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SERVICE DATE - AUGUST 2, 2004

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-303 (Sub-No. 27)

**Wisconsin Central Ltd.–Abandonment–in Ozaukee, Sheboygan, and
Manitowoc Counties, WI**

BACKGROUND

In this proceeding, Wisconsin Central Ltd. (WCL) has filed an application seeking authority under 49 U.S.C. 10903 to abandon an approximately 37-mile line of railroad known as the “Plymouth Line.” The proposed abandonment extends from Milepost 114.8 near Saukville, to Milepost 151.8 near Kiel, in Ozaukee, Sheboygan, and Manitowoc Counties, Wisconsin. A map depicting the rail line in relationship to the area served is appended to the report. If the application is granted, WCL will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to WCL, the Milwaukee and Northern Railway Company (MNRC) built the line of track proposed for abandonment between 1870 and 1871. The Plymouth Line is the middle segment of a longer line that extends from North Milwaukee to Hilbert and Greenleaf, Wisconsin.

The land adjacent to the right-of-way is primarily agricultural, with pastureland and land under cultivation. The area adjacent to the trackage itself is relatively wooded and there is a swamp between Milepost 148 and Milepost 151. According to WCL, the width of the right-of-way ranges from approximately 66 feet to 99 feet, and abandonment of the line would allow for the elimination of 51 at-grade public crossings.

The following six stations are on the line: Fredonia, Random Lake, Adell, Waldo, Plymouth, and Elkhart Lake. According to WCL, the Plymouth depot (depot) is the only building on the line that is over 50 years old. However, WCL states that the depot has been recently remodeled with vinyl siding and a new roof and does not have any unusual design. There are also a number of large steel bridges and culverts in the area of the proposed abandonment.

According to WCL, the Plymouth Line is a light-density line that suffers from extensive deferred maintenance.¹ Due to track conditions, there has been an embargo on traffic at the Elkhart Lake station since 2002. The portion of the line between Milepost 151.8 and Milepost 135.0 is out-of-service, and the portion of the line between Milepost 135.0 and Milepost 188.7 is operated as Federal Railroad Administration (FRA) excepted track. WCL states that current traffic levels do not produce revenues sufficient to offset the expenses required for operation of the line or to justify the significant rehabilitation that would be required to restore the line to FRA Class 1 safety standards. In addition, WCL states that there is no reasonable prospect of an increase in traffic levels that would support viable operation of the line.

There are seven customers on the Plymouth Line including Neuens Fredonia Lumber Co. (Neuens), Adell Cooperative (Adell Coop), Adell Warehouse Cold Stor. (Adell Warehouse), Kettle Lakes Cooperative (Kettle), Lakeside Foods Inc. (Lakeside), Glacier Transit & Storage (Glacier), and Weekly Timber & Pulp Inc. (Weekly). According to WCL, 199 carloads were shipped over the line in 2002, 206 carloads were shipped over the line in 2003, and 49 carloads were shipped over the line during the first four months of 2004. For the most part, traffic consisted of inbound shipments of seasonal agricultural products, such as fertilizer, potash, and urea. Other commodities shipped over the line were lumber, logs, soybean meal, wheat, pea seed, and dried milk. WCL states that alternative motor carrier service is available to these shippers.

Upon receiving authority to abandon the line, WCL intends to salvage the remaining rail, track material, and crossties. However, WCL intends to leave bridges and culverts in place.

ENVIRONMENTAL REVIEW

The railroad has 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. The railroad has served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules at 49 CFR 1105.7(b). We have reviewed and investigated the record in this proceeding.

The National Geodetic Survey (NGS) has advised SEA that 10 geodetic station markers may be affected by the proposed abandonment and requests 90 days notification in advance of any activities that may disturb or destroy these markers.

WCL states that no work would be done in a navigable water of the U.S. and no dredged or fill material would be discharged in any water of the U.S., including wetlands. However, the U.S. Army Corps of Engineers, Detroit District (USACE), had not responded to the reports at the time this document was prepared. SEA recommends a consultation condition requiring that WCL

¹ The line has had no new non-emergency tie installations for at least 20 years and no surfacing for approximately 15 years.

contact the USACE prior to commencement of any salvage activities, in order to determine whether a USACE permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would be required.

