

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 303 (Sub-No. 46X)

Wisconsin Central Ltd. – Abandonment Exemption – in Lake County, Ill.

BACKGROUND

In this proceeding, Wisconsin Central Ltd. (WCL) filed a petition under 49 C.F.R. § 10502 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Lake County, Illinois. The rail line proposed for abandonment extends approximately 3.6 miles between milepost 71.0 in North Chicago to milepost 74.6 in Waukegan (the Line). A map depicting the Line in relation to the area served is appended to this Environmental Assessment (EA). If the petition becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

WCL submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. WCL served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

The Line is located in an urban and industrial setting bordering Lake Michigan. The right-of-way generally varies between 60 and 150 feet in width. The Waukegan River Bridge, constructed in 1914 and at milepost 72.8, is the sole bridge on the Line. There is one private crossing on the Line just south of the bridge. Public crossings are located at: Water Street/East Water Street at milepost 72.85; Harbor Place/Harbor Drive at milepost 73.0; Madison Street at milepost 73.10; Clayton Street at milepost 73.20; Dahringer Road, at milepost 74.10; and Sea Horse Drive.

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 303 (Sub-No. 46X).

Diversion of Traffic

WCL states that International Precision Components Corporation (IPCC) is currently the only shipper on the Line. IPCC leases a side track connecting to the Line from which it transloads shipments to trucks for final delivery to its manufacturing facility. WCL indicates that it is investigating other rail-served track in the area that could provide alternative service to IPCC. WCL writes that it does not foresee any new shippers with interest in using the Line since it is stub-ended north of milepost 74.6. Moreover, the area is slated for redevelopment by the City of Waukegan.

Because no traffic has moved on the Line in over two years, OEA concludes that the proposed action would not adversely impact the development, use, or transportation of energy resources or recyclable commodities; the transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

If the proposed abandonment is approved, WCL states that it would remove rail, ties, and other track material. WCL explains that its salvage plans would be limited to above-ground impacts and would not conduct excavation or ground disturbing activities. WCL also states that it does not intend to remove the bridge located along the Line. Following salvage, WCL writes that it intends to convey the Line's right, title and interest, if any, to communities in Lake County, Illinois for a lakefront development project.

WCL received a letter from Mayor Wayne Motley of the City of Waukegan, Illinois. (Waukegan is the county seat of Lake County located 40 miles north of Chicago.) In his letter to WCL, the mayor expresses strong support for the proposed abandonment action. He states that WCL has been in negotiations with the City to convey the rail line right-of-way to them following consummation of the proposed abandonment. The mayor stresses that the Board's approval of the abandonment would allow the City to move forward with its plans to reclaim and redevelop an underutilized and neglected lake shore region of the City. Proposed development projects for the area include new commercial and residential facilities with biking and walking trails.

The City of North Chicago has also indicated its interest in acquiring part of the Line right-of-way following abandonment approval. In a January 21, 2015 letter to WCL, the City indicated its support of WCL's potential donation of property within its boundaries to the City of North Chicago.

Lake County Board Chairman, Aaron Lawlor, has indicated that the county fully supports the proposed abandonment action. If approved, use of the abandonment corridor would allow the

cities of Waukegan and North Chicago to pursue individual development projects and construct a shared use path along Lake Michigan for public use.

The Illinois Department of Transportation (IDOT) provided comments to WCL regarding the proposed abandonment. In its comments, IDOT states that it does not have jurisdiction over the road crossings within the 3.6-mile proposed abandonment area and recommends that WCL coordinate with the City of Waukegan regarding the removal of at-grade crossings, track material, and railroad signal and signal foundations.

WCL received comments from the U.S. Natural Resource Conservation Service (NRCS). In its comments, NRCS states that it does not foresee impacts to prime agricultural lands because salvage activities would be confined to the existing rail corridor.

OEA received comments from the Chicago District of the U.S. Army Corps of Engineers (the Corps) regarding the proposed abandonment (filed under LRC-2015-00100). The Corps has determined that the proposed action may require Corps permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) and Section 10 of the Rivers and Harbors Act of 1899 for the following reasons: The project area borders Lake Michigan and numerous wetlands are located in close proximity to the project right-of-way. The Line also crosses the Waukegan River and is within the jurisdictional limits of Lake Michigan – both water bodies regulated under Section 10 of the Rivers and Harbors Act of 1899. Accordingly, OEA recommends a condition requiring WCL to consult with the Corps regarding the need for any permits and comply with the reasonable requirements of any necessary Corps permits prior to the onset of salvage activities.

The Lake County Stormwater Management Commission (SMC) has advised WCL that the proposed abandonment would not require a permit because WCL's planned salvage activities do not include ground disturbing activities or require new access routes.

No comments have been received from the U.S. Environmental Protection Agency (EPA). In its environmental report, WCL states that the Line does not contain hazardous waste sites or sites where hazardous material spills have occurred. However, WCL notes that the right-of-way is located to the east of the North Short Gas (NSG) North Plant Manufactured Gas Plant (MGP) Superfund Alternative Site. According to WCL, the superfund site is being remediated by NSG with oversight from EPA. WCL states that NSG has conducted some remediation of contaminants from the NSG site along the western edge of the WCL right-of-way. WCL advises that information regarding the clean-up operation is available from EPA (ID #ILD984807990). OEA conducted a search of the appropriate location on EPA's website (NEPAssist) to identify known hazardous waste sites or sites where hazardous material spills have occurred on or adjacent to the right-of-way. OEA's review has confirmed the location of several federally listed superfund sites in the vicinity of the Line.² Due to the proximity of superfund sites to the project

² Environmental Protection Agency, NEPAssist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited April 4, 2015).

right-of-way, OEA is providing EPA with a copy of this EA for its review and comment.

