

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-303 (Sub-No. 28X)

WISCONSIN CENTRAL LTD.—ABANDONMENT EXEMPTION—IN ASHLAND
COUNTY, WI

Decided: February 12, 2008

Wisconsin Central Ltd. (WCL) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon its line of railroad in Ashland, Ashland County, WI, referred to herein as the “Ore Dock Line” or “the Line.” The Line starts at a point of switch off WCL’s main line in Ashland at milepost 434.49 and continues 5,160 feet to the end of WCL’s Ashland Ore Dock (Dock), a large structure extending out over Lake Superior. Notice of the exemption was served and published in the Federal Register on February 23, 2006 (71 FR 9422-23). The exemption became effective on March 25, 2006.

By decision served on April 28, 2006, the Board reopened the proceeding and imposed six environmental conditions on the abandonment. As pertinent here, condition no. 5 ordered:

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 SEA regarding any consultations with the Wisconsin Historical Society and any other section 106 consulting parties. WCL shall not consummate the abandonment of the Ashland Ore Dock or initiate any salvage activities related thereto until the Board removes this condition.

In a Post Environmental Assessment dated January 2, 2008, SEA offers the following new information regarding condition no. 5: First, to aid in the section 106 process, WCL agreed to allow the Wisconsin Department of Administration to hire Westbrook Associated Engineers, Inc. (Westbrook) to conduct a feasibility study in phases to determine the condition of the Dock. In May 2006, Westbrook issued an Underwater Inspection Report and in August 2006, it issued a Structural Condition Assessment. On October 24, 2006, WCL submitted a status report to the Board based on Westbrook’s findings. In November 2006, in a Cost Estimate Report, Westbrook summarized its earlier findings and included cost estimates for a variety of scenarios including those items deemed to be in a state of imminent failure. Westbrook found in its structural analysis of the Dock that portions, including the chutes, timber approaches, and appurtenances, are in severely deteriorated condition and pose an imminent threat to public health and safety, thereby requiring the immediate salvage or stabilization of these items.

Second, in a letter dated January 17, 2007, the Wisconsin Department of Natural Resources (WIDNR) stated that the feasibility study outlines several “Potential Safety Concerns.” WIDNR acknowledged that WCL has taken steps to address some of these concerns, but believes that the overall condition of the Dock warrants a timely review to assure the protection of the public and the surrounding resources.

Third, in a September 14, 2007 telephone call with Troy Brady of SEA, Ms. Katry Harris, Advisory Council on Historic Preservation (Council), indicated that, in the Council’s view, it is appropriate that those portions of the Dock identified by Westbrook as presenting a safety hazard be salvaged or stabilized as soon as possible to prevent possible injury to the public or damage to the Dock or surrounding resources. Ms. Harris further stated that WCL should determine if the Historic American Building Survey and Historic American Engineering Record (HABS/HAER) documentation could be safely conducted without removing the unsafe portions of the Dock. If WCL should determine that HABS/HAER could not be safely completed until after the Dock has been rendered safe, WCL should take the appropriate steps to make the Dock safe, then conduct HABS/HAER documentation on the remaining portions of the structure.

Fourth, in a letter dated October 19, 2007, WCL requested that the Board modify the section 106 condition to allow for the immediate salvage of the chutes, appurtenances and remaining timber approach. According to WCL, these items have been identified by the Westbrook feasibility study as unsafe and should be removed promptly.

Fifth, in a letter dated November 9, 2007, Mr. Edward Monroe, Mayor, City of Ashland, WI (City), asked that the Board consider modifying the conditions of the abandonment proceeding to allow for the removal of the attachments and appurtenances of the concrete structure. The City also requested that, if the section 106 condition is modified, WCL and its contractors maintain certain components such as several chutes, light towers, etc., for transfer to the City along with the base of the Dock for reuse as the park/fishing pier.

Finally, in a letter dated November 15, 2007, WIDNR voiced concerns about the safety and structural stability of the Dock based on Westbrook’s November 2006 analysis and added that the City, in a letter to the Board dated September 25, 2005, voiced similar concerns. WIDNR further noted that there are reports of concrete pieces of the Dock falling on the U.S. Geological Survey research vessel previously moored adjacent to the Dock. Therefore, WIDNR requested that the section 106 process be expedited so that the aforementioned safety issues can be addressed as quickly as possible.

Based on the information provided, SEA recommends that condition no. 5 imposed in the April 28, 2006 decision be modified to allow WCL to salvage and/or secure the portions of the Dock identified by Westbrook in its feasibility study (i.e., chutes, timber approaches, and appurtenances) as being in a severely deteriorated condition. Therefore, SEA recommends that condition no. 5 be modified as follows:

WCL shall retain its interest in 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. Based on the feasibility study prepared for the Wisconsin Department of Administration by Westbrook Associated Engineers, Inc., WCL shall take such steps as are necessary to protect the public health and safety by removing and/or stabilizing as necessary those portions of the Dock identified as being in a severely deteriorated condition. WCL shall not consummate the abandonment of the Dock or initiate any salvage activities related thereto until the Board removes this condition.

Accordingly, the proceeding will be reopened, and the previously imposed historic preservation condition will be modified as recommended by SEA.¹ As modified here, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the section 106 historic preservation condition (condition no. 5) imposed in the April 28, 2006 decision is modified as follows: WCL shall retain its interest in 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. Based on the feasibility study prepared for the Wisconsin Department of Administration by Westbrook Associated Engineers, Inc., WCL shall take such steps as are necessary to protect the public health and safety by removing and/or stabilizing as necessary those portions of the Dock identified as being in a severely deteriorated condition. WCL shall not consummate the abandonment of the Dock or initiate any salvage activities related thereto until the Board removes this condition.
3. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary

¹ Environmental condition no. 6 has been satisfied; the other four environmental conditions imposed in the April 28 decision remain in effect.