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August 13, 2004

By UPS overnight mail
(Monday delivery)

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

Re: Docket No. AB-303 (Sub-No. 27), *Wisconsin Central Ltd. -- Abandonment -- in Ozaukee, Sheboygan and Manitowoc Counties, WI*

Dear Mr. Williams:

Enclosed please find an original and 10 copies of Statement In Partial Opposition To Abandonment Application, for filing with the Board in the above referenced matter.

Kindly acknowledge receipt by date stamping the enclosed duplicate copy of this letter and return in the self-addressed stamped envelope.

Very truly yours,

Thomas F. McFarland
Attorney for Plymouth Line Shippers

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211803
ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

WISCONSIN CENTRAL LTD. --
ABANDONMENT -- IN OZAUKEE,
SHEBOYGAN AND MANITOWOC
COUNTIES, WI

)
) DOCKET NO. AB-303
) (SUB-NO. 27)
)



STATEMENT IN PARTIAL OPPOSITION
TO ABANDONMENT APPLICATION

ADELL COOPERATIVE
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Adell, WI 53001

KETTLE LAKES COOPERATIVE
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Cedar Grove, WI 53013-0285

NEUENS FREDONIA LUMBER COMPANY
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Fredonia, WI 53021

LAKESIDE FOODS, INC.
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Random Lake, WI 53075

GLACIER TRANSIT & STORAGE, INC.
P.O. Box 378
Plymouth, WI 53073-0378

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AUG 16 2004

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Public Record

Protestants

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DUE DATE: August 16, 2004

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BEFORE THE
SURFACE TRANSPORTATION BOARD

WISCONSIN CENTRAL LTD. --	)	
ABANDONMENT -- IN OZAUKEE,	)	DOCKET NO. AB-303
SHEBOYGAN AND MANITOWOC	)	(SUB-NO. 27)
COUNTIES, WI	)	

**STATEMENT IN PARTIAL OPPOSITION
TO ABANDONMENT APPLICATION**

Pursuant to the Board's procedural decision served July 20, 2004, ADELL
COOPERATIVE; KETTLE LAKES COOPERATIVE; LAKESIDE FOODS, INC.; NEUENS
FREDONIA LUMBER COMPANY; and GLACIER TRANSIT & STORAGE, referred to
collectively as "Plymouth Line Shippers," hereby submit this Statement in Partial Opposition to
Abandonment Application.

STATEMENT OF POSITION

The Plymouth Line Shippers oppose abandonment only as to the active line segment
between Saukville (Milepost 114.8) and Waldo, WI (Milepost 135.0), a distance of 20.2 miles.
That segment will be referred to as the "Waldo Segment". The Plymouth Line Shippers do not
oppose abandonment of the 16.8-mile segment between Waldo and Kiel, WI, which is out-of-
service.

The Plymouth Line Shippers submit the following in support of their position.

ARGUMENT

I. APPLICANT HAS THE BURDEN OF PROOF

In accordance with the decision in *Indiana Sugars, Inc. v. ICC*, 694 F.2d 1098 (7th Cir. 1982), WC has the burden to prove that public convenience and necessity permit abandonment of the Waldo Segment, notwithstanding that it constitutes less than the full length of rail line proposed for abandonment. In that case, Indiana Sugars sought partial denial of abandonment of a 7-mile segment of a 42.89-mile rail line. There was no opposition to abandonment of the remaining 35.89 miles of track. In holding that the ICC erred in assigning the burden of proof to Indiana Sugars as to the 7-mile segment, the Court said (at 1102):

The rule of thumb that if an applicant proves his case for abandonment of X miles of road, he has thereby *eo ipso* also proved the justification for abandonment of the lesser included distance of X-Y miles, is nothing more than a mathematical rule of logic. If in fact the relevant properties of X and Y differ substantially (like apples and oranges) a more precise consideration of the specific issues involved may be required in order to develop a record sufficient to support, as a matter of law, a reasonable and well-informed decision. It would be error of law in such a case to hold that the burden of proof rests upon the protestant, although that formulation might suffice to explain the results in many run of mine cases. But the ultimate burden of proof has been placed unmistakably upon the applicant by Congress.

Accord: Buffalo & Pittsburgh R., Inc. -- Aband. Exempt. -- in Erie and Cattaraugus Counties, NY, 1998 STB LEXIS 247 at *14-15 (Docket No. AB-369 [Sub-No. 3X], decision served Sept. 18, 1998).

The case for assigning the burden of proof to the applicant as to the Waldo Segment is even stronger than in the *Indiana Sugars* case. Applicant Wisconsin Central, Ltd. (WC) treats the Waldo Segment as an operating unit entirely distinct from the remainder of the rail line sought to be abandoned. Indeed, the remainder of the rail line is not operated at all, being out of

service. All revenues in the application are attributable to the Waldo Segment. All of the costs in the application are attributable to the Waldo Segment except some track maintenance costs that were allocated to the inactive Waldo-Kiel segment, and which are easily segregated. Without question, the relevant properties of the Waldo Segment on the one hand, and the remainder of the rail line on the other, “differ substantially (like apples and oranges)”, to use the Court’s phrasing in *Indiana Sugars*. Consequently, WC has the burden of proof as to abandonment of the Waldo Segment.

II. APPLICANT FAILED TO SUSTAIN ITS BURDEN OF PROOF THAT PUBLIC CONVENIENCE AND NECESSITY PERMIT ABANDONMENT OF THE WALDO SEGMENT

A carrier may abandon a rail line only if the Board finds that the present or future public convenience and necessity require or permit the abandonment. 49 U.S.C. § 10903(d). In determining whether that finding can be made, the Board is to weigh harm to the applicant rail carrier and to interstate commerce from a requirement of continued operation of the rail line against harm to local interests that would result from abandonment of the line. *Colorado v. United States*, 271 U.S. 153, 168-169 (1926). As the party with the burden of proof, the applicant rail carrier must first establish that continued operation of the line would be harmful in some respect. Otherwise, the abandonment is required to be denied because there would be no harm to the carrier or interstate commerce to weigh against harm to local interests.

Harm to a rail carrier from continued operation of a rail line can take one or more of three forms: (1) a forecast year operating loss; (2) a cost for track or bridge rehabilitation that cannot be amortized from operating profits within a reasonable period of time; and (3) a forecast year economic loss. The abandonment application is required to be denied as to the Waldo Segment

because the applicant rail carrier failed to sustain its burden to prove the existence of any form of harm from continued operation.

A. APPLICANT FAILED TO PROVE A FORECAST YEAR OPERATING LOSS

No finding is possible that continued operation of the rail line in the forecast year would result in an avoidable operating loss because WC failed to provide proof of revenues and costs in the following respects.

1. Attributable Revenues

(a) Failure to credit the line with CN system revenues

It is a settled principle of law that “family-line” or “system” revenues are required to be taken into account in the determination of operating results in rail abandonment cases. *See, e.g., Baltimore & O. R. Co. Abandonment*, 360 I.C.C. 681, 682 (1980) (“System line revenue and costs attributable to this line are necessary to demonstrate the impact of a proposed abandonment on the railroad’s net operating income”). *Accord: Dept. of Pub. Serv. Reg., Mont. v. United States*, 344 F.Supp. 1386, 1389 (1972) (“The plaintiffs have established that they have been prejudiced by [failure to consider system revenues] because evidence of the effect of the merger may have significant effect upon the financial conclusions drawn by the Commission”); *Black v. ICC*, 737 F.2d 643, 655 (7th Cir. 1984); and *People of State of Ill. v. United States*, 666 F.2d 1066, 1081 (7th Cir. 1981).

It is acknowledged in the abandonment application that Canadian National Railway Company (CN) acquired control of WC in 2001 (Applic., Vol. 1 at 7). Consequently, revenues

earned by CN on shipments to or from the WC rail line at issue are system revenues that are required to be taken into account in the determination of the results of operating the rail line.

Contrary to that legal principle, WC did not credit the rail line with substantial CN revenues for transportation performed on traffic to or from the rail line at issue. On shipments originating on CN in Canada, WC excluded the revenues earned by CN for transporting those shipments in Canada; WC credited the line only with revenues for those shipments earned in the United States, i.e., from the border point at Duluth Junction, Ontario to points on the involved rail line (Applic., Vol 1 at 172-174). WC's financial witness appears to be under the impression that there is a Board abandonment regulation that requires that such revenues be excluded to the extent that they were earned in Canada. That witness stated (Applic., Vol. 1 at 55):

... For traffic that moved on CN rail lines in both the United States and Canada, it was necessary to calculate what portion of the CN line-haul revenues associated with such cross-border movements was attributable to US operations and thus included in the presentation of revenues and costs required by the Board's abandonment regulations ...

