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SEA

SERVICE DATE – FEBRUARY 28, 2006

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-303 (Sub No. 28X)

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

BACKGROUND

In this proceeding, Wisconsin Central Limited Railroad (WCL or Applicant), a Class I common carrier that is a wholly-owned subsidiary of Canadian National Railway Company, has filed an Notice of Exemption seeking authority under 49 C.F.R. Part 1152, Subpart F, to abandon its rail line segment in Ashland County, Wisconsin. WCL proposes to abandon its “Ore Dock Line” starting from a point of switch off of its mainline through the City of Ashland (City), Wisconsin, at milepost 434.49 and continuing 5,160 feet to its end at the Ashland Ore Dock. A map depicting the rail line segment in relationship to the area served is appended to this Environmental Assessment.

If the abandonment is approved, WCL states that it would salvage only that portion of the Ore Dock Line located between milepost 434.49 and the north side of U.S. Highway 2 (Front Street). The remaining approach, much of which is elevated an average of 30 feet above street level, as well as the Ashland Ore Dock, will be sold to the Northeastern Maritime Historical Foundation (Foundation), pending regulatory approval. According to WCL, the Foundation has indicated that it may salvage a portion of the elevated of the Ore Dock Line from a point just north of U.S. Highway 2 (also known as Front Street) to a point approximately one block north of Water Street. The remaining portion of the elevated trackage as well as the Ashland Ore Dock would remain in place for future use as a maritime and historical resource.

DESCRIPTION OF THE LINE

According to information provided by WCL in its filings before the Board, the Ore Dock Line is located in northeastern Wisconsin in Ashland County, on Lake Superior. The Ashland Ore Dock was built by the Minneapolis, St. Paul and Sault Ste. Marie Railway (Soo Line), who also operated WCL. The Ashland Ore Dock, constructed in 1917, was designed to load iron ore from mines in northern Wisconsin onto lake freighters for transport, an activity that continued until the Ore dock’s closure in 1965.

The Ore Dock Line begins just north of Main Street, at which point it becomes elevated and crosses over U.S. Highway 2 (Front Street), Saint Claire Street, and Water Street. The Line then crosses over some City-owned trackage, then ends on Lake Superior. Upon abandonment, WCL states that it only intends to salvage only a portion of the Ore Dock Line, as discussed above.

WCL states that no local traffic has moved over the line for at least two years and that there is no overhead traffic to be rerouted. WCL further states that there are no customers located along the Ore Dock Line and that no revenue service has occurred for decades and as such no rail traffic will be diverted to truck traffic. Last, WCL states that following abandonment, no at-grade crossings will be removed because the rail line is primarily grade separated.

ENVIRONMENTAL REVIEW

WCL has 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. WCL has served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Board's environmental rules at 49 CFR 1105.7(b). The Board's Section of Environmental Analysis (SEA) has verified the record in this proceeding. Also, SEA has consulted with appropriate agencies and individuals to verify WCL's report and to obtain additional information and comments regarding the potential environmental and historic effects of the proposed abandonment.

Transportation

WCL states that no local traffic has moved over the Ore Dock Line for at least two years and there is no overhead traffic to be rerouted. Furthermore, WCL states that there are no customers located along the Ore Dock Line and that no revenue service has occurred for decades and as such no rail traffic will be diverted to truck traffic.

In a letter dated April 5, 2004, the Wisconsin Department of Transportation (WI-DOT) identified a number of concerns regarding how WCL should conduct salvage activities on its Ore Dock Line. WI-DOT requests that WCL comply with WI-DOT's abandoned railroad line salvage procedures, protect surveying benchmarks, remove rail, ties, and ballast at the crossings of state highways, restore state highways at abandoned crossings, obtain a permit from the District Maintenance Section, and coordinate with WI-DOT regarding its plans to widen U.S. Highway 2 in the vicinity of proposed abandonment. In a letter dated October 3, 2005, the Wisconsin Department of Natural Resources (WI-DNR) raised similar concerns regarding salvaging activities on the Ore Dock Line.

