



Wisconsin Department of Transportation

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215797

November 22, 2005

Mr. Vernon A. Williams, Secretary
Attn: Julie Chung
Office of the Secretary
Surface Transportation Board, Room 1324
1925 K Street, N.W.
Washington, D.C. 20423-0001



RE: **STB Docket No. AB-303 (Sub-No. 29X)** Wisconsin Central Ltd--Abandonment
Exemption--In Forest County, WI – Petition for Notice of Interim Trail Use

Dear Mr. Williams:

Enclosed for filing are the original and ten (10) copies of the resubmitted WisDNR's Petition for Notice of Interim Trail Use.

Please date stamp and return the duplicate copy of this transmittal letter in the prepaid, return mail envelope for verification of receipt. Thank you.

Sincerely,

Allyn Lepeska
Attorney

Enclosures

pc: Vicki Schaefer
Michael Barron
Richard Steffes

ENTERED
Office of Proceedings

NOV 23 2005

Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-303 (SUB-NO. 29X)

WISCONSIN CENTRAL LTD. –
ABANDONMENT EXEMPTION
IN FOREST COUNTY, WISCONSIN



215197

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES
PETITION FOR NOTICE OF INTERIM TRAIL USE**

BACKGROUND

Wisconsin Central Ltd. (WCL) filed with the Surface Transportation Board (Board) a Notice of Exemption under 49 CFR 1152 Subpart F – Exempt Abandonments to abandon a 4.62-mile line of railroad, from milepost 235.84 on the Pembine Sub (formerly milepost 249.38 on the old Shawano Sub) near Crandon, to milepost 231.22 on the Pembine Sub (formerly milepost 254.00 on the old Shawano Sub), in Forest County, WI. The line traverses through United States Postal Service Zip Code 54520.

On November 18, 2005, the Wisconsin Department of Natural Resources (WisDNR) signed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the 4.62 mile segment of WCL railroad starting at MP 235.84 on the Pembine Sub (f/k/a MP 249.38 on the old Shawano sub) and ending at MP 231.22 on the Pembine Sub (f/k/a on the old Shawano Sub) near Crandon, Forest County, Wisconsin.

On November 12, 2005, the Board served a decision on the abandonment exemption subject conditions.

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Public Record

PURPOSE

Wisconsin Department of Transportation (WisDOT) petitions to obtain a notice of interim trail use for interim highway, bicycle, pedestrian and other trail purposes and railbanking pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 for WisDNR for specified segments of the right-of-way involved in this proceeding. WisDNR 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 and WisDNR have agreed to work cooperatively to acquire and use the right-of-way.

STATE AND CITY RESPONSIBILITIES

WisDNR is the lead state agency for designating, acquiring, developing for public use and maintaining a system of state trails as part of the state park system for use by equestrians, bicyclists, cross county skiers or hikers. Secs. 23.09(2)(d)12, 23.175(2)(a) and 23.30(1), Wis. Stats. It is required to encourage other state agencies to participate in the planning, establishing, developing and maintaining of state trails. Sec. 23.175(2)(b), Wis. Stats. WisDNR is authorized to spend funds with the approval of the Governor for the acquisition of lands. Secs. 20.914 and 23.14, Wis. Stats.

WisDOT is the designated state agency in rail matters in the State of Wisconsin. 49 U.S.C. Appx. § 1654(a) (formerly § 1654(j)), 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. Secs. 84.01(2) and 114.32(1) and (5), Wis. Stats. 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. Sec. 85.09(2), Wis. Stats.

WisDOT has state statutory authority to incorporate trails into the highway right-of-way in sec. 84.06(11), Wis. Stats.:

"(11) State Trails. As a part of any highway improvement or as a separate project under this section, a portion of a hiking trail, cross-country ski trail, bridle trail or bicycle trail under the management of a state agency, municipality or nonprofit may be incorporated into the highway right-of-way, and facilities for safe crossing of the highway may be provided."

WisDNR and WisDOT need the interim trail use designation to fulfill federal and state transportation and environmental responsibilities.

