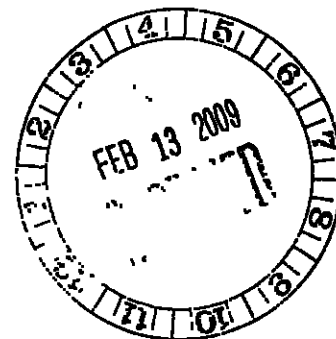


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LAW OFFICES
JOHN D. HEFFNER, PLLC
1750 K STREET, N W
SUITE 200
WASHINGTON, D.C 20006
PH (202) 296-3333
FAX: (202) 296-3939



224530

February 13, 2009

BY HAND

Hon. Anna K. Quinlan,
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

FEE RECEIVED

FEB 13 2009

**SURFACE
TRANSPORTATION BOARD**

**RE: STB Finance Docket No. 35195
Wisconsin Department of Transportation-Petition for
Declaratory Order- Rail Line in Sheboygan County, WI**

Dear Ms. Quinlan.

On behalf of Wisconsin Department of Transportation ("WisDOT") I am submitting an original and ten copies of a petition for declaratory order together with attachments. In addition, I am enclosing a check for \$1,400 to cover the filing fee pursuant to 49 CFR 1002.2 (f)(58)(11). A petition for fee waiver was filed under separate cover in this matter on November 18, 2008.

Please date stamp and return one copy of this letter.

Sincerely yours,


John D. Heffner
Counsel

Enclosures

cc Mack H. Shumate, Jr., Esq
Kathleen Chung, Esq

FILED
FEB 13 2009
**SURFACE
TRANSPORTATION BOARD**

224530

FILED

FEB 13 2009

**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

STB FINANCE DOCKET NO 35195

WISCONSIN DEPARTMENT OF TRANSPORTATION
—PETITION FOR DECLARATORY ORDER--
RAIL LINE IN SHEBOYGAN COUNTY, WI

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Public Record

Kathleen Chung, State Bar no 1032802
Assistant General Counsel
Wisconsin Department of Transportation
4802 Sheboygan Avenue, Room 115B
P O Box 7910
Madison, Wisconsin 53707-7910
Tel (608) 266-8810
Attorney for Petitioner

FEE RECEIVED
FEB 13 2009
**SURFACE
TRANSPORTATION BOARD**

Dated November 12, 2008

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

STB FINANCE DOCKET NO 35195

WISCONSIN DEPARTMENT OF TRANSPORTATION
—PETITION FOR DECLARATORY ORDER—
RAIL LINE IN SHEBOYGAN COUNTY, WI

INTRODUCTION

The Wisconsin Department of Transportation (“WisDOT”) is a governmental entity. WisDOT is the designated state agency in rail matters in the State of Wisconsin. 49 U.S.C. Appx § 1654(a) (formerly § 1654(j)), 49 C.F.R. § 266.1 and Ch. 85, Wis. Stats.

WisDOT hereby petitions the Surface Transportation Board (“the Board”) to issue a declaratory order stating it does not have jurisdiction over the Line Sale of the Kohler Industrial Lead (“the Kohler line”) by the Union Pacific Railroad Company, (“UP”), to WisDOT because the parties have intentionally and specifically structured the transaction to comport with the terms and conditions of Maine, DOT-Acquisition Exemption, Maine Central Railroad Company, 8 I.C.C. 2d 835 (1991) (“State of Maine”), State of Georgia, DOT – Acquisition Exemption – Georgia Southwestern Railroad, Inc., STB Finance Docket No. 33876 (STB served July 7, 2000) (“State of Georgia”), and State of Wisconsin Department of Transportation – Petition for Declaratory Order, STB Finance Docket No. 34623 (STB served December 23, 2004) (“State of Wisconsin”).

BACKGROUND

The Kohler line from Milepost 40 near Kohler, WI to Milepost 14.95 at Plymouth, WI is currently owned by UP which has not provided service over the rail line for many years. UP desires to sell the rail line. At Plymouth, WI, the Kohler line connects to an active rail line extending between Saukville, WI to Kiel, WI. The Saukville to Kiel rail line is owned by WisDOT and operated by the Wisconsin & Southern Railroad ("WSOR"). See State of Wisconsin. WisDOT intends to acquire the Kohler line subject to the grant to the WSOR of a permanent exclusive operating easement pursuant to which WSOR will provide common carrier rail freight service to those industries needing rail service.

WisDOT and UP have agreed to execute a contract whereby UP agrees to sell and WisDOT agrees to purchase the Kohler line. This contract (See Attachment 1, "Kohler Line Sale Contract") will not be closed without a ruling from the Board that it does not have jurisdiction over the proposed acquisition.

Because WisDOT may not assume common carrier obligations according to its State Constitution, WSOR has negotiated with UP to acquire the common carrier obligation, and, concurrent with this filing, will petition the Board for operating authority. See Wisconsin & Southern Railroad Company – Acquisition and Operation Exemption – Union Pacific Railroad Company, STB Finance Docket No. 35144 (Attachment 2). WisDOT has entered into an Operating Agreement and Land Use Agreement with the East Wisconsin Counties Railroad Consortium¹, ("Commission")² pursuant to which the

¹ The Commission is a public entity and consortium of interested Wisconsin counties, created under the provisions of Wisconsin Statutes Section 66.0301, which was established, in part, to oversee the preservation of rail service on certain rail lines acquired by the State of Wisconsin. The Commission was created to undertake rail preservation activities for the State, because the State of Wisconsin was, prior to an April 1992

Commission shall contract with an operator to provide freight rail service over the Kohler line and receive financial assistance from WisDOT. See Attachment 3, "Commission Operating Agreement." The Commission has entered into an Operating Agreement with WSOR, so WSOR will conduct all rail operations on the Kohler line. See Attachment 4, "WSOR Operating Agreement." These agreements collectively are the "Transaction Agreement Documents."

WisDOT now submits to the Board this Petition for Declaratory Order (the "Petition") requesting the Board's ruling stating that it does not have jurisdiction over the transaction set forth in the Transaction Agreement Documents.

THE SUBJECT TRANSACTION

Pursuant to the terms and conditions of the Transaction Agreement Documents, WisDOT shall acquire the Kohler line and improvements thereon from UP, as set forth in the Deed's legal description, without acquiring the common carrier authority on the segment of operating railroad running upon the Real Estate. WisDOT has intentionally and specifically structured the transaction to comport with the terms and conditions of State of Maine, State of Georgia, and State of Wisconsin

amendment, constitutionally prohibited from the acquisition, improvement or construction of railways or other railway facilities (or to be a party to any such works) and from borrowing money to invest in rail line improvements and rehabilitation. See Article VIII, Section 10, Wisconsin Constitution.

² On March 28, 2008, WisDOT and the Commission entered into an Operating Agreement for Rail Service Continuation whereby the Commission shall provide freight rail service and shall be financially assisted by WisDOT (Commission Operating agreement, page 2). By section 2.1, WisDOT grants the Commission the use of the rail line, and the right and authority to enter into an Agreement with operator, in this case WSOR, to lease WSOR an exclusive right and license to use the Land for the purpose of providing freight rail service. Section 4.2 (b)(iii) identifies the UP property from Kohler to Sheboygan as subject property. On the same date, WisDOT and the Commission entered into a Land Use Agreement providing that the Commission may establish, construct, develop, maintain and operate a railroad on the subject property, with WisDOT retaining rights regarding sale or disposal of the property, and the authority to issue permits for utility and communications easements. Pursuant to Section 9 at page 2 of the Land Use Agreement (Attachment 5) WisDOT may not, by its permit issuance authority, unduly interrupt railroad operations.

In the instant case, Section 2.1 of the Commission Operating Agreements grants the Commission the right to enter into an agreement with WSOR granting WSOR an exclusive right and license to operate the line to permit it to carry out the common carrier obligation. See The Port of Seattle – Acquisition Exemption – Certain Assets of BNSF Railway Company, STB Finance Docket No. 35128, (STB served October 27, 2008) (“Port of Seattle”). Such an agreement has been executed between the Commission and WSOR, and by Section 2.1, WSOR has been granted the exclusive right and license to use the Line for the purpose of providing freight rail service and all purposes necessary to that end, including the right to participate in negotiations for possible passenger rail service, as provided in Section 2.2(j), and subject to existing utility easements, Section 2.2(f).

WisDOT has structured the transaction specifically to ensure that WisDOT does not assume any common carrier liability by contracting with the Commission so that the Commission shall contract with WSOR to operate the railroad on the Line pursuant to the Transaction Agreement Documents. As a result, the conveyance of the Kohler line is not the acquisition of a “railroad line” within the intent and meaning of 49 USCS § 10901, thus, the transaction is outside the Board’s jurisdiction.

WisDOT has acquired a number of rail lines, primarily during the course of the bankruptcy proceedings involving the Chicago, Milwaukee, St. Paul and Pacific Railroad Company. Generally, the rail lines currently owned by the State of Wisconsin were acquired after they had been authorized for abandonment by the Interstate Commerce Commission and/or Surface Transportation Board. Neither WisDOT nor the Commission provides, nor is either equipped to provide, common carrier, “for-hire” rail

freight service. It has always been WisDOT's and the Commission's intention to preserve service over light density or abandoned rail lines without incurring a common carrier obligation, and these parties have attempted to fashion their previous rail line transactions to avoid the imposition of this obligation. In the instant case, WSOR will operate the Kohler line subject to the terms and conditions of the Transaction Agreement Documents so that any such common carrier liabilities shall reside with WSOR after the exercise of WisDOT's purchase and the recording of the Transaction Agreement Documents.

CONCLUSION

For the above stated reasons, and based upon the above cited authorities, *to wit* State of Maine, State of Georgia, State of Wisconsin and Port of Seattle; WisDOT hereby requests the Board issue a Declaratory Order relieving WisDOT of the common carrier obligation in connection with the transaction, and/or such other appropriate written notification stating that Board does not have jurisdiction over the subject transaction.

Respectfully submitted,

A handwritten signature in cursive script, reading "Kathleen Chung", is written over a horizontal line.

Kathleen Chung

Dated November 12, 2008

ATTACHMENT 1

LINE SALE CONTRACT

THIS LINE SALE CONTRACT ("Contract") is entered into as of this 2nd day of April, 2008 ("Execution Date"), between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("UP"), and WISCONSIN DEPARTMENT OF TRANSPORTATION an agency of the State of Wisconsin ("WisDOT").

RECITALS:

WHEREAS, WisDOT desires to acquire that certain right-of-way known as the Kohler Industrial Lead from Milepost 4.0 near Kohler to Milepost 14.95 at Plymouth, WI (the "Right-of-Way"), but only if it does not assume any common carrier obligation to provide freight rail transportation service thereon; and

WHEREAS, Wisconsin Southern Railroad Company, a Wisconsin corporation ("WSOR") subject to the approval of the Surface Transportation Board ("STB") desires to acquire an exclusive perpetual freight easement on, over, under and through the Right-of-Way for the purpose of providing common carrier rail freight transportation thereon (the "Freight Easement") pursuant to an agreement with the East Wisconsin Counties Railroad Consortium; and ;

WHEREAS, UP desires to sell the Right-of-Way to WisDOT and to grant the Freight Easement to WSOR;

The parties agree as follows:

Section 1. Purchase and Sale of the Property.

UP agrees to sell and WisDOT agrees to purchase, on the terms and conditions of this Agreement, UP's right, title and interest in and to UP's right-of-way in Sheboygan County, State of Wisconsin, extending from Milepost 14.95 near Plymouth, Wisconsin to Milepost 4.0 near Kohler, Wisconsin, as shown on the attached print marked **Exhibit A** and more particularly described on the attached **Exhibit B** (the "Right-of-Way"),

together with any track, ties, ballast, other track materials, signals, switches, bridges, culverts and other personal property (but not including rolling stock, or communications equipment or facilities), fixtures and improvements on the Right-of-Way to the extent owned by UP (the "Personal Property") The Right-of-Way and the Personal Property sometimes are collectively called the "Property".

EXCEPTING from this sale and RESERVING to UP, its successors and assigns, forever, the following:

Roadways or utility lines that serve retained property, and railroad facilities to be retained by UP

The sale made pursuant to this Contract is subject to all applicable federal, state and local laws, orders, rules and regulations, and all outstanding rights whether or not of record or open and obvious on the ground.

Section 2. Purchase Price.

The purchase price for the Property is Nine Hundred Ninety-Four Thousand Two Hundred Fifty-one Dollars (\$994,251 00) The Purchase Price shall be paid by WisDOT to UP at Closing as defined in Section 4(a) by cashier's or certified check drawn on a reputable financial institution or by wire transfer of United States funds for immediate credit

Section 3. Conditions Precedent to Sale.

The sale and purchase of the Property are subject to the following conditions precedent:

(a) **Title Review.** WisDOT shall be responsible for assuring itself that the title to the Property is adequate for the continued operation of the Right-of-Way as a freight rail line UP shall make available for WisDOT's review, at UP's Real Estate Department

in Omaha, Nebraska, and during UP's business hours, UP's records located at such office and pertaining to the title to the Property. UP shall have no obligation to cure any title defects, except that at Closing, UP shall remove any liens against the Property of a definite and ascertainable amount that may be removed by the payment of money, other than liens created by WisDOT.

(b) STB Authority. WisDOT, at its sole cost and expense, shall acquire any necessary authority or exemption from the STB or its successor agency to acquire the Property. Any conditions to STB authority or exemption shall be subject to UP's approval, which approval may be withheld at UP's sole and absolute discretion. UP shall cooperate with WisDOT in connection with any hearings or submittals before the STB to obtain STB authority or exemption, but shall not be obligated to incur any cost or expense or to support any legal position which is not acceptable to UP

(c) Labor Issues. UP shall assure itself, in its sole discretion, that the sale of the Property to WisDOT or the grant of the Freight Easement to WSOR will not result in a work stoppage on UP or any of its affiliates' lines of railroad, and that there are no other labor issues which might jeopardize the anticipated benefits to UP of the sale of the Property.

(d) UP's Representations and Warranties. The representations and warranties of UP in Section 7(a) shall be true and correct.

(e) WisDOT's Representations and Warranties. The representations and warranties of WisDOT in Section 7(b) shall be true and correct.

Section 4. Closing.

(a) The sale and purchase of the Property shall close ("Closing") within 30 days after the appropriate STB ruling ("Closing Time"). If Closing does not occur during the Closing Time due to failure of a condition precedent in Section 3, then this Contract shall terminate and be without any further force and effect, and without further obligation

of either party to the other WisDOT shall have no right to occupancy of or entry upon any portion of the Property, except as set forth in Section 3(a), until Closing

(b) At Closing, WisDOT shall deliver to UP the Purchase Price and the following documents referenced in Section 5 and 6 as duly executed by WisDOT: Assignment and Assumption Agreement and Bill of Sale Prior to closing, UP shall deliver to WisDOT the following documents referred to in Section 5 as duly executed by UP (and, where appropriate, acknowledged) Quitclaim Deed, Assignment and Assumption Agreement, and Bill of Sale

(c) Each party shall bear and pay any and all costs and expenses for document preparation and title expenses required by it

(d) WisDOT shall bear and pay any and all costs and expenses for any transfer taxes, fees, stamps, charges and all documentary, recording or filing fees, related to acquisition or transfer of the Subject Property

(e) Promptly after Closing, WisDOT shall record the Quitclaim Deed, and give written notice to the other parties to the agreements assigned to WisDOT under the Assignment and Assumption Agreement.

Section 5. Transfer and Operating Documents

UP's right, title and interest in the Right-of-Way shall be transferred by UP to WisDOT by Quitclaim Deed in the form of **Exhibit B** which is attached hereto and hereby made a part hereof, in the Personal Property by Quitclaim Bill of Sale in the form of **Exhibit C** which is attached hereto and hereby made a part hereof, and in the agreements identified in **Exhibit E** which is attached hereto and hereby made a part hereof, to the extent such agreements affect the Property, by Assignment and Assumption Agreement in the form of **Exhibit D** which is attached hereto and hereby made a part hereof

In addition to the Exceptions and Reservations referenced in Section 1 of this Contract, WisDOT acknowledges that the Right-of-Way may be subject to licenses and other third party rights that have not been disclosed by UP to WisDOT. It is the responsibility of WisDOT to determine if any of these undisclosed rights exist. If any license or other third-party right that affects only the Property is identified after the Execution Date, UP's rights and obligations under such license or third-party right will be assigned to and assumed by WisDOT at or after Closing.

Section 6. As Is; Release; Environmental Indemnity; General Indemnity and Insurance

(A) UP has no knowledge of any condition with respect to Subject Property or the operation of the railroad business conducted thereon that would reasonably be likely to give rise to any action, suit or proceeding before any federal, state, municipal or other governmental agency under any environmental law, statute, ordinance or any rule or regulation promulgated thereunder.

(B) AS IS. WISDOT AND ITS REPRESENTATIVES, PRIOR TO THE EFFECTIVE DATE, WILL HAVE BEEN AFFORDED THE OPPORTUNITY TO MAKE SUCH INSPECTIONS OF THE PROPERTY AND MATTERS RELATED THERETO AS WISDOT AND ITS REPRESENTATIVES DESIRE. WISDOT ACKNOWLEDGES AND AGREES THAT THE PROPERTY IS TO BE SOLD TO AND ACCEPTED BY WISDOT IN AN "AS IS" CONDITION WITH ALL FAULTS. UP MAKES NO REPRESENTATION OR WARRANTIES OF ANY KIND WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY. IN PARTICULAR, BUT WITHOUT LIMITATION, UP MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE USE, CONDITION, TITLE, OCCUPATION OR MANAGEMENT OF THE PROPERTY, OR COMPLIANCE WITH APPLICABLE STATUTES, LAWS, CODES, ORDINANCES, REGULATIONS, REQUIREMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (WHETHER OR NOT OF RECORD), OR THE VOLUME, NATURE OR QUANTITY OF RAIL TRAFFIC. WISDOT ACKNOWLEDGES THAT IT IS ENTERING INTO THIS CONTRACT ON THE BASIS OF WISDOT'S OWN

INVESTIGATION OF THE PHYSICAL AND ENVIRONMENTAL CONDITIONS OF THE PROPERTY, INCLUDING THE SUBSURFACE CONDITIONS. THIS CONTRACT CONSTITUTES THE ENTIRE UNDERSTANDING OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF AND THE PURCHASE AND SALE OF THE PROPERTY AND SUPERSEDES ANY CONTEMPORANEOUS ORAL OR WRITTEN REPRESENTATIONS, STATEMENTS, DOCUMENTS OR UNDERSTANDINGS.

(C) RELEASE FROM AND AFTER CLOSING, WISDOT, FOR ITSELF, ITS SUCCESSORS AND ASSIGNS, TO THE MAXIMUM EXTENT PERMITTED BY LAW, HEREBY WAIVES, RELEASES, REMISES, ACQUITS AND FOREVER DISCHARGES UP, ITS AFFILIATES, THEIR EMPLOYEES, AGENTS, OFFICERS, SUCCESSORS AND ASSIGNS, FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CAUSES OF ACTION, LEGAL OR ADMINISTRATIVE PROCEEDINGS, CLAIMS, DEMANDS, FINES, PUNITIVE DAMAGES, LOSSES, COSTS, LIABILITIES AND EXPENSES, INCLUDING ATTORNEY'S FEES IN ANY WAY ARISING OUT OF OR ATTRIBUTABLE TO ANY OCCURRENCE ON OR AFTER THE CLOSING DATE CONNECTED WITH THE KNOWN OR UNKNOWN, EXISTING OR FUTURE, PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ANY CONTAMINATION IN, ON, UNDER OR ADJACENT TO THE PROPERTY BY ANY HAZARDOUS OR TOXIC SUBSTANCE OR MATERIAL), OR ANY FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE OR REGULATION APPLICABLE THERETO, INCLUDING, WITHOUT LIMITATION, THE TOXIC SUBSTANCES CONTROL ACT, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT, AND THE RESOURCE CONSERVATION AND RECOVERY ACT, AND INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY TO OR DEATH OF PERSONS WHOMSOEVER INCLUDING EMPLOYEES, AGENTS OR CONTRACTORS OF UP, WISDOT OR ANY THIRD-PARTY, AND DAMAGE TO PROPERTY OF UP, WISDOT OR ANY THIRD-PARTY. THE FOREGOING SHALL APPLY REGARDLESS OF ANY NEGLIGENCE OR STRICT LIABILITY OF UP, ITS AFFILIATES, THEIR EMPLOYEES, AGENTS, OFFICERS, SUCCESSORS OR ASSIGNS.

(D) ENVIRONMENTAL INDEMNITY.

(1) FROM AND AFTER CLOSING, WISDOT SHALL, TO THE MAXIMUM EXTENT PERMITTED BY LAW, INDEMNIFY, DEFEND AND SAVE HARMLESS UP, ITS AFFILIATES, THEIR EMPLOYEES, AGENTS, OFFICERS, SUCCESSORS AND ASSIGNS, FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CAUSES OF ACTION, LEGAL OR ADMINISTRATIVE PROCEEDINGS, CLAIMS, DEMANDS, FINES, PUNITIVE DAMAGES, LOSSES, COSTS, LIABILITIES AND EXPENSES, INCLUDING ATTORNEY'S FEES (COLLECTIVELY, "ENVIRONMENTAL COSTS"), IN ANY WAY ARISING OUT OF OR ATTRIBUTABLE TO ANY OCCURRENCE ON OR AFTER THE CLOSING DATE CONNECTED WITH THE KNOWN OR UNKNOWN, EXISTING OR FUTURE PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ANY CONTAMINATION IN, ON, UNDER OR ADJACENT TO THE PROPERTY BY ANY HAZARDOUS OR TOXIC SUBSTANCE OR MATERIAL), OR ANY FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE OR REGULATION APPLICABLE THERETO (INCLUDING, WITHOUT LIMITATION, THE TOXIC SUBSTANCES CONTROL ACT, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT, AND THE RESOURCE CONSERVATION AND RECOVERY ACT), AND INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY TO OR DEATH OF PERSONS WHOMSOEVER INCLUDING EMPLOYEES, AGENTS OR CONTRACTORS OF UP, WISDOT OR ANY THIRD PARTY, AND DAMAGE TO PROPERTY OF UP, WISDOT OR ANY THIRD PARTY. THE FOREGOING SHALL APPLY REGARDLESS OF ANY NEGLIGENCE OR STRICT LIABILITY OF UP, ITS AFFILIATES, THEIR EMPLOYEES, AGENTS, OFFICERS, SUCCESSORS OR ASSIGNS

(E) GENERAL INDEMNITY

(1) TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, REGARDLESS OF THE NEGLIGENCE, NEGLIGENCE PER SE OR STRICT LIABILITY OF UP OR UP'S AGENTS, EMPLOYEES, SERVANTS, AFFILIATED COMPANIES, SUCCESSORS OR ASSIGNS (COLLECTIVELY THE "UP'S AGENTS"), WISDOT SHALL PROTECT, DEFEND, HOLD HARMLESS, AND INDEMNIFY AND REIMBURSE UP FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, SUITS, PENALTIES, FINES, EXPENSES, DAMAGES, LOSSES AND COSTS, INCLUDING ATTORNEY'S FEES (COLLECTIVELY, "COSTS"), INCURRED BY OR ASSESSED AGAINST UP AND/OR THE UP'S AGENTS, DUE TO OR RESULTING FROM PERSONAL INJURIES, DEATH, OR PROPERTY LOSS OR DAMAGE ARISING

DURING OR FROM WISDOT'S OWNERSHIP OF THE PROPERTY AFTER THE CLOSING DATE

Section 7. Representations and Warranties.

