

SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS
SUPPLEMENTAL FINAL
ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB 303 (SUB-NO. 46X)

December 8, 2015

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) NEW COMMENTS WERE RECEIVED

Recommendation: Removal of three existing environmental conditions

In this proceeding, Wisconsin Central Transportation, Ltd. ("WCL") filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 to abandon a 3.6-mile rail line located in North Chicago, Lake County, Ill. The rail line proposed for abandonment extends approximately between milepost 71.0 in North Chicago, Ill, and milepost 74.6 in Waukegan, Lake County, Ill (the "Line").

OEA served an environmental assessment (EA) in this proceeding on May 8, 2015 recommending the imposition of the following three environmental conditions:

- 1. Prior to commencement of any salvage activities, Wisconsin Central Ltd. shall consult with the U.S. Army Corps of Engineers (Corps) regarding potential impacts to waters of the United States and shall comply with the reasonable requirements of the Corps.**
- 2. Pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 et seq.) and the Board's environmental regulations at 49 C.F.R. § 1105.9, Wisconsin Central Ltd. (WCL) shall consult with the Illinois State Coastal Management Office regarding the need to obtain state coastal management consistency certification. WCL may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to the Board's Office of Environmental Analysis and the Board has removed this condition.**
- 3. Wisconsin Central Ltd. (WCL) shall contact the U.S. Fish and Wildlife Service (USFWS) prior to beginning salvage activities to discuss potential**

impacts to any federally listed endangered or threatened species. WCL shall report the results of this consultation to the Board's Office of Environmental Analysis (OEA) in writing. Should any potential impacts be identified, the railroad shall consult with OEA and USFWS to develop appropriate mitigation measures.

OEA issued a final EA in this proceeding on June 8, 2015 reaffirming its recommendation that the three above conditions be imposed on any Board decision. The Board imposed all three conditions.

New Comments Received

On December 1, 2015 WCL provided OEA with the results of its consultations with the USFWS, the Corps and Illinois State Coastal Management Office (see attached comments, EI-21235, EI-21236 and EI-21237). Based on the results of these consultations, as summarized below, OEA recommends removal of all three environmental conditions.

1) Comment from the US Fish and Wildlife Service (USFWS)

The USFWS provided WCL with its determination of "No Effect" for the proposed abandonment on November 17, 2015. In its comments, USFWS states that the proposed abandonment proceeding is not anticipated to affect endangered species or designated critical habitat (See EI-21235).

2) Comment from the US Army Corps of Engineers (Corps)

In its comments, the Corps states that the proposed abandonment does not require a Corps permit as any salvage activity would be performed within the existing railroad right-of-way and would not result in the discharge of any material into waters of the United States (See EI-21236).

3) Comment from the Illinois Coastal Management Program

On November 18, 2015, the Illinois Coastal Management Program indicated that rail line abandonments are not types of activities that would affect land or water use or resources within the coastal zones and that no further consultations with its office are necessary (See EI-21237).

Conclusions:

OEA concludes that with the removal of the three existing environmental conditions, the proposed action would not significantly affect the quality of the human environment.

OEA Contact: Catherine Nadals, 202-245-0293,
nadalsc@stb.dot.gov; Distribution: ECT, OEA Chron



RE: AB 303 (Sub-No. 46X) - Wisconsin Central/Lake County, IL

Robert A. Wimbish to: nadalsc@stb.dot.gov

12/01/2015 03:18 PM

History:

This message has been replied to.

1 attachment



USFWS TE No Effect.pdf

Good afternoon Cathy -

As you may know, in its decision in the above-referenced proceeding granting WCL's request for authority to abandon a rail line segment in Lake County, IL, the STB imposed the following three-part precondition to abandonment consummation and track salvage:

1. Under 49 U.S.C. § 10502, we exempt from the prior approval requirements of 49 U.S.C. § 10903 the abandonment by WCL of the above-described line, subject to the employee protective conditions set forth in Oregon Short Line, and subject to the conditions that prior to beginning any salvage activities, WCL shall:

(a) consult with the Corps [Army Corps of Engineers] regarding potential impacts to the waters of the United States and comply with the Corps' reasonable requirements;