There is no such Board regulation. Any such regulation would be patently invalid as inconsistent with the legal principle requiring inclusion of system revenues in determining operating results. Any difficulty in determining off-branch costs for transportation in Canada cannot justify disregard of that principle. Off-branch costs in Canada can be reasonably estimated in any number of ways, including in the same proportion as off-branch costs are to attributable revenues on shipments in the United States, or based on CN's operating ratio. It follows that WC failed to sustain its burden of proof when it failed to credit the rail line at issue with substantial CN revenues for transportation performed on traffic to or from the rail line.

Omission of those revenues has a material effect on the financial results of operating the rail line. Exhibit A of the application shows the following ranges of base year revenues actually credited to the rail line on traffic originated on CN in Canada (Applic., Vol. 1 at 79-80):

Traffic	Cars	Range of Per Car Revenues
Fertilizer materials, Saskatchewan to Adell	16	\$1,123 to \$1,372
Fertilizer materials, Manitoba to Adell	8	\$550 to \$567 ^u
Forest products, Alberta to Fredonia	3	\$984 to \$1,537
Forest products, British Columbia to Fredonia	3	\$1,182 to \$1,224
Fertilizer materials, Saskatchewan to Random Lake	21	\$1,508 to \$1,759
TOTAL	51	

^u disregards one carload with revenue of \$1,688.

At the request of Adell Cooperative and Kettle Lakes, the companies who supply fertilizer materials from Canada have advised that the freight rates for shipments of potash and urea from points on CN in Saskatchewan, Canada to points on the Plymouth Line are between \$40 and \$43 per ton. (Opposition Statement, Tab 1 at 1, Tab 2 at 1). At the customary load of 100 tons per car, that results in revenues of \$4,000 to \$4,300 per car on shipments from Saskatchewan to Adell Cooperative and Kettle Lakes. Those revenues accrue solely to CN and WC. Because of CN's ownership of WC, those revenues in effect go into the same pocket. It is thus evident that large amounts of CN revenues on fertilizer materials were improperly omitted from revenues attributable to the Waldo Segment, i.e., an average of about \$2,900 per car on the

37 carloads that WC acknowledged as having moved from Saskatchewan to Adell and Random Lake in 2003.

Similarly, at the request of Neuens Lumber, its suppliers of forest products have advised that the freight rates for shipments of forest products from points on CN in British Columbia and Alberta, Canada to Fredonia average \$55 per 1,000 board feet. (Opposition Statement, Tab 4 at 1). At the customary load of 120,000 board feet per car, that produces revenues of \$6,600 per car on shipments from those Canadian Provinces to Fredonia. Those revenues accrue solely to CN-WC. It is thus evident that large amounts of CN revenues on forest products were improperly omitted from revenues attributable to the Waldo Segment, i.e., approximately \$5,250 per car on 6 carloads received by Neuens Lumber in 2003.

But even those substantial omissions of revenues do not tell the whole story. The records of Adell Cooperative and Kettle Lakes, confirmed by the records of their suppliers, show that those two companies purchased a total of 80 carloads of fertilizer materials from points on CN in Saskatchewan, Canada in 2003 (45 carloads by Adell Cooperative and 35 carloads by Kettle Lakes). (Opposition Statement, Tab 1 at 1, Tab 2 at 1). That is 43 more carloads from CN points in Saskatchewan in 2003 than appear in the abandonment application. At average revenues per car of about \$4,150, that constitutes a huge additional omission of revenues attributable to the Waldo Segment.

The abandonment application lists eight cars of fertilizer in 2003 as having been delivered to Adell Cooperative at Adell from a point on CN in Manitoba. (Applic., Vol. 1 at 79). The CN revenues on those cars from Manitoba to the United States border are yet another instance of improper omission of revenues that are attributable to the Waldo Segment. But Adell

Cooperative did not purchase any fertilizer from Manitoba in 2003. (Opposition Statement, Tab 1 at 1-2). That is a strong indication that the point in Manitoba was a distribution point for “fan cars.” Fertilizer moves in trainload or multiple-car quantities from Saskatchewan to distribution points in Canada or the United States, from which it is “fanned out” in lesser-volume quantities (often single cars) to local dealers such as Adell Cooperative. (*Id.*). Only the revenues from the portion of the outbound transportation that took place in the United States were credited to the Waldo Segment. However, all of the CN revenues on fan cars into and out of the distribution point in Manitoba are attributable revenues that should have been credited to the Waldo Segment.

Revenues attributable to the Waldo Segment in the forecast year were thus massively understated. In a response to discovery, WC acknowledged omission of \$90,925 in CN revenues for transportation in Canada in the base year. That seems low in light of the average freight charges and partial credits on Canadian traffic set out above. But even if correct, that figure is only for the 51 Canadian carloads that appear in the abandonment application. That revenue shortfall does not take into account the 43 additional carloads from Saskatchewan, Canada in the base year identified by Adell Cooperative and Kettle Lakes, for which there does not appear to have been any partial credit. The upshot is that it appears likely that WC omitted as much or more revenues on Waldo Segment traffic than were actually credited to the Segment. On that basis alone, a finding is dictated that WC failed to sustain its burden of proof on forecast year operating results.

(b) Failure to credit the line with revenues from increased forecast year traffic

The forecast year revenues put forth by WC are based on the same traffic volume and mix as in the base year, with a 2-percent rate increase effective July 1, 2004. (Applic., Vol. 1 at 4-5; *id* at 77, note 2).

It may be reasonable as a general practice to predicate forecast year traffic on base year traffic. However, that is not so when specific evidence exists that forecast year traffic volume will differ from base year traffic volume. WC's own evidence shows that to be the case for Lakeside Foods, Inc. Exhibit 5 of the application shows that Lakeside received 14 carloads by rail in the first four months of 2004, compared to only 5 carloads during all of the 2003 base year. (Applic., Vol. 1 at 29). At a minimum, that evidence supports a forecast year traffic volume of 14 cars for Lakeside. That is confirmed in Lakeside's evidence, which shows that a recent acquisition of part ownership of another company will more than double Lakeside's rail traffic volume. (Opposition Statement, Tab 3 at 1). Therefore, WC should have credited the Waldo Segment with revenues from 14 carloads for Lakeside in the forecast year instead of 5 carloads.

The same is true for Glacier Transit & Storage (Glacier). Glacier's evidence shows that during the first seven months of 2004, it received 15 carloads by rail at Waldo, compared to 10 carloads during all of the 2003 base year. (Opposition Statement, Tab 5 at 1). At a minimum, that evidence supports a forecast year traffic volume of 15 carloads for Glacier. Therefore, WC should have credited the Waldo Segment with revenues from 15 carloads in the forecast year instead of 10 carloads.

The understatements of forecast year revenues for Lakeside and Glacier add to the huge understatement of revenues due to the omission of large amounts of CN system revenues. Those revenue omissions for increased forecast year traffic underscore WC's failure to sustain its burden of proof to establish harm in the form of a forecast year operating loss.

2. Avoidable Costs

(a) Maintenance of Way

(i) Normalized maintenance

WC charged the rail line with a cost of \$100,048 for normalized maintenance in the forecast year based on a crosstie replacement program (\$70,270) and a surfacing program (\$29,778) designed to maintain FRA Class I standards on the rail line. (Applic., Vol. 1 at 62, 225). For the reasons stated below, that cost is largely unsubstantiated and patently overstated.

The first 3.9 miles of the rail line at its south end between Milepost Nos. 114.8 and 118.7 do not require those crosstie replacement and surfacing programs because that 3.9-mile segment is currently in superior FRA Class III condition. (Applic., Vol. 1 at 6). The Board and its predecessor have stated that normalized maintenance costs for FRA Class I compliance are not to be charged in regard to trackage currently in FRA Class III condition. *See, e.g., Union Pacific R. Co. Abandonment - Wallace Branch, ID*, 9 I.C.C.2d 325, 373 (1992) ("We believe that Mr. Johnson is correct in stating that UP's approach of adding ties by means of a normalized maintenance program to maintain a line that is currently at FRA Class III standards would result in additional maintenance exceeding that required on the line," emphasis in original).

The normalized maintenance costs for the 16.8-mile segment between Waldo and Kiel are also to be eliminated because that segment is not involved in the Plymouth Shippers'

opposition. Therefore, normalized maintenance costs are appropriate only for the 16.3-mile portion of the Waldo Segment between Milepost Nos. 118.7 and 135.0.