(a) Representations and Warranties of UP. UP represents and warrants to WisDOT as of the Execution Date, as follows

(i) Organization. UP is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and qualified to do business in the State in which the Property is located

(ii) Enforceability. Subject to the provisions of Section 4(c) and (d), this Contract and all documents executed by UP which are to be delivered to WisDOT at the Closing are intended, provided WisDOT had duly executed those documents requiring their respective signature, to be legal, valid and binding obligations of UP, and do not and will not at the time of Closing violate any provisions of any agreement or judicial order to which UP is a party or to which UP or the Property is subject.

(b) Representations and Warranties of WisDOT WisDOT represents and warrants to UP as of the Execution Date, as follows

(i) Organization. WisDOT is a state agency duly organized under the laws of the State of Wisconsin, with full power and authority to enter into and comply with the terms of this Contract.

(ii) Enforceability. Subject to the provisions of Section 4(c) and (d), this Contract and all documents executed by WisDOT which are to be delivered to UP are intended, provided UP has duly executed those documents requiring UP's signature, to be legal, valid and binding obligations of WisDOT, and do not and will not at the time of Closing violate any provisions of any agreement or judicial order to which WisDOT is a party or to which WisDOT is subject.

(c) STB Authority. WisDOT has a time frame reasonably expected to permit the Closing of this transaction within a reasonable time and to make all necessary filings at the STB required to comply with Section 3(c)

Section 8. Post-Sale Obligations. The following Post-Sale Obligations shall survive the Closing under this Contract and shall remain in full force and effect after Closing.

(a) UP will provide to WisDOT all available valuation maps, track charts and related documents to the extent UP possesses same as soon as possible after Closing.

(b) Option to Repurchase for Labor Actions.

(i) If within 180 days after Closing, any of UP's labor organizations take any actions (including, without limitation, a strike or work stoppage) against UP or any of its affiliates as a result of this Contract, and UP is unable to negotiate a satisfactory settlement with such organizations, then UP shall have the option to repurchase the Property by giving WisDOT written notice of its exercise of the option. Closing of the repurchase shall take place within thirty (30) days after WisDOT's receipt of UP's notice

(ii) The terms and conditions of the repurchase shall be the same as in this Contract for the sale of the Property, plus any capital improvements except that WisDOT shall be required to remove from the title to the Property any liens, encumbrances or other outstanding rights created or permitted to be created by WisDOT, and to remediate any contamination of the Right-of-Way first occurring after the Closing of the sale of the Property to WisDOT.

(iii) At UP's election, a memorandum of UP's repurchase option shall be recorded at the Closing of the sale of the Property to WisDOT

(c) Upon the occurrence of any breach of any term hereof after Closing, the injured party shall notify the breaching party in writing and specify the breach and what

corrective action is desired to cure the breach. If, upon the expiration of thirty (30) days from the receipt of such notice, the breach has not been cured and is a material breach, the injured party shall have the right, at its sole option, to cure the breach if possible and be reimbursed by the breaching party for the cost thereof and for any reasonably foreseeable consequential damages. Nothing herein shall prevent the injured party from resorting to any other remedy permitted at law or equity including seeking damages and/or specific performance, as shall be necessary or appropriate to make the injured party whole. Failure of the injured party to demand or enforce a cure for breach in one instance or more shall not be deemed a waiver of its right to do so for any subsequent breach by the breaching party.

(d) In the event that at any time within forty (40) years after the date of this Agreement, WisDOT shall desire to sell all or a part of the Property WisDOT shall first give written notice by certified mail of such intention to UP, which shall have a right of first refusal to repurchase the Property. UP shall have sixty (60) days from the date of receipt of such notice in which to advise by certified mail of its intention to repurchase. UP may give notice of its intention not to repurchase the Property during such sixty (60) day period. The failure of UP to notify WisDOT of its intention not to repurchase, or the giving of express notice by UP of its intention not to repurchase, shall release WisDOT from any further obligation to UP, and WisDOT may thereafter sell the Property to any person(s) and upon any term(s) as WisDOT shall decide. The repurchase price of the Property shall be the Net Liquidation Value of the Property, as calculated pursuant to 49 C.F.R. Section 1152.34(c)(1)(iii) at the time of the exercise of the right of first refusal.

Section 9. CONDEMNATION AND CASUALTY

(a) Condemnation. If, prior to the Closing, a governmental agency commences or imminently threatens in writing to commence any eminent domain proceedings to take any material portion of the Property, WisDOT and UP shall each have the unilateral right, exercisable by giving notice of such decision to the other party within thirty (30) days after receiving written notice of such actual or threatened condemnation proceedings, to terminate this Contract, in which case the Deposit, if any,

shall be returned to WisDOT and WisDOT and UP shall pay one-half (1/2) of the cost of cancellation of Escrow, if any, and neither party shall have any further rights or obligations under this Contract (other than the Surviving Obligations) If neither party elects to terminate pursuant to this Section 10, the net proceeds of condemnation awards payable to UP by reason of such condemnation shall be paid or assigned to WisDOT upon Closing.

(b) Casualty If, prior to the Closing, the Property shall be damaged by fire, flood, earthquake or other insured casualty to a material degree, that is, if the cost of restoration of the damaged Property exceeds twenty percent (20%) of the Purchase Price, UP shall notify WisDOT to the extent of its knowledge and WisDOT shall have the option either to (i) elect not to acquire the Property, in which case this Contract shall terminate, and the parties shall be relieved of all further rights and obligations with respect thereto or (ii) to acquire the Property, subject to such casualty, without adjustment in the Purchase Price and otherwise in accordance with the terms and provisions of this Contract, but WisDOT shall be entitled to all insurance proceeds paid by an insurer on account of such casualty which would otherwise accrue to UP. WisDOT shall give written notice to UP of any election pursuant to this Section 10(b) within thirty (30) business days following receipt by WisDOT of any written notice of such casualty. Failure of WisDOT to make such election within said period shall be deemed an election to proceed to purchase the Property pursuant to clause (ii) above. If prior to the Closing, the Property suffers a casualty other than to an extent entitling WisDOT to elect not to acquire the Property pursuant to this Section 10(b), WisDOT shall close the transaction contemplated by this Contract in accordance with the terms hereof as though such casualty had not occurred, except that UP shall, at Closing, pay or assign to WisDOT any net insurance proceeds paid or payable to UP in respect thereof Risk of physical loss to the Property on and after the Closing shall be borne by WisDOT

Section 10. MISCELLANEOUS PROVISIONS.

(a) Entire Agreement This Contract constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, oral or written, between the parties concerning the subject matter of this Contract

(b) Amendment. No modification, addition or amendment to this Contract shall be effective unless such modification, addition or amendment is in writing and signed by the parties

(c) Assignment. This Contract shall be binding upon, and inure to the benefit of the parties hereto and their respective successors, heirs, administrators and assigns, except that WisDOT's interests under this Contract may not be assigned, encumbered or otherwise transferred, whether voluntarily, involuntarily, by operation of law or otherwise, without UP's prior written approval. Any assignment, encumbrance or other transfer in violation of the foregoing shall be void and WisDOT shall be deemed in default hereunder

(d) Governing Law This Contract shall be governed by the laws of the State of Wisconsin.

(e) Counterparts This Contract may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument

(f) Exhibits. The Exhibits attached to and referred to in this Contract are incorporated into this Contract by reference.

(g) Notices and Knowledge. Any notices required or desired to be given under this Contract shall be in writing and personally served, given by overnight express delivery, or given by mail. Telecopy notices shall be deemed valid only to the extent they are (i) actually received by the individual to whom addressed and (ii) followed by

delivery of actual notice in the manner described above within three (3) business days thereafter. Any notice given by mail shall be sent, postage prepaid, by certified mail, return receipt requested, addressed to the party to receive at the following address or at such other address as the party may from time to time direct in writing:

UP: UNION PACIFIC RAILROAD COMPANY
 ATTN: Senior Director-Interline Marketing
 1400 Douglas Street, Mailstop 1350
 Omaha, Nebraska 68179
 Telephone (402) 544-4791
 Facsimile: (402) 233-2460

With copy to UNION PACIFIC RAILROAD COMPANY
 ATTN: Mack H Shumate, Jr
 101 North Wacker Drive, Suite 1920
 Chicago, IL 60606
 Telephone: 312/777-2055
 Facsimile. 312/777-2065

WisDOT. WISCONSIN DEPARTMENT OF TRANSPORTATION
 ATTN: Chief, Railroads and Harbors Section
 4802 Sheboygan Ave, Room 701
 Madison, WI 53705
 Telephone. 608-267-9284
 Facsimile: 608-267-3567

Express delivery notices shall be deemed to be given upon receipt. Postal notices shall be deemed to be given three (3) days after deposit with the United States Postal Service.

(h) Unless specifically provided otherwise in this Contract, knowledge attributable to UP shall be limited to that which is to the knowledge of an officer of UP at the level of Vice President or above

(i) Severability. If any provision of this Contract is illegal, invalid or unenforceable under present or future laws, then it is the intention of the parties that the remainder of the Contract shall not be affected and shall be valid and enforceable to the fullest extent permitted by law.

(j) Time is of the Essence Time is of the essence of this Contract

(k) Merger. The provisions of this Contract shall merge into the deed to be delivered by UP to WisDOT and shall not survive the Closing, except for the provisions of Sections 6, 7, 8 and 10

(l) No Brokers. The negotiations relative to the transactions contemplated in this Contract have been conducted by the parties without the intervention of any person which would give rise to any valid claim against either party for brokerage commissions or other like payment. Each party, to the extent it may lawfully do so, shall indemnify, defend and hold harmless the other party against and from all claims for brokerage commission or other like payment arising out of the transactions contemplated by this Contract and occasioned by the actions of such indemnifying party.

(m) Non-Foreign Status UP, Federal ID No. 94-6001323, is not a foreign corporation and withholding of Federal Income Tax from the amount realized will not be made by WisDOT. A certification prepared in conformance with IRS regulations under Section 1445 of the Internal Revenue Code is attached hereto as **Exhibit B-1** and is hereby made a part hereof.

(n) Professional Fees and Costs. If any legal or equitable action, arbitration, bankruptcy, reorganization or other proceeding is brought or undertaken, or an attorney retained to enforce this Contract or because of an alleged dispute, breach, default, or

misrepresentation in connection with any of the provisions of this Contract, then the successful or prevailing party or parties in such undertaking (or the party that would prevail if an action were brought) shall be entitled to recover reasonable attorney's fees, expert witness fees, court costs and other expenses, in addition to any other relief to which such party may be entitled

(o) Contract Expenses. The parties agree to bear their respective expenses, incurred or to be incurred in negotiating and preparing this Contract and in closing and carrying out the transactions contemplated by this Contract

(p) Satisfaction or Waiver of Contingencies. The consummation of the Closing shall be conclusive evidence that the contingencies and conditions to Closing have been fully satisfied or waived

(q) Parties in Interest Except as expressly provided in this Contract, nothing in this Contract, whether express or implied, is intended to confer any rights or remedies under or by reason of this Contract on any persons other than the parties to it and their respective successors and assigns, nor is anything in this Contract intended to relieve or discharge the obligation or liability of any third persons to any party to this Contract, nor shall any provision give any third persons any right to subrogation or action over against any party to this Contract.

(r) Waiver No waiver of any of the provisions of this Contract shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver No waiver shall be binding unless executed in writing by the party making the waiver

(s) Effect of Headings The headings of the paragraphs of this Contract are included for purposes of convenience only, and shall not affect the construction or interpretation of any of its provisions.

(t) Number and Gender When required by the context of this Contract, each number (singular and plural) shall include all numbers, and each gender shall include all genders.

(u) Joint and Several Liability In the event either party hereto now or hereafter shall consist of more than one person, firm, or corporation, then and in such event, all such persons, firms, or corporations shall be jointly and severally liable as parties under this Contract.

(v) Further Assurances. Each party to this Contract agrees to execute, acknowledge, and deliver such further instruments as may be necessary or desirable to accomplish the intent and purpose of this Contract, provided that the party requesting such further action shall bear all costs and expenses related thereto

(w) Negotiated Terms The parties agree that the terms and conditions of this Contract are the result of negotiations between the parties and that this Contract shall not be construed in favor of or against any party by reason of the extent to which any party or its professionals participated in the preparation of this Contract

(x) Recitals and Exhibits The recitals and contents of all Exhibits to this Contract are incorporated by reference and constitute a material part of this Contract.

(y) Confidentiality. It is understood and agreed that all information, studies and reports relating to the environmental condition of the Property obtained by WisDOT will be subject to the state open records law. However, to the extent legally permissible, (i) all information, studies and reports relating to the environmental condition of the Property obtained by WisDOT, either by the observations and examinations of its agents and representatives or as disclosed to it by UP, shall remain confidential and WisDOT shall not disclose any such matters to any person or governmental agency except as unconditionally required by law and (ii) if the transaction contemplated herein fails to close for any reason, WisDOT shall deliver and return to UP, at no cost to UP, all such information, reports and studies, and WisDOT shall make no further distributions

or disclosures of any such information, reports and studies The provisions of this Section shall survive the termination of this Contract

(z) Not an Offer. The submission of this Contract to WisDOT for review or signature does not constitute an offer to sell the Property to WisDOT nor the granting of an option or other rights with respect to the Property to WisDOT No Contract with respect to the purchase and sale of the Property shall exist, and this writing shall have no binding force or effect, until executed and delivered by UP and WisDOT

(aa) Survival. WisDOT and UP acknowledge and agree that in the event of the termination howsoever of this Contract, the obligations of and indemnity, to the extent allowed by law, by WisDOT, and its respective agents and contractors, shall not be limited, impaired or otherwise affected by any termination of this Contract as a result of such termination.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed as of the Execution Date.

Attest.

UNION PACIFIC RAILROAD COMPANY

By: C. J. Meyer

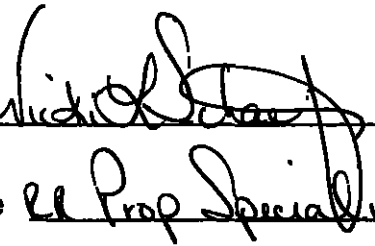
By: Long & Love

Title: Assistant Secretary

Title Assistant Vice President - Real Estate

Attest:

WISCONSIN DEPARTMENT OF
TRANSPORTATION

By: 
Title El Prop Specialist

By Ronald E Adams
Title: Chief, Railroads & Harbour Section

EXHIBIT LIST

- EXHIBIT A - PRINT OF RIGHT-OF-WAY
- EXHIBIT B - QUITCLAIM DEED TO RIGHT-OF-WAY
- EXHIBIT B-1 - CERTIFICATION OF NON-FOREIGN STATUS
- EXHIBIT C - QUITCLAIM BILL OF SALE
- EXHIBIT D - ASSIGNMENT AND ASSUMPTION AGREEMENT
- EXHIBIT E - LIST OF AGREEMENTS TO BE ASSIGNED AND ASSUMED

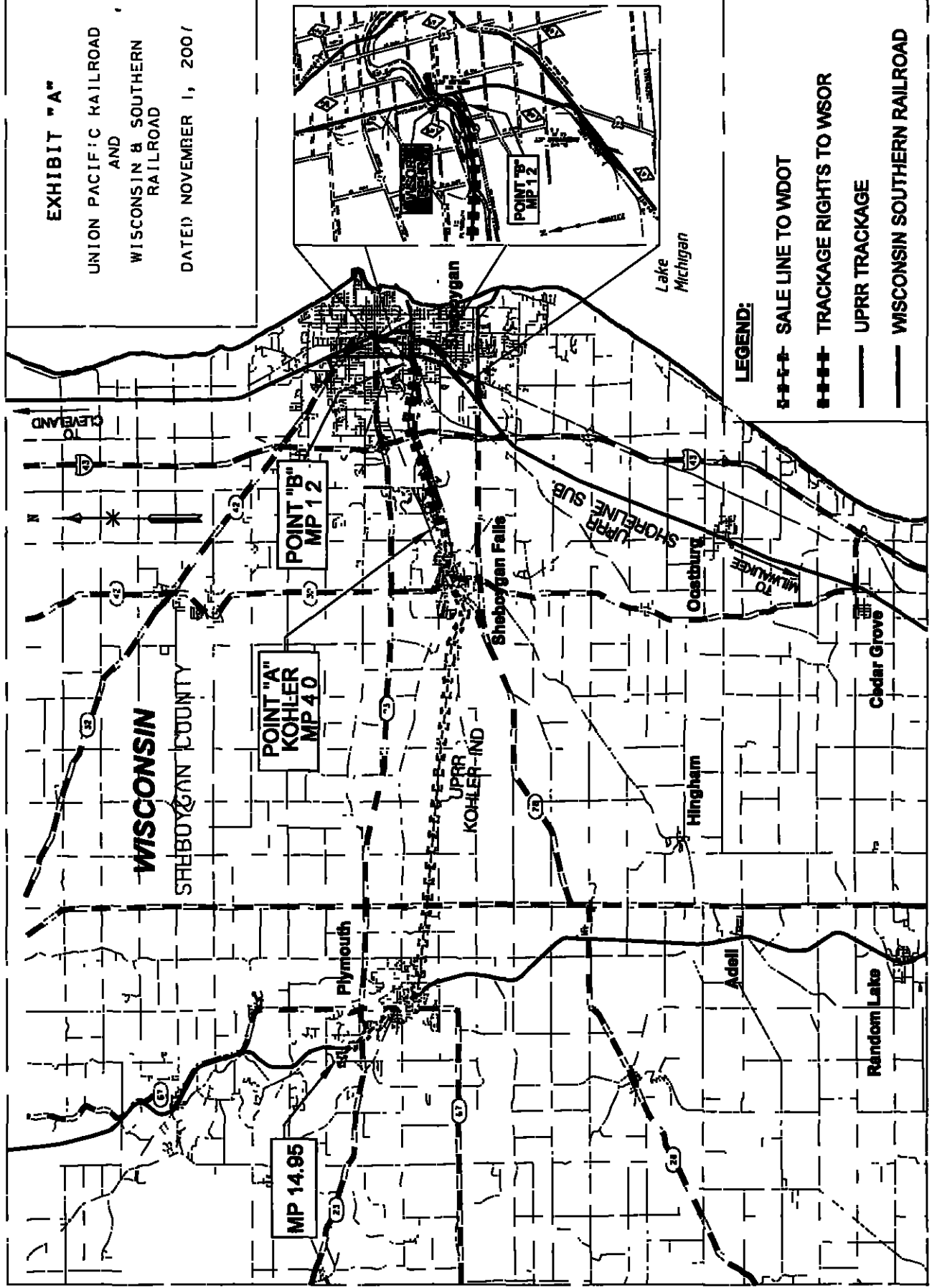
EXHIBIT A

Print of Right-of-Way

EXHIBIT "A"

UNION PACIFIC RAILROAD
AND
WISCONSIN & SOUTHERN
RAILROAD

DATED NOVEMBER 1, 2007



LEGEND:

- SALE LINE TO WDOT
- TRACKAGE RIGHTS TO WSOR
- UPRR TRACKAGE
- WISCONSIN SOUTHERN RAILROAD

EXHIBIT "B"

QUITCLAIM DEED

Document Number

**COVER SHEET
FOR
RECORDATION
OF
QUITCLAIM DEED
FROM**

UNION PACIFIC RAILROAD COMPANY

**TO
WISCONSIN DEPARTMENT OF TRANSPORTATION**

Recording Area

Name and Return Address

Parcel Identification Number (PIN)

(When applicable)

QUITCLAIM DEED

UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, Grantor, (formally, known as Southern Pacific Transportation Company, a Delaware corporation) in consideration of the sum of Ten Dollars (\$10 00), and other valuable consideration to it duly paid, the receipt whereof is hereby acknowledged, does hereby REMISE, RELEASE and forever QUITCLAIM unto Wisconsin Department of Transportation, an agency of the State of Wisconsin, Grantee and unto its successors and assigns forever, all of Grantor's right, title, interest, estate, claim and demand, both at law and in equity, of, in, and to the real estate (hereinafter the "Property") situated in Sheboygan County, State of Wisconsin, as more particularly described in **Exhibit A**, hereto attached and hereby made a part hereof.

Grantor EXCEPTS from the Property hereby quitclaimed and RESERVES unto itself, its successors and assigns, forever, the following

(a) a permanent, exclusive easement upon, over, under and across the Property, for purposes of conducting freight rail operations and otherwise to fulfill Grantor's rights and obligations as a common carrier freight railroad under applicable federal laws and regulations, including the right to use the Property to provide freight rail service to all customers on or served from the Property, and to operate, use, construct, reconstruct, maintain, repair, relocate and/or remove existing and/or future railroad, rail and railroad-related equipment, facilities and transportation systems necessary for and related to freight rail operations (the "Freight Easement"), and

(b) roadways or utility lines that serve retained property.

Grantee may decline to accept or record this deed pending a determination by the United States Surface Transportation Board (STB) as to whether the STB has jurisdiction to approve or exempt this conveyance or whether the acceptance of the

deed imposes any common carrier liability upon the Grantee. In the event that the STB decides that it has jurisdiction to approve or exempt this conveyance or that acceptance would result in common carrier liability to the Grantee, Grantee may, without prejudice, in the sole exercise of Grantee's discretion, decline to accept and record this deed.

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging; TO HAVE AND TO HOLD the Property, subject to the aforesaid exceptions and reservations, unto Grantee, its successors and assigns, forever.

Grantor and Grantee intend by this instrument that Grantor quitclaim to Grantee any after-acquired title to the Property which arises in favor of Grantor from and after the date hereof

IN WITNESS WHEREOF, the Grantor has caused this deed to be duly executed as of the ____ day of _____, 2008.

Attest

UNION PACIFIC RAILROAD COMPANY

By _____

Printed Name _____

Printed Name _____

Title: Assistant Secretary

Title: _____

(Seal)

UNION PACIFIC RAILROAD COMPANY
Sheboygan County, Wisconsin
EXHIBIT "A"

All right, title and interest in and to that certain line of property, variable in width, of the Union Pacific Railroad Company, known as the Kohler Industrial Lead as formerly constructed and operated in, over, and across the following legal Subdivisions extending in a westerly direction from a point in the SE ¼ of Section 30, Township 15 North, Range 23 East 4th Principal Meridian being Railroad Mile Post 4 to a point in the NE ¼ of Section 21, Township 15 North, Range 21 East 4th Principal Meridian being Railroad Mile Post 14.95 in Sheboygan County, Wisconsin:

<u>Subdivisions</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Meridian</u>
SE ¼	30	15 N	23 E	4 th
SW ¼	30	15 N	23 E	4 th
NW ¼	31	15 N	23 E	4 th
NE ¼	36	15 N	22 E	4 th
NW ¼	36	15 N	22 E	4 th
NE ¼	35	15 N	22 E	4 th
SE ¼	35	15 N	22 E	4 th
SW ¼	35	15 N	22 E	4 th
NW ¼	35	15 N	22 E	4 th
NE ¼	34	15 N	22 E	4 th
NW ¼	34	15 N	22 E	4 th
NE ¼	33	15 N	22 E	4 th
NW ¼	33	15 N	22 E	4 th
NE ¼	32	15 N	22 E	4 th
NW ¼	32	15 N	22 E	4 th
SW ¼	29	15 N	23 E	4 th
SE ¼	29	15 N	22 E	4 th
SW ¼	30	15 N	22 E	4 th
SE ¼	25	15 N	21 E	4 th
SW ¼	25	15 N	21 E	4 th
SE ¼	26	15 N	21 E	4 th
SW ¼	26	15 N	21 E	4 th
SE ¼	27	15 N	21 E	4 th

NE ¼	27	15 N	21 E	4 th
NW ¼	27	15 N	21 E	4 th
SW ¼	22	15 N	21 E	4 th
SE ¼	21	15 N	21 E	4 th
NE ¼	21	15 N	21 E	4 th

Contains 120.135 Acres more or less.

