

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 303 (Sub-No. 36X)

**Wisconsin Central Ltd. – Abandonment Exemption –
in Brown County, Wis.**

BACKGROUND

In this proceeding, Wisconsin Central Ltd. (WCL) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Brown County, Wisconsin. The rail line proposed for abandonment extends 1.92 miles from milepost 3.88 in the Village of Howard to milepost 5.8 on the Oneida Tribe of Indians of Wisconsin Reservation (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

WCL submitted an Environmental Report that concludes 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 Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

WCL states that no local traffic has moved over the Line for at least 2 years and there is no overhead traffic that would need to be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of

¹ 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. 36X).

rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

The Line proposed for abandonment is located just west of the City of Green Bay in a partly wooded urban setting north of the Oneida Golf and Country Club. The Line includes one 80-foot deck plate girder bridge that spans Duck Creek at milepost 4.8. The Line extends approximately 1 mile onto the Oneida Tribal reservation from Duck Creek to milepost 5.8. WCL states that following abandonment approval it intends to salvage rail, ties and track material along the Line but does not plan on disturbing the rail bed or subgrade although WCL does plan to remove the at-grade rail crossing at Packerland Drive during salvage operations as part of the planned Wisconsin Department of Transportation (WisDOT) US 41/WIS 29 interchange project (see below).²

WisDOT sent a letter to WCL concerning its coordination with WCL to eliminate the Packerland Drive crossing as part of its US 41/WIS 29 interchange project and that WCL should follow specific procedures when conducting salvage activities on highway rights-of-way within its jurisdiction. In specific, WisDOT requested that WCL: 1) obtain the appropriate permits from WisDOT to work on highway rights-of-way, 2) coordinate with WisDOT when removing roadway crossings, 3) remove all rail, ties, and ballast at any state highway crossings on the Line, 4) manage traffic during salvage operations at highway crossings, and 5) restore any salvaged roads within its jurisdiction in kind. In order to address its concerns, we are recommending a condition that WCL consult with WisDOT concerning any planned salvage operations along highway rights-of-ways within its jurisdiction.

In addition to the above, WisDOT stated that as part of its US 41/WIS 29 interchange project, it had met with Corina Burke, Tribal Historic Preservation Officer (THPO) from the Oneida Tribe of Wisconsin on September 29, 2010. In its meeting with WisDOT, the THPO provided comments regarding the potential for the proposed abandonment to impact culturally sensitive areas. In order to mitigate any potential impacts to tribal lands, the THPO stated that, prior to the initiation of salvage activities, tribal procedures and policies would need to be reviewed and that monitoring (tribal and archaeological) would need to be conducted during track removal operations. The THPO also indicated that, prior to abandonment activities, a

² Information regarding the US 41/WIS 29 interchange project is available at <http://www.us41wisconsin.gov/overview/special-project-features/improved-interchanges#Wis29> (last visited November 10, 2010).

medicinal/traditional plant assessment would need to be conducted and documented. WisDOT stated that it would be willing to assist the STB in its consultations with the tribe regarding the abandonment. WisDOT also noted that the map included in the applicant's environmental report does not accurately show the location at milepost 5.8 (the end of the Line) and requested a new map to reflect the correct location of that point on the ground.³

Comments were received from the Wisconsin Department of Natural Resources (DNR) about the proposed abandonment. In a letter to WCL, DNR provided its opinion regarding the potential impact of any planned salvage activities on water quality, designated wetlands, 100-year floodplains, endangered or threatened species and critical habitats, wildlife sanctuaries or refuges, national or state parks, coastal zones, soils and natural resources, agricultural land, land use, section 402 and 404 permits, and waste and demolition disposal. DNR encouraged WCL to contact the appropriate agencies and departments with jurisdiction over the above resources regarding potential impacts. DNR also stated that to protect against impacts from any salvage activities, WCL should ensure that proper erosion control measures are implemented to minimize impacts to native plants. DNR thus recommended that WCL complete an erosion control plan as part of the project and ensure its implementation during the removal of track, ties, bridges or culverts during salvage operations. DNR further requested that, following salvage, WCL replant all areas that have been disturbed with native flora. We are recommending a condition for WCL to consult with DNR prior to the initiation of salvage activities regarding its concerns.