We have no quarrel with the annual crosstie replacement rate of 27 ties per mile in WC's evidence. (Applic., Vol. 1 at 225). However, on that basis, normalized crosstie replacement cost for the 16.3-mile portion of the Waldo Segment would be only \$30,957, which is less than half of the crosstie replacement cost in WC's evidence.

There is no support anywhere in WC's evidence or workpapers for the 5-year cycle for track surfacing used by WC. That unsupported cycle should be disallowed as unsubstantiated.^{1/} However, even using the unsubstantiated 5-year cycle, normalized surfacing cost for the 16.3-mile portion of the Waldo Segment would be only \$13,118 , which is less than one-half of the surfacing cost in WC's evidence.

WC's costs for normalized surfacing should be disallowed for the reasons stated, but even if they were to be considered, total normalized maintenance costs would amount to only \$44,075 in the forecast year, which is some \$55,000 less than the normalized costs in WC's evidence.

(ii) Routine maintenance

WC charged the line with \$61,486 in forecast year costs for "routine track maintenance" and "grade crossing signal maintenance" in addition to normalized costs for crosstie replacement

^{1/} WC should not be permitted to attempt to support that cycle in its rebuttal statement. WC was required to file its entire case-in-chief along with its abandonment application. The cycle for track surfacing is part of WC's case-in-chief. Attempted support for that cycle would be unjustifiably insulated from reply by protestants if it were to be permitted to be filed in WC's rebuttal. That would not be fair procedure. See *Malone Freight Lines, Inc. v. United States*, 204 F.Supp. 745, 755 (ND, Ala., SD, 1962) ("We hold that such evidence was not in rebuttal of any statements but served merely to aid plaintiff's case in chief after its deficiencies had been pointed out by protestants.").

and surfacing. (Applic., Vol. 1 at 93-94). Those costs are allegedly based on actual maintenance costs on the Waldo Segment in the base year, but there was no showing that any of those costs were actually incurred on the Waldo Segment.

The labor costs for routine maintenance (\$19,459 in the base year) are based on an allocation of the wages of two trackmen who maintain the West Bend Subdivision and the southern end of the Plymouth Subdivision in addition to the Waldo Segment. (Applic., Vol. 1 at 226). The Waldo Segment constitutes 35 percent of the total miles that they maintain. In assigning a portion of their wages to the Waldo Segment, WC applied a discount of 50 percent to a mileage proration of costs, so that 17.5 percent of their wages were assignable to the Waldo Segment. (*Ibid*). (35 percent x .5 = 17.5 percent). However, there is no evidentiary support for even that reduced cost. It is unlikely that this maintenance crew spent any appreciable time on the Waldo Segment in view of its extensive deferred maintenance. In the absence of essential supporting evidence, these labor costs (and the fringe benefits applied to them) should be disallowed.

Material costs for routine maintenance (\$1,123 in the base year) were based strictly on a mileage prorate of Waldo Segment miles to total Plymouth Subdivision miles as applied to total Plymouth Subdivision costs for rail, ties and ballast. (Applic., Vol. 1 at 226). Here, too, support is lacking for that allocation. According to WC itself, the Waldo Segment has not seen crosstie replacement or ballast application in surfacing in 15 to 20 years. (Applic., Vol. at 5). It is not reasonable to assume that the Waldo Segment, which has been the poor stepchild of the Plymouth Subdivision in terms of crosstie replacement and surfacing, would have received a proportionate allocation of Plymouth Subdivision rail, ties and ballast in the base year.

Labor costs for signal maintenance (\$32,255 in the base year) were based on a proportion of “work units” for signal devices on the Waldo Segment in relation to total “work units” on all signals assigned to two WC signalmen. (Applic., Vol. 1 at 226). That allocation is both unsupported and unexplained. There was no explanation of what a “work unit” consists of, nor how it reasonably relates to time spent maintaining signals. Moreover, the costs associated with “Signalman 1” listed by WC on page 226 of Volume 1 of the application do not apply to the Waldo Segment because that person does not maintain any signals on the Waldo Segment (his territory does not encompass any part of the Waldo Segment).

Material costs for signal maintenance (\$6,000 in the base year) were based on a wholly unexplained and unsupported estimate by an unidentified local signal supervisor. (Applic., Vol. 1 at 226). As far as appears in the record, that cost may have been plucked out of thin air. It should be rejected as unsubstantiated.

These kinds of unsupported, arbitrary allocations of maintenance costs fall far short of the actual costs required by 49 C.F.R. § 1152.32(a). The costs for routine track maintenance and signal maintenance posited by WC should be rejected on that basis.

(b) Maintenance of Equipment

The cost component in this category for locomotive depreciation (\$1,786 in the base year) is based in part on 406 locomotive unit hours on branch in the base year. (Applic., Vol. 1 at 125). That number of hours consists of 354.9 hours for locomotive movement over the Segment, based on 3,549 round-trip miles at 10 m.p.h. ($3,549 \div 10$), plus 51 hours for train time serving shippers, based on one-half hour for each of 102 trains in the base year. ($102 \times .5$) (Applic., Vol. 1 at 218). ($355 + 51 = 406$).

However, CN's evidence provides support for the movement of only 100 trains over the Waldo Segment in the base year. (Applic., Vol. 1 at 113). Those 100 trains moved a total of 1739.7 one-way miles over the Waldo Segment (*id.* at 218), or 3,479 round-trip miles. At 10 m.p.h., that equates to 348 hours, plus 50 hours for serving shippers, equals 398 locomotive unit hours. That is the correct number of hours for use in calculating costs for locomotive depreciation, as well as for costs in other categories based on locomotive time on branch, such as costs for locomotive fuel and locomotive return on value.

(c) **Transportation**

(i) **Crew Wages and Fringe Benefits**

WC charged the Waldo Segment with nearly \$50,000 in forecast year costs for train crew wages and fringe benefits. (Applic., Vol. 1 at 94, 104, 281). Those costs are substantially overstated.

First, the crew wages are based on 102 train trips in the base year. (Applic., Vol. 1 at 104). Only 100 base year train trips are substantiated in CN's evidence. (*Id.* at 113).

Secondly, the wages have been increased by 10.9 percent for additives for vacation and statutory holidays and personal days in addition to fringe benefits. (Applic., Vol. 1 at 281). However, the benefit of those additives will continue to be enjoyed by the train crew members in the same total number of days without regard to whether or not the Waldo Segment is abandoned. Consequently, the dollar amounts associated with these additives are not avoidable costs of abandonment of the Waldo Segment.

Thirdly, WC has improperly charged the Waldo Segment with the full amount of the train crew's costs for overtime. The train crew incurred overtime as a result of the totality of its daily

assignment, not solely because it served the Waldo Segment. The crew provides extensive service south of the Waldo Segment on days that it serves the Segment. (Applic., Vol. 2 at 4-5). The train crew's overtime costs should be equitably allocated to all of the trackage served by the crew.

Fourthly, the overtime costs are unsubstantiated in any event. WC's own evidence shows that the train did not serve the Waldo Segment on 10 of the 30 train trips used in WC's sample (*compare* Applic., Vol. 1 at 105 with *id.* at 130). Those 10 train trips occurred on Sept. 2, 3 and 11 (two trips); Nov. 12; and Dec. 2, 5, 8, 9 and 23.

(ii) Locomotive Fuel

The cost for locomotive fuel assigned to the line by WC is overstated because it is based on 406 locomotive unit hours on branch. The correct number of hours is 398. (*See* Maintenance of Equipment, *supra*).

(d) Cost for Taxis

WC has charged the line with costs of \$6,253 for taxis in the forecast year. (Applic., Vol. 1 at 95, 140).

As in the case of overtime costs for the train crew, costs for taxis should be equitably allocated over all of the trackage served by the train crew. That is required because the taxi costs are incurred as a result of the totality of the work provided on all of the trackage served by the crew, not solely as a result of the service performed on the Waldo Segment.

The taxi costs assigned by WC are not substantiated in any event. WC's own records show that of the 37 instances of taxi expense in WC's sample at page 140 of Volume 1 of the application, 16 occurred on dates on which the train did not provide service on the Waldo

Segment. (Compare Applic. Vol. 1 at 140 with *id.* at 113). The 16 days listed on page 140 on which the train did not serve the Segment are Aug. 19, Aug. 25 (three entries), Sept. 2, Sept. 4, Sept. 11 (three entries), Nov. 11, Nov. 13, Nov. 20, Dec. 2, Dec. 9, Dec. 16 and Dec. 23. WC's evidence of taxi costs is not credible because the records on which those costs are based include substantial train trips that did not involve transportation on the Waldo Segment.

In addition, WC extrapolated the costs from the sample to the full base year on the basis of 102 train trips. (Applic., Vol. 1 at 140). As noted, WC's workpapers provide substantiation for only 100 train trips.