OFFICE OF REAL ESTATE
OMAHA, NEBRASKA
WRITTEN: JCO
February 1, 2005
228221.leg

24

CERTIFICATION OF NON-FOREIGN STATUS

Under Section 1445(e) of the Internal Revenue Code, a corporation, partnership, trust, or estate must withhold tax with respect to certain transfers of property if a holder of an interest in the entity is a foreign person. To inform the transferee, _____, that no withholding is required with respect to the transfer of a U.S. real property interest by UNION PACIFIC RAILROAD COMPANY, the undersigned hereby certifies the following on behalf of UNION PACIFIC RAILROAD COMPANY:

1. UNION PACIFIC RAILROAD COMPANY is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. UNION PACIFIC RAILROAD COMPANY is not a disregarded entity as defined in Section 1445-2(b)(2)(iii) of the Internal Revenue Code,
3. UNION PACIFIC RAILROAD COMPANY'S U.S. employer identification number is 94-6001323, and
4. UNION PACIFIC RAILROAD COMPANY'S office address is 1400 Douglas Street, Omaha, Nebraska 68179, and place of incorporation is Delaware.

UNION PACIFIC RAILROAD COMPANY agrees to inform the transferee if it becomes a foreign person at any time during the three year period immediately following the date of this notice

UNION PACIFIC RAILROAD COMPANY understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both

Under penalties of perjury I declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of UNION PACIFIC RAILROAD COMPANY.

**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

By:

Title

Date

EXHIBIT "C"

Quitclaim Bill of Sale

BILL OF SALE

UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("UP")
for and in consideration of One Dollar (\$1.00) and other valuable consideration does
hereby sell, quitclaim, transfer and deliver to WISCONSIN DEPARTMENT OF
TRANSPORTATION, an agency of the State of Wisconsin ("Buyer"), its successors and
assigns, UP's ownership interest in and to the following described personal property, to
wit:

[See attached Schedule A for description of personal
property and location

UP, BY THIS INSTRUMENT, MAKES NO WARRANTY OF ANY KIND,
EXPRESS OR IMPLIED, AND FURTHER MAKES NO WARRANTY AS TO THE TITLE,
OWNERSHIP, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR
PURPOSE, IT BEING UNDERSTOOD THAT THE BUYER IS PURCHASING THE
PERSONAL PROPERTY DESCRIBED ABOVE IN AN "AS IS" AND "WHERE IS"
CONDITION WITH ALL FAULTS

IN WITNESS WHEREOF, the UP and Buyer have each duly executed this instrument as of the _____ day of _____, 2008.

UNION PACIFIC RAILROAD COMPANY

By _____

Title: _____

WISCONSIN DEPARTMENT OF
TRANSPORTATION

By _____

Title: _____

UNION PACIFIC RAILROAD COMPANY
Sheboygan County, Wisconsin
EXHIBIT "A"

All right, title and interest in and to that certain line of property, variable in width, of the Union Pacific Railroad Company, known as the Kohler Industrial Lead as formerly constructed and operated in, over, and across the following legal Subdivisions extending in a westerly direction from a point in the SE $\frac{1}{4}$ of Section 30, Township 15 North, Range 23 East 4th Principal Meridian being Railroad Mile Post 4 to a point in the NE $\frac{1}{4}$ of Section 21, Township 15 North, Range 21 East 4th Principal Meridian being Railroad Mile Post 14.95 in Sheboygan County, Wisconsin.

<u>Subdivisions</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Meridian</u>
SE $\frac{1}{4}$	30	15 N	23 E	4 th
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NE $\frac{1}{4}$	35	15 N	22 E	4 th
SE $\frac{1}{4}$	35	15 N	22 E	4 th
SW $\frac{1}{4}$	35	15 N	22 E	4 th
NW $\frac{1}{4}$	35	15 N	22 E	4 th
NE $\frac{1}{4}$	34	15 N	22 E	4 th
NW $\frac{1}{4}$	34	15 N	22 E	4 th
NE $\frac{1}{4}$	33	15 N	22 E	4 th
NW $\frac{1}{4}$	33	15 N	22 E	4 th
NE $\frac{1}{4}$	32	15 N	22 E	4 th
NW $\frac{1}{4}$	32	15 N	22 E	4 th
SW $\frac{1}{4}$	29	15 N	23 E	4 th
SE $\frac{1}{4}$	29	15 N	22 E	4 th
SW $\frac{1}{4}$	30	15 N	22 E	4 th
SE $\frac{1}{4}$	25	15 N	21 E	4 th
SW $\frac{1}{4}$	25	15 N	21 E	4 th
SE $\frac{1}{4}$	26	15 N	21 E	4 th
SW $\frac{1}{4}$	26	15 N	21 E	4 th
SE $\frac{1}{4}$	27	15 N	21 E	4 th

NE ¼	27	15 N	21 E	4 th
NW ¼	27	15 N	21 E	4 th
SW ¼	22	15 N	21 E	4 th
SE ¼	21	15 N	21 E	4 th
NE ¼	21	15 N	21 E	4 th

Contains 120.135 Acres more or less.

OFFICE OF REAL ESTATE
 OMAHA, NEBRASKA
 WRITTEN: JCO
 February 1, 2005
 228221.leg

EXHIBIT "D"

ASSIGNMENT AND ASSUMPTION AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, that UNION PACIFIC RAILROAD COMPANY, a Delaware corporation (hereinafter the "Assignor") does, for valuable consideration, effective as of the date hereof assign, transfer and set over unto the WISCONSIN DEPARTMENT OF TRANSPORTATION, an agency of the State of Wisconsin ("Assignee"), all of the Assignor's right, title and interest in, to and under each and all of the agreements shown in Exhibit 1, hereto attached and hereby made a part hereof.

Assignor and Assignee understand and agree that this Assignment is conditional and does not become fully and finally effective until 120 days from the date hereof, and that Assignor reserves the right to revoke this Assignment as to any contract or agreement listed in Exhibit 1 by giving written notice to Assignee within such 120 days that a particular agreement should not be included in this Assignment. Assignor may, in such manner, revoke this Assignment as to any such agreement or contract, ab initio, in whole or in part if it shall determine that any such agreement does not affect, or only partially affects, the property transferred this date by Assignor to Assignee. Assignor represents that, to the best of its knowledge, the agreements shown on Exhibit 1 are all that pertain to or affect the "Property" as described in that certain Line Sale Contract between the parties dated, as of April _____, 2008 covering the sale of the Right of Way from Milepost 4.0 near Kohler to Milepost 14.95 near Plymouth, Wisconsin. In the event, however, other contracts or agreements affecting the aforementioned trackage are subsequently discovered by Assignor, Assignor will promptly execute an assignment of same to Assignee using the form of this Assignment.

In addition, it is understood and agreed that:

1. One or more of the agreements or contracts listed in Exhibit 1 may affect, pertain to or cover the aforesaid Property, as well as property and/or right-of-way not sold by Assignor to Assignee, and this Assignment shall only be effective to partially assign Assignor's interest therein to the extent that such agreement or contract pertains

to the Property. Any future -payments due from third parties thereunder shall be collected by Assignor and the Assignor shall pay to the Assignee its pro rate portion thereof.

2. This Assignment is subject to all of the terms and conditions of the aforesaid Line Sale Contract including, without limitation, Section 9(h)

Subject to the above, Assignee hereby accepts the assignment of the agreements shown on **Exhibit 1**, assumes all of the duties, obligations and liabilities of Assignor thereunder, and agrees to release the Assignor, its successors and assigns, from any and all obligations arising out of, or pursuant to, the agreements or applicable portions thereof herein assigned from and after the effective date hereof.

THIS ASSIGNMENT shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns. No provision hereof shall be construed as intended for the benefit of any third party

Dated as of _____, 2008

Attest

UNION PACIFIC RAILROAD COMPANY,
A Delaware corporation,

By _____

Title _____

(Seal)

Attest

WISCONSIN DEPARTMENT OF
TRANSPORTATION

By _____

Title _____

EXHIBIT "E"

LIST OF AGREEMENTS TO BE ASSIGNED AND ASSUMED

AUD_NBR	PURP_DESC	PART_NAME	CITY	SABV	MP_STRT	ANNL_AMT
NWD3034	Auger Permt/Unloading Device	GILSON BROTHERS CO	PLYMOUTH	WI	0	
NWD3852	Auger Permt/Unloading Device	BEMIS MFR COMPANY	SHEBOYGAN FALLS	WI	0	0
NWD6706	Auger Permt/Unloading Device	BEMIS MANUFACTURING COMPANY	SHEBOYGAN FALLS	WI	0	0
NWG239A	Auger Permt/Unloading Device	SULFA FORM COMPANY	PLYMOUTH	WI	0	0
NWG983	Auger Permt/Unloading Device	SHEBOYGAN FALLS COOP ASSN	SHEBOYGAN FALLS	WI	0	0
NWX3904	Auger Permt/Unloading Device	SHEBOYGAN FALLS CO-OPERATIVE ASSN	SHEBOYGAN FALLS	WI	0	
NWX5859	Auger Permt/Unloading Device	RAYMOND WACHTER	SHEBOYGAN FALLS	WI	0	
NWX7862	Auger Permt/Unloading Device	STANDARD OIL CO	PLYMOUTH	WI	0	
NW13406	Bridge Agreement	STATE OF WISCONSIN	SHEBOYGAN FALLS	WI	0	
NWD5657	Crossing - Pedestrian Agreement	PLYMOUTH, CITY OF	PLYMOUTH	WI	0	0
185802	Crossing - Private Roadway	BEMIS MANUFACTURING COMPANY IN	SHEBOYGAN FALLS	WI	7 1	1565 73
NWD5815	Crossing - Private Roadway	BEMIS MANUFACTURING CO	SHEBOYGAN FALLS	WI	0	0
NWD6306	Crossing - Private Roadway	BEMIS MANUFACTURING COMPANY	SHEBOYGAN FALLS	WI	0	0
NWD6639	Crossing - Private Roadway	BEMIS MANUFACTURING	SHEBOYGAN FALLS	WI	0	0
NWD938	Crossing - Private Roadway	JOSEPH E RICHARDSON, SR	SHEBOYGAN FALLS	WI	0	
185177	Crossing - Wireline	CHARTER COMMUNICATIONS	SHEBOYGAN FALLS	WI	998	
185178	Crossing - Wireline	CHARTER COMMUNICATIONS	SHEBOYGAN FALLS	WI	998	0
185278	Crossing - Wireline	CHARTER COMMUNICATIONS	SHEBOYGAN FALLS	WI	998	0
185279	Crossing - Wireline	CHARTER COMMUNICATIONS	SHEBOYGAN FALLS	WI	998	0
185288	Crossing - Wireline	CHARTER COMMUNICATIONS	SHEBOYGAN FALLS	WI	999	0
215739	Crossing - Wireline	BEMIS MANUFACTURING COMPANY	SHEBOYGAN FALLS	WI	7 26	0
NWF1266	Crossing - Wireline	SHEBOYGAN FALLS, WI	SHEBOYGAN FALLS	WI	0	0
NWF1799	Crossing - Wireline	WISCONSIN POWER & LIGHT	PLYMOUTH	WI	0	0
NWF3711	Crossing - Wireline	PLYMOUTH, WI	PLYMOUTH	WI	0	0
NWF6149	Crossing - Wireline	SHEBOYGAN FALLS ELECTRIC UTILI	SHEBOYGAN FALLS	WI	0	0
NWX0773	Crossing - Wireline	SHEBOYGAN FALLS, CITY OF	SHEBOYGAN FALLS	WI	0	
NWX0803	Crossing - Wireline	SHEBOYGAN FALLS, CITY OF	SHEBOYGAN FALLS	WI	0	
NWX2989	Crossing - Wireline	PLYMOUTH, CITY OF	PLYMOUTH	WI	0	
NWX3982	Crossing - Wireline	SHEBOYGAN FALLS, CITY OF	SHEBOYGAN FALLS	WI	0	
NWX5882	Crossing - Wireline	WISCONSIN TELEPHONE CO	SHEBOYGAN FALLS	WI	0	
NWX5883	Crossing - Wireline	WISCONSIN TELEPHONE CO	SHEBOYGAN FALLS	WI	0	
NWX6157	Crossing - Wireline	PLYMOUTH, CITY OF	PLYMOUTH	WI	0	
NWX6798	Crossing - Wireline	PLYMOUTH, CITY OF	PLYMOUTH	WI	0	
NWX8228	Crossing - Wireline	PLYMOUTH, CITY OF	PLYMOUTH	WI	0	
NWX8660	Crossing - Wireline	FALLS MOTOR CORP	SHEBOYGAN FALLS	WI	0	
NWY1507	Crossing - Wireline	WISCONSIN ELECTRIC POWER CO	SHEBOYGAN FALLS	WI	0	
189672	Crossing Pipeline	PLYMOUTH, CITY OF	PLYMOUTH	WI	12	0
189688	Crossing Pipeline	WISCONSIN PUBLIC SERVICE CORPO	SHEBOYGAN	WI	7 61	0
190090	Crossing Pipeline	SHEBOYGAN FALLS, CITY OF	SHEBOYGAN	WI	7 5	0
190081	Crossing Pipeline	SHEBOYGAN FALLS, CITY OF	SHEBOYGAN	WI	7 5	0
207716	Crossing Pipeline	CITY OF PLYMOUTH	PLYMOUTH	WI	13 49	0
207944	Crossing Pipeline	WISCONSIN PUBLIC SERVICE CORPORATION	PLYMOUTH	WI	13 2	0
222774	Crossing Pipeline	PLYMOUTH UTILITIES	PLYMOUTH	WI	12 44	0
236212	Crossing Pipeline	CITY OF SHEBOYGAN FALLS	SHEBOYGAN FALLS	WI	5 41	
241651	Crossing Pipeline	CITY OF PLYMOUTH	PLYMOUTH	WI	12 69	

Kohler Industrial Lead Assignment List

Exhibit E

NW13345	Crossing Pipeline	STATE OF WISCONSIN	SHEBOYGAN FALLS	WI	0
NWE1017	Crossing Pipeline	GREAT LAKES HOMES, INC	SHEBOYGAN FALLS	WI	0
NWE172	Crossing Pipeline	WISCONSIN PUBLIC SERVICE	PLYMOUTH	WI	0
NWE1731	Crossing Pipeline	PLYMOUTH, CITY OF	PLYMOUTH	WI	0
NWE2187	Crossing Pipeline	PLYMOUTH, CITY OF	PLYMOUTH	WI	0
NWE3115	Crossing Pipeline	PLYMOUTH, CITY OF	PLYMOUTH	WI	0
NWE363	Crossing Pipeline	SHEBOYGAN FALLS, CITY OF	SHEBOYGAN FALLS	WI	0
NWE5214	Crossing Pipeline	PLYMOUTH, CITY OF	PLYMOUTH	WI	0
NWE5424	Crossing Pipeline	BEMIS MANUFACTURING CO	SHEBOYGAN FALLS	WI	0
NWE5503	Crossing Pipeline	BEMIS MFG CO	SHEBOYGAN FALLS	WI	0
NWE6058	Crossing Pipeline	PLYMOUTH, CITY	PLYMOUTH	WI	0
NWE6143	Crossing Pipeline	PLYMOUTH, CITY OF	PLYMOUTH	WI	0
NWE6232	Crossing Pipeline	SHEBOYGAN FALLS, CITY OF	SHEBOYGAN FALLS	WI	0
NWE6601	Crossing Pipeline	SHEBOYGAN FALLS, CITY OF	SHEBOYGAN FALLS	WI	0
NWE7320	Crossing Pipeline	BEMIS MANUFACTURING COMPANY	SHEBOYGAN FALLS	WI	0
NWE7330	Crossing Pipeline	KOHLER, VILLAGE OF	KOHLER	WI	0
NWE7637	Crossing Pipeline	PLYMOUTH, CITY OF	PLYMOUTH	WI	0
NWE7868	Crossing Pipeline	PLYMOUTH UTILITIES	PLYMOUTH	WI	0
NWE8210	Crossing Pipeline	RICHARDSON, JAMES L	SHEBOYGAN FALLS	WI	0
NWE8244	Crossing Pipeline	SHEBOYGAN FALLS UTILITIES	SHEBOYGAN FALLS	WI	0
NWX1032	Crossing Pipeline	BORDEN CO	PLYMOUTH	WI	0
NWX1072	Crossing Pipeline	ANR PIPELINE COMPANY	PLYMOUTH	WI	0
NWX1083	Crossing Pipeline	PLYMOUTH, CITY OF	PLYMOUTH	WI	0
NWX1324	Crossing Pipeline	KOHLER, VILLAGE OF	KOHLER	WI	0
NWX1984	Crossing Pipeline	S R CHEESE CO	PLYMOUTH	WI	0
NWX3419	Crossing Pipeline	HERMAN HAILER	SHEBOYGAN FALLS	WI	0
NWX4380	Crossing Pipeline	KRAFT CHEESE CO	PLYMOUTH	WI	0
NWX5018	Crossing Pipeline	KRAFT CHEESE CO	PLYMOUTH	WI	0
NWX5950	Crossing Pipeline	WISCONSIN PUBLIC SEERVICE CORP	KOHLER	WI	0
NWX5973	Crossing Pipeline	THE BORDEN CO	PLYMOUTH	WI	0
NWX6265	Crossing Pipeline	PLYMOUTH, CITY OF	PLYMOUTH	WI	0
NWX7248	Crossing Pipeline	O W TIMM	PLYMOUTH	WI	0
NWX7471	Crossing Pipeline	WISCONSIN PUBLIC SERVICE CORP	SHEBOYGAN FALLS	WI	0
NWX7477	Crossing Pipeline	KRAFT BROTHERS CHEESE CO	PLYMOUTH	WI	0
NWX8329	Crossing Pipeline	A RUSLINK & W GALERIELSE, JR	SHEBOYGAN FALLS	WI	0
NWX8352	Crossing Pipeline	LAKE LE MAHIEN	SHEBOYGAN FALLS	WI	0
NWX8386	Crossing Pipeline	HENRY P EDLER	SHEBOYGAN FALLS	WI	0
NWX8414	Crossing Pipeline	HARRISON JOSLIN	SHEBOYGAN FALLS	WI	0
NWX8415	Crossing Pipeline	OTTO FENNER & LAKE LEMAHEN	SHEBOYGAN FALLS	WI	0
NWX9025	Crossing Pipeline	PLYMOUTH REFRIGERATOR, WATER & POWER CO	PLYMOUTH	WI	0
NWD935	Easement - Pipe, Wire, Roadway, Drainage	KOHLER, VILLAGE OF	KOHLER	WI	0
NWX5525	Easement - Pipe, Wire, Roadway, Drainage	KOHLER, VILLAGE OF	KOHLER	WI	0
185176	Encroachment - Wireline	CHARTER COMMUNICATIONS	SHEBOYGAN FALLS	WI	998
217371	Encroachment - Wireline	BEMIS MANUFACTURING COMPANY	SHEBOYGAN FALLS	WI	7 5
229047	Encroachment - Wireline	BEMIS MANUFACTURING	SHEBOYGAN FALLS	WI	5 95
NWY0536	Exchange of Property	MILW & NORTHERN RAILWAY CO	PLYMOUTH	WI	0

Kohler Industrial Lead Assignment List

Exhibit E

211429	Industrial Track Agreement w/o Maint Chg	BEMIS MANUFACTURING COMPANY	SHEBOYGAN FALLS	WI	
NW11165	Industrial Track Agreement w/o Maint Chg	BEMIS MFGR CO	SHEBOYGAN FALLS	WI	0
NW/A3998	Industrial Track Agreement w/o Maint Chg	BEMIS MFGR CO	SHEBOYGAN FALLS	WI	0
NW/A6474	Industrial Track Agreement w/o Maint Chg	GILSON BROTHERS CO	PLYMOUTH	WI	
NW/A9467	Industrial Track Agreement w/o Maint Chg	SHEBOYGAN FALLS COOP ASSN	SHEBOYGAN FALLS	WI	0
NW/A9623	Industrial Track Agreement w/o Maint Chg	RICHARDSON BROTHERS CO	SHEBOYGAN FALLS	WI	
NW/X1788	Industrial Track Agreement w/o Maint Chg	RICHARDSON LUMBER CO	SHEBOYGAN FALLS	WI	0
NW/X2810	Industrial Track Agreement w/o Maint Chg	CITY OF SHEBOYGAN FALLS	SHEBOYGAN FALLS	WI	
NW/X6605	Industrial Track Agreement w/o Maint Chg	SHEBOYGAN CONSTRUCTION CO	SHEBOYGAN FALLS	WI	
NW/X9701	Industrial Track Agreement w/o Maint Chg	BARKER LUMBER & FUEL CO	PLYMOUTH	WI	0
NW/Y3296	Industrial Track Agreement w/o Maint Chg	SHEBOYGAN FALLS COOP ASSN	SHEBOYGAN FALLS	WI	0
NW/Y3310	Industrial Track Agreement w/o Maint Chg	STANDARD OIL CO	PLYMOUTH	WI	0
181853	Lease of Land for Beautification, Parks,	KOHLER, VILLAGE OF	KOHLER	WI	999
180612	Lease of Land for Industrial Purposes	KRAFT, INC	PLYMOUTH	WI	0
232476	Right of Entry Agreement	PLYMOUTH UTILITIES	PLYMOUTH	WI	0
NW13221	Warning Devices - Public Roadway	STATE OF WISCONSIN	PLYMOUTH	WI	13 28
NW13346	Warning Devices - Public Roadway	STATE OF WISCONSIN	PLYMOUTH	WI	0
NW13403	Warning Devices - Public Roadway	STATE OF WISCONSIN	SHEBOYGAN FALLS	WI	0
NW/A3506	Warning Devices - Public Roadway	WISCONSIN HIGHWAY COMMISSION	SHEBOYGAN FALLS	WI	0
NW/A3507	Warning Devices - Public Roadway	WISCONSIN HWY COMMISSION	PLYMOUTH	WI	
NW/X9296	Warning Devices - Public Roadway	C M ST P & P RAILWAY CO	PLYMOUTH	WI	0

ATTACHMENT 2

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35144

**WISCONSIN & SOUTHERN RAILROAD CO.
-- ACQUISITION AND OPERATION EXEMPTION --
UNION PACIFIC RAILROAD COMPANY**

**VERIFIED PETITION FOR EXEMPTION
UNDER 49 U.S.C. 10502
FROM 49 U.S.C. 10902**

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James H. M. Savage
Of Counsel

Counsel for Petitioner
Wisconsin & Southern
Railroad Co.

