2007, and extended the negotiating period under the NITU until April 29, 2008. The Board also granted an NITU to the Stockbridge-Munsee Community to negotiate over a portion of the right-of-way approximately from milepost 303 to milepost 306.4 in Shawano County until April 29, 2008.

The Board issued a NITU under 49 CFR 1152.29, which was served on January 5, 2001, allowing the WisDNR the full 180 days from date of service or until July 4, 2001, to negotiate a rail banking agreement with WCL.

On February 2, 2001, the Board served a partial stay of the January 5, 2001 decision with respect to the trail use/rail banking authorized in Menominee County. The Menominee Indian Tribe of Wisconsin also filed an administrative agency review proceeding of the January 5, 2001 decision in the United States Court of Appeals for the District of Columbia Circuit on March 2, 2001. The Case No. is 01-1100. The parties resolved that matter.

On June 29, 2001, WisDNR and WCL jointly filed a motion to extend the NITU negotiating period for an additional 180 days. The Board issued a NITU under 49 CFR 1152.29, which was served on July 3, 2001 allowing the parties until December 31, 2001 to negotiate a trail use agreement on the portion of the line not in Menominee County.

In a decision served on December 28, 2001, the NITU negotiating period and the deadline to exercise abandonment authority was extended until February 28, 2002. By letter filed February 15, 2002, WCL requested that the Board extend all current deadlines in this proceeding, such as those pertaining to the NITU and the abandonment consummation until May 31, 2002. By a decision served on February 27, 2002 the Board extended the negotiating period under the NITU until May 31, 2002 recognizing that the stay remains in effect as to the portion of the line in Menominee County.

On May 21, 2002, WisDNR and WCL filed a joint petition for extension of the NITU for 180 days. By decision served on June 7, 2002 the Board extended the negotiating period under the NITU until November 27, 2002 excepting the portion in Menominee County (between mileposts

WisDNR and WCL are in continuing negotiations. The parties are aware of the STB directive to conclude negotiations. However, more time is needed. WCL is agreeable to an extension of time to continue negotiations under an NITU condition for milepost 299.5 to milepost 314.3.

MOTION

Therefore, WisDNR moves that the period prescribed to negotiate an interim trail use/rail banking agreement be extended for 180 days for a portion of the right-of-way from milepost 299.5 to milepost 314.3.

Respectfully submitted,

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