

**FILING FEE WAIVED**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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**AB-303 (SUB-NO. 20X)**  
WISCONSIN CENTRAL LTD. -- ABANDONMENT EXEMPTION --  
IN BROWN COUNTY, WISCONSIN  
\_\_\_\_\_

227767

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES  
MOTION TO EXTEND TIME TO NEGOTIATE A NOTICE OF INTERIM TRAIL USE**

**BACKGROUND**

The Wisconsin Central Ltd. (WCL) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 1152.50 for an exempt abandonment over a line of railroad extending from railroad milepost 198.37 to milepost 200.0 in Green Bay, Brown County, Wisconsin, a distance of 1.63 miles of railroad. The line traverses U.S. Postal Service ZIP codes 54303 and 54304. The Board served its decision under service date of October 19, 1999, that requires trail/use banking requests under 49 C.F.R. 1152.29 to be filed by October 29, 1999.

On October 27, 1999, the State of Wisconsin Department of Natural Resources (WisDNR) 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 extending from railroad milepost 198.37 to milepost 200.0 in Green Bay, Brown County, Wisconsin, a distance of 1.63 miles of railroad.

On October 28, 1999, the Wisconsin Department of Transportation, on behalf of the Wisconsin Department of Natural Resources, filed a request for a Notice of Interim Trail

Use/rail banking (NITU) under 16 U.S.C. 1247(d) and 49 C.F.R. 1152.29. WCL indicated its willingness to negotiate with WisDNR for interim trail use.

The Board issued a NITU under 49 C.F.R. 1152.29, which was served on November 17, 1999, allowing the WisDNR the full 180 days from date of service or until May 16, 2000, to negotiate a rail banking agreement with WCL.

In a joint petition filed on May 3, 2000, WCL and WisDOT for WisDNR filed a request for an additional 180-day extension of the negotiating period. WCL was agreeable to an extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on May 11, 2000, allowing the WisDNR until November 12, 2000, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

In a joint petition filed on October 30, 2000, WCL and WisDOT for WisDNR filed a request for an additional 180-day extension of the negotiating period. WCL was agreeable to an extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on November 9, 2000, allowing the WisDNR until May 11, 2001, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

In a joint petition filed on May 8, 2001, WCL and WisDOT for WisDNR filed a request for an additional 180-day extension of the negotiating period. WCL was agreeable to an extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on May 11, 2001, allowing the WisDNR until November 7, 2001, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

In a petition filed on November 17, 2001, WisDNR filed a request for an additional

180-day extension of the negotiating period. WCL was agreeable to an extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on November 19, 2001, allowing the WisDNR until May 6, 2002, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

In a petition filed on April 23, 2002, WisDNR filed a request for an additional 180-day extension of the negotiating period. WCL was agreeable to an extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on May 3, 2002, allowing the WisDNR until November 3, 2002, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

In a joint petition filed on October 21, 2002, WCL and WisDOT for WisDNR filed a request for an additional 180-day extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on October 31, 2002, allowing the WisDNR until May 2, 2003, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

In a joint petition filed on April 14, 2003, WCL and WisDOT for WisDNR filed a request for an additional 180-day extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on May 1, 2003 allowing the WisDNR until October 29, 2003, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

In a joint petition filed on October 16, 2003, WCL and WisDOT for WisDNR filed a request for an additional 180-day extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on October 27, 2003 allowing the WisDNR until April 26, 2004, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

In a joint petition filed on April 12, 2004, WCL and WisDOT for WisDNR filed a request for an additional 180-day extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on April 20, 2004 allowing the WisDNR until October 23, 2004, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

In a joint petition filed on October 6, 2004, WCL and WisDOT for WisDNR filed a request for an additional 180-day extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on October 15, 2004 allowing the WisDNR until April 21, 2005, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

WisDNR submitted a request for an additional 180-day extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84 in April of 2005. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on May 4, 2005 allowing the WisDNR until October 18, 2005, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

WisDNR submitted a request for an additional 180-day extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84 in September of 2005. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on October 4, 2005 allowing the WisDNR until April 16, 2006, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

By letter filed on March 26, 2006 WisDNR requested for an additional 180-day extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on April 17, 2006 allowing the WisDNR until October 13, 2006, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

By letter filed on September 25, 2006 WisDNR requested for an additional 180-day extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on October 10, 2006 allowing the WisDNR until March 11, 2007, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

By letter filed on February 21, 2007 WisDNR requested for an additional 180-day extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84. The Board issued a NITU under 49 C.F.R. 1152.29, which was served on February 27, 2007 allowing the WisDNR until September 7, 2007, to negotiate a rail banking agreement with WCL for the right-of-way between milepost 198.37 and milepost 199.84.

By motion filed August 23, 2007, WisDNR requested an additional 180-day extension of the negotiating period for the right-of-way between milepost 198.37 and milepost 199.84, a distance of 1.63 miles. By decision dated September 6, 2007, the

Board granted the request to extend the NITU negotiation period for an additional 180 days until March 5, 2008.

WisDNR requested an additional 180-day extension of the negotiating period for the right of way between milepost 198-37 and 199.84 on March 12, 2008. The Board granted this request by decision dated March 24, 2008 and extended the negotiating period until September 1, 2008.

On August 25, 2008, WisDNR filed a motion to extend the negotiating period for an additional 180 days, which was granted by the Board by decision issued August 28, 2008. The Board extended the negotiating period until February 28, 2008, but negotiations are not yet concluded.

WisDNR requested an additional 180-day extension request for the negotiating period on February 24, 2009, which was granted by the Board by decision on March 18, 2009, issued March 19, 2009. Because negotiations continued in good faith, WisDNR requested another 180-day extension on August 21, 2009, and its request indicated a possibility that the City of Green Bay, WI would seek to replace WisDNR as the trail user. By Decision served August, 27, 2009, the Board granted the request and extended the NITU negotiation period to February 23, 2010.

Since then, the City of Green Bay ("Green Bay") decided to accept financial responsibility, and submitted its Statement of Willingness to Accept Responsibility, pursuant to 49 CFR 1152.29. Negotiations included Green Bay's Parks Department, which has been in constant contact with WCL.

By decision dated March 24, 2010, the Board accepted the City's Statement of Willingness and its request to extend the negotiation period for 180 days until September 20, 2010.

Green Bay and WCL are making progress in these negotiations, which continue in good faith. Discussions continue, including whether any part of the rail yard will be purchased along with the rail line. The City of Green Bay intends to purchase the line, in any case and seeks an extension of the negotiation period for 180 days to conclude negotiations. WCL has indicated it will concur with the City of Green Bay's request for an extension.

### MOTION

Because negotiations are ongoing in good faith, and progress is being made, the City of Green Bay, respectfully moves the Board to grant an extension for the period prescribed to negotiate an interim trail use/rail banking agreement from milepost 198.37 to milepost 199.84, and order it be extended for 180 days.

Respectfully submitted,



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9/10/10

## CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing Request for Extension of the negotiating period in regards to AB303 20X by electronic mail or regular mail, pursuant to 49 C.F.R. §1104.12, by electronic mail, this 10<sup>th</sup> day of September, 2010, on all parties of record on the service list.

  
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Kathleen Chung, Attorney  
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Wisconsin Department of Transportation  
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