NOTICE OF INTERIM TRAIL USE

WisDOT respectfully requests that the Board provide WisDNR 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 WisDNR acquire and use the right-of-way of the rail line being abandoned for interim bicycle, pedestrian or other trail use and rail banking.

Exhibit 1 consists of a map showing the location of all the needed property in Forest County, Wisconsin.

Exhibit 2 is the required Statement of Willingness by the WisDNR to assume full responsibility for management of the property.

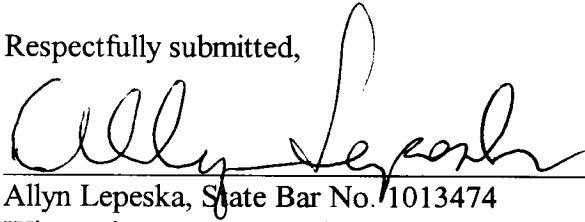
WisDNR's acquisition of the corridor for present and future transportation purposes as stated above is consistent with all Congressional purposes and neither abandonment nor discontinuance permitted by the STB conditioned as requested by WisDNR would be inconsistent with or disruptive of potential future rail use.

Due to some internal problems, this request is being resubmitted with a corrected Statement of Willingness. The abandonment has not been consummated and WisDOT requests that this matter be accepted pursuant to the provisions of Section 49 CFR 1152.20(e)(1).