(b) consult with the USFWS to discuss potential impacts to any federally listed endangered or threatened species and report the results of this consultation to OEA in writing. Should any potential impacts be identified, WCL shall consult with OEA and USFWS to develop appropriate mitigation measures; and

(c) consult with the Illinois State Coastal Management Office, pursuant to the Coastal Zone Management Act, 16 U.S.C. § 1451 et seq., and the Board's environmental regulations, 49 C.F.R. § 1105.9, to determine whether state coastal management consistency certification is required. WCL may not file its consummation notice or initiate [sic.] any salvage activities related to abandonment until it reports the results of these consultations in writing to OEA and the Board has removed this condition.

I am sending this note to advise you, in writing, that WCL believes that it has satisfied the requirements set forth in Ordering Paragraph 1, above.

Attached hereto is a copy of a letter of "no effect" from USFWS in connection with consultations required under 1(b). I will supply to you under separate cover similar responses (sent to WCL via email in each case) from the Corps and the Illinois State Coastal Management Office.

I believe that you will find from the attached and the two emails that I will

supply to you in a moment that WCL has complied with the STB's consultation requirements, and that such consultation has not triggered any further documentation, certifications, or mitigation in connection with the proposed abandonment.

Please let me know if this email and the two that will follow in a moment are sufficient for you to recommend that the Board remove the three-part precondition in Ordering Paragraph 1.

- Rob

Robert A. Wimbish
Fletcher & Sippel LLC
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Chicago, Illinois 60606-2832
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Endangered Species

S7 Consultation Technical Assistance

Decision Process for "No Effect" Determinations

Projects within a Developed Area - Step 5

Step 5. "No Effect" Determination and Documentation

Your project will have "no effect" on federally listed species. A "No Effect" determination is appropriate because your project is

- within a Developed Area (an area that is already paved or supports structures and the only vegetation is limited to frequently mowed grass or conventional landscaping), and
- does not involve removing native vegetation.

Since it will not affect suitable habitat for listed species, no listed species or designated critical habitat is anticipated to be directly or indirectly affected by this action.

To document your section 7 review and "no effect" determination, we recommend that you print this page (go to File<Print Preview), fill-in the project name and date, attach your [species list](#), and file in your administrative record.

Project Name: *Waukegan Abandonment*

Date: *11-17-2015*

Kerry Starnig

[Back](#)

[Home - "No Effect" Determination Process](#)



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Chicago Ecological Service Field Office
1250 SOUTH GROVE AVENUE SUITE 103
BARRINGTON, IL 60010

PHONE: (847)381-2253 FAX: (847)381-2285

URL:

www.fws.gov/midwest/endangered/section7/s7process/7a2process.html

Consultation Code: 03E13000-2016-SLI-0041

November 17, 2015

Event Code: 03E13000-2016-E-00055

Project Name: Waukegan Abandonment

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

To Whom It May Concern:

The attached species list identifies any federally threatened, endangered, proposed and candidate species that may occur within the boundary of your proposed project or may be affected by your proposed project. The list also includes designated critical habitat if present within your proposed project area or affected by your project. This list is provided to you as the initial step of the consultation process required under section 7(c) of the Endangered Species Act, also referred to as Section 7 Consultation.

Please note! For all wind energy projects and projects that include installing towers that use guy wires or are over 200 feet in height, please contact this field office directly for assistance, even if no federally listed plants, animals or critical habitat are present within your proposed project or may be affected by your proposed project.

For all other projects, continue the Section 7 Consultation process by going to our Section 7 Technical Assistance website at

<http://www.fws.gov/midwest/endangered/section7/s7process/index.html>. If you are familiar with this website, you may want to go to Step 2 of the Section 7 Consultation process at <http://www.fws.gov/midwest/endangered/section7/s7process/step2.html>.

Under 50 CFR 402.12(e) (the regulations that implement Section 7 of the Endangered Species Act) the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally. You may verify the list by visiting the ECOS-IPaC website <http://ecos.fws.gov/ipac/> at regular intervals during project planning and implementation and

completing the same process you used to receive the attached list. As an alternative, you may contact this Ecological Services Field Office for updates.

