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Office of Proceedings
September 28, 2020
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September 28, 2020

VIA E-File

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E. Street, S.W., Room #100
Washington, D.C. 20423-0001

Re: Wisconsin Central Limited – Abandonment Exemption – In the City of Kaukauna,
Outagamie County, Wisconsin; STB Docket No. AB-303 (Sub-No. 56X)

Dear Ms. Brown,

Please find as filed a Petition for Notice of Interim Trail Use by the Wisconsin Department of Transportation (WisDOT) in regards to the above referenced matter. WisDOT respectfully requests a waiver of any applicable filing fees in this instance pursuant to 49 C.F.R. § 1002.2(e)(1). Please feel free to contact me should there be any questions in relation to this filing. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Vincent R. Bauer", is written over a horizontal line.

Vincent R. Bauer
Assistant General Counsel
Direct Line (608) 266-8807
Vincent.bauer@dot.wi.gov

FILING FEE WAIVED

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-303 (SUB-No. 56X)

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

**CITY OF KAUKAUNA
PETITION FOR NOTICE OF INTERIM TRAIL USE
BACKGROUND**

Wisconsin Central Limited (“WCL”) filed with the Surface Transportation Board (“Board”) on September 8th, 2020 a Verified Notice of Exemption under 49 C.F.R. § 1152.50 to abandon a portion of its railroad line (“Line”) from milepost 114.0 to milepost 113.7, a distance of 0.3 miles, within the City of Kaukauna located in Outagamie County, Wisconsin.

On September 15th, 2020, the Common Council of the City of Kaukauna voted to approve a Statement of Willingness to Accept Financial Responsibility for a portion of the line from milepost 113.7 to approximately milepost 113.8 (approximately 465 feet from milepost 113.7) and the Mayor of the City of Kaukauna did sign on September 24th, 2020 said statement pursuant to 49 C.F.R. § 1152.29 as filed with the Board concurrently with this petition.

PURPOSE

The Wisconsin Department of Transportation (“WisDOT”) files this Petition for Interim Trail Use on behalf of the City of Kaukauna pursuant to 16 U.S.C. §1247(d) and 49 C.F.R. § 1152.29. WisDOT petitions to obtain a Notice of Interim Trail Use for interim highway, bicycle, pedestrian and other trail purposes and railbanking by the City

of Kaukauna for the full right of way from milepost 113.7 to approximately milepost 113.8 (approximately 465 feet from milepost 113.7) The City of Kaukauna 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 supports the City of Kaukauna's efforts to acquire the right to utilize the specific right of way as referenced above for public purposes.

STATE RESPONSIBILITIES

WisDOT is the designated state agency in rail matters in the State of Wisconsin. 49 C.F.R. §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. Wis. Stats. §§ 84.01(2) and 114.32(1) and (5). 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. Wis. Stats. § 85.09(2). WisDOT has statutory authority to incorporate trails into the highway right-of-way through Wis. Stats. § 84.06(11). Pursuant to their respective duties and powers, WisDOT and the City of Kaukauna are working collaboratively to use the corridor for recreational trail use.

NOTICE OF INTERIM TRAIL USE

WisDOT respectfully requests that the Board provide the City of Kaukauna 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 the City of Kaukauna acquire the right to use the right of way of the specific portion of the rail line as specified above 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 City of Kaukauna, which includes Exhibit 1, a map of the location of all needed property in the City of Kaukauna.

The City of Kaukauna's use 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 the City of Kaukauna herein 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 petition, specifically for the segment of WCL railroad line from milepost 113.7 to approximately milepost 113.8, a distance of approximately 465 feet, 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,



Vincent R. Bauer, J.D.

September 28th, 2020

WI State Bar No. 1084702

Wisconsin Department of Transportation

4822 Madison Yards Way, Room 922 S

P.O. Box 7910

Madison, WI 53707

(608) 266-8807

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing Petition to be served in regards to **AB-303 56X**, by electronic mail, or regular mail pursuant to 49 C.F.R. §1104.12, this 28th day of September, 2020, on all parties of record on the service list.

A handwritten signature in blue ink, appearing to read 'V. R. Bauer', is written above a horizontal line.

Vincent R. Bauer, J.D.
WI State Bar No. 1084702
Wisconsin Department of Transportation
Office of General Counsel

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-303 (SUB-NO. 56X)

WISCONSIN CENTRAL LTD -- ABANDONMENT EXEMPTION --
CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN

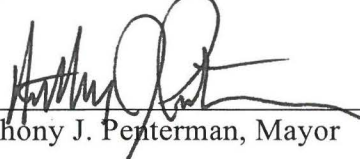
**STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY BY
CITY OF KAUKAUNA
PURSUANT TO 49 C.F.R. § 1152.29**

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29 with respect to the right-of-way owned by Wisconsin Central Limited and operated by Wisconsin Central Limited, the City of Kaukauna is willing to assume full responsibility for: (1) Managing the right-of-way, (2) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability), and (3) the payment of any and all taxes that may be levied or assessed against the right of way. The property, known as the Fox River Sub, extends from milepost 113.7 to approximately milepost 113.8 (approximately 465 feet from milepost 113.7), a distance of approximately 465 feet 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. 56X). A map of the property depicting the right-of-way is attached as Exhibit 1.

The City of Kaukauna acknowledges that use of the right-of-way is subject to the sponsor'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(s) on the same date it is being served on the Board.

Dated this 24th of September, 2020.

City of Kaukauna, Wisconsin



Anthony J. Penterman, Mayor

Contact Information:

Robert L. Jakel, AICP
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City of Kaukauna
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920.766.6315
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Docket No. AB-303 (Sub No. 56X)

EXHIBIT B

Legend