(e) Return on Value - Locomotives

WC's costs for locomotive return on value are overstated because they are based on 406 locomotive unit hours on branch. (Applic., Vol. 1 at 129). The correct number of hours is 398, as previously explained.

(f) Return on Value, Freight Cars - On-Branch and Off-Branch

WC charged the rail line with a total of \$7,567 in forecast year freight car ownership costs in on-branch and off-branch costs. (Applic., Vol. 1 at 76, lines 5i and 6b.

Freight car ownership costs are incurred by WC only on cars owned by WC or a rail carrier in its system. However, it appears from WC's evidence that WC charged the line with freight car ownership costs over 100 freight cars owned by rail carriers who are not affiliated with WC in any manner. (Applic., Vol. 1 at 219-221) (e.g., car initials CSXT, UP, NS, etc.). Those costs were not properly charged as avoidable costs of operating the Waldo Segment. *Seaboard System Railroad, Inc. -- Abandonment in Lawrence County, TN and Lauderdale County, AL*, 1985 ICC LEXIS 547 at *15 (Docket No. AB-55 [Sub-No. 121], decision served

March 12, 1985). (“If in fact, Seaboard’s freight car cost is partially based on the return on investment for the depreciated replacement value for foreign-owned cars of other railroads, IMC’s argument [that such costs are not avoidable costs] has merit.”). WC’s costs for return on value of freight cars, on and off branch, are overstated as a result of that inappropriate assignment of costs.

(g) **Summary**

As is evident from the foregoing, the forecast year revenues and costs in WC’s evidence are replete with inappropriate material omissions and entries. For that reason, WC’s evidence does not provide support for a finding that there would be an avoidable loss from operating the Waldo Segment in the forecast year. No conclusion is possible, therefore, that WC would be harmed from a requirement of continued operation of the Segment in the form of a forecast year operating loss.

B. APPLICANT FAILED TO PROVE A NEED FOR TRACK REHABILITATION

The track rehabilitation costs in WC’s evidence do not comply with Board abandonment regulations. An applicant claiming a need for track rehabilitation is required to indicate the level of FRA class safety standard to be obtained with the amount of the expenditure. 49 C.F.R. § 1152.32(m)(1). Rehabilitation costs can be charged to a line only to the extent that rehabilitation is shown to be required to meet that FRA standard.

WC did not state the FRA standard to be obtained by virtue of the rehabilitation that it claims to be required. Except between Milepost Nos. 114.8 and 118.7, which is in FRA Class III condition and for which no rehabilitation is claimed, the Waldo Segment is in FRA “excepted”

status. (Applic., Vol. 2 at 36). The FRA standard to be obtained by any rehabilitation of excepted track is the FRA Class I standard. Consequently, rehabilitation of the Waldo Segment is cognizable only to the extent that it is shown to be required to achieve compliance with minimum FRA Class I track safety standards. See, e.g., *Baltimore & Ohio R. Co. Abandonment*, 354 I.C.C. 67, 72 (1977) (“... (A)ppliant’s assertions that meeting any set FRA standard is not and should not be the goal of rehabilitation and maintenance might be defensible from a strictly commercial viewpoint; the railroad desires to avoid costly service failures, which would be far more likely to occur if a ‘minimal maintenance’ program were followed than if the line were rehabilitated to the extent that day-to-day inspection and maintenance would not be required. However, the B&O’s desire to rehabilitate to a particular level cannot govern where, as here, more broadly based considerations of public convenience and necessity are paramount . . . (emphasis added).

In simplified terms, track rehabilitation is required to be based on objective FRA track safety standards, not on subjective notions of “good engineering practice.” WC’s track rehabilitation costs are unacceptable because they are based on the latter criterion rather than the former.

1. Crossties

WC’s rehabilitation costs for crossties are based on replacement of every tie under every rail joint in the line, plus crosstie replacement to a level at which there would be no more than 1,054 defective crossties per mile. (Applic., Vol. 2 at 39-40, 52-53).

FRA Class I track standards require that each rail joint have a nondefective tie beneath it within 24 inches of the joint. 49 C.F.R. § 213.109(b). The problem with WC’s evidence is that it does not provide support for a finding that any tie under any joint in the rail line is defective,

let alone that every tie under every joint is defective, as apparently claimed (a total of 5,086 ties in the 16.3-mile excepted track in the Waldo Segment). The evidence of defective ties in the application is not directed at the condition of ties under rail joints. (Applic., Vol. 2 at 52-53). There is simply no evidence that any crosstie under any rail joint in this rail line requires replacement.

There is no requirement under FRA Class I track standards that at least 1,054 ties per mile be nondefective. FRA Class I track standards provide for minimum numbers of nondefective ties per 39-foot track segment, not per mile. (See 49 C.F.R. § 213.109(b)). According to WC, the crosstie replacement in its track rehabilitation program would result in at least 75 percent nondefective ties in every mile. (Applic., Vol. 2 at 40). It is clear that such level of nondefective ties would greatly exceed FRA Class I track standards, which provide for roughly 30 percent non-defective ties per 39-foot track segment (i.e., 6 nondefective ties out of 20 total ties). In that respect, WC' evidence supports a finding that crosstie rehabilitation is not required. (Applic., Vol. 2 at 38).

In sum, the costs for crosstie replacement in the track rehabilitation posited by WC are not entitled to consideration by the Board because of the absence of evidentiary support for the proposed crosstie replacements under rail joints, and because of the excessive nature in relation to the FRA Class I standard of the proposed crosstie replacements to achieve no more than 1,054 defective crossties per mile.

2. Rail

WC itself acknowledges that the extensive rehabilitation costs that it has posited for rail replacement would address rail conditions that “do() not require immediate removal under FRA

Track Safety Standards.” (Applic., Vol. 2 at 40). Enough said. WC argues for a more liberal standard for rail removal, but the Board is bound to adhere to its own abandonment regulations. Consequently, the costs posited by WC for rail replacement in track rehabilitation cannot be given consideration in this proceeding.

3. Surfacing

The costs posited by WC for surfacing in rehabilitation reflect the application of three carloads of ballast per mile (276 tons) on every mile of the rail line. (Applic., Vol. 2 at 54).

That surfacing is entirely unrelated to FRA Class I track standards, which recognize the need for surfacing to rectify specific conditions of excessively wide gage or misalignment. *See* 49 C.F.R. §§ 213.53, 213.55. There is no evidence in WC’s application or workpapers of any location on the Waldo Segment at which gage or alinement conditions deviate from FRA Class I track standards, let alone that gage or alinement is in noncompliance with those standards throughout the length of that Segment.

Instead, WC has attempted to justify its costs for surfacing on the grounds that the line has not been surfaced for nearly 15 years, and that it would be more economic to surface the entire rail line in conjunction with the extensive crosstie replacements that it proposes than to perform spot surfacing as needed. (Applic., Vol. 2 at 38-40). It is sufficient to state in response that FRA Class I track standards for surfacing are not based on either the length of time since prior surfacing or the relative economy of systematic vis-a-vis spot surfacing.

In sum, WC has failed to relate its costs for surfacing in rehabilitation to FRA Class I track standards, and for that reason such costs are not entitled to consideration in this proceeding.

4. Road Crossings

FRA track safety standards do not govern the condition of road crossings. That is a reflection in part of the fact that in many instances the governmental agencies having jurisdiction over the highways or the streets have the obligation to maintain such road crossings in good repair. In many other instances, governmental funding is available for road crossing repair even though the rail carrier may have the maintenance obligation.

As to public road crossings, therefore, the initial inquiries are who has the obligation to maintain the crossing as between the government agency with jurisdiction and the rail carrier?, and are governmental funds available for crossing repair even if the rail carrier has the maintenance obligation? The inquiry is similar as to private crossings: what does the private crossing agreement provide regarding the obligation to keep the crossing in good repair? WC's evidence is silent on those critical inquiries, and for that reason alone, its costs for road crossing repair in rehabilitation cannot be charged against the rail line.

Even if WC had proven a maintenance obligation on its part in regard to particular road crossings on the line, there is insufficient WC evidence to determine whether or not any particular crossing requires renewal from the standpoint of rail or motorized safety. WC's road crossing exhibit merely states "renew" (or "OK") as to each crossing without any identification nor explanation of specific conditions at the crossing assertedly requiring crossing renewal. (Applic., Vol. 2 at 89-91). There is no rational basis for assigning thousands of dollars of road crossing repair costs against the rail line on the basis of that purely subjective and unexplained asserted need for crossing renewal.