As outlined above, WCL states that intends to salvage only a very small portion of the Ore Dock Line while the remainder, including the Ashland Ore Dock, will be sold, pending regulatory approval, to the Foundation. However, in order to appropriately address WI-DOT's and WI-DNR's concerns, SEA recommends the Board impose a condition requiring WCL to consult with WI-DOT and WI-DNR regarding how salvage activities on the rail line should be conducted and report these consultations back to SEA prior to commencement of salvage operations.

Energy Consumption

WCL states that no local traffic has moved over the line for at least two years and there is no overhead traffic to be rerouted. Furthermore, WCL states that there are no customers located along the Ore Dock Line and that no revenue service has occurred along the rail line for decades and as such no rail traffic will be diverted to truck traffic. Therefore, SEA believes that the abandonment, as proposed, will not adversely affect the transportation of energy resources.

Solid and Hazardous Waste

WCL states that a portion of its Ashland Trackage, none of which is part of this proposed abandonment, passes through or is adjacent to a documented superfund site. The superfund site activities are primarily directed by Northern States Power and the State of Wisconsin. On February 10, 2005, Mr. Andrew Savagian, WI-DNR stated he did not believe that the Ore Dock Line was part of the superfund site activities. Mr. Savagian's statement was confirmed on February 14, 2005, by Mr. Jamie Dunn, WI-DNR.

In letters dated March 31, 2005 and September 7, 2005, Mr. Kenneth Westlake, Chief, NEPA Implementation Section, U.S. Environmental Protection Agency, Region 5, stated that the Environmental Assessment should address the ultimate disposition of rails, crossties, removal of all other waste or debris on the corridor, and erosion control measures.

In letters dated April 1, 2005, and October 3, 2005, WI-DNR identified concerns related to the salvage and clean-up of any contaminants located on the right-of-way. WCL has stated that it is not aware of any hazardous waste spills or sites within the right-of-way of the Ore Dock Line.

With respect to the ultimate disposition of the track, ties, and other associated salvage materials, WCL states that it intends to salvage only a very small portion of the Ore Dock Line while the remainder, including the Ashland Ore Dock, will be sold, pending regulatory approval, to the Foundation. However, in order to appropriately address the issues and concerns identified above, SEA recommends the Board impose a condition requiring WCL to consult with WI-DNR and report these consultations back to SEA prior to commencement of salvage operations.

Land Use

WCL states that the proposed abandonment is located entirely within the city limits of Ashland, Wisconsin, and as such does not foresee any inconsistency with regional and/or local land use plans.

If the Notice is approved, WCL states that it has entered into an agreement, pending regulatory approval, in which WCL will transfer its rights in the Ore Dock Line, including the Ashland Ore Dock, to the Foundation.

The WI-DNR and the City have raised a number of concerns regarding the merits of WCL's Notice of exemption. These concerns include questions regarding the Foundation's financial ability to address all issues associated with renovation and stabilization of the Ore Dock Line and Ashland Ore Dock and its conversion into a maritime museum, back taxes allegedly owed by WCL, and various outstanding state permits, applications, and conceptual plans of the proposed maritime museum.

These issues are beyond the scope of this Environmental Assessment, which is to assess the potential environmental impacts of abandonment – that is, any diversion of rail traffic to other modes that may occur as a result of abandonment (which is not applicable in this case) and salvage of the rail line and any rail-owned appurtenances.

Safety

In its Notice of exemption, WCL states that the abandonment will result in a positive effect on public health and safety. However, the City, in a letter dated September 21, 2005, states that WCL should be responsible for stabilizing the Ashland Ore Dock and removing its associated trestle or should fund the Foundation undertake these tasks either prior to, or as a condition of, the proposed abandonment.

The City also states that WCL has not taken appropriate steps to effectively restrict public access to the Ashland Ore Dock and its associated trestle. According to the City, WCL has installed a plastic fence around sections of the trestle but has not taken any measures to prevent individuals from accessing the structures from the water (by boat in the summer and by foot in the winter when there is sufficient ice). The City states that concrete is currently falling off of the structure, there is unsecured wood, and loose metal components nearing collapse.

A number of the concerns raised by the City appear to go more toward issues related to the existing environment rather than environmental impacts associated with the proposed abandonment. However, to address safety concerns identified by the City that appear associated with the proposed abandonment, SEA recommends the Board impose a condition requiring WCL to consult with the City to ensure public safety and report these consultations back to SEA prior to commencement of salvage operations.