OEA has not received comments from the Illinois Environmental Protection Agency regarding potential impacts of the proposed abandonment to the environment. Consequently, OEA is sending a copy of this EA to the Illinois Environmental Protection Agency for its review and comment.

Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. § 1536), OEA conducted a search of the U.S. Fish and Wildlife Service (USFWS) Endangered Species Database to identify any federally listed endangered or threatened species that may be affected by the proposed abandonment.³ The search indicated that the project area may contain the Piping Plover (*Charadrius melodus*), and Karner Blue butterfly (*Lycaeides melissa samuelis*), both endangered species; and the Pitcher's thistle (*Cirsium pitcheri*), a threatened flowering plant. OEA is uncertain if these species are likely to be present in the rail right-of-way. OEA has not received comments from USFWS regarding the potential effects of the proposed abandonment on these protected species. OEA therefore recommends a condition requiring WSL to consult with the USFWS regarding any project effects to listed species in the right-of-way. OEA is also providing USFWS with a copy of this EA for its review and comment.

WCL has requested comments from the National Park Service (NPS) regarding the potential impact of the proposed abandonment on wildlife sanctuaries or refuges, parks, or other protected areas, but has received no response to date. In its review of geospatial data, OEA has determined that the proposed abandonment is located near and adjacent to a variety of state and local parks and recreation areas. OEA will ensure the NPS receives a copy of this EA for its review and comment.

OEA has not received comments from the Illinois Coastal Management Office regarding whether the proposed abandonment action would affect coastal waters in the state of Illinois. But OEA completed a search of the Illinois Department of Natural Resources web pages and determined that the project area lies within the Illinois state coastal boundaries of Lake Michigan.⁴ Consequently, pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 et seq.) and the Board's environmental regulations at 49 C.F.R. § 1105.9, OEA recommends the imposition of a condition requiring WCL to consult with the Illinois State Coastal Management Office regarding the need to obtain state coastal management consistency certification. OEA will also provide the Illinois Coastal Management Office with a copy of this EA for its review and comment.

³ U.S. Fish and Wildlife Service, Endangered Species Database, <http://ecos.fws.gov/ecp/> (last visited April 4, 2015).

⁴ <http://www.dnr.illinois.gov/cmp/Pages/boundaries.aspx> (last visited April 27, 2015).

The National Geodetic Survey (NGS) has submitted comments indicating that no geodetic survey markers are located in the right-of-way of the proposed abandonment.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA has not yet received responses from several federal, state and local agencies regarding potential environmental impacts from the proposed abandonment. OEA is therefore sending a copy of this EA to those agencies for review and comment.

HISTORIC REVIEW

WCL served its Historic Report on the Illinois Historic Preservation Agency (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). In a letter dated February 18, 2015, the SHPO provided its opinion that no historic properties would be affected by the proposed abandonment and has no objection to the project moving forward as planned. OEA concurs with the conclusions provided by the SHPO and supports a finding of “No Historic Properties Affected” for the proposed abandonment pursuant to 36 CFR 800.5(d)(1).

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database.⁵ The search resulted in the identification of twelve federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment. The identified tribes are as follows: the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bois Forte Band of Chippewa, Minnesota; Citizen Potawatomi Nation, Oklahoma; Minnesota Chippewa Tribe, Minnesota; Forest County Potawatomi Community, Wisconsin; Grand Portage Band of Lake Superior Chippewa, Minnesota; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa, Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians, Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; and the Prairie Band of Potawatomi Nation, Kansas. OEA is sending a copy of this EA to each of the above tribes for review and comment.

⁵ Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited April 6, 2015).

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

- 1. Prior to commencement of any salvage activities, Wisconsin Central Ltd. shall consult with the U.S. Army Corps of Engineers (Corps) regarding potential impacts to waters of the United States and shall comply with the reasonable requirements of the Corps.**
- 2. Pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 et seq.) and the Board's environmental regulations at 49 C.F.R. § 1105.9, Wisconsin Central Ltd. (WCL) shall consult with the Illinois State Coastal Management Office regarding the need to obtain state coastal management consistency certification. WCL may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to the Board's Office of Environmental Analysis and the Board has removed this condition.**
- 3. Wisconsin Central Ltd. (WCL) shall contact the U.S. Fish and Wildlife Service (USFWS) prior to beginning salvage activities to discuss potential impacts to any federally listed endangered or threatened species. WCL shall report the results of this consultation to the Board's Office of Environmental Analysis (OEA) in writing. Should any potential impacts be identified, the railroad shall consult with OEA and USFWS to develop appropriate mitigation measures.**

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption would not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public

use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Catherine Nadals, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 303 (Sub-No. 46X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Catherine Nadals, the environmental contact for this case, by phone at (202) 245-0293, fax at (202) 245-0454, or e-mail at nadalsc@stb.dot.gov.

Date made available to the public: May 8, 2015.

Comment due date: June 8, 2015.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.