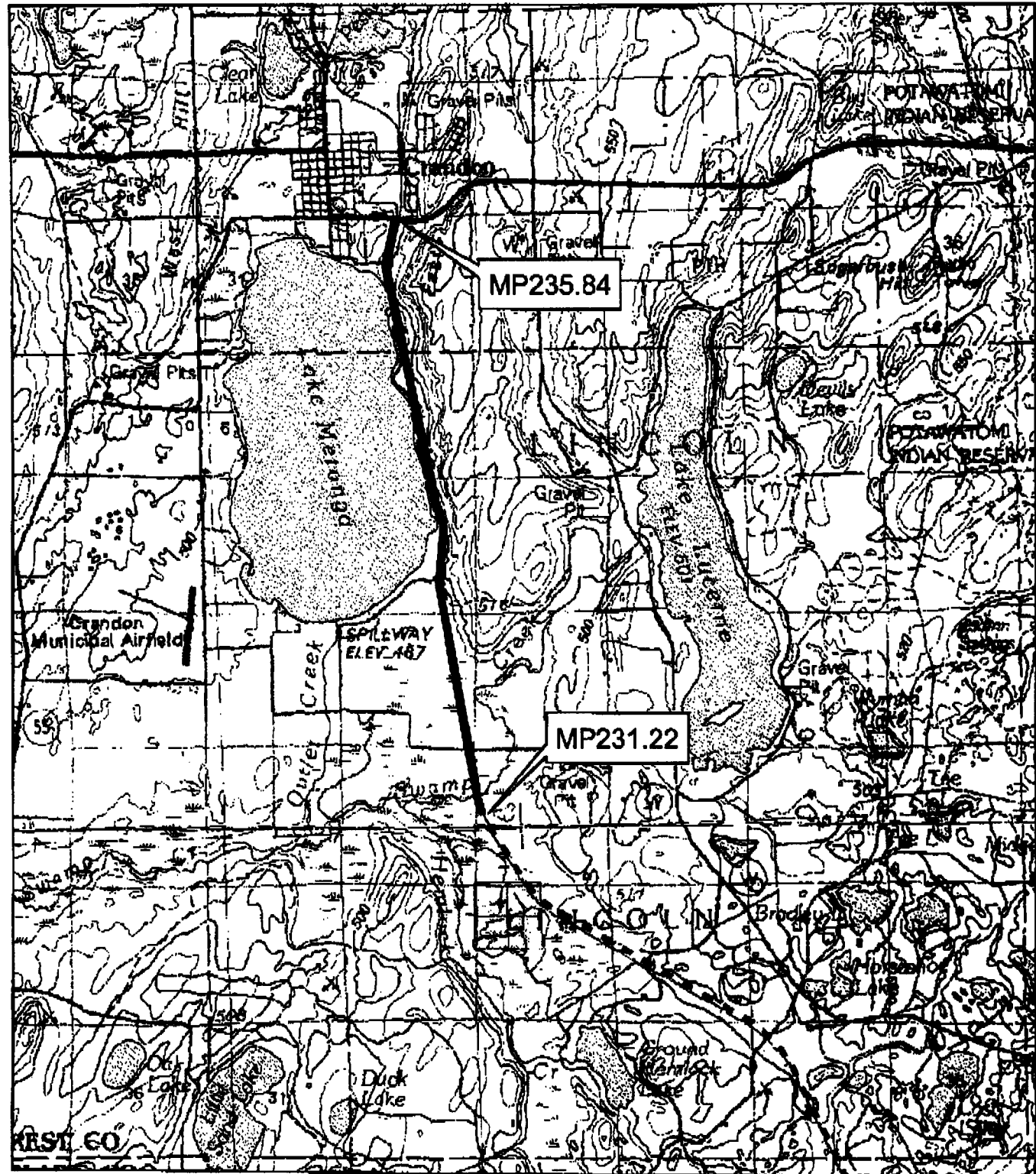
CONCLUSION

WisDOT respectfully requests the Board to issue a Notice of Interim Trail Use for the land corridor and related real property, including bridge structure, for a 4.62-mile line of WCL railroad, from milepost 235.84 on the Pembine Sub (formerly milepost 249.38 on the old Shawano Sub) near Crandon, to milepost 231.22 on the Pembine Sub (formerly milepost 254.00 on the old Shawano Sub), in Forest County, WI to the WisDNR. This will allow all forms of transportation to be provided in a unified, interconnected, economically-efficient, and environmentally sound manner.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Allyn Lepeska", is written over a horizontal line.

Allyn Lepeska, State Bar No. 1013474
Wisconsin Department of Transportation
4802 Sheboygan Avenue, Room 115-B
P. O. Box 7910
Madison, WI 53707-7910
(608) 266-0253
Attorney for Wisconsin Department of Transportation

EXHIBIT**1****EXHIBIT 1****Wisconsin Central LTD. - N.I.T.U. Proposal****Crandon to White Lake**Forest
County

— Proposed Abandonment

- - - State Trail

DNR Managed Land

0 0.25 0.5 1 1.5 2 Miles

Created by WDNR
Bureau of Facilities and Lands
March, 2006

BEFORE THE
SURFACE TRANSPORTATION BOARD

WISCONSIN CENTRAL, LTD
ABANDONMENT EXEMPTION IN
FOREST COUNTY

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY
STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
PURSUANT TO 49 CFR 1152.29

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, the State of Wisconsin Department of Natural Resources (WDNR) is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability) (to the extent allowed by law), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by Wisconsin Central, Ltd and operated by Wisconsin Central, Ltd. The property, known as the Pembine Sub, f/k/a the old Shawano Sub, extends from railroad milepost 235.84, on the Pembine Sub (f/k/a/ MP 249.38 on the old Shawano sub) to railroad milepost 231.22 on the Pembine Sub (f/k/a MP 254.00 on the old Shawano Sub) near Crandon, a distance of 4.62 miles in Forest County, Wisconsin.

The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-303 (Sub-No. 29X).

A map of the property depicting the right-of-way is attached.

WDNR acknowledges that use of the right-of-way is subject to the user'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.