Biological Resources

In a letter dated April 1, 2005, Mr. William Gantz, Environmental Review Coordinator, WI-DNR, states that no critical habitat is known to exist within the vicinity of the proposed abandonment. In addition, WI-DNR's review also found that no state facilities, parks, or forests would be impacted.

In a letter dated March 22, 2005, Ms. Janet Smith, Field Supervisor, U.S. Department of Interior, Fish and Wildlife Service, Green Bay ES Field Office, states that their records currently indicate that there are no Federally-listed threatened or endangered species or critical habitat present near the project site. However, Ms. Smith notes the potential existence of state-listed species and/or federal species of concern in or near the project area, including species that may be protected under the Migratory Bird Treaty Act of 1918.

In an e-mail dated February 21, 2006, Ms. Lisie Kitchel, WI-DNR, Bureau of Endangered Resources, states that the Common Tern (*Sterna hirundo*) is listed as Endangered by the State of Wisconsin and is known to nest on remnant pier islands adjacent to the Ashland Ore Dock. The breeding season extends from mid-May to late September. WI-DNR, Bureau of Endangered Resources, states that if salvage is to occur proximate to locations where the Common Tern is known to nest that this activity be prohibited during the breeding season.

In order to appropriately address the issues and concerns identified by WI-DNR, Bureau of Endangered Resources, SEA recommends the Board impose a condition requiring WCL to consult with WI-DNR, Bureau of Endangered Resources, regarding whether salvage activities would occur near nesting locations of the Common Tern and if so, what measures to undertake to minimize impacts to the Common Tern.

Water Resources

SEA's investigations indicate that there should be no adverse impact to water resources as a result of this proposed abandonment. In a letter dated April 1, 2005, Mr. William Gantz, Environmental Review Coordinator, WI-DNR, stated that a portion of the proposed abandonment is located within the 100 year flood plain and may, therefore, be subject to the City of Ashland's floodplain zoning ordinances.

In order to appropriately address associated with potential salvage activities occurring within the 100 year flood plain, SEA recommends the Board impose a condition requiring WCL to consult with the City of Ashland.

Cultural and Historic Resources

The Ashland Ore Dock, constructed in 1917, was designed to load iron ore from the iron mines in northern Wisconsin onto large lake freighters for transport. The Ashland Ore Dock

was built by the Minneapolis, St. Paul and Sault Ste. Marie Railway (Soo Line) who also operated WCL at that time. The Ashland Ore Dock was considered vitally important until its closure in 1965. The approaches, which brought a single railroad track to the Ashland Ore Dock, came from the south, heading to White River, Agnew, Marengo, High Bridge, and Mellon to the iron mine in the Gogebic Range. The approaches were constructed of timber trestles which spanned over the east/west bound streets in the City, the equivalent of about 30 feet above street level, until it reached a point near the water's edge where cast concrete trestles were constructed to support the track, which then split into four tracks. The Ashland Ore Dock itself spans approximately 1,155 feet to the north from the shoreline out into Chequamegon Bay. A total of 79 ore bins built on each side of the dock with each having a capacity of 5,013 cubic feet (the carrying capacity of about 7 railroad cars).

At present, the concrete portion of the Ashland Ore Dock is highly deteriorated -- large pieces of concrete have fallen off in several places. The Ashland Ore Dock is considered so compromised that at this time that WCL employees are prohibited from walking on the structure.

As stated above, if the abandonment is approved, WCL states that it would salvage only a small portion of the Ore Dock Line, a section located between milepost 434.49 and the north side of U.S. Highway 2 (Front Street). The remaining approach, including the Ashland Ore Dock, would be sold to the Foundation, pending regulatory approval. According to WCL, the Foundation has indicated that it intends to salvage the remaining elevated portion of the Ore Dock Line from a point just north of U.S. Highway 2 to a point approximately one block north of Water Street. The Foundation will leave the remaining portion of the elevated Ore Dock Line, as well as the Ashland Ore Dock, in the water as a maritime and historical resource.

With respect to existing plans and drawings, WCL states that all original and revised plans are located at its engineering office located in Fond du Lac, Wisconsin.

WCL states that it is unaware of any possibility that archaeological resources may exist in the area of proposed for abandonment as significant portions of the ROW was disturbed by the construction of the rail line and Dock.