Although no longer protected under the Endangered Species Act, be aware that bald eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), as are golden eagles. Projects affecting these species may require measures to avoid harming eagles or may require a permit. If your project is near an eagle nest or winter roost area, see our Eagle Permits website at <http://www.fws.gov/midwest/midwestbird/EaglePermits/index.html> to help you determine if you can avoid impacting eagles or if a permit may be necessary.

We appreciate your concern for threatened and endangered species. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: Waukegan Abandonment

Official Species List

Provided by:

Chicago Ecological Service Field Office

1250 SOUTH GROVE AVENUE SUITE 103

BARRINGTON, IL 60010

(847) 381-2253

<http://www.fws.gov/midwest/endangered/section7/s7process/7a2process.html>

Consultation Code: 03E13000-2016-SLI-0041

Event Code: 03E13000-2016-E-00055

Project Type: TRANSPORTATION

Project Name: Waukegan Abandonment

Project Description: Proposed project includes removing existing railroad tracks and ties, and leaving embankment in place. There is no proposed grading or other improvements.

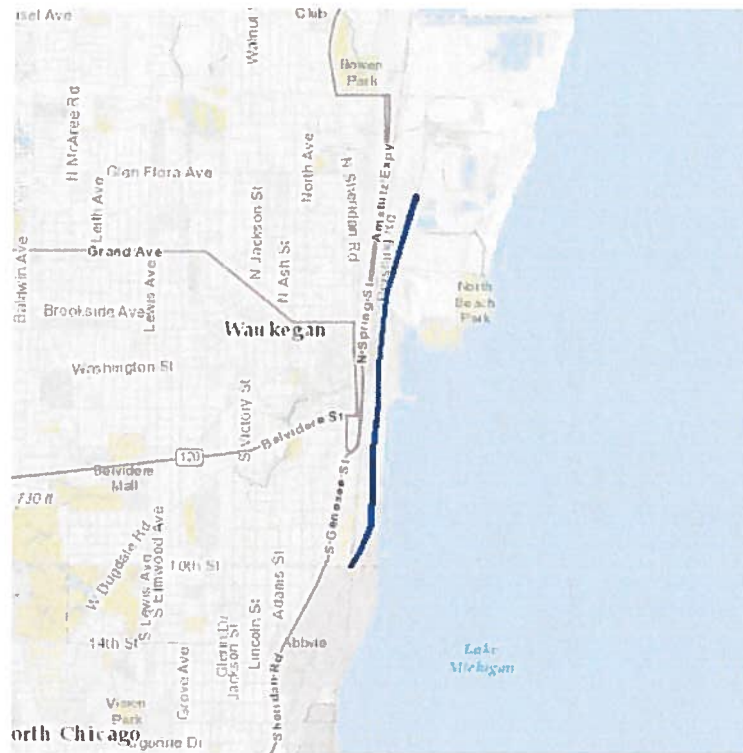
Please Note: The FWS office may have modified the Project Name and/or Project Description, so it may be different from what was submitted in your previous request. If the Consultation Code matches, the FWS considers this to be the same project. Contact the office in the 'Provided by' section of your previous Official Species list if you have any questions or concerns.



United States Department of Interior
Fish and Wildlife Service

Project name: Waukegan Abandonment

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-87.8256892623409 42.36637203870001, -87.82654418865333 42.36005509210729, -87.82663098845141 42.35668645337797, -87.82723081837108 42.35219043926613, -87.82740482593076 42.34507018346585, -87.82888040053517 42.3425527911344, -87.83000721340444 42.34114112016663, -87.83012606056784 42.341090098258746, -87.83023451168006 42.34116056981036, -87.83023616893605 42.341289895510954, -87.82911179011424 42.34270054571925, -87.8276757266071 42.345135561355555, -87.8275037619148 42.35221933998027, -87.82690391952504 42.35671544756151, -87.82681708186405 42.36008447337575, -87.82595877497928 42.3664263986065, -87.82225891618418 42.375401370345564, -87.82218476330429 42.375475704406085, -87.8220797671818 42.37547583252014, -87.82200543312128 42.37540167964024, -87.82200530500722 42.37529668351775, -87.8256892623409 42.36637203870001)))

