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BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-303 (SUB-NO. 28X)

WISCONSIN CENTRAL LTD.
--ABANDONMENT EXEMPTION--
IN ASHLAND COUNTY, WI

MOTION FOR STAY AND SUPPLEMENTAL COMMENTS OF
WISCONSIN DEPARTMENT OF NATURAL RESOURCES

Michael J. Cain
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Attorney for Wisconsin Department of
Natural Resources

Dated: March 10, 2006

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INTRODUCTION

On January 3, 2006, Wisconsin Central Ltd. ("WCL") filed a Notice of Exemption ("the Notice") pursuant to 49 C.F.R. 1152.50 for approval to abandon trackage in Ashland County, WI. The proposed abandonment extends from milepost 434.49 and continues 5,160 feet to the end of WCL's Ashland Ore Dock ("the Dock"). At page 6 of the Notice, WCL indicated that it would be working with The Wisconsin Department of Natural Resources ("WisDNR") and the Board of Commissioners of Public Lands ("BCPL"). At page 7 of the Notice, WCL indicated that if it were unable to get permits for its proposal to transfer the Dock, it would consider removing the structure in accordance with applicable state law.

WisDNR is the designated state agency in environmental matters in Wisconsin. See Chapters 30, 281 and 283, Wis. Stats. WisDNR filed Comments on the Environment/Historic Report dated April 1, 2005.

There have been discussions between WCL, the City of Ashland, the Northeastern Maritime Historical Foundation, agencies of the State of WI (including WisDOT, WisDNR, WisDOA, SHPO, and the BCPL), the US Army Corps of Engineers, and other interested parties concerning the need to undertake a feasibility study to determine whether a viable proposal can be developed to transfer, obtain the necessary state and federal regulatory approvals, and maintain this structure in WI waters. That feasibility study is currently under way. All parties recognize that such maintenance would require regulatory approvals from the WisDNR and BCPL since this structure is on the bed of Lake Superior, which is held in trust by the State of Wisconsin. There are procedures under Chapters 24 and 30, Wis. Stats., which require review and approvals before such regulatory approval could be granted.

The conditions imposed by the SEA only deal with salvage and the Section 106 processes. SEA did not propose to set any conditions should the Dock remains in place, which could lead to long-term environmental impacts. The feasibility study will provide answers for these long-term environmental concerns. The SHPO is also reviewing these issues under the Section 106 review process.

Until these studies have been completed, an informed decision on environmental and regulatory issues cannot be made. Before the State of Wisconsin can approve the maintenance of this structure on the bed of Lake Superior, these reviews need to be completed and there needs to be in place a mechanism to assure that the structure is legally authorized to ensure that it is properly maintained in the future. A critical part of the final approval in this matter will be the development of financial assurances to support the financial viability of the maintenance of the structure or, in the alternative, the presence of necessary funds and mechanisms to assure that the structure is properly abandoned and removed from the bed of Lake Superior by WCL.

CONCLUSION

WisDNR respectfully requests that the Board grant a stay relating to Abandonment Exemption issued on February 23, 2006. We further request that no final decision be rendered in this matter until the feasibility study has been completed and a final plan has been developed, has obtained the necessary approvals, and that the conditions include appropriate financial assurances to assure that the Ashland Ore Dock will either be properly maintained or that it will be properly removed from the bed of Lake Superior. WisDNR would respectfully request that that the SEA propose conditions to address the long-term environmental concerns if the Dock is not salvaged conditioned upon the engineering study.

Further, the WisDNR requests that this submission be filed as a comment on the Environmental Assessment dated February 28, 2006. The portion of the Environmental Report and suggested conditions relating to "Water Resources" needs to be revised to reflect the environmental and regulatory issues relating to maintaining this structure on the bed of Lake Superior. Without the necessary conditions in place, the issuance of this Abandonment Exemption and Environmental Assessment could result in serious impacts to Wisconsin's water resources and potential significant financial liability to the public.

Respectfully submitted,

Michael J. Cain
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Attorney for Wisconsin Department of
Natural Resources

March 10, 2006

Verification

I, _____ (Michael J. Cain), declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this pleading.

Executed on _____ day of March, 2006.

Michael J. Cain

pc: Secretary Scott Hassett
Service List

CERTIFICATE OF SERVICE

Case No.: AB-303 (Sub-No. 28X)
Case Name: Wisconsin Central Ltd. -- Abandonment Exemption in -- Ashland County, WI

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Susan L. Eley, being first duly sworn, on oath deposes and says that: she is not a party to the above-entitled action; she is employed by the State of Wisconsin, Department of Natural Resources, in the capacity of Paralegal.

On the 13th day of March, 2005, she served one copy of the Motion for Stay and Supplemental Comments of Wisconsin Department of Natural Resources upon each of the following at his/her respective last known address:

Michael J. Barron, Jr.
CN Railroad
17641 S. Ashland Avenue
Homewood, IL 60430

Michael J. Barron, Jr.
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 920
Chicago, IL 60606-2832

Wisconsin Department Of Transportation
4802 Sheboygan Avenue
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Wisconsin Historical Society
Historic Preservation
816 State Street
Madison, WI 53706

Kathleen Kowal
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
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810 W Maple Street - Northern Region Headquarters
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Brian Knapp
City Of Ashland - City Hall
601 Main Street West
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Brea Lemke
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John Robinson
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P. O. Box 4001
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Lisie Kitchel
Wisconsin Department Of Natural Resources - Bureau Of Endangered
Resources
P. O. Box 7921
Madison, WI 53707:

Sheldon Johnson
Northwest Regional Planning Commission

1400 South River Street
Spooner, WI 54801

John Spangberg
Wisconsin Department Of Natural Resources
2501 Gold Course Road
Ashland, WI 54806

by mail in the following manner:

She properly mailed a true and correct copy of the aforesaid document, addressed as stated above, by first-class mail, postage prepaid, but without any request to the postal officers for the return thereof in case of non-delivery to the person addressed.

Susan L. Eley

Subscribed and sworn to before me
this 13th day of March, 2006.

Thomas F. Steidl
Notary Public, State of Wisconsin
My Commission is permanent.