

31253

SERVICE DATE - AUGUST 30, 2000

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33912]

Wisconsin Central Ltd. and Fox Valley & Western Ltd.—Joint Relocation Project  
Exemption—Wisconsin Rapids, WI

On August 14, 2000, Wisconsin Central Ltd. (WCL) and Fox Valley & Western Ltd. (FVW) filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate certain lines of railroad in Wisconsin Rapids, WI. The transaction was scheduled to be consummated no sooner than August 22, 2000.

WCL operates a line in Wisconsin Rapids that runs in a generally north-south orientation (WCL Line). The WCL Line is a portion of WCL's Valley Sub between Tomahawk, WI, and New Lisbon, WI. FVW operates a line in Wisconsin Rapids that runs in a generally east-west orientation (FVW Line). The FVW Line is a portion of FVW's Whitehall Sub between East Winona, WI, and Plover, WI. WCL and FVW currently share the use of an Industrial Spur currently owned by the City of Wisconsin Rapids. As part of this transaction FVW will acquire ownership of the Industrial Spur. WCL will continue to have rights to access the Industrial Spur after the transaction is consummated.<sup>1</sup>

---

<sup>1</sup> According to the verified notice of exemption, the Union Pacific Railroad Company (UP) also has access rights to the Industrial Spur, which UP will retain when the transaction is completed.

In addition, under the joint relocation project, WCL and FVW propose the following transactions:

(1) FVW will abandon a line of railroad on the FVW Line, as it currently sits, from milepost 97.28 to milepost 96.15;

(2) FVW will use the Industrial Spur, which connects with the FVW Line at FVW milepost 97.28, to access the WCL Line, at WCL milepost 50.80, which will also become FVW milepost 96.71;

(3) WCL will grant FVW trackage rights to operate on the WCL Line from WCL milepost 50.80 to WCL milepost 49.85, where FVW trains will be able to access the FVW Line at FVW milepost 96.15.

The proposed joint relocation project will not disrupt service to shippers. Its purpose is to simplify rail operations in Wisconsin Rapids and accommodate efforts to reduce rail interference with vehicular traffic.

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. 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 STB Finance Docket No. 33912, 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, Rosemond, IL 60018.

Board decisions and notices are available on our website at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: August 22, 2000.

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

Vernon A. Williams

Secretary