Dated February 13, 2009

EXPEDITED HANDLING REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35144

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UNDER 49 U.S.C. 10502
FROM 49 U.S.C. 10902**

I

INTRODUCTION

Pursuant to 49 U.S.C. 10502, Wisconsin & Southern Railroad Co. ("WSOR" or "Petitioner"), an existing class II regional railroad, seeks an exemption from 49 U.S.C. 10902 permitting it to acquire and operate a permanent exclusive freight operating easement ("the freight easement") over approximately 10.95 miles of railroad known as the Kohler Industrial Lead (hereafter "the Line") currently owned by the Union Pacific Railroad Company ("UPRR"). The State of Wisconsin Department of Transportation ("WisDOT") has executed an agreement to purchase the right-of-way and railroad assets comprising the Line from UPRR with WSOR to acquire the freight easement and associated common carrier obligation directly from UPRR. Concurrently with this filing, WisDOT is submitting a Petition for Declaratory Relief seeking a ruling that its acquisition of the right-of-way and railroad

assets will not render it a rail common carrier under State of Maine¹ and similar agency precedent involving the acquisition of active rail lines by public agencies.

Additionally and as part of this transaction, WSOR will in its own right acquire from UP and operate about 1,000 feet of spur track, constituting the lead to the Cargill Malt Plant (formerly the Schreier Malting Plant) at Kohler, WI.² Finally, WSOR is simultaneously filing a verified notice of exemption³ covering its acquisition of overhead trackage rights from UPRR between MP 4.0 near Kohler and MP 1.2 at Kohler Junction, in Sheboygan County, WI (the "Overhead Trackage Rights") to permit WSOR to access the UPRR Spur as hereinafter defined to the Cargill Malt Plant as well as to interchange freight with UPRR over UPRR's Access Trackage and Interchange Trackage as depicted on Exhibit A. WSOR submits as Exhibit A a map depicting the location of the Line, the Overhead Trackage Rights, the UPRR Spur, the Access Trackage and the Interchange Trackage, and as Exhibit B, a map depicting the entire WSOR system.

The procedures set forth in the Board's Decision regarding Disclosure of Rail Interchange Commitments⁴ do not apply as there is no provision in the UPRR sale and lease agreements restricting WSOR's future interchange with a third party

¹ See, e.g., Maine, DOT--Acq Exemption, Me Central R Co, 8 I C C 2d 835 (1991) (State of Maine)

² The postal address of the facility is 704 S 15th Street, Sheboygan, WI 53081. Per UPRR, this spur track was formerly referred to as "the Schreier Lead". For purposes of this transaction, the trackage will be referred to as "the UPRR Spur".

³ STB Finance Docket No. 35191

⁴ STB Docket No. EP-575-1 (served May 29, 2008)

carrier. There are two interchange points: UPRR with WSOR at Sheboygan and WSOR with UPRR at Kohler Junction.

For the reasons stated below, WSOR requests expedited consideration, with a decision to be issued on or about April 15, 2009, effective upon service.

II.

FACTUAL BACKGROUND

Petitioner is an existing class II railroad common carrier operating over 700 miles of trackage in Wisconsin and adjacent northern Illinois. Originally established in 1980 to operate segments of the former Milwaukee Road that were being abandoned and subsequently acquired by the State of Wisconsin, WSOR has grown substantially over the past 28 years. Starting as a class III short line rail carrier operating 93 miles of track in central Wisconsin, WSOR eventually assembled a network of rail lines serving the southern half of the State consisting of routes formerly operated by Canadian Pacific Railway (or its predecessor the Milwaukee Road), Canadian National Railway (or its predecessor Wisconsin Central LTD), and Union Pacific Railroad Company (or its corporate predecessor the Chicago & North Western Railway). In 1992, WSOR's owner and President William Gardner acquired control of another Wisconsin-based class III short line railroad, the Wisconsin & Calumet Railroad

(WICT) serving southern Wisconsin and adjacent northern Illinois. In 1996, WSOR merged WICT's operations and properties into WSOR, leaving WSOR as the surviving company.⁵ WSOR also acquired several sets of trackage rights from other railroads for the purpose of connecting all of these lines. Early in 2003, WSOR's revenues increased to the point where it became a small class II railroad. In 2005 WSOR expanded again when WisDOT purchased the middle portion (Kiel-to-Saukville) of CN's former Wisconsin Central line from Hilbert south to North Milwaukee and selected WSOR as the operator on that line and WSOR acquired overhead rights from CN between Saukville and North Milwaukee to connect the Kiel-to-Saukville Line to the rest of its system.

The proposed transaction includes the acquisition and operation of the Line, a railroad line that has been out of service for many years.

Here the State of Wisconsin through WisDOT (instead of WSOR) will purchase the right-of-way and railroad assets constituting the railroad from UP and will contract with the East Wisconsin Counties Railroad Consortium ("the Consortium") to provide service over the Line. The Consortium has in turn

⁵ See, Wisconsin & Southern Railroad Co -Corporate Family Transaction Exemption-Wisconsin and Calumet Railroad Company, STB FD No. 33450 (served September 5, 1997).

selected WSOR to provide that service as its contract operator. By this Petition for Exemption, WSOR seeks Board authority to acquire the freight easement directly from UPRR as well as UPRR's common carrier obligation. WSOR will rehabilitate and restore to service the approximately 10.95 miles of out of service track and will market the Line to former customers and new customers. The Line will connect at Plymouth with WSOR's north-south Kiel-to-Saukville Line. Additionally, WSOR will acquire and restore access and service to the UPRR Spur to the Cargill Malt Plant (the "UPRR Spur") at Kohler, Wisconsin. In order for WSOR to reach the UPRR Spur, WSOR seeks overhead trackage rights on UPRR's Line as discussed below.

Concurrently with this filing, WisDOT is petitioning the Board for a declaratory ruling permitting it to acquire the right-of-way and railroad assets which make up the Line as a non-carrier outside the Board's jurisdiction and without acquiring any common carrier obligation.⁶

Finally, as noted above, WSOR will shortly be filing a Verified Notice of Exemption with the Board covering UPRR's grant of the Overhead Trackage Rights between MP 4.0 at Kohler

⁶ WSOR understands that WisDOT will be submitting for Board review a copy of the pertinent transaction documents including the UPRR/WisDOT purchase agreement, the UPRR grant of easement to WSOR, and the Operating and Land Use Agreement between the Consortium and WSOR. Collectively, these agreements establish that WSOR is the entity with the common carrier responsibility for providing service over the Line and that WisDOT has no ability to control WSOR's service or operations over the Line.

and MP 1.2 at Kohler Junction. These Overhead Trackage Rights will allow WSOR to operate its trains over UP's trackage to reach the UPRR Spur and UPRR's Access Trackage and Interchange Trackage as depicted on Exhibit A for the purpose of interchange with UP

WSOR is unique among short lines and regional railroads in that it acquires vacant industrial sites for the purpose of enticing rail-served customers to locate there and use its services. WSOR anticipates that the Line and adjacent real estate will provide an excellent location with which to attract new or relocating industry resulting in new job opportunities and economic development for this area. Based upon its success in developing industrial sites at other locations around its system, WSOR believes, as a smaller, locally-based carrier offering more frequent and customer-focused service, it will be able to attract customers to the Line.

III.

ADDITIONAL INFORMATION

So that the Board may expeditiously process its request, WSOR provides the following additional information about the transaction.

(1) The full name and address of the Petitioner is Wisconsin & Southern Railroad Co., P.O. Box 90229, Milwaukee, WI 53209-0229.

(2) The name, address, and telephone number of the representative of the Petitioner who should receive correspondence is John D. Heffner, John D. Heffner, PLLC, 1750 K Street, N W., Suite 200, Washington, D.C. 20006. Petitioner counsel's phone number is (202) 296-3334.

(3) The full name and address of the railroad selling the easement and the spur is the Union Pacific Railroad Company, 1400 Douglas Street, Omaha, Nebraska. Representative for UP is Mack H. Shumate, Jr., (312) 777-2055.

(4) The parties propose to consummate this transaction as soon as possible, hopefully on or about April 15, 2009.⁷

(5) The freight easement to be acquired over the Line extends eastward from a connection with WSOR's north-south Kiel-to-Saukville Line at MP 14.95 at Plymouth, WI, to MP 4.0 near Kohler, WI. Additionally, WSOR will in its own right acquire from UP and operate the UPRR Spur, constituting the lead to the Cargill Malt Plant at Kohler, WI.

(6) Maps indicating the location of the Line, the Overhead Trackage Rights, the UPRR Spur, the Access Trackage and the Interchange Trackage and the WSOR system are attached hereto as Exhibits A and B, respectively.

(7) After the transaction is consummated, WSOR will continue to be a class II carrier.

(8) The Board's procedures set forth in its Decision

⁷ The labor notice required under 49 CFR 1121.4(h) will be posted by UP and served by WSOR on the affected unions at least 60 days before the consummation date of this transaction. WSOR will certify this information to the Board once posted and served.

regarding Disclosure of Rail Interchange Commitments⁸ do not apply as there is no provision in the UPRR sale and lease agreements restricting WSOR's future interchange with a third party carrier. There are two interchange points: UPRR with WSOR at Sheboygan and WSOR with UPRR at Kohler Junction.

IV.

ARGUMENT

THE ACQUISITION AND OPERATION OF THE SUBJECT EASEMENT AND TRACKAGE SHOULD BE EXEMPTED

Petitioner seeks an exemption under 49 U.S.C. 10502 from 49 U.S.C. 10902 to permit it to purchase and operate the freight easement on approximately 10.95 miles of trackage (the Line) that WisDOT is acquiring as a noncarrier. Additionally, WSOR seeks to purchase and operate the UPRR Spur, the track constituting the lead to the former Cargill Malt Plant at Kohler, WI, to operate over the Overhead Trackage Rights between MP 4.0 at Kohler and MP 1.2 at Kohler Junction. But for the exemption of 49 U.S.C. 10502, WSOR's transaction would require the Board's authorization under 49 U.S.C. 10902 applicable to the purchase and operation of actively used railroad lines by existing class II and III rail carriers. Under §10902(c), the Board shall issue a certificate authorizing a class II carrier to acquire an additional line of railroad unless the Board finds

⁸ STB Docket No EP-575-1 (served May 29, 2008)

that the transaction is inconsistent with the public convenience and necessity.

Petitioner believes that its request is appropriate for exemption from the formal requirements of §10902. Section 10502 directs the Board to grant an exemption from regulation if it finds that (1) regulation is not necessary to carry out the transportation policy of §10101(a) and (2) either (a) the transaction or service is of limited scope, or (b) the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power. Indeed, the legislative history behind §10505 (the predecessor section to the current §10502) makes clear Congress' intent that the Interstate Commerce Commission (and now the Board) use its exemption authority liberally to free certain transactions and services from the administrative and financial costs associated with continued regulation.

In discussing the exemption powers of the Board's predecessor -- the ICC -- the Staggers Act legislative history states.

The policy underlying this provision is that while Congress has been able to identify broad areas of Commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and

complete exemptions from remaining
regulation.

H.R. Rep. No. 96-1430, 96th Cong. 2d Sess. 105 (1980); see also, Exemption from Regulation--Boxcar Traffic, 367 I.C.C. 424, 428 (1983), vacated and remanded on other grounds, Brae Corp. v. United States, 740 F.2d 1023 (D.C. Cir. 1984). This statement applies equally to the Board as the ICC's successor.

Exemption of the proposed transaction from §10902 is exactly the type of minor transaction Congress contemplated when it enacted §10502. Requiring WSOR to submit a formal application is not necessary to carry out the transportation policy of 49 U.S.C. 10101a. A grant of the exemption will further several goals of the I.C.C. Termination Act including §10101a (2) and (7), minimizing federal control over transportation and reducing regulatory barriers to entry. A grant will also facilitate the goals of §10101a (5) and (9) providing for sound economic conditions in the transportation industry and honest and efficient management of railroads. WSOR's purchase and operation will permit a locally-based carrier with strong ties to Wisconsin to rehabilitate and restore to operation the Line and collect local traffic which can then be funneled efficiently to UPRR and other class I carriers for longer haul distribution over the national railroad system.

Granting WSOR's request also satisfies both the limited scope and the no abuse of captive shippers tests of the § 10502 exemption provision. The total length of the Kohler Industrial

Lead (the Line) is only about 10.95 miles. The UPRR Spur accessing the Cargill Malt plant is only about 1,000 feet in length and clearly the UPRR Spur is "limited" in scope.

WSOR's current system connects with each of the six largest Class I railroads, and WSOR operates via trackage rights into Chicago, where it connects with the lines of six of the seven of the nation's largest railroads. Because WSOR operates as a neutral "feeder" railroad with multiple Class I connections, WSOR's rail service would increase the competitive options available to shippers that locate on the Line and the UP Spur. In this case, customers would have access to either UP at Sheboygan or CN at either Kiel or Saukville or other carriers through WSOR's connections in Milwaukee or Chicago. For these reasons, WSOR's operation of the Line and purchase and operation of the UPRR Spur will not result in an abuse of market power.

In 1996, the Board promulgated a class exemption entitling class III carriers to acquire and/or operate actively used rail lines without having to undergo the expense and burden of submitting either a formal application or an individual petition for exemption for operating authority. Class Exemp. For Acq. Or Oper. Under 49 U.S.C. 10902, 1 S.T.B. 95 (1996). Had WSOR still been a class III carrier at the time of this filing, it would have been entitled to avail itself of that class exemption. Due to the unfortunate absence of such a class exemption for the purchase and operation of actively used lines by class II carriers, WSOR must file an individual petition for exemption. But the reasons for granting the exemption sought here are the

same as those applicable to a grant of the class exemptions discussed above. Moreover, the Board has on previous occasions exempted similar purchase or lease and operation transactions by class II carriers involving a miniscule amount of trackage. In fact, in Wisconsin & Southern Railroad Co. - Acquisition Exemption - Iowa, Chicago & Eastern Railroad Corporation, STB Finance Docket No. 34464, served June 30, 2004, the Board exempted WSOR's acquisition of about 7 miles of yard trackage in Janesville, WI, that it had long operated under a lease.

V

EMPLOYEE PROTECTION; CERTIFICATION OF NOTICES

This transaction will be subject to the employee severance conditions described in 49 U.S.C 10902(d) as set forth in Wisconsin Central Ltd-Acquisition Exemption-Union Pacific Railroad, 2 S.T.B. 218 (1997), rev'd in part sub nom. Association of American Railroads v. STB, 162 F.3d 101 (D.C. Cir. 1988).

Under 49 CFR 1121.4(h) WSOR is required to post and serve a notice of intent at least 60 days before the exemption becomes effective. WSOR will serve a letter on the Board certifying that it had complied with the notice and posting requirements of 49 CFR 1121.4(h) once it has done so.

VI.

ENVIRONMENTAL AND HISTORIC IMPACTS UNDER 49 CFR 1105

Pursuant to 49 CFR 1105.6(c) (2), the proposed transaction is exempt from environmental review under 49 CFR 1105(c) (2) (i), because the actions proposed herein will not cause any operating changes that exceed the thresholds established in 1105.7(e) (4) or (5).

In addition, this transaction is exempt from historic review under 1105.8(b) (1). Under this section, a sale, lease or transfer of a rail line is exempt if rail operations will continue. Further Board approval is required for the parties to abandon service, and there are no plans to dispose of or alter the properties subject to Board jurisdiction.

VII.

EXPEDITED CONSIDERATION REQUESTED

As noted in the introduction to this Petition, WSOR seeks an expedited decision granting its request effective upon service. In support of that request, WSOR notes that 1) the trackage to be transferred needs substantial rehabilitation which must be performed during the warm weather months of late late Spring and summer; undue delay could jeopardize the completion of that work, 2) the transaction is minor in scope and uncontroversial in impact, and 3) the transaction will not result in any significant changes in operations or competitive

impact.

VIII

CONCLUSION

Accordingly, WSOR requests that the Board grant it an exemption from the provisions of 49 U.S.C. 10902 to permit it to acquire the specified interests and operate on the subject Line, the Overhead Trackage Rights, the UPRR Spur, the Access Trackage and Interchange Trackage consistent with the agreements covering same between UPRR and WSOR with a decision issued on or about April 15, 2009, effective upon service.

Respectfully submitted,

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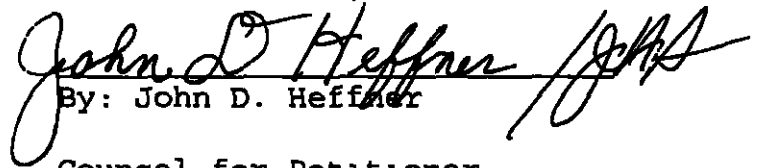
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Of counsel

Counsel for Petitioner
Wisconsin & Southern
Railroad Co.

Dated: February 13, 2009

counsel.

Respectfully submitted,
John D Heffner, PLLC


By: John D. Heffner

Counsel for Petitioner
Wisconsin & Southern
Railroad Co.

JDH/JHS/mhd

Enc.

cc· Mack Shumate, Esq (w/enc.)
Kathleen Chung, Esq. (w/enc.)

ATTACHMENT 3

COMMISION OPERATING AGREEMENT

**OPERATING AGREEMENT
FOR RAIL SERVICE CONTINUATION**

BY AND BETWEEN

EAST WISCONSIN COUNTIES RAILROAD CONSORTIUM

AND

WISCONSIN DEPARTMENT OF TRANSPORTATION

AGREEMENT NO 0490-40-50(B-2)

MARCH 28, 2008

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ATTACHMENT 1 - LAND USE AGREEMENT #0490-40-50(A-1) BY AND BETWEEN THE EAST WISCONSIN COUNTIES RAILROAD CONSORTIUM AND THE WISCONSIN DEPARTMENT OF TRANSPORTATION DATED MARCH 28, 2008. ... 1-1

ATTACHMENT 2 - OPERATING AGREEMENT FOR RAIL SERVICE CONTINUATION #0490-40-50(F-1) BY AND BETWEEN THE EAST WISCONSIN COUNTIES RAILROAD CONSORTIUM AND THE WISCONSIN & SOUTHERN RAILROAD COMPANY DATED MARCH 28, 2008 . . . 11-1

ATTACHMENT 3 - A LIST OF LINE SEGMENTS THAT SHALL BE MAINTAINED TO FRA CLASS II STANDARDS AND A LIST OF LINE SEGMENTS THAT SHALL BE MAINTAINED TO FRA CLASS I STANDARDS..... III-1

OPERATING AGREEMENT

This Agreement made and entered into this 28th day of March, 2008, by and between the East Wisconsin Counties Railroad Consortium, established in accordance with Sec 66 0301 (formerly Sec 66 30) Wis Stats, having its principal office at Dodge County Administration Building, 127 E Oak Street, City of Juneau, County of Dodge, State of Wisconsin, 53039 ("Commission") and the Wisconsin Department of Transportation, P O Box 7914, Madison, Wisconsin 53707 ("WisDOT")

WITNESSETH

WHEREAS, certain rail facilities in Columbia, Dodge, Fond du Lac, Green Lake, Manitowoc, Milwaukee, Ozaukee, Sheboygan, Washington, Waukesha and Winnebago Counties, Wisconsin, have been abandoned, or have been threatened with abandonment, and have been purchased by WisDOT, and,

WHEREAS, Commission is currently comprised of the counties of Columbia, Dodge, Fond du Lac, Green Lake, Ozaukee, Sheboygan, Washington and Winnebago, and Commission may accept additional member counties in the future, and,

WHEREAS, Commission was created for the purpose of providing for the continuance of rail service to its member counties with authority to acquire the use of the Rail Line by purchase, lease or otherwise and to provide for the operation of freight rail service thereon by contract or otherwise, and,

WHEREAS, WisDOT has acquired ownership of the Principal Line Segments in the State of Wisconsin as defined under Section 1.0(r) of this Agreement, and,

WHEREAS, WisDOT owns the Principal Line Segments in Wisconsin, and the Commission owns the Improved Property, or by this Agreement is being granted use of the Improved Property of the Principal Line Segments in Wisconsin subject to all the conditions and limitations set forth in this Agreement and the Land Use Agreement identified in Section 1.0(m), and,

WHEREAS, the parties hereto have negotiated and agreed to a long-term operating agreement which is this instrument, and,

WHEREAS, Operator has been furnished copies of and reviewed the Land Use Agreement by and between Commission and WisDOT dated March 28, 2008, and this Operating Agreement for Rail Service Continuation By and Between Commission and WisDOT dated March 28, 2008, and,

WHEREAS, Commission and Commission's Operator have inspected the Rail Line and are knowledgeable as to its needed repairs, maintenance and possible rehabilitation and are making certain financial commitments relating thereto which are hereinafter set forth in this Agreement, and,

WHEREAS, Commission and WisDOT desire to substantially revise their agreement for providing freight service on the Rail Line, and,

WHEREAS, Wis Stats 66 0301 and 59 58 provide Commission the legal authority to enter into this Agreement, and,

WHEREAS, Wis Stat 85 02, 85 08(2)(b), 85 08(4) and 20 395 provide WisDOT the legal authority to engage in and provide financial assistance for rail service preservation, and,

NOW THEREFORE, the parties do hereby mutually agree and will be mutually benefited in that the Commission shall provide freight rail service and shall be financially assisted by WisDOT in accordance with the following terms and conditions, and that the Operating Agreement For Rail Service Continuation by and between the East Wisconsin Counties Railroad Consortium and the Wisconsin Department of Transportation, as amended, numbered 0490-40-50(B-1), dated July 1, 1990, and the Land Use Agreement For Rail Service Continuation on the Kiel to Saukville Rail Line, numbered 0490-40-50(H), dated January 12, 2005 are superseded in their entirety by this Agreement, and in consideration of the promises and the mutual covenants contained herein, the parties hereto covenant and agree as follows

ARTICLE 1.0 - DEFINITIONS.