The U.S. Fish and Wildlife Service provided comments stating that no federally listed or endangered species would be affected by the proposed project.

WCL received written notice from the Army Corps of Engineers (Corps) that the proposed abandonment would not impact any U.S. waterways under its jurisdiction and that further Corps approval is not required.

The Wisconsin Coastal Management Program has indicated that the proposed abandonment project would have no impacts on coastal zone resources within its jurisdiction and that federal consistency review is therefore not needed.

The National Geodetic Survey (NGS) has commented that 1 geodetic station marker may be affected by the proposed abandonment. We therefore recommend a condition for WCL to notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage

³ WCL has since supplied a corrected map which was included as Exhibit A in its Notice of Exemption. WCL states that a corrected map was also served on all parties that received its Environmental and Historic Report on October 19, 2010.

activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts. No comments have been received from the Natural Resource Conservation Service, the U.S. Environmental Protection Agency, or the Brown County Board of Supervisors. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this EA to the above for review and comment.

HISTORIC REVIEW

WCL sent its Historic Report to the Wisconsin State Historic Preservation Office (SHPO), pursuant to 49 C.F.R. § 1105.8(c). Since part of the Line is located on Oneida tribal reservation lands, WCL also provided a copy of the Historic Report to the Oneida THPO.

In response to the historic report, the SHPO submitted comments stating that the Board would need to consult with the THPO before the SHPO could comment on the action. In written correspondence to OEA, the THPO indicated that it would provide its opinion regarding the proposed action following receipt of this EA. OEA therefore recommends a condition requiring WCL to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed 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. OEA has contacted the THPO to initiate government-to-government consultation with the tribe. OEA will continue to consult directly with the Oneida Tribe to ensure that the Board's government-to-government responsibilities are fulfilled.

OEA conducted a search of the Native American Consultation Database to identify any federally recognized tribes, other than the Oneida Tribe, that may have ancestral connections to the project area.⁴ The database indicated that the following federally recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment: Citizen Potawatomi Nation, Oklahoma, Flandreau Santee Sioux Tribe of South Dakota, Forest County Potawatomi Community of Wisconsin, Hannahville Indian Community of Michigan, Lower Sioux Indian Community of Minnesota, Prairie Band of Potawatomi Nation of Kansas, Sac and Fox of Missouri in Kansas and Nebraska, Santee Sioux Nation of Nebraska, Sisseton-Wahpeton Oyate of South Dakota, Spirit Lake Tribe of North Dakota, and the Upper Sioux Community in Minnesota. Accordingly, OEA is sending a copy of this EA to the above tribes for review and comment.

⁴ Native American Consultation Database, <http://home.nps.gov/nacd> (last visited October 26, 2010).

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. Wisconsin Central Ltd. shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers.
2. Prior to commencement of any salvage activities, Wisconsin Central Ltd. shall consult with the Wisconsin Department of Transportation regarding the use of appropriate procedures when performing abandonment activities including the removal of any highway rights-of-way under its jurisdiction.
3. Prior to the commencement of any salvage activities, Wisconsin Central Ltd. shall consult with the Wisconsin Department of Natural Resources regarding potential impacts on water quality, wetlands, 100-year floodplains, endangered or threatened species and critical habitats, wildlife sanctuaries or refuges, national or state parks, soil and water conservation, land use, and environmental cleanup/waste management.
4. Wisconsin Central Ltd. shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed 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. Wisconsin Central Ltd. shall report back to the Office of Environmental Analysis regarding any consultations with the State Historic Preservation Office and the public. Wisconsin Central Ltd. may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, 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 an **original and 2 copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Catherine Glidden, 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. 36X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Catherine Glidden, the environmental contact for this case, by phone at (202) 245-0293, fax at (202) 245-0454, or e-mail at gliddenc@stb.dot.gov.

Date made available to the public: November 15, 2010.

Comment due date: November 30, 2010.

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

Attachment