In addition, there is no evidentiary support whatever for WC's unit costs for road crossing renewal. WC's witness simply put forth unit costs for such renewal without any identification, explanation nor justification. (Applic., Vol. 2 at 42). That is not acceptable to sustain WC's burden of proof.

Based on the foregoing defects in WC's evidence individually and collectively, the road crossing renewal costs in WC's application are not entitled to consideration in this proceeding.

C. APPLICANT FAILED TO PROVE AN ECONOMIC LOSS

Inasmuch as a forecast year operating result is an essential element in the determination of whether operating results would provide a cost-of-capital return on the net liquidation value of the rail line assets (i.e., whether there would be an economic loss), it follows that where, as here, a rail carrier's evidence is insufficient to permit determination of the forecast year operating result, such evidence by definition is also insufficient to permit determination of whether or not there would be an economic loss. Consequently, in failing to provide adequate proof of a forecast year operating loss, WC also failed to provide proof of an economic loss.

Even if WC had proven the existence of an economic loss, there is extensive authority that an economic loss alone will not justify an abandonment where there is evidence of serious harm to local interests from loss of rail service. *Southern Pacific Transp. Co. v. ICC*, 871 F.2d 838, 843 (9th Cir. 1989), quoting from *Cartersville Elevator, Inc. v. ICC*, 724 F.2d 668, 675 (8th Cir. 1984) ("... Merely because a railroad could earn greater revenue by investing its assets elsewhere does not mean that public convenience and necessity requires (sic) abandonment"). On a number of occasions, abandonment has been denied where harm to local interests from abandonment was found to outweigh an economic loss from continued operation. *See, e.g., The*

Toledo Terminal R. Co. -- Aband. -- between Temperance and Gould in Lucas County, OH, 1987 ICC LEXIS 37 at *14-15 (Docket No. AB-226 [Sub-No. 2], decision entered on Dec. 3, 1987); *Burlington Northern R. Co. -- Aband. -- in Morrison County, MN, 1985* ICC LEXIS 37 at *11-12 (Docket No. AB-6 [Sub-No. 253], decision entered Dec. 18, 1985) (“... (I)t is not necessarily in the public interest to permit abandonment of all branch lines that have opportunity costs that exceed operating profits. Before permitting such abandonment we must closely examine the impact on shippers and communities . . .”); *Burlington Northern R. Co. -- Aband. -- in Emmons and McIntosh Counties, ND and Campbell and McPherson Counties, SD, 1985* ICC LEXIS 331 at *34 (Docket No. AB-6 [Sub-No. 236], decision entered June 28, 1985).

As next appears, the serious adverse effect of abandonment on the Plymouth Line Shippers would outweigh an economic loss from continued operation, had such an economic loss been proven.

**D. HARM TO THE PLYMOUTH LINE SHIPPERS FROM ABANDONMENT
WOULD OUTWEIGH AN ECONOMIC LOSS FROM CONTINUED
OPERATION OF THE WALDO SEGMENT**

Each of the Plymouth Line Shippers would suffer serious harm from abandonment of the Waldo Segment. The increased freight charges and/or reduced profits that would result from loss of direct rail service are summarized for each shipper in the table below (*see* Tabs 1-5):

Shipper	Tab No.	Location	Increased Freight Charges/Reduced Profits Per Year
Adell Cooperative	1	Adell	\$ 62,120
Kettle Lakes Cooperative	2	Random Lake	\$ 51,600
Lakeside Foods	3	Random Lake	\$ 8,400
Neuens Fredonia Lumber	4	Fredonia	\$ 14,586
Glacier Transit	5	Waldo	\$ 8,400
TOTAL			\$ 145,106

The seriousness of those increased costs and reduced profits is best illustrated by consideration of the effect on Adell Cooperative. The increased freight charges that it would pay as a result of abandonment would reduce its net profits by 7 percent (based on 2003 profits). That loss of profit would have a serious adverse effect on Adell Cooperative's overall financial condition. (Tab 1 at 2-3).

By way of comparison, WC claims that a requirement of continued operation of the line would result in an economic loss of \$366,001 in the forecast year. (Applic., Vol. 1 at 76, line 18). WC has not provided evidentiary support for that claimed loss or any other loss, but even if it had done so, the percentage reduction of systemwide profit resulting from that loss would be much less than the 7-percent profit reduction that would be suffered by Adell Cooperative from abandonment. WC's parent company, CN, recently reported a record net profit of \$247 million for the second quarter of 2004. (Copy of article attached as Tab 6). On an annualized basis, CN's 2004 profit would amount to \$988 million. The maximum loss claimed but not proven by WC would constitute less than four-tenths of one percent of CN's annual profit.

On the basis of the foregoing, the Board should find that the harm that the Plymouth Line Shippers would suffer as a result of abandonment of the Waldo Segment would outweigh the maximum harm claimed (but not proven) by WC from continued operation. Abandonment of the Waldo Segment should be denied because WC did not sustain its burden to prove that continued operation of that Segment would be burdensome in any respect. Alternatively, abandonment should be denied because the harm to local interests from abandonment outweighs the harm claimed by WC (but not proven) as a result of continued operation.

E. CONCLUSION AND REQUESTED RELIEF

WC can proceed to abandon 16.8 miles of track between Waldo and Kiel, but abandonment of the Waldo Segment between Waldo and Saukville has not been shown to be economically nor physically warranted, so abandonment of that Segment should be denied.

The facts in regard to Waldo Segment revenues and costs are much different than alleged in the abandonment application. WC is shown to have massively understated revenues attributable to the Segment, and to have overstated avoidable costs in numerous categories. The net effect is that there is no evidentiary basis for a finding that operation of the Segment would result in a forecast year operating or economic loss.

Costs claimed by WC to be necessary for track rehabilitation have not been shown to be required for compliance with FRA Class I track safety standards, which apply when excepted track is proposed to be upgraded. Consequently, support is also lacking for a finding that continued operation would require an unrecoverable cost for track repairs.

The upshot is that WC failed to sustain its burden to prove that public convenience and necessity permit abandonment of the Waldo Segment. In accordance with the governing statute, the abandonment application is required to be partially denied on that basis.

Respectfully submitted,

ADELL COOPERATIVE
607 Mill Street
Adell, WI 53001

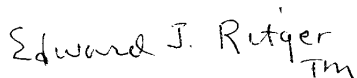
KETTLE LAKES COOPERATIVE
P.O. Box 285
Cedar Grove, WI 53013-0285

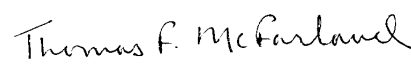
NEUENS FREDONIA LUMBER COMPANY
441 Fredeonia Avenue
Fredonia, WI 53021

LAKESIDE FOODS, INC.
P.O. Box 483
Random Lake, WI 53075

GLACIER TRANSIT & STORAGE
P.O. Box 378
Plymouth, WI 53073-0378

Protestants


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(312) 236-0204

Attorneys for Protestants

DUE DATE: August 16, 2004

VERIFIED STATEMENT OF JERRY LEICK

My name is Jerry Leick. I am General Manager of Adell Cooperative, located at 607 Mill Street, Adell, WI 53001. I have been employed by Adell Cooperative for the past 20 years.

Adell Cooperative owns and operates facilities for storage and distribution of fertilizer, as well as a feed mill, on the rail line proposed for abandonment at Adell, WI. Adell Cooperative has been a consistent significant user of that rail line. Currently, Adell Cooperative receives fertilizer materials and soybean meal by rail. Adell Cooperative received a total of 92 carloads by rail in 2003.

I have been advised that it is alleged in the abandonment application that Adell Cooperative received 16 carloads of fertilizer materials from Saskatchewan, Canada and 8 carloads of fertilizer materials from Manitoba, Canada by rail in 2003. However, my records show that Adell Cooperative received 45 carloads by rail from Canada in 2003 (29 cars of potash and 16 cars of urea), all of which originated in Saskatchewan (none from Manitoba) (see my Appendix JL-1 attached hereto). I confirmed my records with those of Ms. Denise Nelson of Cargill (1-800-548-1840) and Mr. Dave Laufenberg of United Suppliers (1-800-635-3944), who checked with the suppliers of those fertilizer materials in Canada.

I have been advised that Wisconsin Central (WC) credited the rail line with revenues of between approximately \$1,100 to \$1,400 per carload on the 16 cars of fertilizer materials from Saskatchewan to Adell that appear in the abandonment application. However, I was advised by Ms. Nelson and Mr. Laufenberg that the rail rates on fertilizer materials from Saskatchewan, Canada to Adell are between \$40 and \$43 per ton, which translates to between \$4,000 and \$4,300 per carload. The origins of Adell Cooperative's shipments of potash and urea in

Saskatchewan are served by WC's parent company, Canadian National Railway Company (CN). It seems to me that the rail line should be credited with revenues of \$4,000 per carload or more on Adell Cooperative's shipments of fertilizer materials from Saskatchewan, Canada.