In an unrelated matter, SEA began initial consultation with the Wisconsin Historical Society (WI-SHPO) regarding the eligibility of the Ashland Ore Dock for listing in the National Register of Historic Places. By letters dated October 11, 2001 and September 7, 2007, WI-SHPO stated that it concurred with SEA's determination of eligibility. Furthermore, in its abandonment filing dated February 3, 2006, WCL states that it looks forward to addressing concerns regarding the Ashland Ore Dock through the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f. Accordingly, SEA recommends a condition requiring WCL to retain its interest in and take no steps to alter the historic integrity of the Ashland Ore Dock, which has been determined eligible for listing in the National Register of Historic Places, until the Section 106 process has been completed.

Native American Consultation

SEA conducted a search of the Native American Consultation Database at <http://www.cast.uark.edu/other/nps/nacd/> to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the following 14 tribes may have an interest in the proposed abandonment: Bad River Band of the Lake Superior Tribe of Chippewa Indians; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe; Fond du Lac Band of the Minnesota Chippewa Tribe; Grand Portage Band of the Minnesota Chippewa Tribe; Keweenaw Bay Indian Community; Lac Courte Oreilles Band of Lake Superior Chippewa Indians; Lac Vieux Desert Band of Lake Superior Chippewa; Leech Lake Band of the Minnesota Chippewa Tribe; Mille Lacs Band of the Minnesota Chippewa Tribe; Minnesota Chippewa Tribe; Red Cliff Band of Lake Superior Chippewa; Sokaogon Chippewa Community; St. Croix Chippewa Indians of Wisconsin; and the White Earth Band of Minnesota Chippewa Tribe. SEA will ensure that each tribe receives a copy of this Environmental Assessment for review and comment, and that each tribe is added to the service list for this proceeding.

CONDITIONS

SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. Wisconsin Central Limited Railroad (WCL) shall consult with the Wisconsin Department of Transportation and the Wisconsin Department of Natural Resources regarding salvaging and abandonment procedures prior to commencement of any salvage activities.
2. Wisconsin Central Limited Railroad shall consult with the City of Ashland regarding institution of appropriate safety measures prior to the commencement of any salvage activities.
3. If it appears that salvage activities may occur near nesting sites of the Common Tern (*Sterna hirundo*), WCL shall consult with the Wisconsin Department of Natural Resources, Bureau of Endangered Resources, prior to the commencement of any salvage activities, regarding salvage methods to minimize impacts to the Common Tern.
4. Wisconsin Central Limited Railroad shall consult with the City of Ashland prior to the commencement of any salvage activities regarding potential impacts of abandonment on the City's 100 year floodplain.
5. Wisconsin Central Limited Railroad (WCL) shall retain its interest in and take no steps to alter the historic integrity of the Ashland Ore Dock which has been determined eligible for listing in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. WCL shall report back to the Section of Environmental Analysis regarding any consultations with

the Wisconsin Historical Society (State Historic Preservation Office or SHPO) and any other Section 106 consulting parties. WCL shall not consummate the abandonment or initiate any salvage activities related to the abandonment until the Board removes this condition.

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed and if the recommended conditions are imposed, abandonment of this rail line segment 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

If abandonment and salvage of the rail line does take place, 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 Surface Transportation Board and served on the railroad within the time specified in the Federal Register notice.

WCL states that only the portion of the Ore Dock Line nearest the point of switch at milepost 434.49 is a possible candidate for conversion to a trail. WCL does not believe that the right-of-way could be effectively used as a highway or for mass transit because of its location and proximity to an existing roadway system.

TRAILS USE

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

Upon abandonment, WCL states that only the portion of the Ore Dock Line nearest the point of switch at milepost 434.49 would be appropriate for conversion to a trail.

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592 or mail inquiries to the Surface Transportation Board, Office of Public Services, Washington, DC 20423.

ENVIRONMENTAL 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 Troy Brady, 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 28X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Mr. Brady, the environmental contact for this case, by phone at (202) 565-1643, fax at (202) 565-9000, or e-mail at bradyt@stb.dot.gov.

Date made available to the public: February 28, 2006.

Comment due date: **March 15, 2006.**

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

Vernon A. Williams
Secretary