Project Counties: Lake, IL



United States Department of Interior
Fish and Wildlife Service

Project name: Waukegan Abandonment

Endangered Species Act Species List

There are a total of 7 threatened or endangered species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 1 of these species should be considered only under certain conditions. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Birds	Status	Has Critical Habitat	Condition(s)
Piping Plover (<i>Charadrius melodus</i>) Population: Great Lakes watershed	Endangered		
Red Knot (<i>Calidris canutus rufa</i>)	Threatened		
Flowering Plants			
Eastern Prairie Fringed orchid (<i>Platanthera leucophaea</i>)	Threatened		Will this project impact, directly or indirectly, emergent wetland, wet meadow, sedge meadow, fen, wet to mesic prairie, or marsh edges?
Pitcher's thistle (<i>Cirsium pitcheri</i>)	Threatened		
Insects			
Karner Blue butterfly (<i>Lycaeides melissa samuelis</i>) Population: Entire	Endangered		
Mammals			
Northern long-eared Bat (<i>Myotis</i>)	Threatened		



United States Department of Interior
Fish and Wildlife Service

Project name: Waukegan Abandonment

<i>septentrionalis</i>)			
Reptiles			
eastern Massasauga (<i>Sistrurus catenatus</i>)	Proposed Threatened		



United States Department of Interior
Fish and Wildlife Service

Project name: Waukegan Abandonment

Critical habitats that lie within your project area

There are no critical habitats within your project area.



Part II - AB 303 (Sub-No. 46X) - Wisconsin Central/Lake County, IL

Robert A. Wimbish to: nadalsc@stb.dot.gov

12/01/2015 03:22 PM

1 attachment



USFWS T&E No Effect.pdf

Cathy -

The second of three emails regarding the above-referenced WCL rail line abandonment.

- Rob

Robert A. Wimbish
Fletcher & Sippel LLC
29 N. Wacker Drive, Suite 920
Chicago, Illinois 60606-2832
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-----Original Message-----

From: Kari Harris
Sent: Tuesday, November 17, 2015 2:18 PM
To: Tom Healey; Brian Buchanan; Dave Crader; Raymond Baker; Edd Baswell; Daniel Krause; Martita Mullen; Nathaniel Simpson; Tom Tisa; Michael Matteucci; Paul Sauter
Subject: FW: Waukegan Abandonment (UNCLASSIFIED)

All, below is an email from Mike Machalek, Senior Project Manager with the USACOE Chicago District, stating that there is no permit required for the abandonment. Please let me know if you have any questions regarding the attached or the below email consultation.

Thanks.

Kari J. Harris
Regional Mgr, Environmental Impact - US

17641 S. Ashland Avenue
Homewood, IL 60430
office: 708-332-4543
cell: 312-459-7106
email: kari.harris@cn.ca

-----Original Message-----

From: Machalek, Mike J LRC [mailto:Mike.J.Machalek@usace.army.mil]
Sent: Tuesday, November 17, 2015 2:06 PM
To: Kari Harris
Subject: RE: Waukegan Abandonment (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Yes, I concur with your analysis. If you are only removing track and ties from the existing RR bed, then we would have no concerns as there is no discharge of any material, and no permit or letter is required.

Thanks,

Mike

-----Original Message-----

From: Kari Harris [mailto:Kari.Harris@cn.ca]
Sent: Tuesday, November 17, 2015 12:11 PM
To: Machalek, Mike J LRC <Mike.J.Machalek@usace.army.mil>
Subject: [EXTERNAL] Waukegan Abandonment

Hi Mike. I'm writing this email to consult your guidance regarding Wisconsin Central Ltd. abandoning approximately 2.5 miles of existing railroad tracks located from Dahringer Road down to near 10th Street, in Waukegan, Illinois. The proposed activity will include removing existing track and ties from the existing railroad ROW and embankment. There will be no clearing, grubbing, grading or vegetation removal, and the existing embankment will be left in place following removal of the tracks and ties. Can you please confirm that there would be no permit authorization under Section 404 of the Clean Water Act required for this proposed activity? We understand that any activity near federally regulated waters of the US, including wetlands, will be at our own risk; but as long as there is no discharge of fill material within federally regulated waters of the US, including wetlands, no US Army Corps of Engineers permit is required.

