

# National Association of Reversionary Property Owners (NARPO)

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Cynthia Brown

Chief, Section of Administration Surface Transportation Board Office of  
Proceedings

395 E Street, SW

Washington, DC 20423

Re: Docket No. AB 303-44 X Wisconsin Central LTD Abandonment

Dear Ms. Brown:

NARPO is responding to the November 2, 2018 filing date of a letter from the Wisconsin Department of Natural Resources (WDNR) asking for an extension of a NITU. NARPO noticed that this request and previous requests for a NITU extension had the words "interim highway" as a reason for establishing an interim trail-see an excerpt from the request letter below with emphasis added.

Please be advised that Wisconsin Central Ltd. does not object to the request for a 180-day extension of time relating to the negotiations for establishing an interim trail use for interim highway, bicycle, pedestrian and other trail purposes, and rail banking, made by the Wisconsin Department of Natural Resources ("WisDNR") in its Petition for Extension of Negotiating Period as was filed on November 2, 2018, although WisDNR's document is dated November 11, 2018

The wording of 49 CFR 11.52.29 does not have the words "interim highway" as an excuse for a NITU. The **STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY** SIGNED BY THE WDNR DOES NOT CONTAIN ANY LANGUAGE REFERRING TO INTERIM HIGHWAY USE.

THE STATUTE 16 USC 1247(D) DOES NOT CONTAIN ANY LANGUAGE LIKE INTERIM HIGHWAY USE. SO HOW DOES THE OFFICE OF PROCEEDINGS ALLOW A NITU EXTENSION TO BE DONE WITH THIS LANGUAGE IN THE OFFICE OF PROCEEDINGS 11/8/2018 DECISION TO EXTEND THE NITU ANOTHER 180 DAYS? THE STB DECISION TO ALLOW A NITU ON 8/26/2014 DOES NOT CONTAIN ANY LANGUAGE ABOUT “INTERIM HIGHWAY” USE—SEE AN EXCERPT BELOW.

Because WisDNR’s request complies with the requirements of 49 C.F.R. § 1152.29 and WCL is willing to negotiate for trail use, a NITU will be issued. The parties may negotiate an agreement for the right-of-way during the 180-day period prescribed below. If an interim trail use agreement is reached (and thus, interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) and (h); Nat’l Trails Sys. Act & R.R. Rights-of-Way, EP 702 (STB served Apr. 30, 2012). If no agreement is reached within 180 days, WCL may fully abandon the line. 49 C.F.R. § 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation of the right-of-way for rail service.

It appears the WDNR has added the “interim highway” language so they could make a highway out of the abandoned railroad right of way in AB 303-44X which is not what Congress meant in 16 USC 1247(d).

The STB should rescind the latest NITU extension and vacate the NITU as a sanction against WDNR for violating STB rules and statutes.

Sincerely yours,

Dick Welsh, Executive Director, NARPO

NARPO verifies Audrey L Brodrick [abrodrick@fletcher-sippel.com](mailto:abrodrick@fletcher-sippel.com), Brigit Brown [brigit.brown@dot.state.wi.us](mailto:brigit.brown@dot.state.wi.us), Kathleen Chung [Kathleen.chung@dot.state.wi.us](mailto:Kathleen.chung@dot.state.wi.us), have received an email copy of this letter.

Signed Dick Welsh for NARPO dated November 9, 2018