The U.S. Environmental Protection Agency, Region 5 (US EPA), has expressed concerns about the removal and salvage methods to be used by WCL during the proposed abandonment, the final disposition of crossties preserved with creosote, procedures for storing and fueling of construction equipment, procedures for the prevention and/or control of spills from construction equipment, bridge and culvert maintenance, and erosion mitigation practices to be utilized during abandonment activities. Specific mitigation measures suggested by the US EPA include: utilizing existing public and private crossings when removing materials, particularly in wooded areas and areas adjacent to wetlands; restoring disturbed soil to original grade; and reseeded disturbed areas with native flora. Accordingly, SEA will recommend a consultation condition requiring that WCL contact the US EPA, Region 5, prior to commencement of any salvage activities on this project.

WCL is aware that some of the coastal areas in Wisconsin, including waters of Lake Michigan, are part of the Coastal Zone Management Program. Although the southern most point of the Plymouth Line is located five miles from Lake Michigan, WCL does not believe that the proposed abandonment will adversely affect any land or water uses in such an area or result in coastal impacts. In addition, WCL intends to leave the right-of-way intact for possible conversion to a trail. The Wisconsin Department of Administration (WDA), the agency responsible for implementing the state Coastal Zone Management Program, has not completed its review of the proposed abandonment. Thus, we will recommend a condition that, prior to beginning any salvage activities, WCL shall consult with the WDA to determine whether Wisconsin State Coastal Management consistency certification is required.

Sheboygan County submitted comments stating that work done along the corridor in certain areas of the county may require a Sheboygan County Shoreland-Floodplain permit. Accordingly, SEA will recommend a consultation condition requiring that WCL contact Sheboygan County prior to commencement of any salvage activities on this project regarding its requirements.

The Wisconsin Department of Natural Resources (WDNR) has submitted a number of comments on the proposed abandonment. The WDNR did not identify any surface water drainage problems in the proposed project area but advised that the WCL should use proper erosion control measures. The WDNR also stated that the removal of track and ties should not affect any designated wetlands. However, because the original construction of the roadbed resulted in the filling of wetlands and altered original drainage patterns, WDNR advised that, if the right-of-way is not used for transportation or trail purposes, WCL should remove all fills and restore the original contours and vegetation. The proposed abandonment also should not impact the 100-year floodplain if no additional fill is placed in the floodplain, and bridges and culverts may remain in place, if maintained. However, all structures must be removed and the embankments regraded

and permanently stabilized, if the right-of-way will not be used for transportation or trail purposes. WDNR recommended that tracks and ties be recycled and or disposed of in an appropriate manner. Accordingly, we recommend that the WCL consult with the WDNR prior to commencement of salvage activities, in order to discuss an erosion control plan, bridge and culvert maintenance, and a plan for waste and demolition material disposal.

Due to heavy rainfall in southeastern Wisconsin during May and June 2004, high waters on the Sheboygan River transported cattail mats and other debris downstream. The debris was snagged by relict wooded railroad bridge piers near the WCL bridge, south of Milepost 151.8. As a result, water flow was obstructed and water elevations were raised upstream. The WDNR has requested that WCL inspect all bridge crossings in the proposed abandonment corridor and remove any piers down to stream bed elevation. SEA will recommend a consultation condition requiring that WCL contact the WDNR prior to commencement of any salvage activities on this project.

The WDNR stated that the project should have minimal impact on natural resources and, if the disturbance caused by track and tie removal is limited to the ballast area, there should be no adverse impacts to endangered species. However, WDNR states that the route should be reviewed for any rare or unusual prairie habitat and rare or endangered species.² WDNR recommends that surveys be conducted to determine if native grassland savanna, prairie or wet meadow remnants are present in the project area and to determine if rare or endangered species are present in the project area. If rare or endangered species are present, then WDNR advised that WCL should indicate this in a map and develop a plan to avoid or minimize impacts to the remnant habitats and associated species. If rare species cannot be avoided in the project's impact area, then WDNR recommends that WCL conduct an incidental take consultation and contact the Bureau of Endangered Species' Environmental Review Specialist, Ms. Lisie Kitchell, at (608) 266-5248. Accordingly, SEA will recommend a consultation condition requiring that WCL contact the WDNR prior to commencement of any salvage activities on this project.