It may well be that numerous Adell Cooperative shipments from Saskatchewan, Canada are not accounted for in the abandonment application because such shipments are what are termed "fan cars" in the fertilizer industry. Fan cars move in trainload or multiple-car quantities from the origin of fertilizer materials in Canada to distribution yards at other locations in Canada or in the United States, from which the cars are "fanned out" to individual fertilizer dealers in lesser-volume or single-car quantities. Inasmuch as Adell Cooperative did not purchase any fertilizer materials from any point in Manitoba in 2003, the listing of a point in Manitoba as an origin for 8 shipments of fertilizer materials to Adell Cooperative in 2003 is a strong indication to me that the point in Manitoba is a distribution point for fan cars. It seems to me that the rail line should be credited with the CN revenues for transportation of all fertilizer materials from Saskatchewan to the distribution points for fan car shipments to Adell Cooperative, as well as the revenues for CN's transportation from Manitoba to the United States border.

If the rail line were to be abandoned, Adell Cooperative would receive the traffic that it now receives by rail in rail-truck service via a transloading facility located on Union Pacific Railroad Company at Sheboygan Falls, WI. As applied to fertilizer materials, that would result in added costs of \$7 per ton for handling at the transloading facility and for trucking from Sheboygan Falls to Adell, compared to the cost to receive fertilizer materials directly by rail at Adell. That would result in additional costs of approximately \$56,000 per year (80 cars x 100

tons per car x \$7 per ton). As applied to soybean meal, the added handling and truck costs would amount to \$6 per ton. That would result in added costs of approximately \$6,120 per year (12 cars x 85 tons per car x \$6 per ton). The total added costs would amount to approximately \$62,120 per year. Adell Cooperative's total profit in 2003 was \$841,266. The added costs from loss of rail service would result in a 7-percent reduction of profits. That would constitute very serious harm for Adell Cooperative.

Receivings Report- Detail by Vendor

d by: Vendor Name, Location, Item Number, Item Description, Document Type, Type (Inc/Dec), Document Number,

Number	Item Description	Document #	Date	Quantity	Unit Cost	Adjust
43301	28-00-00 UAN SOLUTIO	3400	04/24/03	25.3200 TON	\$ 120.0000	\$
43301	28-00-00 UAN SOLUTIO	3518	05/02/03	25.0900 TON	\$ 120.0000	\$
43302	10-34-00 LIQUID PHOS	3767	05/06/03	24.6100 TON	\$ 215.0000	\$
43302	10-34-00 LIQUID PHOS	3767	05/06/03	24.0100 TON	\$ 215.0000	\$
43302	10-34-00 LIQUID PHOS	072999	05/27/03	25.8100 TON	\$ 215.0000	\$
43305	32-00-00 UAN SOLUTIO	NATX75495	05/07/03	101.4000 TON	\$ 132.2000	\$
43305	32-00-00 UAN SOLUTIO	NATX75500	05/18/03	101.8500 TON	\$ 132.2000	\$
43307	12-00-00-26S AM. THI	3591	05/12/03	11.0700 TON	\$ 136.0000	\$
43307	12-00-00-26S AM. THI	003682	04/24/03	25.1100 TON	\$ 143.0000	\$

4 DUFFY-TRADE, INC.

11 COOP AGRONOMY

43005	18-46-00 DIAMMONIUM	NAHX478489	07/01/03	98.7000 TON	\$ 193.0012	\$
43009	21-00-00-24S AMMONIU	CRDX8024	05/28/03	99.0000 TON	\$ 95.0000	\$

5 UAP GREAT LAKES

11 COOP AGRONOMY

43022	ACA	4818409	04/25/03	60.0000 GALLON	\$ 56.0000	\$
43050	FERTILIZER- MISC.	4822800	07/28/03	0.0130 TON	\$ 4800.0000	\$

13 UNITED SUPPLIERS, INC.

11 COOP AGRONOMY

43004	00-00-60 COURSE RED	CC003019	05/02/03	101.5230 TON	\$ 117.0000	\$
43004	00-00-60 COURSE RED	CC481177	05/06/03	100.5970 TON	\$ 117.0000	\$
43004	00-00-60 COURSE RED	CN369365	05/02/03	100.9280 TON	\$ 117.0000	\$
43004	00-00-60 COURSE RED	CN371680	05/02/03	101.4570 TON	\$ 117.0000	\$
43004	00-00-60 COURSE RED	CN377381	05/08/03	100.2220 TON	\$ 117.0000	\$
43004	00-00-60 COURSE RED	CN382478	05/17/03	99.9020 TON	\$ 117.0000	\$
43004	00-00-60 COURSE RED	IMCX12363	06/02/03	99.5250 TON	\$ 115.0000	\$
43004	00-00-60 COURSE RED	P339-7145	06/19/03	25.2600 TON	\$ 128.0000	\$
43004	00-00-60 COURSE RED	CNLX005094	05/08/03	99.9360 TON	\$ 117.0000	\$
43004	00-00-60 COURSE RED	CNLX005183	05/08/03	99.7590 TON	\$ 117.0000	\$
43004	00-00-60 COURSE RED	GCCX013125	06/26/03	100.6500 TON	\$ 115.0000	\$
43004	00-00-60 COURSE RED	GCCX071605	06/18/03	104.7750 TON	\$ 115.0000	\$
43004	00-00-60 COURSE RED	GCCX072137	01/21/03	104.5000 TON	\$ 113.0000	\$
43004	00-00-60 COURSE RED	GCCX072173	10/01/03	104.1750 TON	\$ 123.0000	\$
43004	00-00-60 COURSE RED	GCCX112313	10/01/03	99.5250 TON	\$ 123.0000	\$
43004	00-00-60 COURSE RED	GCCX173587	10/08/03	100.8000 TON	\$ 123.0000	\$
43004	00-00-60 COURSE RED	GCCX173699	10/04/03	100.0000 TON	\$ 123.0000	\$
43004	00-00-60 COURSE RED	GCCX173702	01/21/03	100.9300 TON	\$ 113.0000	\$
43004	00-00-60 COURSE RED	GCCX174507	06/25/03	100.8250 TON	\$ 115.0000	\$
43004	00-00-60 COURSE RED	GCCX174544	10/04/03	100.8000 TON	\$ 123.0000	\$
43004	00-00-60 COURSE RED	GCCX174679	06/25/03	101.1500 TON	\$ 115.0000	\$
43004	00-00-60 COURSE RED	GCCX174681	01/21/03	100.9200 TON	\$ 113.0000	\$
43004	00-00-60 COURSE RED	GCCX174692	06/25/03	100.5500 TON	\$ 115.0000	\$
43004	00-00-60 COURSE RED	IMCX012102	06/20/03	100.0750 TON	\$ 115.0000	\$
43004	00-00-60 COURSE RED	IMCX012109	06/06/03	99.6750 TON	\$ 115.0000	\$
43004	00-00-60 COURSE RED	IMCX012115	07/01/03	100.0750 TON	\$ 115.0000	\$
43004	00-00-60 COURSE RED	IMCX012231	01/21/03	99.7000 TON	\$ 113.0000	\$
43004	00-00-60 COURSE RED	IMCX012484	06/26/03	99.8500 TON	\$ 115.0000	\$
43004	00-00-60 COURSE RED	IMCX012575	06/26/03	99.9500 TON	\$ 115.0000	\$
43004	00-00-60 COURSE RED	NAHX479571	07/01/03	101.1500 TON	\$ 115.0000	\$
43005	18-46-00 DIAMMONIUM	NW177474	12/24/03	97.5000 TON	\$ 192.0000	\$
43005	18-46-00 DIAMMONIUM	CSXT247619	01/24/03	99.8500 TON	\$ 168.0000	\$
43005	18-46-00 DIAMMONIUM	CSXT250746	07/01/03	101.1000 TON	\$ 194.0000	\$
43005	18-46-00 DIAMMONIUM	CSXT251593	09/24/03	101.2000 TON	\$ 196.0000	\$
43005	18-46-00 DIAMMONIUM	CSXT251842	01/21/03	101.0500 TON	\$ 168.0000	\$
43005	18-46-00 DIAMMONIUM	CSXT252023	07/16/03	100.2500 TON	\$ 196.0000	\$

Jan 1 thru Dec 31 2003

July

Appendix JL-1

Receivings Report- Detail by Vendor

Page 2 of 2

Sorted by: Vendor Name, Location, Item Number, Item Description, Document Type, Type (Inc/Dec), Document Number

