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OEA

SERVICE DATE – DECEMBER 23, 2011

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB 303 (Sub-No. 38X)**

**Wisconsin Central Ltd.—Abandonment Exemption—  
in Fond du Lac County, Wis.**

**BACKGROUND**

In this proceeding, the Wisconsin Central Ltd. (WCL) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of an approximately .60-mile rail line in Fond du Lac County, Wisconsin. The line extends between milepost 175.40 and milepost 176.00. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, WCL will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

**ENVIRONMENTAL REVIEW**

The applicant submitted an Environmental Report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The applicant 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 C.F.R. § 1105.7(b)].<sup>1</sup> The Board's Office of Environmental Analysis (OEA) 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 2 years and there is no overhead traffic on the line. 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.

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<sup>1</sup> The Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB 303 (Sub-No. 38X).

### ***Salvage Activities***

WCL indicates that it plans to remove the rails, ties and other track materials for salvage. However, no ballast would be removed, and there are no plans to remove or alter the roadbed underlying the line. The proposed abandonment would also allow for the removal of 2 at-grade road crossings.

The National Geodetic Survey (NGS) identified 1 geodetic station marker in the area of the proposed abandonment. Accordingly, we are recommending that the railroad consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

The U.S. Fish and Wildlife Service's Green Bay Field Office (USFWS) reviewed the proposed project and submitted comments stating that the abandonment would have no effect on federally-listed threatened or endangered species or critical habitat protected by the Endangered Species Act. Accordingly, no mitigation regarding federally-threatened or federally-endangered species is recommended.

In the Environmental Report, WCL states that the line does not cross any bodies of water and the line is not located within a coastal zone. Therefore, additional consultation with the U.S. Army Corps of Engineers is not required, and no mitigation regarding state coastal management consistency certification is necessary.

The Natural Resources Conservation Service (NRCS) submitted comments stating that the proposed abandonment would not impact prime agricultural resources or any farmland protection efforts in the area. Accordingly, no mitigation regarding prime agricultural land is recommended.

The Environmental Report states that there are no known hazardous waste sites or sites where known hazardous material spills have occurred on the right-of-way. Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is necessary.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts.

### ***Other Comments***

In a letter dated July 11, 2011, the City of Fond du Lac submitted comments stating that it supports the proposed abandonment. The City also expressed an interest in using part of the line for the extension of a recreational trail. Information regarding trail use requests is provided below.

## **HISTORIC REVIEW**

WCL served the Historic Report on the Wisconsin Historical Society (the State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). There are no structures on the line that are 50 years old or older. In addition, the SHPO has reviewed the proposed project and submitted comments stating that no known historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment.

Accordingly, pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 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 through posting on the Board's website at <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.<sup>2</sup> The database indicated that the following tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way for the proposed abandonment: Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Hannahville Indian Community, Michigan; Ho-Chunk Nation of Wisconsin; Prairie Band of Potawatomi Nation, Kansas; and Winnebago Tribe of Nebraska. Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

## **CONDITIONS**

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

1. Wisconsin Central Ltd. shall consult with National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

## **CONCLUSIONS**

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

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<sup>2</sup> Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited December 19, 2011).

Alternatives to the proposed abandonment would include denial (and therefore no change in operations and no salvage activities), 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 4-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.

### **TRAIL USE**

As stated above, the City of Fond du Lac has expressed interest in converting the line into a trail. OEA notes that the National Trails System Act (Trails Act)<sup>3</sup> gives interested parties the opportunity to negotiate voluntary agreements to use, for recreational trails, railroad rights-of-way that otherwise would be abandoned.<sup>4</sup> The Trails Act is intended to preserve railroad rights-of-way for future railroad use. Under the Trails Act and the Board's implementing procedures (49 C.F.R. § 1152.29), a state or local government or private organization can request a trail condition. This process allows railroad rights-of-way to be preserved by allowing interim trail use on lines that otherwise would be abandoned.

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 regulations at 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.

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<sup>3</sup> 16 U.S.C. § 1247(d).

<sup>4</sup> The Board does not conduct an environmental review of a potential conversion to interim rail use/railbanking because it does not exercise sufficient federal control so as to qualify as a "major federal action" under the National Environmental Policy Act (NEPA). Only major actions by federal agencies require environmental review pursuant to NEPA.

## **COMMENTS**

If you wish to file comments regarding this EA, send **1 original and 2 copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean, who prepared this EA. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB 303 (Sub-No. 38X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Christa Dean, the environmental contact for this case, by phone at (202) 245-0299, fax at (202) 245-0454, or e-mail at [christa.dean@stb.dot.gov](mailto:christa.dean@stb.dot.gov).

Date made available to the public: December 23, 2011.

**Comment due date: January 9, 2012.**

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

Attachment