The U.S. Fish and Wildlife Service, Green Bay ES Field Office in New Franken, Wisconsin (FWS), has indicated that the following federally listed endangered or threatened species occur in Manitowoc, Ozaukee, and/or Sheboygan Counties: bald eagle (*Haliaeetus leucocephalus*), Pitcher's thistle (*Cirsium pitcheri*), eastern prairie fringed orchid (*Platanthera leucophaea*), and Hine's emerald dragonfly (*Somatochlora hineana*). Additionally, FWS stated that critical habitat for the piping plover (*Charadrius melodus*) occurs in Manitowoc County. FWS states, however, that there are no federally-listed threatened or endangered species or critical habitats currently in the project area. The agency cautions WCL that the site could be utilized by listed species/critical habitats at some future time and notes that updates to their lists of threatened

² WDNR also suggested that disturbance from track and tie removal should be kept to the minimum required to do the work, since there are occurrences of natural communities; state special concern crustaceans and plants; state threatened birds, fish, and plants; and state endangered fish present in the Plymouth Line corridor area.

or endangered species are made every six months. Accordingly, we will recommend a condition requiring that WCL consult with the FWS prior to commencement of any salvage activities on this project.

On October 29, 1992, an underground storage tank was removed at Plymouth, WI.³ According to WCL, no additional remediation was required after the removal. WCL states that it is not aware of any other known hazardous waste sites or hazardous material spill sites on the subject right-of-way. WDNR's review did not identify any unresolved hazardous material releases in the proposed project area.

WDNR stated that there are no national or state parks or forests along the project route but indicated that the Plymouth Line is near the Kiel Marsh Wildlife Area, the LaBudde Creek Fishing Area, and the Waldo Wildlife Area. WDNR recommended that WCL contact Wildlife Biologist, Dale Katsma at 920-892-8756 ext. 3040 and Fisheries Biologist, John Nelson at 920-892-8756, for specific information regarding critical habitats. Accordingly, SEA will recommend that WCL consult with the Wildlife Biologist and Fisheries Biologist prior to commencement of any salvage activities on this project.

WCL states that the right-of-way may be suitable for use as a recreational trail and asserts that it holds good title to much but not all of the real property constituting the right-of-way.⁴ The Plymouth Line crosses the National Park Service Ice Age National Scenic Trail⁵ near Elkhart Lake and the Sheboygan County Old Plank Trail in Plymouth and could serve as a link with these existing trail networks. According to the WDNR, the Plymouth Line is identified in the State Trails Plan and the Northeast and Southeast Region Trails Plan as a future segment. Additionally, the US EPA has encouraged discussions between WCL and the WDNR to convert the right-of-way into a recreational trail. However, no formal request for a public use condition or trails use condition has been submitted. The requirements for public use and trail use are discussed below.

The 1995 Trails Act and the Board's Environmental Review

The Trails Act, 16 U.S.C. 1247(d), gives interested parties the opportunity to negotiate voluntary agreements to use, for recreational trails, railroad right-of-way that otherwise would be abandoned. The Trails Act is intended to preserve railroad rights-of-way for future railroad use.

³ According to WCL, this information is from records of the Wisconsin Department of Commerce.

⁴ WCL states that the right-of-way would not be suitable for use as a roadway, since state highways are in close proximity and run parallel to the line.

⁵ The Ice Age Trail is one of only eight national scenic trails in the U.S. See <http://iceagetrail.org/index.html>.

Under the Trails Act and the Board's implementing procedures (49 CFR 1152.29), a state or local government or private organization can request a trail condition (known as a Certificate of Interim Trails Use (CITU))⁶ to begin the trail use process on a line approved for abandonment if the rail sponsor agrees to railbanking and provides a statement of willingness to assume responsibility for managing the right-of-way, for any legal liability arising out of its use, and for the payment of taxes. If the railroad agrees to negotiate, and no offer of financial assistance to continue rail freight service on the line is received, the Board imposes a CITU, which gives the rail sponsor time to negotiate an agreement with the railroad for interim trail use/railbanking. The Board has no involvement in the negotiations and does not analyze, approve, or set the terms of trail use agreements. The Board is not authorized to regulate activities over the actual trail. In short, the Board's jurisdiction under the Trails Act is ministerial.

The Board does not conduct an environmental review of a potential conversion to interim rail use/railbanking because it does not exercise sufficient Federal control so as to qualify as a major Federal action under the National Environmental Policy Act. Only major actions by Federal agencies require environmental review.

