

SERVICE DATE – DECEMBER 22, 2020

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 303 (Sub-No. 56X)

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

Decided: December 21, 2020

On September 8, 2020, Wisconsin Central Ltd. (WCL) filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 0.30-mile rail line between milepost 114.0 and milepost 113.7, at Kaukauna, Outagamie County, Wis. (the Line). Notice of the exemption was served and published in the Federal Register on September 25, 2020 (85 Fed. Reg. 60,514).

By decision served October 8, 2020, the Board issued a notice of interim trail use or abandonment (NITU) permitting the Wisconsin Department of Transportation, on behalf of the City of Kaukauna (the City), to negotiate with WCL for interim trail use/rail banking for the Line under the National Trails System Act, 16 U.S.C. § 1247(d), and also granted, in part, WCL's request for an expedited effective date, allowing the exemption to become effective on October 19, 2020. By decision served on October 16, 2020, the proceeding was reopened and the Board imposed two consultation conditions that would apply if abandonment-related salvage activities were to occur.

On November 18, 2020, WCL and the City jointly notified the Board that an interim trail use/rail banking agreement (Trail Use Agreement) had been reached for the portion of the right-of-way extending from milepost 113.7 to approximately milepost 113.8, and they request that the Board vacate the existing NITU and issue a replacement NITU for that portion of the right-of-way. The joint notification states that WCL intends to consummate its abandonment exemption over the remaining segment of the Line, from approximately milepost 113.8 to milepost 114.0.¹

The City and WCL have complied with the requirements of 49 C.F.R. § 1152.29(d)(2). The request to vacate the NITU will be granted and a replacement NITU issued for the portion of the right-of-way covered by the Trail Use Agreement, between milepost 113.7 and approximately milepost 113.8. WCL may consummate the abandonment of the portion of the Line between approximately milepost 113.8 and milepost 114.0, subject to the remaining

¹ The joint notification acknowledges that the segment of the Line from approximately milepost 113.8 to milepost 114.0 remains subject to the two consultation conditions imposed in the October 16 decision and states that WCL will not engage in salvage activities on this segment until those conditions are satisfied.

environmental conditions noted above, by September 25, 2021. If WCL chooses to abandon the portion of the Line not subject to the Trail Use Agreement, WCL must file a notice of consummation as set forth under the Board's rules at 49 C.F.R. § 1152.29(e)(2). If WCL does not timely file a notice of consummation, and there are no legal or regulatory barriers to consummation, the abandonment authority will automatically expire.

It is ordered:

1. This proceeding is reopened.
2. The NITU served on October 8, 2020, is vacated.
3. A replacement NITU for the portion of the right-of-way covered by the Trail Use Agreement, extending from milepost 113.7 to approximately milepost 113.8, is issued.
4. This decision is effective on its service date.

By the Board, Allison C. Davis, Director, Office of Proceedings.