

National Association of Reversionary Property Owners (NARPO)

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E-FILED

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Surface Transportation Board Cynthia Brown, Administrator
395 E Street
Washington, DC 20423

ENTERED
Office of Proceedings
December 17, 2018
Part of
Public Record

RE: AB 1107X West Michigan Railroad

Dear Ms. Brown,

The West Michigan Railroad's (WMI) letter filed December 12, 2018 in AB 1107X attempts to say that the portion of the abandonment between MP 25.1 and MP 26.5 really was not abandoned by the West Michigan Railroad on 2/14/2014 and the NITU is still in effect for the whole line. Regardless of the WMI's attempt to try and salvage part of the NITU, the part of the line past MP 25.1 is not available anymore for a NITU. Below is part of the consummation filing. It is hard not to read that the line abandonment was consummated.

Rachel D. Campbell, Director, Office of Proceedings Surface Transportation Board
395 "E" Street, N.W.

Washington, D.C. 20423

RE: West Michigan Railroad Co.- Abandonment Exemption- Van

Buren County, Michigan STB Docket No. AB-11 070X

Dear Director Campbell: This is to advise the Board that West Michigan Railroad Co. has

consummated the abandonment of the line between Mile Post 25.1 and 26.5 in Van Buren County, Michigan. These mileposts are based on our best estimates. Unfortunately, there are a limited number of milepost markers and other survey points available.

Sincerely yours, Daniel A. LaKemper, General Counsel

Any portion of the abandoned line from MP 25.1 to the end is now separated from the National Rail System; See **RLTD Railway Corp. v STB**, 6th Circuit, 166 F.3d 808 (1999), No. 96-4142, decided Jan. 28, 1999. Once a rail line is separated from the National Rail System (sometimes called Interstate Rail Network), it

cannot be part of a NITU as the STB has no jurisdiction. There is no connecting rail line to the National Rail System at MP 30.2 and the portion of the line from MP 25.1 to MP 26.5 has been abandoned and consummated, see RLTD above. The portion of the rail line in question between MP 26.5 and MP 30.2 has not officially been abandoned, but that portion is not connected to any part of the National Rail System and as such it cannot have a NITU.

Just because the STB Office of Proceedings may have approved NITU extensions after the consummation, does not mean the STB cannot revisit the NITU and vacate the portions they have no jurisdiction over.

It makes no difference if in fact WMI put some kind of verbiage in the land sale agreements that supposedly allows reinstitution of rail service in the future. Once a rail line abandonment is consummated, the STB has no jurisdiction for anything over that line. For a NITU to be valid, the line has to be connected to the National Rail System, See RLTD above. The only way WMI could put a rail line back into service between MP 25.1 to MP 26.5 would be to file a new petition to build a new railroad along with the environmental impact statements and other necessary filings associated with building new railroads.

WMI's attorney takes issue with how NARPO is being more vigorous with our filings with the STB. As far as NARPO can see, this is still America and citizens have a right to address the government when they perceive something amiss with an agency's ruling and they are replying to an existing open case before the Board. It appears WMI's attorney seems to think the railroads run the STB instead of the other way around. WMI's attorney even implies that NARPO should not have been able to file the proposed rulemaking in EP 749-1 or replied to the rulemaking.

Respectively yours, Richard Welsh, executive director NARPO

All parties of records,

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Audrey L. Brodrick abrodrick@fletcher-sippel.com

have been notified by email on 12/14/2018

Signed by Richard Welsh—NARPO executive director