Traffic

WCL states that a total of 206 carloads were moved on the line during the base year (calendar year 2003). Using a conversion factor of 4 trucks per railcar,⁷ the Section of Environmental Analysis calculated that, if all the rail traffic is diverted to truck traffic, about 824 loaded trucks per year or 1,648 total trucks (assuming an empty backhaul) could be added to area roadways. This equates to approximately 7 trucks per day being added to area roadways during a 240 workday year.⁸

Other Comments

The Random Lake Area Chamber of Commerce (Chamber of Commerce), an organization that promotes economic development in northern Ozaukee County and southwestern Sheboygan County, and Kettle Lakes Cooperative both submitted comments stating that their organizations have been actively promoting efforts to save the railroad. These organizations are interested in preserving the economic development potential which could come from a reliable and foreseeable rail service. In addition, U.S. Congressman Thomas E. Petri submitted a letter on behalf of his constituents, who use the line to ship and receive freight by rail. At the request of Congressman Petri, the Chamber of Commerce, and Kettle Lakes Cooperative, Board staff will conduct a public

⁶ This process allows railroad rights-of-way to be preserved by allowing interim trail use on lines that otherwise would be abandoned.

⁷ The conversion factor is an estimate used to calculate the rail to truck conversion of varied commodities.

⁸ 240 workdays result when weekends and holidays are subtracted from a 365 day year.

meeting in order to allow interested persons to appear and present their views regarding the proposed abandonment. The meeting will be held at a time and place to be determined at a later date.

HISTORIC REVIEW

The railroad submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Wisconsin Historical Society (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). At the time this EA was prepared, the SHPO had not completed its assessment of the proposed abandonment. Pending completion of the SHPO's review, we recommend a condition to ensure compliance with the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONDITIONS

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

1. Based on the comments of the National Geodetic Survey (NGS), we recommend that the following condition be imposed on any decision granting abandonment authority: **WCL shall consult with NGS and provide NGS with 90 days notice prior to disturbing or destroying any geodetic station markers.**
2. We recommend that **WCL consult with U.S. Army Corps of Engineers, Detroit District, prior to commencement of any salvage activities, regarding permitting requirements.**
3. Based on the comments of the U.S. Environmental Protection Agency, Region 5 (US EPA), we recommend that **WCL contact the US EPA, Region 5, prior to commencement of any salvage activities on this project in order to discuss: removal and salvage methods to be used by WCL during the proposed abandonment; final disposition of crossties preserved with creosote; procedures for storing and fueling of construction equipment; procedures for the prevention and/or control of spills from construction equipment; bridge and culvert maintenance; and erosion mitigation practices to be utilized during abandonment activities. We also recommend that WCL utilize existing public and private crossings when removing materials, particularly in wooded areas and areas adjacent to wetlands; restore disturbed soil to original grade; and reseed disturbed areas with native flora.**
4. We recommend a condition that, prior to commencement of any salvage activities, **WCL shall consult with the Wisconsin Department of Administration, Coastal Zone Management Program, to determine whether the abandonment would affect coastal management areas and whether Wisconsin State Coastal Management consistency certification is required. If consistency certification is required, applicant shall be**

prohibited from performing any salvage or abandonment activities until applicant obtains consistency certification and shall then notify the Surface Transportation Board.

5. Based on the comments of Sheboygan County, we recommend that **WCL consult with Sheboygan County prior to commencement of any salvage activities, regarding its floodplain requirements.**
6. Based on the comments of the Wisconsin Department of Natural Resources (WDNR), we recommend that **WCL consult with the WDNR prior to commencement of salvage activities, in order to discuss WDNR's concerns regarding the abandonment. (erosion control plan; bridge, pier, and culvert maintenance; plan for waste and demolition material disposal; and remnant habitats and associated rare or endangered state species.)**
7. Based on comments of the Wisconsin Department of Natural Resources (WDNR), we recommend that, prior to commencement of any salvage activities, **WCL contact Wildlife Biologist, Dale Katsma at (920) 892-8756 ext. 3040 and Fisheries Biologist, John Nelson at (920) 892-8756, regarding critical habitats.**
8. We recommend that **WCL consult with the U.S. Fish and Wildlife Service, Green Bay ES Field Office in New Franken prior to commencement of any salvage activities.**
9. Because the Wisconsin Historical Society has not completed its review of the proposed abandonment, we recommend that **WCL retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until the completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.**

CONCLUSIONS

Based on the information provided from all sources to date, we conclude 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 four-part showing for imposition of a public

use condition (49 CFR 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 certificate of interim trail use (CITU) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-303 (Sub No. 27) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Christa Dean, the environmental contact for this case, by phone at (202) 565-1606, fax at (202) 565-9000, or e-mail at deanc@stb.dot.gov.