As used in this Agreement and also, unless otherwise more particularly defined, in other instruments referred to herein

- a "AREMA" means American Railway Engineering and Maintenance-of-Way Association
- b "Building" means any structure built to stand more or less permanently with columns or walls and designed to support a roof, and constructed as either an addition which increases the outside dimensions of another structure, or as a detached entity which is not physically connected to another structure and which was primarily intended and designed for human use, occupancy or the storage of goods and materials
- c "Commencement Date" means the date the Operating Agreement between Commission and Operator is approved in writing by WisDOT
- d "Commission" means the East Wisconsin Counties Railroad Consortium
- e "Commuter Passenger Service" means mass transit by rail characterized by morning and evening weekday peak ridership period service and by multiple ride tickets
- f "CN" means the Canadian National Railroad D/B/A the Wisconsin and Central Railroad Co and its successors, if any

- g. "CPR" means the Canadian Pacific Railway D/B/A the Soo Line Railroad Company and its successors, if any**
- h "FRA" means the Federal Railroad Administration of the United States Department of Transportation**
- i "Grant Agreement" or "Agreement" means this Agreement entitled Operating Agreement For Rail Service Continuation No 0490-40-50(B-2) By And Between The East Wisconsin Counties Railroad Consortium And The Wisconsin Department Of Transportation, and any amendments thereto**
- j "Gross Operating Revenues" means all income produced from operations on the rail line which shall include freight bill revenues from complete on-line hauls, freight bill revenues retained by Operator under a division of revenues with other rail lines, shipper contract charges, surcharges, net equipment per diem, demurrage, and equipment storage. Specifically excluded is income received from contract car repair, building of or scrapping of rail equipment, and excursion trains. Gross Operating Revenues shall be computed on an accrual basis**
- k "Improved Property" means Buildings and Trackage located upon the Land of the Rail Line**
- l "Land" means the real estate, generally 66 feet in width, the use of which is provided to Operator by Commission, upon which the trackage that is leased to Operator under this Agreement is located and which is the subject of the Land Use Agreement**
- m "Land Use Agreement" means the Land Use Agreement No 0490-40-50(A-1) by and between the East Wisconsin Counties Railroad Consortium and the Wisconsin Department of Transportation, dated March 28, 2008, and any amendments thereto**
- n. "Operator" means the Wisconsin & Southern Railroad Company, and its successors, if any**
- o. "Operating Agreement" means the Operating Agreement For Rail Service Continuation No 0490-40-50(F-1) By And Between The East Wisconsin Counties Railroad Consortium And Wisconsin & Southern Railroad Co , and any amendments thereto**
- p "PRTC" means Peconic Rail Transit Commission**
- q "Person" means an individual, a partnership, an association, or bodies politic or corporate**
- r "Principal Line Segment" means one of the following as defined by their beginning and end points**

- (1) North Milwaukee, Milepost 93.4 to Horicon, Milepost 139.1
- (2) Horicon, Milepost 139.1 to Cambria, Milepost 165.2
- (3) Beaver Dam, Milepost 154.5 to Fox Lake, Milepost 156.7
- (4) Horicon, Milepost 139.1 to Ripon, Milepost 168.9, including the Peachey Bros Spur at Burnett
- (5) Ripon, Milepost 168.9 to Oshkosh, Milepost 188.3
- (6) Iron Ridge, Milepost 132.91 to Mayville, Milepost 141.6.
- (7) Markesan, Milepost 172.6 to Brandon, Milepost 161.1
- (8) Saukville, Milepost 114.8 to Kiel, Milepost 151.8
- (9) Kohler, Milepost 4.0 to Plymouth, Milepost 14.95

- s** "Rail Line" means the Principal Line Segments in aggregate
- t** "RHS" means Railroads and Harbors Section of the WisDOT
- u** "South Central" means South Central Wisconsin Rail Transit Commission
- v** "STB" means the Surface Transportation Board of the United States Department of Transportation, or its successors, if any
- w** "Trackage" means the rails, ties, ballast, track material, bridges, switches, culverts, signals, and all other non-Land property acquired by WisDOT and provided under grant to the Commission subject to certain express conditions and limitations. This term does not include Land.
- x** "UP" means the Union Pacific Railroad and its successors, if any
- y** "WisDOT" means the Wisconsin Department of Transportation
- z** "WRRTC" means the Wisconsin River Transit Commission D/B/A the Wisconsin River Rail Transit Commission

ARTICLE 2.0 - LEASE, LICENSE, TERM AND RESERVATION.

Section 2.1 - Lease, License and Term.

(a) WisDOT hereby grants to Commission the use of Improved Property and grants to Commission the right and authority to enter into an Agreement with Operator leasing Operator the Improved Property and granting Operator an exclusive right and license to use the Land for the purpose of providing freight rail service and for all other purposes necessary to the foregoing, subject, however, to the uses and reservations identified in Section 2.2 hereafter and subject to the uses and reservations set forth in the governing Land Use Agreement. Commission shall reserve the right and authority to allow supplemental freight rail service to be provided by Commission on Principal Line Segments identified in subsections 1(r) (1) – (7) of this Agreement in situations

where Operator cannot justify and is unable to provide a desired level of freight rail service. This provision does not apply to the Principal Line Segments between Saukville, Milepost 114.8 to Kiel, Milepost 151.8 identified in subsection 1(r)(8) and between Kohler, Milepost 4.0 to Plymouth, Milepost 14.95 identified in subsection 1(r)(9).

(b) This Agreement is to be executed upon authorization of the Board of Directors of the Commission, and the authorization of the Chief of WisDOT's Railroad and Harbors Section. This Agreement shall commence upon execution of this Agreement and shall be perpetual; provided, however, that either party may terminate this Agreement under Article 7.0.

Section 2.2 - Reservation.

The Land and Improved Property involved in this Agreement are the Land and Improved Property defined in Section 1.0(k) and (l), herein. Future operations may show WisDOT that portions of the Land or Improved Property are not needed for railroad use or are of sufficient width to allow other uses as co-uses.

Land and Improved Property used predominantly in generating income not included within Gross Operating Revenues shall be deemed not used for railroad purposes. Partial use of the line by Commission and Operator for future Commuter Passenger Service is possible if first authorized under a separate operating agreement in the manner set forth in Section 2.2(g). During the term of this Agreement some consolidation of yards, interchanges and terminal facilities of the various railroads serving the particular area may require relocation of Improved Property and other facilities which could affect portions of the Rail Line. WisDOT may, upon request from Commission, Operator or others, determine that the use of the Rail Line for railroad purposes is such that the width of the Land at particular points also permits recreational or scenic uses. WisDOT hereby makes this grant of use subject to the following conditions:

(a) Subject to Section 2.2(b) below, the right is retained for WisDOT to sell or lease Land, Improved Property or both that WisDOT determines is not needed for the continuation of freight rail service. Such determination shall be made after consultation with Commission and Operator. When notified of a pending sale by WisDOT, Commission shall forthwith notify Operator.

(b) In the event WisDOT determines certain parcels of Land or Improved Property are not reasonably required for the preservation of railroad services, WisDOT may, upon its own initiative, sell, permit, or lease such Land or Improved Property located outside 33 feet of the center line of the main track to any party. Before a sale, WisDOT must first offer the Land or Improved Property to Commission and to other state and local government units under the provisions of Section 85.09, Wis. Stats. Commission shall promptly notify Operator in writing whether it intends to exercise any right to purchase Land and Improved Property offered by WisDOT. If Commission does not elect to exercise such right, Operator may, within thirty (30) days following receipt of the foregoing notice, supply Commission with the purchase funds, and Commission shall purchase the Land and Improved Property to the extent that it may be accomplished under Section 85.09, Wis. Stats., and convey same to Operator, provided that Commission shall not be required to purchase such Land and Improved Property on behalf of Operator if in its reasonable judgment Commission determines

that the Land and Improved Property will not be used for a public purpose, in which case the funds furnished by Operator to Commission shall be promptly returned

(c) WisDOT retains the right to retake or retain possession of any of the Rail Line under lease to third parties for itself, subject to the right of the Commission and Operator to provide service. In the Land Use Agreement, WisDOT presently retains the right to approve all leasing of Improved Property and to conduct all the leasing of Land. If there presently are sidetracks on any of the Land leased to third parties, WisDOT shall provide Commission and Operator with the right of continued use of the sidetrack and Land 16.5 feet from the center line on each side of the side track.

(d) The right to lease Land, which is not under license and lease to Operator or not presently leased to third parties is retained for WisDOT.

(e) Any building or other structure presently on the Land being used for railroad purposes or previously built for railroad purposes, except as may be specifically excluded elsewhere herein or in an existing lease or by law, will be available for use by Commission and Operator. If any such building or buildings are not needed by Commission or Operator for their operation, WisDOT reserves the right to lease any such building or buildings to third parties for periods not to exceed two (2) years. In some instances, this might involve leasing a portion of the building with Operator using the other portion. WisDOT agrees to consult with Commission and Operator in making such leases.

(f) The transfer of use of the Land to Commission and Operator is subject to existing utility easements, street and highway easements, and other existing easements, permits or licenses of grant or use. WisDOT retains the right to grant future utility easements and public highway or road crossing authorizations. WisDOT retains to itself all easement and right-of-way rental, purchase price, or other easement, right-of-way or property transfer payments.

(g) Commission has the right to contract for the use of the Rail Line or portions thereof for Commuter Passenger Service. Such contract may be with Operator or a governmental unit or Commission may provide that service itself. Commission shall not allow Operator or any other operator to provide Commuter Passenger Service over any portion of the rail line without first entering into a separate agreement authorizing that service. Before Commuter Passenger Service may begin, Commission must sign the authorizing agreement, and WisDOT must approve it. Any plan or proposal for Commission itself to operate Commuter Passenger Service shall also be subject to WisDOT review and approval. Further, it is a condition of this reservation that Commission may contract with a third party respecting the provision of Commuter Passenger Service only if reasonable advance notice is given to Operator and Operator is afforded the opportunity of participation in the negotiating and establishing of the conditions of the co-use of these facilities. The granting of such co-use is on the further condition that any upgrading or changing of the Rail Line or other facilities to accommodate the co-use shall be first approved by WisDOT in accordance with Commission's obligations under the Land Use Agreement and shall not involve any additional cost to Operator and that a reasonable division of costs for the servicing, maintaining and repairing of the trackage and other facilities for the co-use shall be established. It is a further condition that such a joint use shall not unreasonably restrict the use of the particular facilities by Operator. This joint use may involve testing or trial operations as well as permanent operations.

(h) As to the planning operations and the changes which might occur because of planning operations, in any agreement with Operator or any other operator, Commission shall reserve to WisDOT, itself and the governmental entities along the Rail Line the right to do such planning and to provide for relocation of facilities, including Improved Property and the elimination of certain trackage, buildings and other facilities, in order to carry out the determinations arrived at from such planning. The Commission shall reserve to itself and WisDOT, the right to negotiate the contract as to such matters, but may do so on the condition that Operator be given notice and the opportunity to act as a participant or an observer at any such negotiations and that the following factors are controlling insofar as they affect Operator. Commission shall require Operator to agree that it will cooperate in implementing any agreements made by WisDOT or Commission as to the matters set forth in this subsection providing that the alternate facilities made available to Operator are approximately equal to those released by Operator, and, that any major costs of the changes are not imposed on Operator. No change shall interfere with Operator's duty to provide service unless Operator and Commission agree to such change.

(i) It is understood that no lease money or sale receipts are to accrue to Operator in the event of any sales or leases of Land or Improved Property.

(j) Commission shall require Operator to receive a written permit from WisDOT before Operator itself provides passenger rail service. This section does not limit Operator's ability to provide freight services. If Operator proposes to operate or allow the operation of any train over any portion of the Rail Line which is to carry any person paying a fee for carriage, Operator shall first apply for and receive a written permit from WisDOT for the passenger operation on the Rail Line. WisDOT in consultation with Commission may grant or deny a permit based solely upon any of the following: adequacy of liability insurance coverage, terms and amount as set forth in Section 6.2 below, trackage condition, proposed speed of operation, preparations for crowd control, parking and clean-up, and sufficiency of consumer protection assurances associated with each use by Operator of any portion of the Rail Line subject to this Agreement to be operated over by Operator or by an affiliate, subcontractor or lessee of Operator. The permit may be denied if not requested in writing a minimum of ten days prior to the proposed use date, or if a fully executed copy of an acceptable certificate of binding insurance is not submitted for Commission and WisDOT review ten days prior to the proposed use date, or if insurance coverage is inadequate or flawed in the reasonable judgment of Commission or WisDOT, or if a prior fee remains unpaid in whole or in part.

ARTICLE 3.0 - RENT.

Commission shall be permitted to charge Operator a lease or rental fee for use of the Land and Improved Property, and all other rights and privileges granted Operator under the Operating Agreement.

ARTICLE 4.0 - REVENUE DIVISIONS, TRACKAGE RIGHTS, INTERCHANGES AND COORDINATION WITH OTHER LINES.

Section 4.1 - Division of Revenues.

Commission shall receive assurances from Operator that Operator has made necessary and satisfactory arrangements for divisions of revenues with all connecting railroads. Such assurances shall show that Operator has obligated itself to make arrangements for division of revenues as are needed if there are other interchange points needed for proper operation of the Rail Line and Commission shall require Operator to furnish Commission and WisDOT documented evidence of such divisions after being obtained.

Section 4.2 - Trackage Rights.

(a) Commission and Operator have the responsibility for obtaining the necessary trackage rights required to permit the operation over the Rail Line that is required to perform the necessary freight rail service for shippers along the Rail Line. Commission and Operator shall use their best efforts to obtain such rights or to purchase such additional trackage and land or both as are necessary to provide access by Operator to the Improved Property. This section shall not be construed to require Commission to expend funds, or acquire property or rights. Commission shall require Operator to file all trackage rights agreements with the STB as may be required by law.

(b) Commission shall require Operator to furnish Commission and WisDOT copies of trackage rights or lease agreement(s) allowing Operator to operate over

- (i) CN property from Rugby Jct. to Waukesha
- (ii) CN property from Saukville to Canco
- (iii) UP property from Kohler to Sheboygan
- (iv) Such other railroad property as is or as may become necessary to operate the Rail Line

Section 4.3 - Interchange Agreements.

It is recognized that Operator may enter into interchange agreements with the CN, CPR and UP in various locations to facilitate the service to the Rail Line. Commission shall require Operator to supply WisDOT and Commission with documented evidence of the interchange agreements and any amendments thereto after obtaining the same.

Section 4.4 - Interline Divisions.

(a) Commission shall require Operator to adhere to and comply with the interline accounting rules of the Association of American Railroads in dividing revenues, under through rates, among participating carriers. Commission shall require Operator to covenant and agree to make such divisions at the time and in the manner provided herein.

(b) Commission shall require Operator to remain current on its financial obligations to connecting railroad companies. In the event that any or all connecting railroad companies place Operator on a "junction settlement" basis, or any modification thereto, except by voluntary written agreement between Operator and connecting railroad, WisDOT may, at its option, require that Commission declare Operator in default of the Operating Agreement.

ARTICLE 5.0 - RAILROAD OPERATIONS.

Section 5.1 - Authority to Operate.

(a) The Commission warrants that its Operator has all necessary rights to the Rail Line and will comply with all appropriate state and federal laws concerning the right to provide railroad service on the Rail Line. Commission shall require Operator to obtain the requisite operating authority from the STB for the railroad operations and to keep such authority in full force and effect throughout the term of their Agreement. Operator shall make all required filings and reports to the STB and the Wisconsin Office of the Commissioner of Railroads.

(b) Commission shall as a part of its Operating Agreement with Operator grant Operator the right to operate over all Principal Line Segments of the Rail Line under Commission jurisdiction as a common carrier railroad providing exclusive originating and terminating freight rail service on the Rail Line, including line-haul and switching services to shippers on the Principal Line Segments over which it is operating as a freight rail carrier. In such operation, Operator shall have the power and authority to exclusively control, manage, staff and plan for the provision of freight rail service on the Principal Line Segments over which it is operating as a freight rail carrier. As a part of its operation, Operator shall have power to effect such additions, changes, betterments, and repairs to the Improved Property as Operator may, in its judgment, deem necessary, expedient or proper to assist or improve rail service over the Rail Line, subject to the approval of Commission if approval is otherwise required by other provisions in this Agreement, the Land Use Agreement or other applicable agreements or by law. Commission shall grant Operator the right to adopt and promulgate rules governing access to, use of, and operation of the Land and Improved Property, provided any such rules affecting freight rail service which differ from the General Code of Operating Rules adopted by Burlington Northern Santa Fe Railway, CP Railway, and Union Pacific Railroad, effective April 3, 2005, or as subsequently revised, shall be lawful under Federal and state statutes and regulations governing such service and shall have been approved by WisDOT within 180 days of the issuance of the order adopting or promulgating such rules and provided any such rules are consistent with this Agreement.

Section 5.2 - Agreement of Commission to Provide for Operations, and Agreements and Covenants as to Commission and Operator.

The Commission agrees to provide, through contractual agreement with Operator, freight rail service on the Rail Line. Provision of rail service shall include but not be limited to

(a) Service Operator shall provide revenue freight rail service to current and future shippers and receivers connected to or on the Rail Line including provision of rail cars, switching, line haul and other related services and including bridge traffic. Current and future shippers and receivers connected to or on the Rail Line shall be provided freight rail services upon the same terms and conditions as such service is provided to other shippers and receivers served by Operator, or as otherwise agreed between Operator and any shipper or receiver. Failure to provide minimum service required or agreed to hereunder or required under Section 7.10 shall at WisDOT's option, require Commission to subject Operator to termination for default as hereinafter provided.

(b) Maintenance Commission shall perform or cause Operator to perform all maintenance of the Rail Line including trackage, crossings at grade, bridges, buildings, drainage ways and structures, fences, other appurtenances, and any other portion of the Land or Improved Property reasonably necessary for the safe operation of freight rail service or any other service provided by Operator. Tracks shall be maintained to FRA Class II standards, or to a standard determined by WisDOT after consultation with Operator, as of an inspection date prior to sixty (60) days following the Commencement Date. Upon its completion, a list of line segments that shall be maintained to FRA Class II standards and a list of line segments that shall be maintained to FRA Class I standards shall be included as Attachment 3 to this Agreement. Any Principal Line Segment that has been rehabilitated as part of a WisDOT assisted project after the date of this Agreement shall be maintained to the WisDOT maintenance specifications specified as part of the contract covering WisDOT assistance to that rehabilitation project. In the event of a dispute between Operator and WisDOT as to the condition of the trackage following the inspection referred to above, Operator and WisDOT shall jointly request FRA to determine the FRA track safety classification. Bridges shall be maintained in compliance with Chapter 7, Part 3 of the Manual for Railway Engineering, as amended, published by AREMA. Operator may be declared in default, as hereinafter provided, or in the case of buildings, may lose the right of possession and occupancy, if a deviation from the applicable maintenance standards or local and state building codes remains uncorrected for more than ninety (90) days after notification of the deviation as hereinafter provided or if Operator has not diligently commenced to correct such deviation within the 90 day period. Operator is prohibited from using trackage located in sidetracks, sidings or other location as maintenance material unless prior written permission to do so is requested from and first granted by WisDOT. Compensation to WisDOT or Commission from Operator for materials used with or without permission may be required by WisDOT. Any costs of trackage installed on or funds expended for maintenance of any portion or component of the Rail Line under the jurisdiction of Commission or Operator by grant from WisDOT that is not approved by WisDOT as part of a rehabilitation project shall not be eligible for reimbursement by WisDOT upon sale of the Rail Line or transfer of operating rights over the trackage to another operator.

(c) Safety and Other Inspections Operator shall facilitate the inspection of the Rail Line facilities as required by governmental agencies. Operator shall inform WisDOT and Commission of the time and place of any inspection requested by a federal or insurance inspector. Operator shall

permit representatives of WisDOT authorized by the Secretary of WisDOT or Chief of the Railroads and Harbors Section of WisDOT and representatives of Commission authorized by Commission chairman to accompany the inspector. Operator shall provide WisDOT access to all documents related to any inspection by any governmental or insurance agency. Operator shall upon reasonable notice during normal business hours permit inspection of the Rail Line, the rolling stock and maintenance equipment, and the operating and maintenance practices of Operator and Operator's affiliates performing work on the Rail Line, by WisDOT or its agents or Commission. Operator shall furnish Commission and WisDOT with copies of all inspection reports from federal agencies or insurance agencies and safety orders from federal agencies or insurance agencies and shall furnish WisDOT and Commission any like reports and orders from the Wisconsin Office of the Commissioner of Railroads.

(d) Equipment. Operator shall provide and maintain at its own expense all suitable locomotives, cars and other rail equipment as are necessary in the operation of this freight rail service. Operator shall be solely responsible for and shall provide all tools and other equipment necessary to properly maintain the operating equipment, Improved Property, and Land on the Rail Line.

(e) Operating Personnel. Operator shall obtain and maintain the necessary personnel for operation and management of its operations over the Rail Line. Said personnel shall be under the sole control and direction of Operator. It is understood and agreed that no personnel of Operator are agents, employees, servants or subcontractors of WisDOT or Commission. All such personnel shall be qualified and properly trained for such service, but this shall be the sole responsibility of Operator.

(f) Accounting Services. Operator shall establish and perform all necessary accounting services appropriate to conducting business as a railroad and to comply with this Agreement. Operator shall permit access by WisDOT and Commission and their agents to all documents related to the business operation of Operator including, but not limited to, agreements for leases, loans, revenue divisions and records of rail traffic, receipts and expenditures.

(g) Use of Property. Operator shall have use of all the Land and Improved Property under the ownership or control of Commission, including buildings, which are reasonably required for the operation of the Rail Line. This shall not, however, negate any reservations held or any actions taken by Commission or WisDOT under the reservations set forth in Section 2.2 of this Agreement. Operator shall provide maintenance and upkeep for any such buildings. In the event it becomes desirable to construct buildings or other structures on the Land, the same may be constructed by Operator at its expense, subject to WisDOT's approval. Operator shall have no authority to enter into easements, permits, licenses or leases affecting the Land whether under the use of Operator or outside the use of Operator. Commission understands that any agreement for leasing Land is subject to the Land Use Agreement as to securing authority and approval from WisDOT and as to the division of rents.

(h) Promotion of Business. Operator shall use its best efforts to promote the use of freight rail services by customers located along the Rail Line and in the immediate vicinity and agrees to diligently seek new freight rail business and customers for such services.

(i) Use of Land or Trackage as Collateral Neither the Land for which a license to use is granted nor the Improved Property the use of which is granted under this Agreement shall be used by Commission or Operator in any form or amount as equity, security, or collateral for any borrowing or other means of raising capital by Commission or Operator or as collateral for any other purpose

(j) Public Order Operator shall assume full responsibility for preserving public order upon the subject property and for resolving matters concerning trespass upon or from the Land and Improved Property adjacent to private lands. Operator may adopt and enforce any necessary rules in accordance with Section 5 1(b) in order to protect the Rail Line. Operator shall have the right to post signs and erect barricades necessary to delineate the Rail Line as railroad property and to prevent entrance upon the subject Rail Line by unauthorized vehicles or individuals

(k) Fencing Operator shall assume such responsibility as may exist to third parties for providing fencing required under Chapter 90, Wis Stats, local ordinance or contract

(l) Vegetation Control Operator shall assume such responsibility as may exist for the eradication, control and removal of vegetation as required by applicable state law or local ordinance

(m) Crossing over Waters and Drainage Systems Operator shall assume full responsibility for the ordinary repair and maintenance of all culverts, trestles and bridge structures on the Rail Line

(n) Highways and Streets Operator shall assume full responsibility on the Rail Line for the maintenance of trackage, warning devices, and railroad highway crossings whenever crossing maintenance is required by law from Commission or Operator

(o) Private Crossings Operator may, according to applicable statutory provisions, abrogate any private crossing established by agreement, which interferes substantially with Operator's performance of freight rail services. Operator shall obtain authorization from WisDOT and, if necessary, the Office of the Commissioner of Railroads, prior to permitting any additional private crossings.