Scott Hassett

State of Wisconsin Department of Natural Resources

By: P. Scott Hassett, Secretary

11/18/05

Date

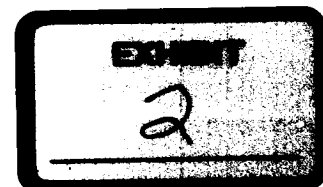
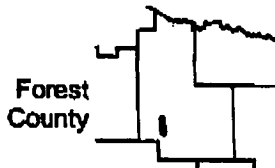
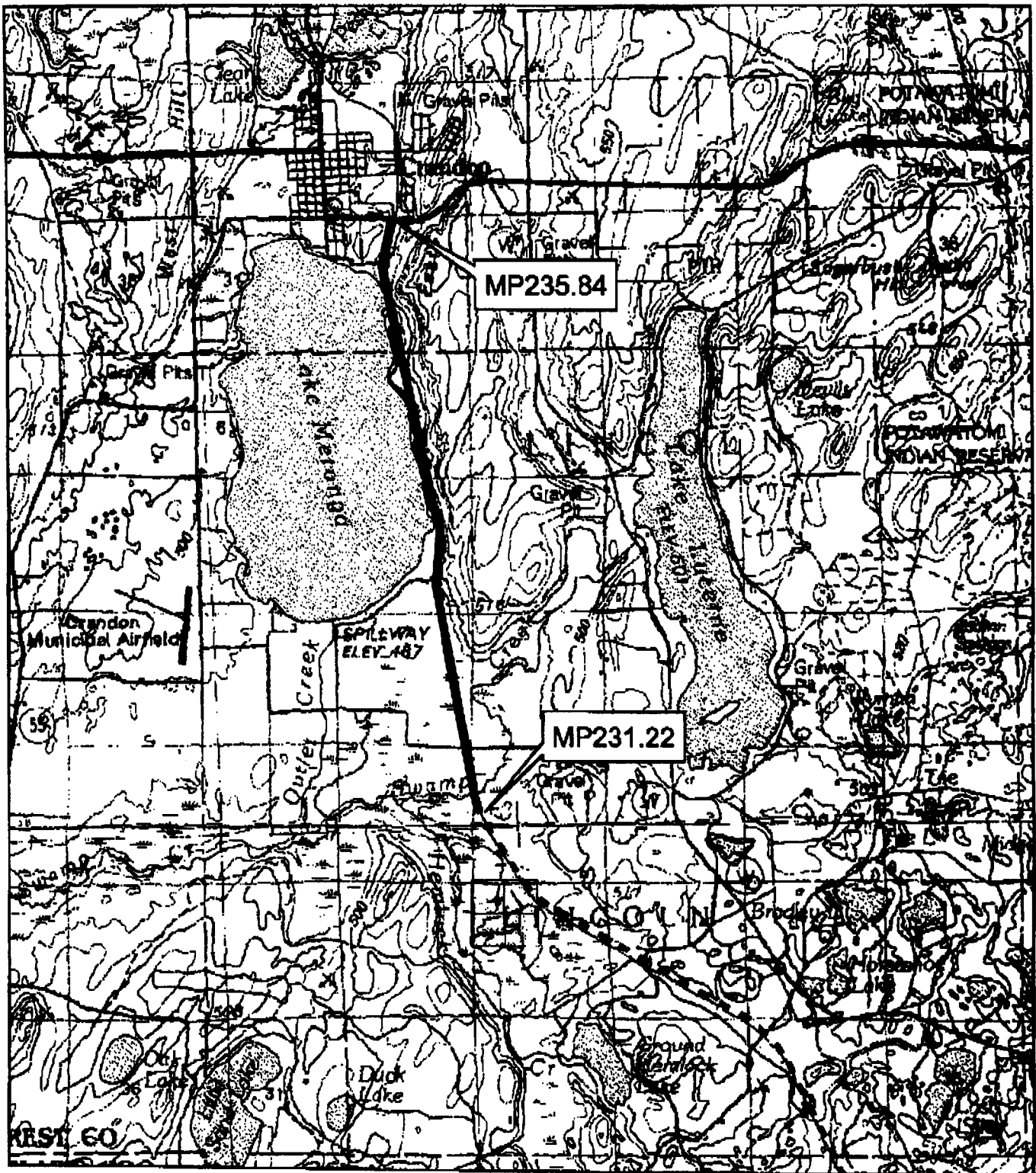


EXHIBIT 1

**Wisconsin Central LTD. - N.I.T.U. Proposal
Crandon to White Lake**



Proposed Abandonment

State Trail



DNR Managed Land



Created by WIDNR
Bureau of Facilities and Lands
March, 2006