Date made available to the public: August 2, 2004.

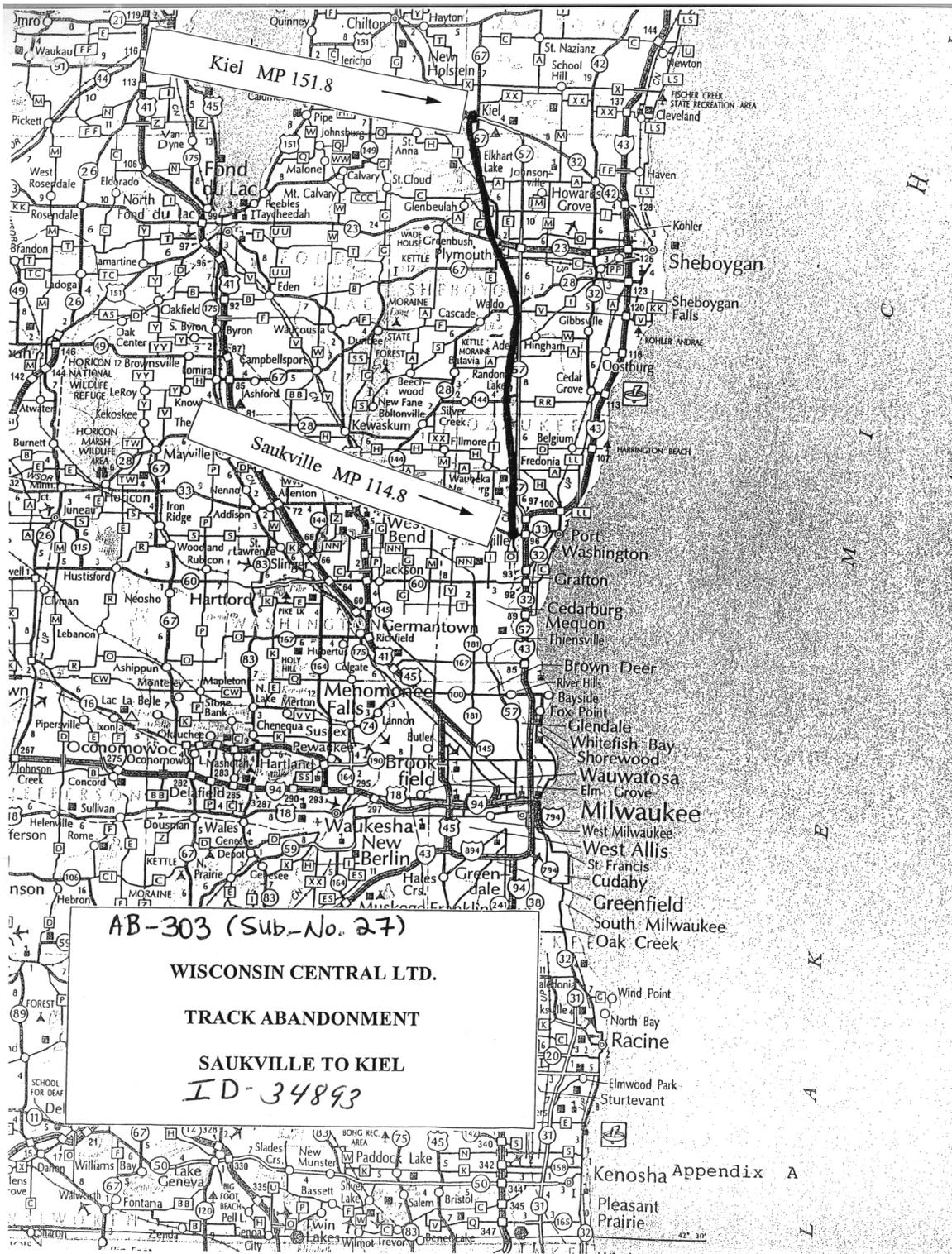
Comment due date: September 1, 2004.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams

Secretary

Attachment



AB-303 (Sub-No. 27)
 WISCONSIN CENTRAL LTD.
 TRACK ABANDONMENT
 SAUKVILLE TO KIEL
 ID-34893