(p) Maintenance Plan

(i) Commission shall prepare or cause to be prepared an annual maintenance plan for the Rail Line. This plan shall be combined with like plans for any and all other Rail Lines provided to Operator by any other rail transit commission existing in Wisconsin. The plan shall be prepared in consultation with WisDOT and shall be fully completed and delivered by Operator to WisDOT for WisDOT review and reasonable approval not later than February 1 of each year. The plan required to be submitted shall include the quantities of materials to be installed during the year in which the plan is submitted, the numbers and types of personnel to be employed for the proposed maintenance, the numbers and types of machines to be utilized for performing the proposed maintenance, the location of the proposed maintenance and the schedule for performing the proposed maintenance. Estimated prices for materials, labor and machines shall be included as well as the projected rates of production

(ii) A maintenance plan shall not be eligible for WisDOT approval unless the sum of expenses and the capitalized maintenance expenditures called for in the plan during each calendar year are a minimum of 10 percent of Gross Operating Revenues. Notwithstanding the above, in the event maintenance is required to meet the track classification levels required under Section 5 2(b), sufficient funds to achieve the classification level required shall be expended. The Plan or modification shall be revised and resubmitted within 30 days following a WisDOT request so as to overcome the deficiencies, if any, identified by WisDOT.

(iii) Commission or Operator shall respond to inquiries from WisDOT concerning Operator's implementation of the approved Maintenance Plan. Operator shall provide WisDOT with a revised Maintenance Plan within 10 days following WisDOT's request for revisions following a review in accordance with Section 5 2(b).

(q) Lien Against Rail Line. Neither Commission nor Operator shall directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or other security interest or claim on or with respect to the Land or Improved Property or any interest therein, except as expressly approved in writing by WisDOT. Operator will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest, or claim if the same shall arise at any time.

(r) Rail Banked Lines. The obligation of Operator under this and other sections of this Agreement shall not apply to Principal Line Segments classified as rail banked lines.

ARTICLE 6.0 - LIABILITY AND INSURANCE.

Section 6.1 - Hold Harmless.

Except to the extent that the same arises from or is related to co-uses permitted by WisDOT pursuant to Section 2 2(g) above, Commission shall save and hold WisDOT harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which arise out of or are connected with, or are claimed to arise out of or be connected with, any act, omission or railroad operation of Operator, or its agents, servants, subcontractors, officers or employees, or which arise out of or are connected with, or are claimed to arise out of or be connected with any accident or occurrence which happens or is alleged to have happened, in or about the place where such operation, act or omission is being performed or in the vicinity thereof (1) while Operator is performing its work, or (2) during the period this Agreement between WisDOT and Commission is in effect, or (3) while any of the Operator's property, equipment, or personnel, are in or about such place or the vicinity thereof by reason of or as a result of the performance of Operator's operations including, without limiting the generality of the foregoing, all liabilities, damages, losses, claims, demands and actions on account of personal injury, death or property loss to WisDOT, its officers, employees, agents, subcontractors or frequenters, or to any other persons, whether based upon, or claimed to be based upon, contract, tort, or having its basis in worker's compensation (except worker's compensation claims by employees or agents of WisDOT) under Federal or State statutes or having any other code or statutory basis, or based upon

administrative laws or other provisions. Without limiting the generality of the foregoing, the liability, damage, loss, claims, demands and actions indemnified against shall include all liability, damage, loss, claims, demands and actions for trademark, copyright or patent infringement, for unfair competition or infringement of any so-called "intangible" property right, for defamation, false arrest, malicious prosecution or any other infringement of personal or property rights of any kind whatsoever. Commission shall cause Operator, at Operator's own expense to investigate all such claims and demands, attend to their settlement or other disposition, defend all actions based thereon and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claim, demand or action.

Section 6.2 - Insurance.

(a) Required Coverage. During the term of this Agreement, Operator shall maintain, at Operator's own cost and expense, a Comprehensive Railroad Liability Policy with limits of not less than \$20,000,000 per occurrence, or other form approved by WisDOT. WisDOT and its officers, employees, and agents shall be named as additional insureds under such policy. Operator shall maintain and keep in force worker's compensation and employer's liability insurance as applicable under the Federal Employer's Liability Act to the extent, if any, that it is not covered under the Comprehensive Railroad Liability Policy. Further, Operator shall carry Wisconsin Worker's Compensation Insurance to the extent that it is necessary over and above federal employer's liability coverage and for the covering of any employees, if any, who are not covered under the Federal Employer's Liability Act. Further, Operator shall carry fire and extended coverage for any buildings and structures subject to damage in an amount not less than \$5,000,000. All such insurance shall cover Commission, Commission's member counties and WisDOT to the extent of their ownership in any of said properties and to include under such coverage buildings, and trackage owned by WisDOT and Commission and leased to Operator, even though some of said buildings or structures might not be included in the property used by the Operator, except that coverage need not be maintained on improvements sold, leased, licensed or otherwise disposed of by WisDOT or Commission to any third party. Items of coverage for WisDOT may be waived by a letter from WisDOT to the Commission and Operator.

(b) Validation of Coverage and Notice of Cancellation. Upon initial purchase and each renewal of insurance coverage, the insurance carrier shall be subject to approval of WisDOT, such approval shall not be unreasonably withheld, and Operator shall provide to both WisDOT and Commission written documentation from the insurance carrier or its authorized representative of the terms and effective date of coverage and within 60 days thereafter a copy of the Comprehensive Railroad Liability Policy and the other policies of insurance aforesaid. In the event of suspended coverage or insurance cancellation by any insurance carrier, both the insurance carrier and the Operator shall provide WisDOT and Commission with notification of such suspension or cancellation no less than 10 days prior to such suspension or cancellation.

(c) Self-Insured Retention. It is understood and agreed that both the Comprehensive Railroad Liability Policy and the Rolling Stock Policy to be obtained and kept in force by Operator may contain a self-insured retention. A Comprehensive Railroad Liability Policy provides coverage for liabilities resulting from railroad operations such as grade crossing incidents, injuries to third parties while on railroad property and injuries to railroad employees under FELA. A Rolling Stock

Policy provides coverage for damage to rail equipment, track structure, customer product loss and third party property resulting from a derailment or collision between rail equipment. The Operator shall maintain a self-insured retention of not more than \$250,000 per occurrence for railroad liability, employee injuries under FELA, and rolling stock equipment. If for whatever reason, the Operator determines that maintaining such a level of self-insured retention is either impractical, unavailable or uneconomical, then Operator agrees to confer with Commission and WisDOT on the amount of self-insured retention at least 60 days prior to policy renewal or at such other time as review may be required by the insurer. It is a condition of this Agreement that Operator shall annually provide WisDOT with an independently audited financial statement showing the financial capability of the Operator to be sufficient to satisfy the self-insured retention. It is a condition of this Agreement that, upon the request of Commission, which request shall be set forth in a resolution adopted by the Board of Directors of the Commission, at a meeting of the Board of Directors of the Commission, by an affirmative vote of not less than two-thirds of the fixed membership of the Board of Directors of the Commission (notwithstanding whether all members are present at a meeting to vote on such resolution), Operator shall provide Commission with an independently audited financial statement showing the financial capability of the Operator to be sufficient to satisfy the self-insured retention.

(d) Reporting of Incidents and Claims During the term of this Agreement and any extension thereof, any damage or injury to person or property occurring on the Rail Line or from the operation of the equipment of Operator or by the employees of Operator (herein referred to as an "incident") shall be immediately reported to Commission and WisDOT. Operator shall, within 5 days, provide a written report, which shall also include a brief resume of the facts of the incident and an estimate by the Operator as to the approximate potential claim which might arise thereunder. If a notice of injury or claim of damage is made to Operator, then Operator shall forthwith furnish Commission and WisDOT with copies thereof. Thereafter, Operator shall provide Commission and WisDOT copies of any further instruments, reports, or records involving such matter and shall periodically, but not less frequently than semi-annually, report to Commission and WisDOT as to further happenings regarding the incident including the final disposition of the matter.

(e) Self-Insured Retention Set Aside Operator shall, within 30 days after receiving a claim or notice of claim alleging an incident or after being notified of a claim or notice of claim being received by Commission, a member county of Commission, or a WisDOT employee alleging an incident, set aside a separate, segregated reserve for each claim, including claim defense. The reserve fund set aside for each claim and for its defense shall be determined by Commission's counsel, Operator's counsel and WisDOT's counsel. If the counsels are unable to agree, they shall select a fourth party to make the determination. Pending that determination, at least the lesser amount shall be set aside. For the purposes of monitoring Operator's performance under this Agreement relating to claims, Operator shall provide any Commission or WisDOT representative full and complete access to all documents and records related to Operator's operations or financial position. In the event that the ratio of Operator's current assets to current liabilities, including claim reserves, as determined from General Ledger Trial Balance sheets filed with Commission and WisDOT within 45 days after the end of each quarter is less than 11 to 1 as determined by WisDOT, Commission shall reserve the right in its Operating Agreement with Operator to terminate the Operating Agreement by fifteen (15) days written notice to Operator. If, upon receipt of such notice of termination Operator shall desire to continue this Agreement in effect, Commission or Operator shall have the right to do so by (1) purchasing, at its own cost and expense, such insurance as WisDOT and Commission shall deem necessary in their reasonable judgment or

by (ii) causing the equity owners of Operator to contribute such additional amounts to the capital of Operator as are required to increase such ratio to 1 1 to 1

(f) Review and Modification of Liability Insurance The coverage limits of Operator's Comprehensive Railroad Liability Insurance for freight and excursion operations shall be subject to review by Commission and WisDOT no more than once every twelve months. Modifications to self-insured retention amounts shall be governed by Section 6.2(c) herein. Modifications increasing coverage limits shall be effective upon notice by WisDOT to Commission and Operator. Any modifications decreasing coverage limits may not, in any event, reduce the requisite insurance coverage below that required under Section 6.2(a) herein and shall be effective only upon WisDOT approval and upon amendment to this Agreement. Review of liability insurance shall be conducted by Commission, Operator, and WisDOT no less than 30 days prior to the expiration date of the policy then in force, except that a special review may be conducted in the event Operator experiences a cancellation of or a modification or a refusal to renew its liability insurance. Such special review shall be governed solely by Section 6.2(f), (iv), (v), and (vi) herein. The following conditions shall apply to the review and modification of Operator's Comprehensive Railroad Liability Insurance:

- (i) WisDOT may require Operator to expend up to a fixed percentage of Operator's Gross Revenue, as determined under Sections 6.2(f)(ii) and 6.2(f)(iii) herein, to purchase comprehensive railroad liability insurance covering the liability as is required and naming the additional insureds as is required under Section 6.2(a) herein. Operator's decision to obtain insurance beyond that which is required under Section 6.2(a) herein for any aspect of coverage shall not result in Operator purchasing any less insurance coverage for any other aspect of coverage required under Section 6.2(a) herein.
- (ii) A base percentage of Gross Operating Revenue expended for the purchase of comprehensive railroad liability insurance is established for the duration of this Agreement at 4% of Operator's Gross Operating Revenue for the Operator's most recent fiscal year, as determined by independent audit. Commission or WisDOT may require Operator to expend up to an amount equal to 150% of the base percentage, which amount is 6% of Gross Operating Revenues, for comprehensive railroad liability insurance. The amount of liability insurance coverage purchased by this sum shall be maintained in force by Operator until next modified under the terms of this section.

At no time, however, may this base percentage or the review and modification procedure established under Section 6.2(f) herein be used to reduce the requisite insurance amounts and coverages below that required under Section 6.2(a) herein. Those insurance requirements stated in Section 6.2(a) herein are minimal requirements and shall be met regardless of the base percentage of Gross Operating Revenue calculation or of the review and modification procedures described in this section.

- (iii) The amount of the increase, if any, in the Operator's expenditure for liability insurance required by Commission or WisDOT may be used to adjust coverage limits or self-insured retention limits or both and shall only be required upon the

approval of the increase by two of the following three entities: Commission, Operator, and WisDOT. In the event one of these three entities takes a position on the approval of the required increase contrary to the other two, the entity holding the minority position may require the required increase to be subject to arbitration through the use of the American Arbitration Association and its procedures. The arbitrator shall determine what liability insurance coverage is sufficient for (1) the reasonable and full compensation of the public and persons who may be injured or damaged, (2) the protection of the interests of the Commission, WisDOT, and Operator, and their officers, employees, and agents, including their interests as indemnities and for contribution, in the event of property damage, personal injury, or other loss that may occur, and (3) the availability of that coverage to the Operator in the insurance market place pursuant to the limitations established under Section 6 2(f)(ii). The arbitrator shall then determine the amount of expenditure increase that is reasonably necessary to acquire the liability insurance coverage the arbitrator has so determined to be sufficient. In determining the amount of expenditure increase, the arbitrator is limited to the expenditure level increase required by the majority of the three entities, or the one proposed by the minority entity, neither of which shall exceed the increase allowed under Section 6 2(f)(ii). The arbitrator's determination shall be final and binding on Commission, WisDOT, and Operator as to the amount of the expenditure increase required. The arbitrator shall render a decision within 30 days of being assigned the arbitration case. An arbitrator, if used, shall be assigned the case no less than 50 days prior to the expiration of the insurance coverage then in effect. The cost of arbitration shall be paid equally by Commission, Operator, and WisDOT.

- (iv) Operator shall at a minimum expend such amounts as may be required to maintain liability insurance coverage limits no less than that in force at the time of review.
- (v) Commission, WisDOT, and Operator shall establish the coverage level to be obtained by Operator and shall amend this and companion agreements in accordance thereto in the event insurance coverage limits in effect at the time of the review cannot be maintained due to the refusal by insurance carriers to issue a policy of insurance at that coverage limit to Operator.
- (vi) In the event the three entities are unable to reach a common position on the amount of insurance coverage to be obtained, under Section 6 2(f)(v) above, any one of them may require arbitration in accordance with Section 6 2(f)(iii) of this section to determine the required amount of insurance coverage.
- (vii) Notwithstanding any other provision regarding insurance contained herein, Operator shall, at a minimum, obtain and maintain liability insurance coverage and limits no less than that required now or in the future by the laws of the State of Wisconsin and no less than that required now or in the future by the laws or regulations of the federal government or its agencies, naming WisDOT and Commission and their officers, employees, and agents as additional insureds.

Modification to the comprehensive railroad liability insurance limits for excursion operations shall be established by Commission, Operator and WisDOT under the

process set forth in Section 6 2(f)(iii) of this section, but in no event shall the coverage limit be less than \$20,000,000 per occurrence, or other form approved by WisDOT, or the coverage limit then in effect for freight operations, whichever is greater

ARTICLE 7.0 - TERMINATION OR SUSPENSION.

Section 7.1 - Declaration of Default.

(a) Default A condition of default exists (1) when either party to this Agreement fails to abide by or perform in a material respect any one or more of its terms and conditions, (2) when Operator's insurance coverage lapses, is suspended, is canceled, or fails to satisfy all the terms and conditions of Section 6 2 of this Agreement or any amendment thereto, or (3) when Operator files for protection under any bankruptcy statute In the event of default on the part of the Commission, the right of recovery against the Commission or against any of the municipal bodies (counties) that are a part of the Commission shall be limited to the right of WisDOT to re-enter and to take possession and reclaim title to the Improved Property that is the subject of this Agreement It is further agreed by the parties that in no event shall the Commission or the municipal bodies that make up the Commission be liable for any damages should the liquidation of the property as a result of such re-entry and reclaiming of title result in a loss to WisDOT A delinquency in payment shall not be considered a default if the party responsible is making a diligent effort to perform its obligations hereunder

(b) Notice of Default A declaration of default shall be made in writing and delivered to the alleged defaulting party by certified mail sent to the address shown in Section 13 2 below The letter shall identify the action or inaction constituting the default and reference the portion of the Agreement under which the default occurs The date of default shall be the date of delivery of notice of default or the date required insurance coverage ceased or the date of filing for bankruptcy protection, whichever occurs first

Section 7.2 - Termination for Default.

In the event of any default described in Section 7 1 above, the non-defaulting party shall have the right to and at its option may, after first giving the required notice to the party in default and notwithstanding any waiver by the party giving notice of any prior breach thereof or concurrent breach, terminate this Agreement, unless the breach is cured within the period set forth in Section 7.3 below, and the exercise of such right shall not impair any other rights of the party giving notice under this Agreement or any rights of action against the defaulting party for the recovery of damages whether arising under this Agreement or otherwise

Section 7.3 - Ability to Cure Default.

(a) Removal of Commission or Operator Default Commission shall have thirty (30) calendar days from written notification by WisDOT of default by Commission or Operator or from the date required insurance coverage ceased or from the date Operator filed for bankruptcy, whichever occurs first, to remove the cause of the default. Such correction shall be completed and available for WisDOT review within the thirty (30) day period. Upon written petition by Commission or Operator, WisDOT may extend the period for removal of a default condition. Such extension shall only be given in writing and may not be unreasonably withheld. If the remedial action is satisfactory, WisDOT shall provide appropriate written notice to Commission and Operator.

(b) Removal by Operator of Commission Default If for any reason Commission is in default of an agreement with WisDOT, Commission shall so notify Operator, and Operator shall have such time as WisDOT allows in writing from the date of notification of Commission to remove the default on behalf of Commission and shall have the right to quiet enjoyment of the Land and Improved Property within the allowed time period until the condition of default is resolved.

Section 7.4 - Contractual Obligations Upon Termination.

Except as otherwise agreed to by the parties in writing, the obligations of Commission to WisDOT to provide freight rail service and to maintain the Land and Improved Property under this Agreement shall cease on the effective date of the termination hereof except as provided for in the following Section 7.9, but all other obligations of the parties shall remain in full force and effect until all operations of Commission and Operator hereunder have ceased. Both parties agree to make reasonable efforts to satisfy their surviving obligations promptly after termination. Upon termination, however, Commission's rights as grantee and Operator's rights as a lessee of the Improved Property and its lease and license to use the Land and Improved Property shall cease immediately subject to Section 7.8.

Section 7.5 - Termination Approvals.

Both parties recognize that the termination of Operator's lease and license may require regulatory agency approval before termination can be effective. Operator and Commission shall both agree to cooperate in necessary efforts associated with obtaining such approvals and, if action is required by WisDOT, to cooperate with WisDOT in all necessary efforts associated with obtaining such approvals.

Section 7.6 - Bankruptcy of Operator.

If any proceeding shall be commenced by or against Operator for any relief which includes, or might result in, any modification of the obligations of Commission or its Operator hereunder or under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which

does not permit any readjustment of such obligations), and, unless such proceedings shall have been dismissed, nullified, or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), it may be declared cause for default and said contract may be terminated upon 30 days notice by WisDOT to Commission. If all the obligations of Operator hereunder shall not have been and shall not continue to be duly assumed in writing pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for Operator, or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees or receiver or receivers, within thirty (30) days after proceedings shall have been commenced, it may be declared cause for default. Arrangements may be made in such event by Commission with the trustee or bankruptcy court for continuation under such terms as agreed to by Commission and WisDOT.

Section 7.7 - Return of Property Upon Bankruptcy Default.

If this Agreement shall terminate pursuant to Section 7.6, Commission shall require Operator to forthwith deliver possession of the Land and Improved Property to Commission. Land and Improved Property so delivered shall be in the same or better operating order, repair, and condition as when originally delivered to Operator, reasonable wear and tear in service excepted, shall meet the standards of all applicable laws and shall have removed therefrom at Operator's expense any addition, modification, or improvement owned by Operator and for which Commission or WisDOT has not made a specific request for it to remain with the property.

Section 7.8 - Vacating the Rail Property.

Upon determination by WisDOT that the remedial action has not removed the default condition, WisDOT shall provide written notice to the Commission and Operator to vacate the Rail Line, and Operator shall be required to vacate the Rail Line within 10 days of delivery of such notice. Commission shall arrange with Operator for an inventory of the Rail Line to be conducted within this 10 day period. If Operator does not remove any of its equipment within the 10 day period, WisDOT or Commission shall have the option to remove it at Operator's expense.

Section 7.9 - Obligations of Commission in the Event of Termination.

Commission shall cause Operator to agree that in the event of termination Operator will mitigate the expenses of termination to the greatest extent possible. If there is any unused material in the hands of Commission or Operator at the time of termination belonging to WisDOT or in which WisDOT has an interest arising out of a rehabilitation program where funds of WisDOT have been expended to pay for materials or materials otherwise have been paid for by WisDOT or partially paid for by WisDOT, Commission and Operator shall set such material aside on property belonging to WisDOT. In addition to all other obligations in the event of termination, Operator shall be obligated to remove all cars from the Rail Line within 10 days following its receipt of a notice to vacate and to deliver all cars to or from shippers on the Rail Line, which are in transit to, or from any source.

Section 7.10 - Service Failure.

Failure to provide freight rail service to any station on a Principal Line Segment of the Rail Line is defined as

(a) The unavailability of freight rail service for 30 consecutive days to any station on such Principal Line Segment, or

(b) The availability of an average of less than one train per week for a consecutive 12 week period to any station on such Principal Line Segment, or

(c) The failure to move any revenue freight car loads for 12 consecutive months over such Principal Line Segment

In the event Operator fails to provide freight rail service, as defined above, (except to the extent contemplated by Section 5.2(a)), on any Principal Line Segment(s). Commission shall at WisDOT's option pay to WisDOT an amount computed according to the terms of Section 8.3 of this Agreement or return ownership of the project property to WisDOT. Notwithstanding the foregoing, in the event that Operator, Commission, and WisDOT agree in writing that a Principal Line Segment or Principal Line Segments need not be operated over, or if service is temporarily suspended on a Principal Line Segment or Principal Line Segments pursuant to Sections 7.11 or 7.12 below, lack of service on such Principal Line Segment(s) shall not constitute a failure by Commission or Operator to provide freight rail service as defined in this section.

Section 7.11 - Immediate Suspension of Rail Operations.

Commission shall cause Operator to agree that upon emergency notice from Commission, RHS, or Division of State Patrol (by telephone and later confirmed in writing), Operator shall immediately suspend the movement of trains or motive power when, in the reasonable judgment of Commission or WisDOT, after consulting with Operator if possible, operation of trains or motive power would be unsafe or if the liability insurance coverage of Operator lapses, is suspended, or is canceled for any reason, or is less comprehensive than is required under Section 6.2 of this Agreement. Operation of trains and motive power by Operator shall remain suspended until the president or general manager of Operator is contacted by Commission and WisDOT and until the safety hazard is ameliorated and the required insurance coverage is reinstated. Suspension of operations for safety reasons shall be ordered when operations are not or would not be in compliance with FRA safety regulations. At the option of Operator, safety officials of FRA may be called upon to determine the existence or non-existence of any safety hazard cited by WisDOT or Commission as a sufficient reason for suspending operations. When the FRA is called upon, operations shall be suspended until such determination is made by FRA.

Section 7.12 - Force Majeure.

The parties hereto will be excused from performance of any of their respective obligations hereunder, for the duration of any interruption occasioned by any event beyond their respective

control (not due to their own fault or actions), which shall include, without limitation, except the unavailability of insurance coverage in full accordance with Section 6.2 of this Agreement or any amendment thereto acts of God, strikes or other labor troubles, other causes beyond the reasonable control of the parties, interruption of service caused by explosion, fires, vandalism, or malicious mischief, or unavoidable interruption or cessation of service for a period of less than 120 days caused by a connecting railroad. Operator shall not be required to operate with liability insurance coverage levels less than those set forth in Section 6.2, but may be declared in default for non-compliance with Section 6.2.

