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SEA

SERVICE DATE – DECEMBER 18, 2009

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-303 (Sub-No. 35X)

**Wisconsin Central Ltd. –
Abandonment Exemption –
In Outagamie County, WI**

BACKGROUND

In this proceeding, the Wisconsin Central Ltd. (WCL) filed a notice under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a portion of railroad in Kaukauna, Outagamie County, Wisconsin. The rail line extends from Milepost 111.0 to Milepost 112.9, a distance of 1.9 miles. WCL certifies that no rail cars have used the line for at least two years and that no overhead traffic would have to be rerouted over other lines as a result of the abandonment.

WCL states that the rail line to be abandoned travels through the City of Kaukauna, an urban area with a well established transportation system. Following abandonment, WCL intends to sell the portion of rail line between Milepost 112.67 and Milepost 112.87 to the City of Kaukauna. This area contains a former grade crossing that, according to WCL, would be removed. WCL is not aware of any alternative use for which the remaining portion of rail line to be abandoned would be suitable for, other than a trail. WCL indicates that there are remnants of three railroad bridges within the portion of rail line to be abandoned. WCL does not believe that the rail line proposed for abandonment contains any federally granted right-of-way. The rail line traverses U.S. Postal Service Zip Code 54130. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA).

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 Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)].¹ The

¹ The railroad's 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. 35X).

Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

WCL states that no local traffic has moved over the line for at least two years and no overhead traffic would be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; 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

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. WCL has not indicated how it would conduct salvage activities should the Board approve the abandonment, therefore SEA is not certain if salvage will incorporate all the steps outlined above, or merely some of them.

SEA 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.

The U.S. Department of Commerce, National Geodetic Survey (NGS) commented that there are no geodetic station markers located within the area of the proposed abandonment. Therefore, no further consultation with NGS is necessary.

The U.S. Army Corps of Engineers (Corps) commented that a permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) may be required if the proposed abandonment involves the discharge of fill material in waters of the United States or associated wetlands. The Corps further commented that a Section 10 permit of the Rivers and Harbors Act may be required if work is performed in Fox River, a navigable river within close proximity to the area of the proposed abandonment. WCL responded that it does not believe the abandonment would result in the placement of fill in wetlands or waterways during salvage, but did not elaborate any further. Given the potential to impact jurisdictional waters, SEA is recommending a condition that requires WCL to consult with the Corps prior to initiating salvage activities to determine if Corps permits are required, and to report the results of its consultation in writing back to SEA.

The U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management indicated that it had no comment on the proposed abandonment. Therefore, pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.* and the Board's environmental regulations at 49 CFR 1105.9, SEA has determined that no further consultation with NOAA is necessary. However, state coastal zone laws may apply to neighboring Fox River, a navigable river. Therefore, SEA will ensure that the Wisconsin Coastal Zone Management Program receives a copy of this EA for review and comment.

The Wisconsin Department of Natural Resources (WDNR) provided comments on a number of environmental issues, some of which have or would be addressed by other agencies. Specifically, WDNR is concerned that the proposed abandonment may have an impact on water quality, wetlands, 100-year floodplain, endangered or threatened species and critical habitats, wildlife sanctuaries or refuges, national or state parks, soil and water conservation, land use, and environmental cleanup/waste management. Therefore, SEA is recommending a condition that requires WCL to consult with WDNR prior to initiating salvage activities and report the results in writing back to SEA.

SEA has not yet received responses from several Federal, state and local agencies regarding potential environmental impacts from the proposed abandonment. Therefore, SEA is sending a copy of this EA to the following agencies for review and comment: the U.S. Environmental Protection Agency, the National Park Service, the Natural Resource Conservation Service, the U.S. Fish and Wildlife Service, the Wisconsin Department of Transportation, the Wisconsin Clearinghouse for Prevention Resources, the Wisconsin Department of Administration, the Wisconsin Coastal Zone Management Program, and the Outagamie County Planning Board.

HISTORIC REVIEW

WCL served the historic report on the Wisconsin Historical Society (State Historic Preservation Office or SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that the proposed abandonment would not affect any known archaeological sites or historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register). We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process of the National Historic Preservation Act at 36 CFR 800.5(c) and 36 CFR 800.8, we have determined that the proposed abandonment will not adversely affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

Pursuant to 36 CFR 800.2, SEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd/> to identify Federally recognized tribes, which may have ancestral connections to the project area. The database indicated that there is one tribe, the Oneida Tribe of Indians of Wisconsin, that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the Area of Potential Effect). Therefore, SEA will send a copy of this EA to the tribe for review and comment.

CONDITIONS

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

1. Prior to commencement of any salvage activities, the Wisconsin Central Ltd. (WCL) shall consult with the U.S. Army Corps of Engineers (Corps) regarding potential impacts to waters of the United States, including wetlands, in accordance with Section 404 of the Clean Water Act. WCL shall also consult with the Corps regarding impacts to navigable waterways in accordance with Section 10 of the Rivers and Harbors Act. WCL shall comply with the reasonable requirements of the Corps and report the results of the consultation in writing back to the Section of Environmental Analysis (SEA).
2. Prior to commencement of any salvage activities, WCL shall consult with the Wisconsin Department of Natural Resources (WDNR) regarding potential impacts on water quality, wetlands, 100-year floodplain, endangered or threatened species and critical habitats, wildlife sanctuaries or refuges, national or state parks, soil and water conservation, land use, and environmental cleanup/waste management. WCL shall report the results of its consultation with WDNR in writing back to SEA.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed and if the recommended conditions are imposed, abandonment of the line will 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 should 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 CFR 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 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC 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 Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-303 (Sub-No. 35X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at woodd@stb.dot.gov

Date made available to the public: December 18, 2009.

Comment due date: January 6, 2010.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Attachment