

43261
OEA

SERVICE DATE – OCTOBER 18, 2013

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB-303 (Sub No. 41X)

**Wisconsin Central Ltd — Abandonment Exemption—
in Winnebago County, Wis.**

BACKGROUND

On August 2, 2013, Wisconsin Central Ltd. (WCL), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon 0.23 miles of rail line, known as the Galloway Spur, located in Winnebago County, WI (Line). The Line begins at milepost 206.27 at Henry Street, to the end of the Line at milepost 206.5, near South Commercial Street in Neenah, Winnebago County, WI. A map depicting the Line in relationship to the area served is attached to this Environmental Assessment (EA).

According to WCL, there is a single shipper located on the Line, Galloway Company (GC). If the abandonment is approved, WCL states that it intends to leave the rail and track materials in place and convey the Line to GC, which would allow GC to expand and improve its facilities for continued and future increased rail service. GC has submitted a letter in support of the proposed abandonment.

WCL states that other than existing rail traffic from GC, that there is no reasonable possibility for the development of new rail traffic as the Line is stub-ended and only serves GC.

DESCRIPTION OF THE RAIL LINE

The Line is 66 feet wide and does not contain any federally granted rights-of-way. The Line passes through a mixture of residential and light commercial areas located south of downtown Neenah and traverses United States Postal Service Zip Code 54956.

The Line is a single-track stub-ended rail spur that begins at the Henry Street connection with WCL's mainline (milepost 206.27) and connects with GC's private track. The rail line located beyond South Commercial Street was abandoned by WCL's predecessor in 1994.¹

¹ See Fox Valley & Western Ltd. – Abandonment Exemption – In Winnebago and Fond du Lac Counties, WI, Docket No. AB-402 (Sub No. 1X).

WCL also notes that the Line does not contain any at-grade crossings or any bridges or structures that are 50 years old or older.

ENVIRONMENTAL REVIEW

WCL submitted an Environmental Report that concludes that 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 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)).² The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

As noted earlier, WCL intends to convey the Line to GC and continue rail service via the existing Line. Therefore, OEA believes that there would be no impact on existing regional or local transportation systems or patterns. Further, there would be no effect on the movement and/or recovery of energy resources, recyclable commodities or change in overall energy efficiency.

Salvage Activities

If the abandonment is approved, WCL states that it intends to leave the rail and track materials in place and convey it to GC which would allow it to expand and improve its facilities as the current configuration cannot handle its recent growth. Therefore, no salvage activities would take place. Moreover, in a letter dated May 28, 2013, GC states its support for the proposed abandonment. According to GC, the abandonment and conveyance is necessary to allow for it to grow and meet the demand of its expanding business.

According to WCL, it is unaware of any adverse effects that the proposed abandonment would have on local and existing land use plans or prime agricultural farmland. The Natural Resources Conservation Service (NRCS) has not responded. Although OEA does not believe that any prime farmland would be affected, a copy of this EA will be provided to the NRCS for review and comment.

The Line does not lie within a designated Coastal Zone Management Area.

WCL states that there are no known hazardous materials waste sites or sites where known hazardous material spills have occurred on or along the Line.

² 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. 41X).

OEA conducted a search the U.S. Fish and Wildlife Service's (USFWS) website³ to search for any species of concern in Winnebago County, WI. The USFWS website identifies the Eastern prairie fringed orchid (*Platanthera leucophaea*) as threatened and notes that habitat for the plant includes moist to wet unplowed tallgrass prairies and meadows. Eastern prairie fringed orchids have also been found in old fields and roadside ditches and are known to occur in bogs, fens, and sedge meadows.

Upon review of available information about the Eastern prairie fringed orchid and because WCL does not intend to conduct any salvage activities of the Line, OEA does not believe that this abandonment would result in adverse impacts to the Eastern prairie fringed orchid. Nevertheless, OEA has provided a copy of this EA to the USFWS for review and comment.