ARTICLE 8.0 - DISPOSITION OF PROPERTY AND PROCEEDS.

Section 8.1 - Option to Purchase.

(a) Operator shall have the right to exercise an option to purchase the Land and Improved Property at any time after the start-up of operations under the provisions of s 85.09(4), Wis Stats. This right shall exist throughout the term of the Operating Agreement and any renewals thereto, so long as Operator is not in default at the time of exercise of said option, or at the time of closing of the intended purchase.

(b) If the option is exercised, it shall be for the entire Rail Line (unless the parties hereto agree otherwise) and the purchase price for the Rail Line shall be at fair market value, which shall be determined by appraisal.

(c) The terms of payment shall be as follows:

(i) At the time of exercise of the option, Operator shall forward to WisDOT a cashier's check in the amount of \$10,000, which shall be considered a good faith deposit and shall be placed in an interest bearing escrow account in favor of the buyer. In the event the Operator defaults in its purchase, the said \$10,000 amount shall be retained as liquidated damages by WisDOT since it would be extremely difficult, if not impossible, to ascertain the actual damages.

(ii) At closing, WisDOT shall be paid in cash or in such other manner as WisDOT shall agree an amount equal to the remainder of the purchase price less any credit allowed under Section 8.3.

(d) Closing shall be held within 120 days after exercise of option at Madison, Wisconsin or at such other mutually agreed time or place.

(e) All appropriate STB or other governmental approvals must be obtained as a condition precedent to closing.

(f) If the parties cannot agree on one appraiser, then each party shall elect one appraiser and the two selected appraisers shall select a third appraiser within 15 days of their selections. The three appraisers shall then, by majority vote, determine the fair market value of the

properties being purchased according to proper appraisal methods then current and approved. If option to purchase is not exercised, the cost of such appraisals shall accrue to the Operator. If option to purchase is exercised, the cost of the third appraisal is shared equally with each party also paying its respective appraiser.

(g) It is understood that title to the Land and Improved Property on certain Principal Line Segments shall be held by WisDOT, and WisDOT shall relinquish said title upon settlement herein. It is further understood that title to the track and other improved facilities on certain Principal Line Segments are with the Commission, and therefore, the Commission shall have the authority to relinquish its property rights upon settlement herein subject to Commission's compliance with its obligation to compensate WisDOT upon sale of the property.

Section 8.2 - Right of First Refusal.

(a) Should WisDOT or Commission as the case may be, propose to sell or otherwise transfer all or any part of the Rail Line to any other person or entity, Operator shall to the extent permitted by law have a right of first refusal for a period of sixty (60) days after written notification of such proposed sale, to substitute itself in place of such proposed bona fide purchaser, subject to all of the terms and conditions of such sale. An exact copy of the agreement under which the bona fide purchaser is intending to purchase, shall be submitted to Operator with the written notification of such proposed sale so that Operator may have an opportunity to review the terms and conditions therein.

(b) Written notice of election to exercise this right of first refusal shall be delivered to the Commission or WisDOT as the case may be, within such 60 day period. Should Operator intend to purchase, it shall purchase under the same terms and conditions as set forth in the agreement executed by the bona fide purchaser, which the WisDOT intends to accept. The bona fide purchaser shall, prior to its executing any agreement, be advised that there exists a prior right of first refusal in the Operator. Should the Operator, in writing fail to respond within such 60 day period with notification of Operator's intent to purchase, under the same terms and conditions, such failure to respond shall be considered as the Operator's desire not to purchase. Hereafter, should the sale be consummated with a third party, other than the Operator, the Operator in that event shall nevertheless have the right to receive from the proceeds of such sale, the proportionate amount of proceeds by which the Operator's contribution of money bears to the entire contribution made by Commission, WisDOT, and Operator.

Section 8.3 - Apportionment of Proceeds.

(a) Conceptual Basis WisDOT, Commission and Operator have invested in the acquisition of the Improved Property. Furthermore, Operator accepts the obligation to physically maintain the Land and Improved Property so as to maintain its value. Over time, three results are possible: (1) Operator invests in maintenance sufficiently to retain the value of the Land and Improved Property, or (2) Operator, in violation of the terms of this Agreement, under-invests in maintenance thereby reducing the value of the Land and Improved Property, or (3) Operator, on its own initiative, over-invests in maintenance, thereby either maintaining, reducing or enhancing

the value of the Land and Improved Property. In the event of liquidation of the Land and Improved Property, WisDOT, Commission and Operator have a claim on the net proceeds of the liquidation in the same proportion as the original acquisition and subsequent, if any, rehabilitation of the Improved Property

(b) Computation The Investment Basis of WisDOT, Commission and Operator shall be defined as the total financial contributions of each to the cost of acquisition, and rehabilitation of the Improved Property, and the cost of construction of new Improved Property for which grant funds are expended. For the purposes of computing the Investment Basis of the Improved Property, the initial investment of each party is as follows: (1) WisDOT - \$2,746,402, (2) Commission - \$0.00, and, (3) Operator - \$440,018. Subsequent to the initial investment, Operator has increased its investment in the Improved Property to \$686,601. In addition to these amounts, as of March 1, 1990, WisDOT has contributed \$4,937,185 for rehabilitation of the Improved Property and construction of new Improved Property, and Operator has contributed \$1,240,228 for rehabilitation of the Improved Property and the construction of new Improved Property. Expenditures on the Badger loop track are subject to a separate agreement and are not part of these totals. In addition, since March 1, 1990, WisDOT has contributed \$11,337,051, the Commission has contributed \$747,700 and the Operator has contributed \$2,086,563 for rehabilitation of the Improved Property and construction of new Improved Property. Therefore, as of April 1, 2007, the Investment Basis for Improved Property for each party is as follows: (1) WisDOT is \$19,020,638, (2) the Commission is \$747,700, and, (3) the Operator is \$4,013,392. Upon termination of the Grant Agreement, the basis of WisDOT, Commission and Operator shall be calculated as follows:

(i) No more than 60 days following the closing of a sale of any Improved Property by Commission or the failure by Commission or Operator to remove a condition of default, the gross salvage value of the Improved Property on the Rail Line or any portion thereof subject to the default shall be determined in accordance with Section 8.1(f) of this Agreement.

(ii) The estimated costs of liquidation, which include both direct salvage operation costs and WisDOT administrative costs, shall be deducted from the appraised value.

(iii) WisDOT's, Commission's and Operator's percentage share of the Improved Property shall be determined by dividing each party's respective Investment Basis in the Improved Property by the total Investment Basis.

(iv) Each party's share of any proceeds from the sale of any Improved Property shall be determined by multiplying that party's percentage share of the Improved Property by the net liquidation value of the Improved Property. WisDOT shall receive 100% of the net liquidation value of the Land. Neither Commission nor Operator shall receive funds from the liquidation of the Land inasmuch as neither has invested its own funds in the acquisition.

(v) In the event the property is liquidated, the net proceeds of the liquidation are used in place of appraised value in steps (i) through (iv) except that the estimated costs of liquidation, which include both direct salvage operation costs and WisDOT's

administrative costs, shall not be deducted from the net proceeds of the liquidation under step (ii)

(c) Any property installed or funds expended for maintenance of any portion or aspect of Rail Line under the jurisdiction of Commission by permit or grant from WisDOT which is not approved by WisDOT as part of a rehabilitation project shall not be eligible for reimbursement by WisDOT upon sale of the Improved Property or transfer of operating rights on the property to another agency or operator

Section 8.4 - New Improved Property.

Commission or Operator, or their designees (collectively "Owner"), may acquire or install, at its own expense, additional facilities deemed necessary for railroad service. Installation shall be permitted only after prior receipt of written approval of the installation proposal and plan by Commission and by WisDOT, which approval shall not be unreasonably withheld. In the event of liquidation or transfer of ownership to anyone other than Operator, WisDOT shall first determine, within 180 days, if any of these additional facilities are needed for the provision of freight rail service on this or any other line in the State. If WisDOT determines that they are not needed for such purpose, the owner of the additional facilities may dispose of the facilities in any manner it sees fit at its own expense and shall restore any trackage and Land to the condition it was in prior to the installation of the additional facilities. If WisDOT determines that any of the additional facilities are needed, Commission shall arrange for WisDOT, or the subsequent user of the facilities, to pay, or assume the obligation to pay, if assignable, the fair market value of the needed additional facilities to the owner prior to taking possession of the facility. Should owner produce an executed agreement for such facility from a bona fide purchaser, it shall notify WisDOT, and WisDOT or its nominee shall have the right of first refusal to purchase under the same terms and conditions, but such right must be exercised within forty-five (45) days, and such purchase must be completed within six (6) months of notice by Owner. Property covered under this section does not include property used in maintenance or betterment or replacement of property granted to Commission to be installed by government order or regulation. Property covered under this Section shall include, but not be limited to, new buildings, new sidings, spurs, or passing tracks. Commission and Operator are required to obtain approval from WisDOT before improvements are made to the Land or Improved Property. Such approval shall be obtained before Commission or Operator erects or constructs a building or buildings or other improvements. The Badger loop track shall be classified as new property subject to this Section.

ARTICLE 9.0 - REPRESENTATIONS, WARRANTIES AND COVENANTS.

Section 9.1 – WisDOT.

WisDOT represents and warrants to and covenants with Commission as follows

(a) WisDOT has the power and authority to enter into this Agreement and to carry out its obligations under this Agreement

(b) To the best of its knowledge, the execution of this Agreement and the providing of the freight rail service will not violate any statute, rule, regulation, order, writ, injunction or other decree of any court, administrative agency or governmental body

Section 9.2 - Commission.

Commission represents and warrants to and covenants with WisDOT as follows

(a) Commission was created pursuant to Section 66.0301 (formerly 66 30), Wis Stats , for the purpose of establishing, acquiring, maintaining, and operating a local transportation system As a Section 66 0301, Wis. Stats Commission, it has full power and authority to enter into an agreement such as this Agreement and to carry out the functions, which it has obligated itself to undertake in this Agreement This Agreement has been authorized and approved by the Board of Directors of Commission

(b) To the best knowledge of Commission and its Board of Directors, the entering into and performance of this Agreement on the part of Commission does not violate any statute, rule, regulation, order, writ, injunction or decree of any court, administrative agency, governmental body, or any other agreement

ARTICLE 10.0 - REPORTS AND ACCOUNTS.

Section 10.1 - Reports.

(a) Commission shall cause Operator, upon the request of Commission, which request shall be set forth in a resolution adopted by the Board of Directors of the Commission, at a meeting of the Board of Directors of the Commission, by an affirmative vote of not less than two-thirds of the fixed membership of the Board of Directors of the Commission (notwithstanding whether all members are present at a meeting to vote on such resolution), to submit the following information to Commission within 45 days after receipt by Operator of such request and for the period of time requested by the Commission

(i) An unaudited Statement of Revenues, Expenses, Taxes and Income and General Ledger Trial Balance,

(ii) A summary of originating and terminating traffic by commodity, by Principal Line Segment, and by month,

(iii) A statement of major traffic gains or losses and a summary of operating and maintenance activity by Principal Line Segment; and

(iv) A report of income that is excluded from Gross Operating Revenues generated from activities other than rail transportation of freight, including, but not limited to, rail car storage fees, building rent, excursion trains, and car repair revenues The

report shall describe the amounts received and the duration of the period for which the income is received

(b) Commission shall cause Operator to submit the following information to WisDOT within 45 days after the end of each quarter year for its operations

(i) An unaudited Statement of Revenues, Expenses, Taxes and Income and General Ledger Trial Balance,

(ii) A summary of originating and terminating traffic by commodity, by Principal Line Segment, and by month,

(iii) A statement of major traffic gains or losses and a summary of operating and maintenance activity by Principal Line Segment, and

(iv) A report of income that is excluded from Gross Operating Revenues generated from activities other than rail transportation of freight, including but not limited to rail car storage fees, building rent, excursion trains, car repair revenues, and the like. The report shall describe the amounts received, the duration of the period for which the income is received and the payer

(c) Commission shall cause Operator to submit the following reports to WisDOT

(i) Independently audited financial statements for each year ending December 31, to be submitted on or before June 30 each year,

(ii) A certificate of insurance submitted on or before each insurance coverage renewal date appropriately showing that all the terms and conditions of Section 6.2 of this Agreement are fully met,

(iii) Appropriate documentation showing any changes in operating status or authority 30 days prior to its effective date, and

(iv) Immediate notice of damage or injury to persons or property as required under Section 6.2 of this Agreement

Section 10.2 - Accounts.

(a) Commission shall cause Operator to establish and maintain a system of accounts as prescribed by the STB or as determined by WisDOT if the STB no longer prescribes a system of accounts

(b) Commission shall cause Operator to make available to WisDOT's auditors or agents, or auditors of any other governmental agency having jurisdiction over Operator, the records related to the accounts and reports identified under this Article

Section 10.3 – Program Income.

(a) Revenue received by the Commission may be retained to meet Commission's operating expenses, repay WisDOT's investments in the Improved Property or purchase the Land from WISDOT. Appropriate accounting records shall be kept of all receipts and disbursements of Commission revenue and these accounts shall be open to inspection and audit by WisDOT.

(b) Revenue received by the Commission may be retained to meet the matching requirements for state or federal assistance, for repayment of loans it has secured to provide railroad service on the lines, and for capital improvements to the property. Commission revenue may not be used for any purpose not permitted under Chapter 49 Code of Federal Regulations Part 266.

(c) This section is subordinated to any requirements concerning Commission revenue set forth in a financial assistance agreement using federal funds.

(d) The Commission shall establish an annual financial report date of December 31, and on each anniversary thereafter shall prepare and review an independent, written financial report of the revenue account. Accumulated revenue in the account, which is not obligated by agreement for purposes set out under Section 10 3(a), Section 10 3(b), and Section 10 3(c) herein shall be declared surplus as of the audit date. Such surplus may remain undistributed and be used for purposes set forth under Section 10 3(a), Section 10 3(b), and Section 10 3(c) herein. No Commission revenue may be used for any purpose other than those set out under Section 10 3(a), Section 10 3(b), and Section 10 3(c) herein unless prior written approval is granted by WisDOT.

ARTICLE 11.0 - TAXES.

Commission shall require Operator to be responsible for and pay when due, all taxes due as a result of its possession and use of the Rail Line or its assets including possession of real and personal property as well as for all taxes due on property owned by Operator together with taxes, if any, levied or assessed on Commission for Land owned by or in the possession of Commission. Operator shall be required to hold Commission and WisDOT harmless from, indemnify against and defend all claims and liabilities with regard thereto.

ARTICLE 12.0 - OTHER COMMITMENTS.

Section 12.1 - Handicapped.

Commission agrees that no otherwise qualified handicapped individual in the United States, as defined in Section 706(7)(a) of Title 29 USC and in subchapter II of Chapter 111, Wis Stats, shall, solely by reason of handicap, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving benefits under this Agreement.

Section 12.2 - Environmental Protection.

(a) Commission agrees and shall cause Operator to agree that facilities or equipment shall not be acquired, constructed or improved as a part of its operations unless such facilities or equipment are designed and equipped to comply with all applicable environmental requirements, and that all operations conducted under this Agreement will be done in compliance with all applicable environmental requirements

(b) Commission hereby certifies and shall cause Operator to certify that no facilities, which will be utilized or improved as a part of its operations, are listed on any state or federal list of violating facilities

(c) Commission stipulates and shall cause Operator to stipulate that it will notify WisDOH as soon as it or any subcontractor receives any communication from a state or federal agency indicating that any facility, which will be utilized or improved as a part of its operations, is under consideration to be included on any state or federal contaminated property list

(d) It is understood and agreed by Commission that no publicly-owned land from a public park, recreation area, or wildlife or water fowl refuge, as determined by the Federal, state or local officials having jurisdiction thereof, or any land from a historic site of national, state or local significance, as so determined by such officials, may be used for operations without the prior concurrence of the administrator of the EPA and the State Historical Preservation Officer

Section 12.3 - Prohibited Interest in the Proceeds of Operations.

(a) Neither Commission nor any of its subcontractors shall enter into any contract, subcontract, or agreement in connection with a project or operation of any property included or planned to be included in Commission's or Operator's operations, that constitutes a violation of Section 946.13, Wis Stats

(b) The Commission shall insert in all agreements entered into by it in connection with approved projects, or in connection with any property included or planned to be included in any project for which federal assistance may be sought, and shall require its contractors to insert in each of their subcontracts the following provision "No director, officer, or employee of the East Wisconsin Counties Railroad Consortium and Columbia, Dodge, Fond du Lac, Green Lake, Ozaukee, Sheboygan, Washington, and Winnebago Counties during their tenure or for one (1) year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof"

(c) The provisions of this subsection shall not be applicable to any agreement between the Commission and its fiscal depositories or to any agreement for utility services for which rates are fixed by government regulation

(d) No member of or delegate to Congress or the Wisconsin Legislature shall be admitted to any share of any benefit that may arise from this Agreement, but this provision shall not restrict the making of any contract with a corporation for the general benefit of such corporation

Section 12.4 - Nondiscrimination.

(a) In connection with the performance of activities under this contract, Commission agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Section 51.01(5), Wis Stats, sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities. Commission agrees to post in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause.

(b) Commission agrees to comply with the following laws, policies, regulations, and pertinent directions as may be applicable and will require its subcontractors by contractual agreement to similarly comply:

- (i) Title VI of the Civil Rights Act of 1964, 42 USC 2000d, et seq
- (ii) Subchapter II of Chapter 111, Wis Stats
- (iii) Section 16.765, Wis Stats

(c) Commission in its procurement process shall not discriminate against minority owned or operated firms qualified to bid and perform on contracts or subcontracts, or to supply materials for procurement connected with the operations provided under this Agreement.

ARTICLE 13.0 - GENERAL PROVISIONS.

Section 13.1 - Choice of Law.

This Agreement shall be interpreted in accordance with the statutes and laws of the United States of America and the State of Wisconsin. Interpretation may be had in any court of record of any of the counties, which are a part of Commission. When applicable, this Agreement or portions thereof may be enforced through mandamus.

Section 13.2 - Notice.

Any notice required or permitted under this Agreement shall be personally served on or mailed by certified United States mail, return receipt requested, postage prepaid, to the following addressed persons at the following addresses and to such other persons and addresses as the following persons shall direct by notice pursuant to this Section:

Chief, Railroads and Harbors Section
Wisconsin Department of Transportation
P O Box 7914
Madison, Wisconsin 53707

Chairman
East Wisconsin Counties Railroad Consortium
Dodge County Administration Building
127 E Oak Street
Juneau, Wisconsin 53039-1329

President
Wisconsin & Southern Railroad Company
5300 N 33rd St
P O Box 9229
Milwaukee, Wisconsin 53209

Section 13.3 - Status of Operator.

Operator (including officers, directors, employees, agents or representatives thereof) is an independent contractor, and in no way shall it be deemed an affiliate, partner, joint venturer, or associated in any manner whatsoever with WisDOT or Commission

Section 13.4 – Successor to Commission.

The Commission intends to be in existence for the entire period of this Agreement, and any extensions thereto. However, should the Commission cease to exist for any reason, any successor Commission or other entity will be obligated under the same terms and conditions

Section 13.5 – Assignment.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Commission's and Operator's rights hereunder shall not be assignable whether by way of assignment, sublease, license or otherwise, directly or indirectly, without WisDOT's prior written consent

Section 13.6 - Severability.

If any term, covenant, condition or provision (or part thereof) of this Agreement, or the application thereof to any party or circumstance, shall at any time or to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision, or remainder thereof, to parties or circumstances other than those as to which it is held to be invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law

Section 13.7 - Amendments, Consents, and Approvals.

No term or provision of this Agreement, or any of its attachments to which Commission is a party, may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by both parties to this Agreement. Consents and approvals required under this instrument and interpretations of this instrument may be made or granted by letter from one party to the other party hereunder or by an exchange of letters between the parties.

Section 13.8 - Captions.

The captions used in this Agreement are used for convenience and identification purposes only and do not form a part of this Agreement.

Section 13.9 - Additions, Remodeling or Replacement of Buildings.

In the event additions, remodeling, replacements or new construction for buildings or other structures except for trackage are desired by Operator, Operator may construct the same at its cost except that any improvement of existing buildings or structures requires the prior written approval of WisDOT and Commission. Permits for and disposition of such additions, remodeling, or replacements of buildings shall be in compliance with Section 8.4.

Section 13.10 - Rehabilitation.

All rehabilitation and improvements and substitute service facilities, installed or accomplished using state or federal financial assistance regardless of the ownership of the property on which they are located, when any such property is no longer used for its original approved project purpose, shall be subject to disposition as described by State and Federal regulations. In connection with any rehabilitation or improvement, the Operator shall file on behalf of the owner of such property, in the appropriate land records, a notice reciting that property was improved or installed with Federal assistance and that its use and disposition are subject to the terms of this Agreement. If the Operator's chief legal counsel advises that such notice cannot be filed, the Operator shall so advise the Commission and WisDOT, and shall recommend alternate procedures whereby compliance with the provisions of this Agreement can be achieved.

Section 13.11 – Arbitration.

(a) General In the event of any unresolved disagreements between the parties concerning the construction of this Agreement or performance by each of the parties hereunder, the parties shall submit such disagreement to arbitration.

(b) Procedure The party desiring arbitration shall give notice in writing to the other party identifying the matters in issue and designating an individual as their arbitrator. Within ten (10) days thereafter, the other party shall, by written notice to the original party, agree to said

arbitrator or appoint a second arbitrator. The two arbitrators so appointed shall, within ten (10) days thereafter, appoint a third arbitrator as mutually agreed, and the three arbitrators shall hold the hearing and commence to determine the matter within thirty (30) days of the appointment of the third arbitrator. If the second arbitrator shall not have been appointed, the first arbitrator shall proceed to commence to determine the matter within thirty (30) days of the failure to so appoint a second arbitrator. If the two arbitrators selected by the parties are unable to agree upon the third arbitrator, the third arbitrator shall be appointed by the American Arbitration Association. Except as otherwise provided herein, the arbitrators shall arbitrate the issues in accordance with the rules and procedures of the American Arbitration Association, and a determination of the majority of the arbitrators, or of the sole arbitrator as the case may be, shall be final and conclusive between and upon the parties, and judgment upon same may be entered in any court having jurisdiction thereof. The arbitrator(s) shall give written notice of their findings to each party.

Section 13.12 - Specific Performance.

WisDOT and Commission shall have the right, as provided by law, to require specific performance by the other party of the other party's obligations under this Agreement. This right may be asserted at any time after thirty (30) days from the time WisDOT or Commission has first notified the other party of the other party's obligation to perform.

Section 13.13 - Execution.

This instrument shall be fully executed in triplicate with a copy being delivered to each party and to Operator and in such further counterparts as may be desired by the parties.

Section 13.14 - Entire Agreement.

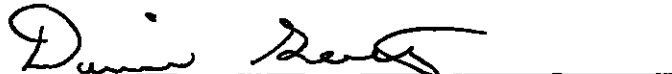
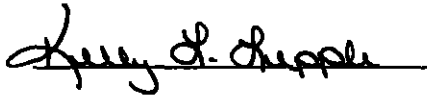
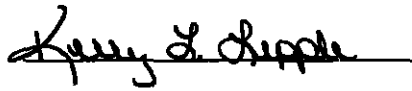
This Agreement together with those documents referred to herein contain the entire agreement of the parties and supersedes any and all prior agreements and draft agreements, or oral understandings between the parties.

