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SERVICE DATE – JANUARY 13, 2010

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-303 (Sub-No. 35X)

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

Decided: January 12, 2010

Wisconsin Central Ltd. (WCL) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon its line of railroad between mileposts 111.0 and 112.9, a distance of 1.9 miles in Kaukauna, Outagamie County, WI. Notice of the exemption was served and published in the Federal Register on December 15, 2009 (74 FR 66394). The exemption is scheduled to become effective on January 14, 2010.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on December 18, 2009. In the EA, SEA indicated that the U.S. Army Corps of Engineers (Corps) stated that a permit under section 404 of the Clean Water Act may be required if the proposed abandonment involves the discharge of fill material in waters of the United States or associated wetlands. SEA states that the Corps further indicated that a section 10 permit of the Rivers and Harbors Act may be required if work is to be performed in Fox River, a navigable river in close proximity to the area proposed for abandonment. SEA adds that WCL has indicated that it does not believe that the abandonment would result in the placement of fill in wetlands or waterways during salvage; however, WCL did not elaborate. SEA states that, given the potential to impact jurisdictional waters, it recommends that a condition be imposed requiring WCL to consult with the Corps prior to initiating salvage activities to determine if Corps permits are required and to report the results of its consultation in writing to SEA.

SEA further states that the Wisconsin Department of Natural Resources (WDNR) provided comments on a number of environmental issues, some of which have been or would be addressed by other agencies. SEA states that WDNR is concerned that the proposed abandonment may have an impact on water quality, wetlands, 100-year floodplain, 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. Therefore, SEA recommends that a condition be imposed requiring WCL to consult with WDNR prior to initiating salvage activities and to report the results of its consultation in writing to SEA.

Comments to the EA were due by January 6, 2010. No comments were received. Accordingly, the conditions recommended by SEA in the EA will be imposed. Based on SEA's recommendation, the proposed abandonment, if implemented as conditioned, will not

significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on December 15, 2009, exempting the abandonment of the line described above is subject to the conditions that, prior to commencement of any salvage activities, WCL shall: (1)(a) consult with the Corps regarding potential impacts to waters of the United States, including wetlands, in accordance with section 404 of the Clean Water Act, (b) consult with the Corps regarding impacts to navigable waterways in accordance with section 10 of the Rivers and Harbors Act, (c) comply with the reasonable requirements of the Corps and report the results of the consultation in writing to SEA; (2)(a) consult with WDNR regarding potential impacts on water quality, wetlands, 100-year floodplain, 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, and (b) report the results of the consultation in writing to SEA.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.