Item Number	Item Description	Document #	Date	Quantity	Unit Cost	Adj
2 AGRILIANCE						
ADILL COOP AGRONOMY						
43004	00-00-60 COURSE RED	1347297	06/20/03	24.0500 TON	\$ 117.0000	\$
43004	00-00-60 COURSE RED	1347335	06/20/03	25.9400 TON	\$ 117.0000	\$
43004	00-00-60 COURSE RED	1347986	06/21/03	25.5300 TON	\$ 117.0000	\$
43004	00-00-60 COURSE RED	1347993	06/23/03	22.7300 TON	\$ 117.0000	\$
43004	00-00-60 COURSE RED	1348168	06/23/03	22.4900 TON	\$ 117.0000	\$
43004	00-00-60 COURSE RED	1348840	06/24/03	22.5500 TON	\$ 117.0000	\$
43006	46-00-00 GRANULAR UR	15481	06/25/03	17.4400 TON	\$ 193.0000	\$
43012	SULFUR 90%	43684004	11/26/03	22.0000 TON	\$ 211.0000	\$
43013	COPPER SULFATE	5680020880	05/02/03	0.0500 TON	\$ 1361.0000	\$
43021	CROP BOOSTER	43617584	06/16/03	1080.0000 GALLON	\$ 6.9013	\$
43021	CROP BOOSTER	5680020708	04/28/03	125.0000 GALLON	\$ 5.5158	\$
43021	CROP BOOSTER	5680022614	07/01/03	50.0000 GALLON	\$ 7.5052	\$
43021	CROP BOOSTER	5680022809	07/09/03	50.0000 GALLON	\$ 7.5052	\$
43021	CROP BOOSTER	5680023196	08/01/03	5.0000 GALLON	\$ 11.0000	\$
43021	CROP BOOSTER	5680023318	08/13/03	10.0000 GALLON	\$ 7.5050	\$
43021	CROP BOOSTER	5680023350	08/15/03	15.0000 GALLON	\$ 7.5050	\$
43023	15.5-0-0-15Ca CALCIU	5680019899	01/13/03	0.0500 TON	\$ 521.0000	\$
43023	CAL-SUL	5680020665	04/25/03	0.0400 TON	\$ 221.0000	\$
43030	00-00-50-175 POTASSI	15518	07/01/03	5.4800 TON	\$ 291.0000	\$
43050	FERTILIZER- MISC.	5680019909	02/21/03	0.0250 TON	\$ 521.2000	\$
43050	FERTILIZER- MISC.	5680020813	04/30/03	0.0750 TON	\$ 1061.0666	\$
1 - 43301	28-00-00 UAN SOLUTIO	GATX022971	07/31/03	111.4860 TON	\$ 128.9050	\$
43303	00-00-62 SOLUBLE PO	KAG10330-01	01/30/03	26.0000 TON	\$ 123.0000	\$
6 CARGILL CROP NUTRITION						
ADILL COOP AGRONOMY						
43005	18-46-00 DIAMMONIUM	CSXT248453	05/06/03	97.1000 TON	\$ 171.3200	\$
43005	18-46-00 DIAMMONIUM	CSXT251849	05/09/03	97.1000 TON	\$ 171.3200	\$
43005	18-46-00 DIAMMONIUM	CSXT255819	05/18/03	97.1000 TON	\$ 171.3200	\$
43005	18-46-00 DIAMMONIUM	CSXT260190	05/06/03	97.1000 TON	\$ 171.3200	\$
43006	46-00-00 GRANULAR UR	CC 3012	09/27/03	100.1220 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	CN373230	09/24/03	95.8010 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	CN382050	09/26/03	98.4450 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	CN382142	09/27/03	99.0680 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	CN384681	10/02/03	94.1780 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	CNLX7572	09/19/03	83.3710 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	IC766224	03/19/03	100.7700 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	IC767527	10/01/03	94.3040 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	IC767561	10/02/03	93.6670 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	IC767597	10/08/03	94.0150 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	IC767640	10/01/03	93.7130 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	IC767675	10/22/03	25.5700 TON	\$ 226.0000	\$
43006	46-00-00 GRANULAR UR	IC767675	10/22/03	78.9920 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	IC769091	09/19/03	100.1710 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	IC769395	09/19/03	99.9190 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	CNLX10837	09/27/03	82.6460 TON	\$ 188.0000	\$
43006	46-00-00 GRANULAR UR	IC6766641	09/26/03	98.8190 TON	\$ 188.0000	\$
43017	11-52-00 MONOAMMONIU	CSXT248120	05/13/03	97.3000 TON	\$ 177.3200	\$
25 COOPERATIVE SERVICE OIL CO.						
ADILL COOP AGRONOMY						
43201	82-00-00 ANHYDROUS A	27441	08/01/03	21.7900 TON	\$ 305.0000	\$

Docket No. AB-303 (Sub-No. 27)

VERIFICATION

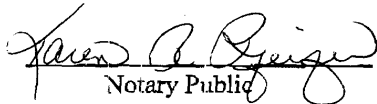
STATE OF WISCONSIN)
) SS:
COUNTY OF SHEBOYGAN)

JERRY LEICK, being duly sworn on oath, deposes and states that he has read the foregoing statement, that he knows the contents thereof, and that the facts therein stated are true and correct. .



JERRY LEICK

SUBSCRIBED AND SWORN to
before me this 2nd day
of August, 2004.



Notary Public

My Commission Expires: 3-27-05

VERIFIED STATEMENT OF NORBERT SCHLEICHER

My name is Norbert Schleicher. I am General Manager of Kettle Lakes Cooperative (Kettle Lakes). I have been employed by Kettle Lakes for the past five years.

Kettle Lakes owns and operates facilities for storage and distribution of fertilizer materials on the involved rail line at Random Lake, WI. Kettle Lakes is a significant user of the involved rail service. In 2003, Kettle Lakes received 86 carloads of fertilizer materials by rail at Random Lake.

I understand that it is stated in the abandonment application that 21 of the 86 carloads of fertilizer materials received by Kettle Lakes originated in Canada. However, I have checked our records, which show that we received 35 carloads of fertilizer materials from Canada in 2003, all of which originated at points on Canadian National Railway (CN), parent company of Wisconsin Central, Ltd. (WC), in the Province of Saskatchewan. We verified that information with the suppliers of the fertilizer materials in Canada.

I have also been advised that WC credited the rail line with revenues ranging between \$1,507 and \$1,727 per carloads on the carloads from Canada to Random Lake that are acknowledged in the abandonment application. However, I have been advised that the freight charges on those shipments actually range between \$4,000 and \$4,300 per carload. Inasmuch as freight charges on traffic transported by CN and WC in effect all go into the same pocket, it appears that WC credited the line with less than half of the revenues that should have been credited for those shipments. As stated above, there were additional shipments from CN points in Canada that were not identified at all in the abandonment application.

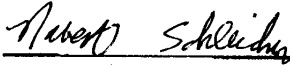
If Kettle Lakes were to lose rail service at Random Lake, we would receive fertilizer materials in rail-truck service via a transload facility at Sheboygan Falls, WI owned by Kettle Lakes and served by Union Pacific Railroad. That would result in extra costs of \$6 per ton for trucking from Sheboygan Falls to Random Lake. At our 2003 traffic level of 86 carloads, that would amount to added costs of \$51,600 per year ($86 \times 100 \times \6). That would be a harmful reduction of profits for Kettle Lakes.

Docket No. AB-303 (Sub-No. 27)

VERIFICATION

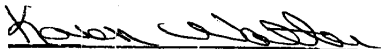
STATE OF WISCONSIN)
) SS:
COUNTY OF SHEBOYGAN)

NORBERT SCHLEICHER, being duly sworn on oath, deposes and states that he has read the foregoing statement, that he knows the contents thereof, and that the facts therein stated are true and correct.



NORBERT SCHLEICHER

SUBSCRIBED AND SWORN to
before me this 3rd day
of August, 2004.



Notary Public

My Commission Expires: 2-4-07

VERIFIED STATEMENT OF LARRY HUIRAS

My name is Larry Huiras. I am Agricultural Manager of Lakeside Foods, Inc. (Lakeside). I have been employed by Lakeside for the past 27 years. Lakeside owns and operates warehouse facilities for storage and distribution of pea seed on the involved rail line at Random Lake, WI. Lakeside receives rail shipments of pea seed that originate in Idaho and Washington. Over 80 percent of the pea seed received by Lakeside is received by rail.