Please let me know if you have any questions. I appreciate your response.

Kari J. Harris

Regional Mgr, Environmental Impact - US

17641 S. Ashland Avenue

Homewood, IL 60430

office: 708-332-4543

cell: 312-459-7106

email: kari.harris@cn.ca

CLASSIFICATION: UNCLASSIFIED



Part III - AB 303 (Sub-No. 46X) - Wisconsin Central/Lake County, IL

Robert A. Wimbish

to:

nadalsc@stb.dot.gov

12/01/2015 03:24 PM

Hide Details

From: "Robert A. Wimbish" <RWimbish@fletcher-sippel.com>

To: "nadalsc@stb.dot.gov" <nadalsc@stb.dot.gov>

Cathy –

Here is the third of three emails today on the subject rail line abandonment – as discussed in my initial email.

Please let me know if you need anything else.

Thanks.

- Rob

Robert A. Wimbish

Fletcher & Sippel LLC

29 N. Wacker Drive, Suite 920

Chicago, Illinois 60606-2832

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From: Kari Harris

Sent: Wednesday, November 18, 2015 10:00 AM

To: Tom Healey; Brian Buchanan; Dave Crader; Raymond Baker; Edd Baswell; Daniel Krause; Martita Mullen; Nathaniel Simpson; Tom Tisa; Michael Matteucci; Paul Sauter

Subject: FW: IFC2015030 proposed railroad line abandonment by Wisconsin Central Ltd. along Lake Michigan in the City of Waukegan

All, please see email below from Jim Casey at Illinois DNR regarding the Illinois Coastal Management Program. Per his email, there is no Federal Consistency Determination required for the Waukegan abandonment, therefore no further consultation with the ICMP is needed.

This should fulfill the federal permitting consultation requirements set forth by the STB, as Tom Healey

described.

Please let me know if you have any questions.

Thanks.

Kari J. Harris
Regional Mgr, Environmental Impact - US

17641 S. Ashland Avenue
Homewood, IL 60430
office: 708-332-4543
cell: 312-459-7106
email: kari.harris@cn.ca



From: Casey, James [<mailto:James.Casey@Illinois.gov>]
Sent: Wednesday, November 18, 2015 7:02 AM
To: Kari Harris
Subject: IFC2015030 proposed railroad line abandonment by Wisconsin Central Ltd. along Lake Michigan in the City of Waukegan

Ms. Harris,

Thank you for your email concerning the abandonment of a portion of Wisconsin Central's railroad tracks along Lake Michigan in the City of Waukegan. Rail line abandonments are not listed in the Illinois Coastal Management Program (ICMP) as an activity that will affect any land or water use, or natural resource of the coastal zone. Therefore an ICMP, Federal Consistency Determination will not be required.

If you have any questions, feel free to contact me.

James P. Casey
IDNR/ICMP
160 N. LaSalle Street, Suite S-703
Chicago, IL 60601
(312) 793-5947
(312) 793-5968 fax
James.casey@illinois.gov

From: Kari Harris [<mailto:Kari.Harris@cn.ca>]
Sent: Tuesday, November 17, 2015 2:43 PM
To: Casey, James
Subject: Wisconsin Central Ltd. Waukegan Abandonment

Hi Jim. I'm writing to gather information on how to receive consultation with the ICMP to determine whether the proposed abandonment of a portion of our tracks in Waukegan, IL requires a state coastal management consistency certification? The STB has required that we consult with the Illinois State Coastal Management Office to determine whether a consistency certification is required.

Attached is a Google Earth image showing the location. The proposed abandonment would include only removing existing track and railroad ties, and would not include any grading, clearing or grubbing. The existing track embankment would be left in place. I found on your website reference to sending in a letter as a "federal consistency application". Do you recommend that I send in such a letter, or is this email sufficient?

I appreciate your help.

Thank you.

Kari J. Harris
Regional Mgr, Environmental Impact - US

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