OEA was not able to identify any National or State parks, wildlife sanctuaries, or refuges that would be affected by the proposed abandonment. OEA did however identify one local park—Douglass Park—located adjacent to the Line. Again, because no salvage activities would occur, OEA does not believe that the abandonment and conveyance of the Line to GC would result in adverse effects to Douglass Park. The National Park Service has not responded to the railroad's environmental report, therefore, OEA has provided a copy of this EA to the National Park Service for review and comment.

As noted earlier, WCL does not intend to conduct any salvage activities and therefore does not believe that it would not require permits under Sections 402 and 404 of the Clean Water Act. WCL also notes that it is unaware of any wetlands located in or along the right-of-way. The Army Corps of Engineers, St. Paul District (Corps), and the Environmental Protection Agency, Region 5 (USEPA), have not responded to the railroad's environmental report. OEA has provided a copy of this EA to the Corps and USEPA for review and comment.

In an email dated June 4, 2013, the U.S. Department of Commerce, National Geodetic Survey states that no geodetic station markers are located in the area of the proposed abandonment.

Based on all information available to date, OEA does not believe that the proposed abandonment would result in significant environmental impacts.

HISTORIC REVIEW

In its Historic Report, WCL states that the Line does not contain any structures that are 50 years old or older and that it does not contain any federally granted rights-of-way.

³ U.S. Fish and Wildlife Website, Find Endangered Species:
<http://www.fws.gov/endangered>.

If the abandonment is approved, WCL states that no salvage activities would take place and that the Line would be conveyed to GC.

The Galloway Spur was constructed between 1859 and 1862 by the Chicago & North Western Railway Company (CNW) as part of a route between Milwaukee and Green Bay, WI, through Neenah. In 1988, several CNW rail lines in WI were acquired by Fox River Valley Railroad Corporation (FRVR). Fox Valley & Western Ltd. (FVW), a predecessor of WCL, acquired the assets of FRVR in 1993. In 1994, FVW abandoned its mainline through Neenah, north of milepost 206.5 at South Commercial Street. That abandonment left the Galloway Spur as at stub-ended track served from WCL's Neenah Yard located to the south. FVW merged with WCL in 2002.

WCL served the Historic Report as required by the Board's environmental rules (49 C.F.R. § 1105.8(a)) and served the report on the Wisconsin Historical Society (SHPO) pursuant to 49 C.F.R. § 1105.8(c).⁴ In a letter dated June 4, 2013, the SHPO stated that no historic properties are affected within the area of potential effects.

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.⁵ The database indicated that the following 13 tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment:

1. Citizen Potawatomi Nation, OK
2. Flandreau Santee Sioux Tribe, SD
3. Forest County Potawatomi Community, WI
4. Hannahville Indian Community, MI

⁴ Guidance regarding the Board's historic preservation review process is available on the Board's Web site at: <http://www.stb.dot.gov/stb/environment/preservation.html>.

⁵ Native American Consultation Database, http://grants.cr.nps.gov/nacd/NACD_Search_Page_Query_Results.cfm (last visited September 24, 2013).

5. Ho-Chunk Nation, WI
6. Lower Sioux Indian Community, MN
7. Prairie Band of Potawatomi Nation, KS
8. Prairie Island Indian Community, MN
9. Santee Sioux Nation, NE
10. Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, SD
11. Spirit Lake Tribe, ND
12. Upper Sioux Community, MN
13. Winnebago Tribe, NE

Accordingly, OEA is sending a copy of this EA to the 13 tribes listed above for review and comment.

CONDITIONS

We do not recommend any environmental mitigation conditions be imposed in any decision granting abandonment authority.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed that 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 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.

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 original and 2 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 website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 303 (Sub No. 41X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Troy Brady, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at Troy.Brady@stb.dot.gov.

Date made available to the public: October 18, 2013.

Comment due date: November 18, 2013.

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

Attachment