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SERVICE DATE - MAY 8, 1998

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33583]

Wisconsin Central Ltd. and Fox Valley & Western Ltd.--Joint Relocation Project Exemption--In
Fond Du Lac, Wisconsin

Wisconsin Central Ltd. (WCL) and Fox Valley & Western Ltd. (FVW) have jointly filed a notice of exemption under 49 CFR 1180.2(d)(5) to enter into a project to relocate lines of railroad in Fond Du Lac, WI. Both WCL and FVW are Class II railroads commonly controlled by Wisconsin Central Transportation Company. The transaction was expected to be consummated on or shortly after April 16, 1998, the effective date of the exemption.

WCL and FVW own and operate parallel lines of railroad through Fond Du Lac, WI. The joint relocation will reroute operations from, and allow removal of, duplicative rail lines. Under the joint project, WCL and FVW agree to the following transactions: (1) WCL will abandon its line of railroad on FVW Line One between MP-175.85 near Dixie and Morris Street and MP-178.40 north of Scott Street, a distance of approximately 2.55 miles, and will also abandon its line of railroad on FVW Line Two between MP-145.58 near Guinette and Woodlawn Avenues and MP-146.24 north of Ninth Street where it connects with FVW Line One, a distance of approximately .66 miles, all in Fond Du Lac, WI; (2) FVW will construct a connecting track of approximately 2,430 feet in length between the WCL Line and FVW Line Two in the vicinity of Morris and Dixie Streets;¹ and (3)

¹ This will connect FVW Line Two with the WCL line. FVW Line One is already connected to the WCL line

WCL will grant FVW trackage rights over the WCL Line between MP-154.87 at Dixie and Farwell Streets and MP-157.24 north of Scott Street, a distance of 2.37 miles.

The proposed joint relocation project will simplify rail operations. The notice states that no shippers will be adversely affected by these relocations or lose access to any rail service currently provided by WCL or FVW. It also states that Stock Lumber, Inc., located at MP-177.78 on FVW Line One, will continue to receive rail service via trackage that FVW is contractually bound to retain after the joint relocation project is completed.

The Board will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into new territory. See City of Detroit v. Canadian National Ry. Co., et al., 9 I.C.C.2d 1208 (1993), aff'd sub nom., Detroit/Wayne County Port Authority v. ICC, 59 F.3d 1314 (D.C. Cir. 1995). Line relocation projects may embrace trackage rights transactions such as the one involved here. See D.T.&I.R.--Trackage Rights, 363 I.C.C. 878 (1981). Under these standards, the incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.--Trackage Rights--BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.--Lease and Operate, 360 I.C.C. 653 (1980).

If the notice contains false or misleading information, the exemption is void ab initio.

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Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33583, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: Michael J. Barron, Esq., Wisconsin Central Ltd. and Fox Valley & Western Ltd., 6250 North River Road, Suite 9000, Rosemont, IL 60018.

Decided: May 4, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary