

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 35952

GREAT LAKES BASIN TRANSPORTATION, INC—AUTHORITY TO CONSTRUCT AND
OPERATE A RAIL LINE IN INDIANA, ILLINOIS AND WISCONSIN

**COMMENT ON THE DRAFT SCOPE OF ENVIRONMENTAL IMPACT STATEMENT
(EIS)
Wisconsin Department of Transportation**

The Wisconsin Department of Transportation (WisDOT) hereby submits its Comment in response to the decisions served March 18, 2016 and April 8, 2016, seeking comments on the Draft Scope of the Environmental Impact Statement (EIS) to be prepared by the Surface Transportation Board (Board) Office of Environmental Analysis (OEA) in the above-referenced proceeding.

I. Introduction and Request to Participate as a Cooperating Agency.

The Wisconsin Department of Transportation is the designated rail transportation authority in the state of Wisconsin.¹ WisDOT is responsible for all state and federally-aided highway and airport construction in Wisconsin and is responsible for planning, promoting, and protecting all forms of transportation in the state.² WisDOT has statutory first right to acquire for present or future transportation and recreational purposes any property used in operating a

¹ 49 U.S.C. 22701(4); Wis. Stat. Chp. 85.

² Secs. 84.01(2), 114.32(1) and (5), and 85.02(1), Wis. Stats.; Wisconsin Department of Transportation, Wisconsin Rail Plan 2030: Statewide Long-Range Rail Transportation Plan, March 19, 2014, *available at* <http://wisconsindot.gov/Pages/projects/multimodal/railplan/default.aspx>.

railroad that is abandoned in Wisconsin, and the authority to administer grants and loans for rail projects to assist in the preservation and improvement of freight rail service in the state.³

WisDOT has reviewed all filings and communications submitted to the Board, including all material submitted to the Board by the Applicant, Great Lakes Basin Transportation, Inc. (GLBT), and has met with representatives of GLBT, as well as private and public stakeholders in railroad matters and this proposal specifically.⁴

Pursuant to its statutory authority and responsibility, WisDOT respectfully requests that the Board invite WisDOT to participate in this EIS process as a cooperating agency on the basis of its special expertise and applicable jurisdiction within the state. WisDOT has commented on previous significant transactions and has filed its Notice of Intent to Participate as a Party of Record in this Proceeding.⁵ WisDOT encourages STB to conduct a transparent and inclusive process during the development of the Scope and Draft EIS, including by holding periodic public-agency involvement meetings in addition to a draft EIS public hearing.

WisDOT expects the Board will follow applicable National Environmental Policy Act (NEPA) and Wisconsin regulations in evaluating alternatives and making decisions that affect WisDOT facilities.

³ Secs. 85.09(2), 85.08(4m) Wis. Stats.

⁴ WisDOT sections of Railroad and Harbors, and Environmental Process and Documents, and regional offices all contributed to this Comment.

⁵ Canadian National Railway Co., et al.-Control-Wisconsin Central Transportation Co., et al., STB Finance Docket No. 34000, Decision No. 10 (2001), at 5; Canadian National Railway Company and Grand Trunk Corporation-Control-EJ&E West Company, STB Finance Docket No. 35087, Decision No. 16 (2008) at 7; Canadian Pacific Railway Company, et al. –Control- Dakota, Minnesota & Eastern Railroad Corp., et al., STB Finance Docket No. 35081, Decision No. 11 (2008) at 49; Watco Holdings, Inc., et al.-Acquisition of Control Exemption-Wisconsin & Southern Railroad, L.L.C., STB Finance Docket No. 35573 (2012); Wisconsin Department of Transportation Notice of Intent to Participate, Great Lakes Basin Transportation, Inc. – Authority to Construct and Operate a Rail Line in Indiana, Illinois and Wisconsin, STB Finance Docket No. 35952 (April 26, 2016).

II. Railroad Operations in Wisconsin.

The State of Wisconsin currently hosts four Class I Railroads and seeks cooperative and productive relationships with all its partners, particularly in the areas of shared interests.

WisDOT will monitor the proposal for potential effect upon existing railroad-state concerns.

Wisconsin communities, shippers and manufacturers have seen declines in their freight railroad service on Canadian National Railway Company (CN) lines since it acquired Wisconsin Central Ltd. (WCL) in 2001, and the EJ&E West Company (EJ&E) in 2008. The Board has expressed its continuing commitment to Wisconsin rail service stating, “[t]he Board . . . takes seriously DATCP [Department of Agriculture, Trade and Consumer Protection] and WisDOT’s concerns regarding rail service. Pursuant to the operational monitoring condition and oversight period established in this decision, the Board will monitor and address any diminution in service resulting from the control transaction.”

WisDOT respectfully requests that the Board support state efforts to monitor and address Wisconsin rail service concerns as it examines the GLBT proposal, including how it may mitigate or affect other carriers’ service declines.

Furthermore, WisDOT encourages the OEA and Board to consider challenges presented by existing railroads in Wisconsin while developing the Scope of Study for EIS, and reviews anticipated application or petition. Currently, WisDOT sees opportunities to improve cooperation in the following areas:

- Port of Milwaukee. As a main intermodal transportation hub, the Port of Milwaukee is a critical element in the Wisconsin economy. The GLBT proposal provides opportunity to connect with the Canadian Pacific Railway Company (CP) line that serves the Port. WisDOT asks the Board to encourage CP to permit

reasonable access to the Port of Milwaukee for Wisconsin & Southern Railroad, L.L.C. (WSOR) and other common carriers as it examines the GLBT proposal.

- Passenger Rail. As passenger rail expands in the Midwest, WisDOT asks that the Board examine how the added capacity GLBT proposes may mitigate obstacles to passenger rail on the CP line in Wisconsin. Specifically, could the GLBT proposal facilitate cooperation by host railroad with WisDOT on increasing intercity passenger rail frequencies between Chicago and Milwaukee (Amtrak Hiawatha Service route) and Chicago, Milwaukee and St. Paul (Amtrak Empire Builder route)? Current railroad demands of significant infrastructure investments to accommodate additional passenger trains may soften if Chicago congestion and freight issues are more satisfactorily addressed.

III. Proposed Alternative Routes for Study.

WisDOT requests that the OEA EIS scope include alternatives that do not entail construction of substantial new railroad corridor on greenfield in Wisconsin. At traffic levels below 30 trains per day, WisDOT believes projected Class I railroad traffic that would divert to the proposed GLBT route in Illinois might be safely handled on the underutilized routes in southern Wisconsin and northern Illinois, with some improvements needed to upgrade the infrastructure on those existing routes. Considering the excess capacity available on existing routes, there may be no need for the construction of a new railroad corridor for the GLBT north of CN's Galena–Cicero subdivision in either Winnebago or Boone County, Illinois.

WisDOT staff maintains a state railroad database with which WisDOT has evaluated the route proposed by GLBT, existing operating rail corridors, and railbanked and abandoned corridors to examine whether other routes may serve the purpose and need expressed by GLBT

in its Information Paper.⁶ As a result, WisDOT proposes routes on active, out-of-service, and abandoned railroad corridors in southern Wisconsin, including the eight (8) detailed below and a no-build in Wisconsin alternative, for further study as possible alternatives to the proposed GLBT route, including acquisition of and/or trackage rights on routes, all or in part, to serve the project's purpose and need. See Exhibit 1 (Map).⁷

- 1) Portage–Madison (CP) + Madison–Monroe–Orangeville–Freeport (former Illinois Central) + Freeport–Rockford (CN): Provides connection from CP-owned track at Portage, WI to the Rockford, IL area.
- 2) Portage–Madison (CP) + Madison–Oregon–Evansville (WSOR) + Evansville–Afton (former C&NW) + Afton–Beloit–Rockford (CP): Provides connection from CP-owned track at Portage, WI to the Rockford, IL area.
- 3) Portage–Madison (CP) + Madison–Milton Jct.–Janesville (WSOR) + Janesville–Beloit–Rockford (CP): Provides connection from CP-owned track at Portage, WI to the Rockford, IL area.
- 4) Portage–Madison (CP) + Madison–Cottage Grove (WSOR) + Cottage Grove–Jefferson Jct. (former C&NW) + Jefferson Jct.–Fort Atkinson (UP) + Fort Atkinson–Milton Jct. (former C&NW) + Janesville–Beloit–Rockford (CP): Provides connection from CP-owned track at Portage, WI to the Rockford, IL area.
- 5) Waukesha–Milton Jct.–Anderson (WSOR) + Anderson–Janesville (UP) + Janesville–Beloit–Rockford (CP): Provides connection from CN-owned track at Waukesha to the Rockford, IL area.
- 6) Waukesha–Burlington (CN) + Burlington–Elkhorn (former Milwaukee Road) + Elkhorn–Bardwell (WSOR) + Bardwell–Clinton Jct. (former Milwaukee Road) + Clinton Jct.–Beloit (UP & CP) + Beloit–Rockford (CP): Provides connection from CN-owned track at Waukesha to the Rockford, IL area.
- 7) Milwaukee–Sturtevant (CP) + Sturtevant–Kansasville (CP) + Kansasville–Elkhorn (former Milwaukee Road) + Elkhorn–Bardwell (WSOR) + Bardwell–Clinton Jct. (former Milwaukee Road) + Clinton Jct.–Beloit (UP & CP) + Beloit–Rockford (CP): Provides connections from CP-owned track at Sturtevant and CN-owned track at Burlington to the Rockford, IL area.
- 8) Clyman Jct.–Watertown–Jefferson–Fort Atkinson (UP) + Fort Atkinson–Milton Jct. (former C&NW) + Milton Jct.–Anderson (WSOR) + Anderson–Janesville (UP) + Janesville–Beloit–Rockford (CP): Provides connections from UP-owned track at Clyman Junction and CP-owned track at Watertown to the Rockford, IL area.

⁶ By letter dated October 15, 2015, from Jay C. Johnson to Director Vicki Ruston, attached as “Information Paper Great Lakes Basin Railroad Project”.

⁷ “WisDOT Proposed Alternative Routes for Scope EIS Comment,” Map attached as Exhibit 1.

WisDOT is concerned about the potential imposition of trackage rights on state-owned railroad corridors in southern Wisconsin that are currently operated by WSOR. The GLBT proposed route and some alternatives would require that the Class I railroads operate on the state-owned Waukesha–Milton line, the Janesville–Fox Lake line, and possibly others. WisDOT requests that costs to the state, WSOR and local communities to upgrade infrastructure, improve safety, and mitigate other impacts be considered in all route evaluations, and that GLBT be required to pay all costs associated with all necessary improvements and mitigation measures.

Finally, WisDOT respectfully requests OEA examine a no-build in Wisconsin alternative, where the route would end at the proposed northern terminus of the Illinois Subdivision, south of Rockford, IL. Wisconsin local and state governments, individuals and groups have expressed concerns to WisDOT about the substantial effect building the GLBT in Wisconsin may have, including the surrender of valuable land with decades of soil management planning and investment, in addition to listed scoping areas. Will Wisconsin realize any benefit to its state and local economies? How will STB and GLBT ensure Wisconsinites share in the fruits of this project, as we contribute our significant resources thereto?

IV. Crossing Concerns

A. At-Grade Crossings: Skew Angles and Vision obstruction.

Several of the at-grade crossings proposed by GLBT would have significant skew angles which will cause issues for motorists being able to see a train coming as they approach the crossing. These skewed crossings will also cause safety concerns for bicycles crossing the track, as a tire could possibly get caught in the flangeway. Two examples of skewed crossings are at State Line Road and East Tighe Road proposed crossings in the Rock County Township of Clinton.

Most of the at-grade crossings proposed by GLBT have vision issues due to the proposed line's proximity to tree lines and farm buildings. Therefore, WisDOT encourages OEA to consider how even slightly different alternatives may enhance safety and reduce impacts.

Another at-grade vision concern is at CTH X (Clinton Township). GLBT proposes to have the Pelishek Nature Trail go over the railroad in the Rock County Township of LaPrairie, but such a design would prevent motorists traveling in either direction on CTH X from seeing oncoming trains from the south due to the trail running parallel and very close to CTH X.

East Creek Road (LaPrairie Township) is another cause for concern because the railroad line will have to go over a creek near the roadway such that the elevation going over the creek may affect the elevation of the track at the crossing. The railroad must be constructed high enough to ensure the creek remains navigable. In general, it appears that the vertical alignment has not been thoroughly considered. There are several locations where the track will be on a curve with a significant superelevation at proposed at-grade crossings that will not fit well with the vertical alignments of the highways.

GLBT has not listed any roads for closure on its list of crossing treatments. WisDOT suggests that GLBT and the Board consider some crossings for closure due to the low traffic volumes and availability of alternate routes.

B. Warning Devices.

Warning devices at all crossings will be key in maintaining public safety at all crossings. WisDOT would like GLBT to identify what warning devices it proposes for each crossing, as well as which crossings quiet zones will be pursued. If anticipating a quiet zone at a crossing, WisDOT would like GLBT to disclose whether it will propose 4-quadrant gates or instead some kind of median, including whether it be a hardened median or a temporary type such as Quick Kurb.

Quiet zones affect residents' quality of life as they reduce the amount of train horn noise at the crossings. The warning devices necessary to qualify for a quiet zone also enhance crossing safety.

C. Grade-separated Crossings

WisDOT also notes concern regarding proposed grade-separated crossings.

- GLBT has proposed that the railroad be constructed over I-43. WisDOT is concerned whether there will be sufficient highway portal to permit the widening of the interstate in the future, if needed. WisDOT also notes concern at whether the distance between I-43 and Carvers Rock Road is sufficient for the railroad to return to an at-grade crossing at Carvers Rock Road.
- Bradford-Clinton Town Rd. crossing. If the interstate were to go over the railroad, WisDOT is concerned about creating more bridges that the State would then have to maintain, and the inherent safety concerns of bridges on high speed roadways during inclement weather.
- There are several crossing locations where farm buildings and driveways would potentially be in the way of a structure. WisDOT would like GLBT to explain how it plans to address these obstructions.
- Another grade separation concern is at STH 140. There is approximately 500ft between the crossing and where STH 140 intersects Bradford-Clinton Town Rd, so this could be a problem for the bridge approach.
- For all of the proposed structure locations, WisDOT would like to know if there are any plans for widening of roadways or if the GLBT foresees adding tracks in

the future. This will allow for the structures to be built to accommodate a wider road or an extra track below them in the future.

V. Impact upon Wisconsin Communities and WSOR

WisDOT requests the Scope of Study for EIS include examination of the impact of additional frequency and speed of trains on existing and proposed crossings within Wisconsin communities, including downline impacts, such as in the Cities of Janesville, Waukesha, Whitewater, Eagle, Palmyra and North Prairie, and others affected by alternative routes, as well as the impacts upon routes leading from the connections of existing lines to the GLBT proposed line at Milton Junction, Avalon, and Clinton Junction to the Class I connections at Waukesha, Janesville and Madison, WI. The EIS should consider the effects of increased train operations on these corridors if the GLBT line is constructed along the proposed route.

WisDOT and the regional railroad Wisconsin and Southern Railroad, L.L.C. are long-term partners, and have shared interest in the safe and efficient movement of freight through Wisconsin. WSOR operates on approximately 600 miles of state-owned railroad lines. WisDOT requests that the Scope of Study for EIS include examination of potential effects upon downline WSOR operations and Wisconsin shipments, especially origins from and destinations to our state. For example, the line from Milton to Waukesha would require substantial infrastructure improvement to accommodate the described GLBT traffic. And, WisDOT and public and private stakeholders would like the Board to examine whether/how the introduction of GLBT project and operations could affect industry consolidation, reduced competition and potential increasing shipping rates.

VI. WisDOT Planning

WisDOT has reviewed the *Wisconsin Rail Plan*⁸ and *Connections 2030*⁹ to evaluate how the GLBT proposal aligns with Wisconsin planning policies to support and promote rail service for Wisconsin. Based on this review, the GLBT proposal appears consistent with *Connections 2030* and the *Wisconsin Rail Plan*. WisDOT is interested in ensuring that GLBT and its proposal support the viability of freight rail for Wisconsin shippers and recognize the importance of a strong rail system in maintaining and improving the state's economic vitality.

A. Connections 2030

Connections 2030 established a policy to ensure that freight rail remains a viable transportation mode for Wisconsin's shippers. WisDOT recognizes the intended benefit of the GLBT proposal for Wisconsin shippers because the bypass around Chicago could make freight rail more competitive with other freight modes.

The system plan environmental evaluation in *Connections 2030* identifies concerns that new rail lines have a greater potential to fragment habitat than new rail investments that occur within an original rail corridor. The EIS for the GLBT proposal should be reviewed by WisDOT and other agencies to ensure that habitat fragmentation will not result from the new rail line.

B. Wisconsin Rail Plan 2030

A strong rail system is important for maintaining and improving the state's economic vitality, supports livable communities, and improves the efficiency of the state's entire transportation system.

⁸ Wisconsin Rail Plan, *supra* note 2.

⁹ Wisconsin Department of Transportation, *Connections 2030: Wisconsin's long-range transportation plan*, October, 2009, available at <http://wisconsindot.gov/Pages/projects/multimodal/conn2030.aspx>.

Freight rail is addressed in Chapter 5 of the Wisconsin Rail Plan. In 2003, the major freight carriers, Metra, the city of Chicago and the Illinois Department of Transportation put together a \$1.5 billion capital improvement plan to eliminate bottlenecks and improve train velocity through the city, called the Chicago Region Environmental and Transportation Efficiency Program (CREATE).

Wisconsin's proximity to the Chicago rail gateway gives our state a major stake in the program's success. Traffic moving east from Wisconsin does not have the option to move via "alternative gateways" such as St. Louis or Memphis when connecting to the eastern roads. Congestion in the Chicago terminal area can "back up" rail operations and negatively impact rail service in southeastern Wisconsin. Finally, intercity passenger rail in Wisconsin and in the Midwest region (the state-supported corridors in the Chicago Hub Network) can only reach full potential with the assurance of reliable travel time and competitive intercity passenger rail service into the Chicago hub.

WisDOT asks OEA to consider whether and how GLBT proposal will affect CREATE and address Chicagoland congestion.

VII. Specific Comment Upon Draft Scope of Study

A. Transportation Systems

Documentation provided by GLBT indicates several grade-separated crossings of WisDOT roadway facilities. Any alterations of these roadways must follow the geometric design standards as established in Chapter 11 of the WisDOT Facilities Development Manual (FDM), and should be included as a direct impact in the EIS. Coordination with WisDOT during preliminary design of these crossings will be required.

B. Safety

If hazardous materials will be transported over the Great Lakes Basin Railroad, the EIS should identify “the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant’s safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plan to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.”¹⁰

C. Recreation

WisDOT requests that OEA consider the feasibility and safety of bicycle and pedestrian trails and accommodations as it examines the impact of the GBLT proposal.

D. Relating to both Biological and Water Resources

WisDOT maintains a large wetland mitigation bank system, as illustrated by the attached map.¹¹ Although the proposed route may not impact any of these mitigation sites, there are many small on-site wetland mitigation locations scattered throughout the project area that will require future coordination with WisDOT to determine whether there may be any impacts. Therefore, WisDOT requests the Scope of Study for the EIS consider these important features.

WisDOT also request OEA include local biological and water resources, as well as national and state resources, in its Scope of Study.

E. Cultural and Historic Resources

WisDOT strongly encourages OEA and the Board to initiate and maintain tribal coordination and consultation regarding 106 topics early in the process, and document cultural and historic

¹⁰ 49 CFR 1105.7(e)(7)(ii).

¹¹ Bank System Map for Sites Operating Under the DOT WMBTG 2002 Agreement (12/31/15), attached as Exhibit 2.

resources, and relevant coordination and approvals. WisDOT notes with favor the early communication to the Board from the Citizen Potawatomi Nation.

Conclusion

WisDOT appreciates the opportunity to comment on the scope of the EIS that OEA will conduct. In submitting this Comment, WisDOT seeks to execute and meet its statutory authority and obligations to protect, promote, and plan wisely for rail service in Wisconsin, and support its citizens, environmental, and economic welfare.

The GLBT Proposal has the potential to significantly impact Wisconsin communities, resources and economy. WisDOT respectfully requests that OEA consider seriously the concerns and information expressed herein, and from all Wisconsin filings and participants, whether Parties of Record or commenters.

Respectfully Submitted,



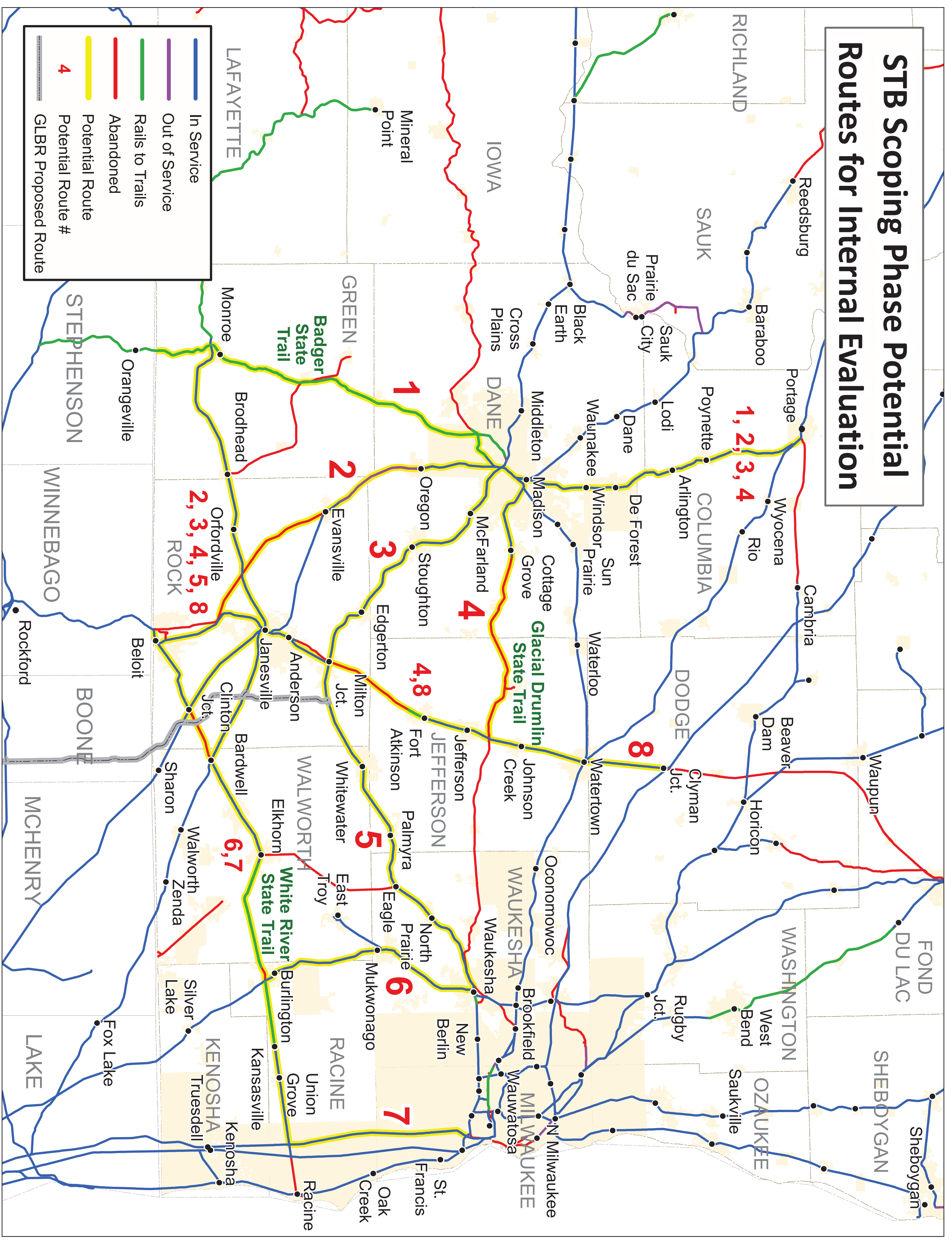
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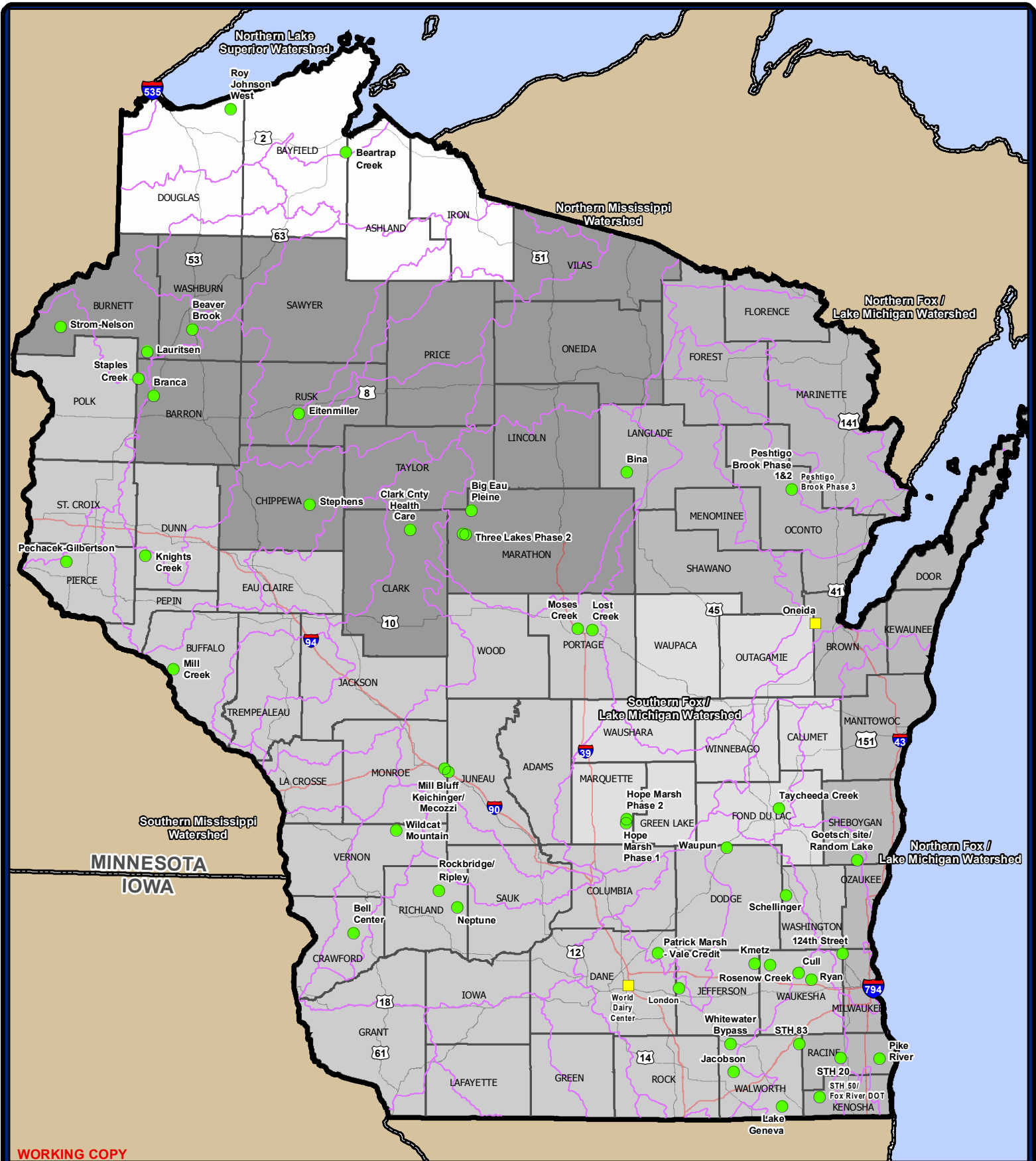


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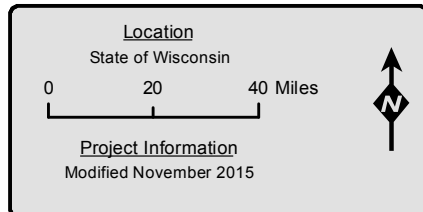
STB Scoping Phase Potential Routes for Internal Evaluation





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Bank System Map for Sites Operating Under the DOT WMBTG 2022 Agreement (as of 12/31/2015)



Legend

- Open Mitigation Sites
- Individual MBI Sites
- WisDOT Wetland Bank Regions (2002)
- Northern Lake Superior
- Southern Fox / Lake Michigan
- Southern Mississippi
- Northern Fox / Lake Michigan
- Northern Mississippi
- USGS 8 Digit HUC
- County Boundary
- State Boundary

Map created on 11/17/2015 by Pearson (WisDOT) and Giblin (Stantec)

Data sources include: WisDOT, USGS, WDNR, and WDOA.

* All site locations are based on best available data as of November 2015. The accuracy of site locations have not been verified by WisDOT staff.

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing Comment in regards to **FD No. 35952** to be served by electronic mail or regular mail, pursuant to 49 C.F.R. §1104.12, this 14th day of June, 2016, on all parties of record on the service list.

A handwritten signature in black ink that reads "Bennett Conard". The signature is fluid and cursive, with a large loop at the end of the last name.

Bennett Conard, Attorney
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Office of General Counsel