In 2003, Lakeside and another company acquired Chiquita Processed Foods of Oakfield, WI. Lakeside's rail traffic volume has more than doubled as a result of that acquisition. Lakeside received 5 carloads of pea seed by rail in 2003. Lakeside has already received 14 carloads of pea seed by rail in 2004. That increased rail traffic volume will continue in the future.

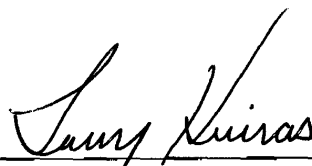
If Lakeside were to lose rail service at Random Lake, we would receive our pea seed in rail-truck service via Lakeside's rail-served facility at Belgium, WI (Union Pacific). That would involve added costs of \$200 per truckload from Random Lake to Belgium. The 14 rail carloads that Lakeside received at Random Lake in 2004 equates to 42 truck shipments from Belgium to Random Lake. The total added costs would be \$8,400 per year (42 x \$200). That would result in a harmful reduction of Lakeside's profits.

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VERIFICATION

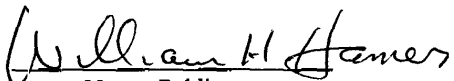
STATE OF WISCONSIN)
) SS:
COUNTY OF SHEBOYGAN)

LARRY HUIRAS, being duly sworn on oath, deposes and states that he has read the foregoing statement, that he knows the contents thereof, and that the facts therein stated are true and correct.



LARRY HUIRAS

SUBSCRIBED AND SWORN to
before me this 3rd day
of August, 2004.


Notary Public
William H. Hamer

My Commission Expires: 7/24/05

VERIFIED STATEMENT OF JOHN JANIK

My name is John (Jack) Janik. I am owner and Chief Executive Officer of Neuens Fredonia Lumber Company (Neuens). I have been employed by Neuens for the past 27 years.

Since 1885, Neuens has maintained storage and distribution facilities for lumber and forest products on the involved rail line at Fredonia, WI. Currently, Neuens has approximately 60,000 square feet of storage space under roof, plus approximately 15 acres of paved lot space. Neuens has been a consistent user of the involved rail service. The town of Fredonia came into existence because the rail line ran through town.

Of the 9 shipments that we received by rail in 2003, 6 originated at points on Canadian National Railway Company (CN), parent company of Wisconsin Central, Ltd. (WC), in Western Canada (British Columbia and Alberta). I have been advised that in the abandonment application, the involved rail lines was credited with revenues on those shipments ranging between \$927 and \$1,537 per carload. However, the actual rail rate for those shipments is \$55 per 1,000 board feet of lumber, which translates to total freight charges of \$6,600 per carload on a typical carload containing 120,000 board feet of lumber. Consequently, the CN-WC rail system derives revenues of approximately \$6,600 per car on Neuens' Canadian shipments, but credited the rail line with less than 25 percent of those revenues.

If Neuens were to lose rail service at Fredonia, we would receive our former rail lumber in rail-truck service arranged for by an industry buying group. The total freight charges for that manner of delivery would be approximately \$9,031 for the equivalent tonnage in a rail carload. That would involve added freight charges of about \$2,431 per car, or an additional \$14,586 per year on the Canadian shipments alone. If we had to receive our Canadian lumber in rail-truck

Docket No. AB-303 (Sub-No. 27)

VS - John Janik

Page 2

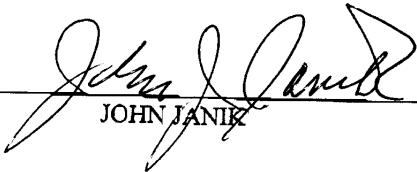
service through an independent reload center, the total cost would be approximately \$12,983 per carload-equivalent, an increase of \$6,383 per car, or nearly 50 percent.

Docket No. AB-303 (Sub-No. 27)

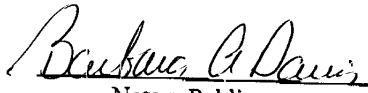
VERIFICATION

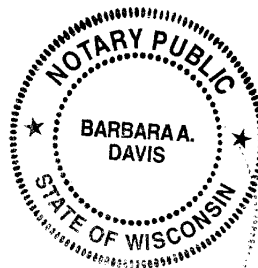
STATE OF WISCONSIN)
) SS:
COUNTY OF OZAUKEE)

JOHN JANIK, being duly sworn on oath, deposes and states that he has read the foregoing statement, that he knows the contents thereof, and that the facts therein stated are true and correct.


JOHN JANIK

SUBSCRIBED AND SWORN to
before me this 3rd day
of August, 2004.


Notary Public



My Commission Expires: 4-17-05

VERIFIED STATEMENT OF JEFF GOELZER

My name is Jeff Goelzer. I am President of Glacier Transit & Storage, Inc. (Glacier). I have been employed by Glacier for the past 25 years.

As here pertinent, Glacier owns and operates a warehouse for storage and distribution of food products on the involved rail line at Waldo, WI. Glacier receives carloads of dried milk from California by rail at that warehouse. During the first seven months of 2004, Glacier received 15 carloads of dried milk. That compares to 10 rail carloads during all of 2003. That increased rail traffic volume is expected to continue in the foreseeable future.

If Glacier were to lose rail service at its warehouse at Waldo, we would in all likelihood lose the dried milk business. That would reduce Glacier's net income by approximately \$8,400 per year. That figure is based on storage revenues of \$400 per car for average storage of one month plus trucking revenue of \$1,200 per car at \$400 per truck for four truckloads per rail car, for total revenues of \$1,600, times 15 carloads equals \$24,000, to which we applied our average profit margin of 35 percent for a total net reduction of \$8,400 per year.

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VERIFICATION

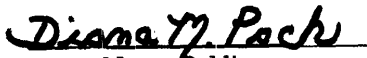
STATE OF WISCONSIN)
) SS:
COUNTY OF SHEBOYGAN)

JEFF GOELZER, being duly sworn on oath, deposes and states that he has read the foregoing statement, that he knows the contents thereof, and that the facts therein stated are true and correct.



JEFF GOELZER

SUBSCRIBED AND SWORN to
before me this 10 day
of August, 2004.



Notary Public

My Commission Expires: 12/30/07

CN Profits Hit Record

2nd quarter performance praised by Wall Street, 'nothing short of spectacular' says one analyst

A surge in freight volume and fluid network operations pushed second quarter earnings to record levels at Canadian National Railway and brought a heap of praise from Wall Street.

Canada's largest railroad had net income of \$247 million for the quarter, a 34 per cent increase over the same period in 2003. In addition, the railroad's operating ratio, the best in the industry, was pared to 65.5 per cent, a 4.6 percentage-point improvement from second quarter 2003.

The railroad also closed on two acquisitions during the quarter: Great Lakes Transportation, which included shortline railroads and a lake vessel company, and BC Rail in British Columbia.

Wall Street praised the railroad's performance. "CN is one of the few railroads in our experience that has been so effectively able to translate volume growth

and take it to the bottom line via operating leverage," said Smith Barney analyst Scott Flower.

CN's \$435 million in operating income — a 32 percent increase over second quarter 2003 — was 14 percent higher than that forecast by Morgan Stanley analyst Jim Valentine. "CN's results were nothing short of spectacular," Valentine said. "The results provide further confirmation that despite having the industry's best margins and returns CN management is not resting on its laurels. We expect margins to improve further."

"Our strong quarterly results reflected a comeback in Canadian grain traffic, market share gains as a result of good service, yield improvement initiatives, and improved profitability," said CN president and CEO Hunter Harrison. Productivity gains coupled with operating efficiencies helped the company handle a 10 percent

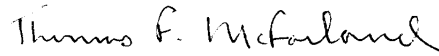
increase in second quarter volume at relatively low cost, he said. "This allowed us to deliver our revenue gains directly to the bottom line."

Revenue for second quarter increased 14 per cent to \$1.3 billion, due largely to an improved Canadian grain crop, stronger merchandise revenue and the inclusion of \$44 million of GLT revenue, CN said. Business units registering revenue gains were metals and minerals, up 40 percent; grain and fertilizers, up 35 percent; forest products, up 9 percent; petroleum and chemicals, up 9 percent; and coal, up 6 percent.

Expenses increased by 6 percent to \$825 million, the result of \$33 million related to the GLT acquisition, CN said, which included higher labor and fringe benefits and higher casualty and other expenses. These expenses were partially offset by lower costs for purchased services and material and equipment rents, and the impact of the stronger Canadian dollar on U.S. dollar denominated expenses. ●

CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2004, I served the foregoing document, Statement in Partial Opposition To Abandonment Application, on Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2875 and Theodore K. Kalick, Canadian National Railway Company, 601 Pennsylvania Avenue, N.W., Suite 500 North Building, Washington, DC 20004, by UPS overnight mail.



Thomas F. McFarland