Signatures.

IN WITNESS WHEREOF, the East Wisconsin Counties Railroad Consortium, by its Board of Directors, has caused this Agreement to be signed by its duly authorized officers, this 25th day of March, 2008

WITNESS

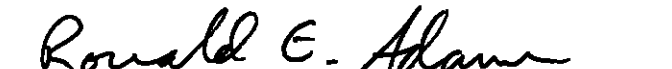
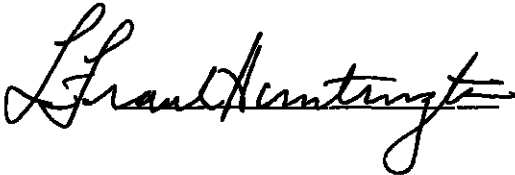
EAST WISCONSIN COUNTIES RAILROAD
CONSORTIUM


Daniel Goetz, Chair
Jcf Hall, Secretary

IN WITNESS WHEREOF, the Wisconsin Department of Transportation has caused this Agreement to be signed by its duly authorized officer, this 28th day of March, 2008

WITNESS

WISCONSIN DEPARTMENT OF TRANSPORTATION


Ronald L. Adams, Chief
Railroads and Harbors Section

LAND USE AGREEMENT

BY AND BETWEEN

**EAST WISCONSIN COUNTIES RAILROAD CONSORTIUM
AND
WISCONSIN DEPARTMENT OF TRANSPORTATION**

Agreement No 0490-40-50(A-1)

This Agreement is made and entered into, by and between the East Wisconsin Counties Railroad Consortium, hereinafter referred to as Commission, and the Wisconsin Department of Transportation, hereinafter referred to as WisDOT,

WHEREAS, the Wisconsin legislature finds that rail service continuation has widespread public interest and support, and is significant towards the preservation of a sound economic base and in the maintenance of a balanced transportation system, and that private capital and local government financial capabilities are insufficient to prevent further erosion of rail service, and that a broad public benefit is derived by state acquisition of abandoned private railroad property for continued or future railroad purposes, and,

WHEREAS, WisDOT has the authority under Section 84 09, 85 08 and 85 09, Wis Stats , to acquire, improve, preserve and maintain land, improved property and interests necessary therein for transportation purposes such as restoration of railroad services, and,

WHEREAS, Commission has the authority under Section 59 58 (formerly 59 968) and 66.0301 (formerly 66 30), Wis Stats , to establish, acquire, maintain and operate a local transportation system for the purposes of transporting freight, and,

WHEREAS, WisDOT has acquired for railroad purposes certain railroad property in Columbia, Dodge, Fond du Lac, Green Lake, Manitowoc, Milwaukee, Ozaukee, Sheboygan, Washington, Waukesha and Winnebago counties formerly owned by the Chicago, Milwaukee, St Paul and Pacific Railroad, and the Union Pacific Railroad; and,

WHEREAS, WisDOT has identified the lands and improved property subject to this Agreement as being all those lands and improved property acquired between North Milwaukee, milepost 93 4, and Oshkosh, milepost 188.3, and includes branching segments ending approximately at MP 140 0 - Mayville, MP 105 5 - Beaver Dam, MP 156 7 - Fox Lake, MP 165 2 - Cambria, and MP 172 6 - Markesan and as more fully described in Attachment A, attached hereto, and between Saukville, MP 114 8, and Kiel, MP 151 8, and as more fully described in Attachment B, attached hereto, and between Plymouth, MP 14 95, and Kohler, MP 4 0, as more fully described in Attachment C, attached hereto; and,

WHEREAS, Commission desires to develop, maintain and operate railroad service on, over and across WisDOT property.

NOW THEREFORE, Commission and WisDOT do hereby agree as follows

ATTACHMENT 1

1 Commission may establish, construct, develop, maintain and operate a railroad on, over and across these properties for railroad purposes, and should have use and access to the property, subject to the conditions contained herein or in other agreements between the parties hereto

2 Commission shall assume full responsibility for preserving public order upon the property and for resolving matters concerning trespass upon and from this property to adjacent private lands Commission may adopt and enforce any necessary rule in order to protect the property Commission shall have the right to post signs and erect barricades necessary to delineate the property as railroad property and to prevent the entrance upon the property of unauthorized vehicles and individuals

3 Commission shall assume such responsibility as may exist for providing fencing as may be required by applicable state law.

4 Commission shall assume full responsibility for the eradication, control and removal of all noxious weeds as covered by applicable state law or local ordinance

5. Commission shall assume full responsibility for the repair, maintenance, rehabilitation or replacement of all culverts, trestles and bridge structures, thereby insuring the unrestricted flow of applicable waters and the preservation of the necessary drainage systems (The Commission shall be eligible for aid under existing state and federal financial assistance programs for the above purpose.)

6 Commission shall assume such responsibility as may exist for the maintenance of all state trunk highway, county highway and local highway crossings, including but not limited to surface, track and warning devices (The Commission shall be eligible for aid under existing state and federal financial assistance programs for the above purpose)

7 Commission may sublet any or all of the above described property subject to prior approval by WisDOT

8 Full and final authority regarding sale or disposal of the described property shall remain vested in WisDOT

9 Commission may, according to applicable statutory provisions, abrogate any private crossing established by agreement, which interferes substantially with operative aspects of the railroad services Commission shall obtain authorization from WisDOT and, if necessary, the Office of the Commissioner of Railroads, prior to permitting any additional private crossings

10 WisDOT shall retain complete authority for the issuance of permits allowing public and privately owned utilities the right to construct, place, and operate, repair and replace any power or communications line, gas or other pipeline, water mains and sewers over, across, upon and within the subject property Such permits shall not be issued without prior notice to Commission and its Operator, and shall not unduly interrupt railroad operations, nor shall they cause any uninsured risk of injury to person or property on the railroad facilities

11 WisDOT employees or its agents on safety or contract compliance inspection assignments shall have the right to enter upon the property at any time for the purpose of discharging their official duties

12 WisDOT shall retain authority for approving all applications for new public street crossings or other public use of the corridor and shall coordinate with Commission and its Operator on matters pertaining to said application.

13 Commission, through its Operator, shall save and hold WisDOT harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which arise out of or are connected with, or are claimed to arise out of or be connected with, any act, omission or railroad operation of Commission's Operator, or its agents, servants, subcontractors, officers or employees, or which arise out of or are connected with, or are claimed to arise out of or be connected with any accident or occurrence which happens or is alleged to have happened, in or about the place where such operation, act or omission is being performed or in the vicinity thereof (1) while Commission's Operator is performing its work, or (2) during the period this Agreement between WisDOT and Commission is in effect, or (3) while any of the Commission's Operator's property, equipment, or personnel, are in or about such place or the vicinity thereof by reason of or as a result of the performance of its Operator's operations including, without limiting the generality of the foregoing, all liabilities, damages, losses, claims, demands and actions on account of personal injury, death or property loss to WisDOT, its officers, employees, agents, subcontractors or frequenters, or to any other persons, whether based upon, or claimed to be based upon, contract, tort, or having its basis in worker's compensation (except worker's compensation claims by employees or agents of Commission or WisDOT) under Federal or State statutes or having any other code or statutory basis, or based upon administrative laws or other provisions. Without limiting the generality of the foregoing, the liability, damage, loss, claims, demands and actions indemnified against shall include all liability, damage, loss, claims, demands and actions for trademark, copyright or patent infringement, for unfair competition or infringement of any so-called "intangible" property right, for defamation, false arrest, malicious prosecution or any other infringement of personal or property rights of any kind whatsoever. The Commission's Operator shall at its own expense investigate all such claims and demands, attend to their settlement or other disposition, defend all actions based thereon and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claim, demand or action.

14 The Commission's Operator shall maintain, at the Commission's Operator's own cost and expense, a Comprehensive Railroad Liability Policy with limits of not less than \$20,000,000 per occurrence, or other form approved by WisDOT. WisDOT and its officers, employees, and agents, and Commission, and Commission's member counties and their officers, employees, and agents shall be named as additional insureds under such policies. Commission's Operator shall maintain and keep in force worker's compensation and employer's liability insurance as applicable under the Federal Employer's Liability Act to the extent, if any, that it is not covered under the Comprehensive Railroad Liability Policy. Further, Commission's Operator shall carry Wisconsin Worker's Compensation Insurance to the extent that it is necessary over and above federal employer's liability coverage and for the covering of any employees, if any, who are not covered under the Federal Employer's Liability Act. Further, Commission's Operator shall carry fire and extended coverage for any buildings and structures subject to damage in an amount not less than \$5,000,000. All such insurance shall cover Commission, Commission's member counties and WisDOT to the extent of their ownership in any of said properties and to include under such coverage buildings, and trackage owned by WisDOT and Commission and leased to Operator, even though some of said buildings or structures might not be included in the property used by the Operator, except that coverage need not be maintained on improvements sold, leased, licensed or otherwise disposed of by WisDOT or Commission to any third party. Upon initial purchase and each renewal of insurance coverage, the insurance carrier shall be subject to approval of WisDOT, such

approval shall not be unreasonably withheld, and Commission's Operator shall provide to both WisDOT and Commission written documentation from the insurance carrier or its authorized representative of the terms and effective date of coverage and within 60 days thereafter a copy of the Comprehensive Railroad Liability Policy and the other policies of insurance aforesaid. In the event of suspended coverage or insurance cancellation by any insurance carrier, both the insurance carrier and the Commission's Operator shall provide WisDOT and Commission with notification of such suspension or cancellation no less than 10 days prior to such suspension or cancellation.

15 It is understood and agreed that both the Comprehensive Railroad Liability Policy and the Rolling Stock Policy to be obtained and kept in force by Operator may contain a self-insured retention. A Comprehensive Railroad Liability Policy provides coverage for liabilities resulting from railroad operations such as grade crossing incidents, injuries to third parties while on railroad property and injuries to railroad employees under FELA. A Rolling Stock Policy provides coverage for damage to rail equipment, track structure, customer product loss and third party property resulting from a derailment or collision between rail equipment. Commission's Operator shall maintain a self-insured retention of not more than \$250,000 per occurrence for railroad liability, employee injuries under FELA, and rolling stock equipment. If for whatever reason, Commission's Operator determines that maintaining such a level of self-insured retention is either impractical, unavailable or uneconomical, then Operator agrees to confer with Commission and WisDOT on the amount of self-insured retention at least 60 days prior to policy renewal or at such other time as review may be required by the insurer.

16 If for any reason the Commission is in default of an agreement with WisDOT, the Operator shall have thirty (30) days to remove the default on behalf of the Commission and shall have the right to quiet enjoyment of the property until the condition of default is resolved.

17 Any administrative rule promulgated to implement Section 85.08 and 85.09, Wis. Stats., subsequent to the date of this Agreement, which incorporates terms other than those herein contained, shall become effective immediately as a part of this Agreement upon approval and appropriate publication. (As a part of this implementation process for permanent rules, a formal hearing process is available.)

18 If any term, covenant, condition or provision (or part thereof) of this Agreement, or the application thereof to any party or circumstance, shall at any time or to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision (or remainder thereof) to parties or circumstances other than those as to which it is held to be invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

19 This Agreement may be cancelled upon failure of the Commission or WisDOT to perform according to the terms and conditions set forth herein or in any other agreements between the parties hereto.

IN WITNESS WHEREOF, the East Wisconsin Counties Railroad Consortium, by its Board of Directors, has caused this Agreement to be signed by its duly authorized officers, this 25th day of March, 2008

WITNESS

EAST WISCONSIN COUNTIES RAILROAD
CONSORTIUM

Kelly D. Heppner

Daniel Goetz
Daniel Goetz, Chair

Kelly D. Heppner

Jeff Hall
Jeff Hall, Secretary

IN WITNESS WHEREOF, the Wisconsin Department of Transportation has caused this Agreement to be signed by its duly authorized officer, this 28th day of March, 2008

WITNESS

WISCONSIN DEPARTMENT OF TRANSPORTATION

Frank Huntington Ronald E. Adams
Ronald E. Adams, Chief
Railroads and Harbors Section

396810

State of Wisconsin Department of Transportation

AWARD OF DAMAGES
BY STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
Section 84.09(2), 85.09

DOCUMENT NO.

This award of damages is made pursuant to an acquisition order of the State of Wisconsin Department of Transportation dated January 26, 1984, and filed in the office of the County Clerk of Fond du Lac and Green Lake Counties, for the present or future transportation, recreational, or scenic purposes in said counties.

The State of Wisconsin has determined it necessary to acquire, for the purpose set forth in and in accordance with said acquisition order, property as hereinafter set forth, in and to which the following persons may have an interest. Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor.

The interest acquired by this award is for the interest, if any, of the owner in the abandoned railroad property including land, trestles, bridges, culverts, buildings, rail, ties, and related track materials extending from an easterly point at railroad milepost 161.15 near STH 49 at Brandon, Wisconsin; thence in a westerly, southwesterly direction to a westerly point at railroad milepost 172.70 at Markesan, Wisconsin, a distance of 11.55 miles, all located in Fond du Lac and Green Lake Counties, as more particularly described in the attached description comprising pages 1 to 3, inclusive, and made a part hereof.

It is the intent of this document to correct the legal description of the original award of damages as recorded on March 28, 1980 in Volume 811, Pages 169-172, as document No. 358350 in the Office of the Register of Deeds for Fond du Lac County; recorded on March 24, 1980 in Volume 302, Pages 504-507, as document No. 221916 in the Office of the Register of Deeds for Green Lake County; and recorded on April 7, 1980 in Volume 51, Pages 202-203 of Railroad Mortgages in the Office of the Secretary of State of Wisconsin.

Said property will be occupied by the State of Wisconsin or its agents on February 25, 1984.

The State of Wisconsin, having complied with all jurisdictional requirements pursuant to law, hereby makes this award of damages to the above Trustee that may have an interest in said property, in the sum of EIGHTY EIGHT THOUSAND FIVE HUNDRED AND NO/100 Dollars (\$88,500.00), for acquisition of property as hereinbefore set forth.

The herein stated consideration of \$88,500.00 was paid on March 21, 1980 to above Trustee via State of Wisconsin check #0034074, dated March 20, 1980.

Register of Deeds Office }
Green Lake County, Wis } ss

Received for record this 14th day of

MARCH A.D. 1984 at 2:00 o'clock

at M. and recorded in Vol 330 of

Records on page 642.

Shirley A. Williams
Register of Deeds.

RECEIVED FOR RECORD

7 DAY OF May
A.D., 1984 at
O'CLOCK P.M. AND RECORDED IN
VOL 873 OF RECORDS PAGE 862-865

Mary A. Brickle
Register of Deeds

Fond du Lac County

Project 1000-24-83

(1689-15)

State of Wisconsin
Department of Transportation

Lovell B. Jackson
Secretary

FEB 20 1984

Date

This instrument was drafted by the State of Wisconsin, Department of Transportation.

Parcel No. 1

VOL 873 PAGE 862

ATTACHMENT A

IN TOWNSHIP 15 NORTH, RANGE 14 EAST OF THE EXTENDED FOURTH PRINCIPAL MERIDIAN,
TOWN OF METOMEN, FOND DU LAC COUNTY

A strip of land 100 feet in width, lying 50 feet in width on either side of a center line as laid out and located, that commences at a point on the center line of the main track of the C M ST P.&P. RY. Horicon to Ripon line, which point is 621 2 feet southerly of the north line of the SW 1/4-SW 1/4, Section 25, T 15 N, R 14 E; thence said center line runs northwesterly and northerly as laid out and located on a curve to the left, concave to the southwest for a distance of ± 1111 feet to the point of tangency of a line bearing westerly and continues westerly through the W 1/2-SW 1/4, Section 25; the N 1/2-SE 1/4 and N 1/2-SW 1/4, Section 26, the N 1/2-SE 1/4, N 1/2-SW 1/4 and SW 1/4-SW 1/4, Section 27, the S 1/2-SE 1/4 and the SW 1/4, Section 28, the NE 1/4-SE 1/4, S 1/2-NE 1/4 and the S 1/2-NW 1/4, Section 29, the S 1/2-NE 1/4, N 1/2-SE 1/4, NE 1/4-SW 1/4 and S 1/2-SW 1/4, Section 30, all in T 15 N, R 14 E, to the west line of said Section 30, which is also the west line of the Town of Metomen and the east line of the Town of Green Lake, Green Lake County

Also a strip of land in the NW 1/4-SW 1/4, said Section 25, 100 feet in width, lying 50 feet in width on either side of a line which begins at a point on the /
aforedescribed main track of the C M ST P.&P. RY, 905 2 feet northerly of the south line of said NW 1/4-SW 1/4 and runs thence southerly and westerly on a curve, concave to the northwest, for a distance of ± 1209 5 feet to its intersection with the aforedescribed center line

✓ And also that part of the E 1/2 of Block 7 of the Original Plat of the Village of Brandon lying westerly of the C M ST P.&P. RY. main line.

✓ And also that part of the W 1/2 of Block 3 of the said original plat of Brandon lying northerly of the center line

✓ And also a parcel of land described in a certain warranty deed recorded in Volume 99 of Deeds for Fond du Lac County of Pages 379 and 380, being 25 feet in width lying between parallel lines located 50 feet and 75 feet respectively southerly of and parallel to the centerline of the C.M ST P.&P. RY main line, westerly of the east line of Section 30, T 15 N, R 14 E, and easterly of a line which runs southerly of and normal from a point on the said centerline, which point is 400 feet westerly of as measured along said centerline from the east line of said Section 30

Except the east 763 feet of the NE 1/4-SW 1/4 of Section 28, all in T 15 N, R 14 E

IN TOWNSHIP 15 NORTH, RANGE 13 EAST OF THE EXTENDED FOURTH PRINCIPAL MERIDIAN,
TOWN OF GREEN LAKE, GREEN LAKE COUNTY

A strip of land 100 feet in width lying 50 feet in width on either side of a center line that continues westerly and southwesterly from the last described course, as laid out and located, beginning at the east line of Green Lake County which is also the west line of Fond du Lac County, in Section 25, T 15 N, R 13 E, running westerly and southwesterly through the S 1/2-SE 1/4, Section 25, the NW 1/4-NE 1/4, E 1/2-NW 1/4, SW 1/4-NW 1/4 and the NW 1/4-SW 1/4, Section 36; the NE 1/4-SE 1/4 and S 1/2-SE 1/4, Section 35, all in said T 15 N, R 13 E to a point on the south line of said Section 35, which is also the south line of the Town of Green Lake and the north line of the Town of Mackford, Green Lake County.

Also all that part of the S 1/2 of the said SW 1/4-NW 1/4, Section 36, T 15 N, R 13 E, lying within 150 feet northwesterly of the said centerline of the C M ST P & P RY

Except a strip of land 16 5 feet in width in the NW 1/4-SW 1/4 and the S 1/2-SW 1/4-NW 1/4, said Section 36 which was dedicated for highway purposes and consists of the southeasterly 16 5 feet of the above described strip of land where Utley Quarry Road abuts the center line.

IN TOWNSHIP 14 NORTH, RANGE 13 EAST OF THE EXTENDED FOURTH PRINCIPAL MERIDIAN,
TOWN OF HACKFORD, GREEN LAKE COUNTY

A strip of land 100 feet in width, lying 50 feet in width on either side of a center line that continues southwesterly, westerly and northwesterly from the last described course, as laid out and located, beginning at the north line of Section 2, T 14 N, R 13 E, which is also the north line of the Town of Hackford, running southwesterly, westerly, and northwesterly through Government Lots 2 and 3, the S 1/4-NW 1/2 and the NW 1/4-SW 1/4, Section 2; the NE 1/4-SE 1/4 and the S 1/2-SE 1/4, Section 3; the N 1/2-NE 1/4, N 1/2-SW 1/4 and SW 1/4-NW 1/4, Section 10; the S 1/2-NE 1/4, S 1/2-NW 1/4, N 1/2-SW 1/4, Section 9, the NE 1/4-SE 1/4, S 1/2-NE 1/4, NW 1/4-NE 1/4 and the NE 1/4-NW 1/4, Section 8, and the SE 1/4-SW 1/4, Section 5, all in T 14 N, R 13 E to the west line of said SE 1/4-SW 1/4, Section 5

Also a parcel of land in the SW 1/4-SW 1/4, Section 5, T 14 N, R 13 E, conveyed by Warranty Deed on May 31, 1884, which conveyance is recorded in Volume 42 of records for Green Lake County, Wisconsin, on Pages 284 and 285, and more particularly described in a conveyance dated May 23, 1868 and recorded in Volume 30 of records for Green Lake County on Page 613 as follows

"The following described Real Estate situation in the County of Green Lake and State of Wisconsin, to wit All of the following described piece of land

Commencing at the South East corner of the South West quarter of the South West quarter of section five, township number fourteen north of range No. thirteen East, thence Westerly on the section line about forty rods to the water's edge at the present head, thence along its water's edge northerly to the road; thence along said road Easterly to the line between the South West and the South East quarters of said quarter section; thence south to the place of beginning, containing about two acres and twenty eight rods of land "

Except that part of the SE 1/4-NE 1/4, Section 8, said T 14 N, R 13 E, lying northeasterly of former CTH "S", as said highway formerly laid southwest of the C.M ST P & P RY and southwest of a line located 25 feet southwesterly of and parallel to the centerline of said C.M ST P.&P RY

Also except that parcel of land conveyed by Quit Claim Deed dated September 29, 1954, in Volume 137, on Page 481 of records for Green Lake County, described as follows

"Parcel "A".

All that part of the Northeast Quarter of the Northwest Quarter (NE 1/4-NW 1/4) of Section Eight (8), Township Fourteen (14) North, Range Thirteen (13) East, Green Lake County, Wisconsin, which is more particularly described as follows

Beginning at a point in the west line of Section Five (5), Township and Range aforesaid, one hundred (100) feet north of the southwest corner of said section, said point being at the intersection of said west line of Section Five (5) with the center line of said Grantor's main track produced westward from the present end thereof; thence run easterly along said center line of main track produced and along said center line of main track two thousand three hundred ninety-two (2392) feet, thence southwesterly at right angles to said center line of main track twenty-eight and five tenths (28 5) feet to the point of beginning of the land to be described; thence southeasterly along a line parallel to and twenty-eight and five tenths (28 5) feet southwesterly measured at right angles from said center line eighty-six (86) feet, thence southwesterly at right angles one hundred twenty-one and five tenths (121 5) feet to the southwesterly corner of a parcel of land 108 feet long by 100 feet wide conveyed by Henry A Scandrett, Walter J Cummings and George I Haight, Trustees of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company to the Markeeian Canning Company by quit-claim deed dated December 16, 1937; thence northwesterly at right angles eighty-six (86) feet, thence northeasterly at right angles one hundred twenty-one and five tenths (121 5) feet to the place of beginning

"Parcel "B".

All that portion of said Grantor's right of way in the Northeast Quarter of the Northwest Quarter (NE 1/4-NW 1/4) of said Section Eight (8) lying between lines parallel to and distant twenty-eight and five tenths (28.5) feet and fifty (50) feet southwesterly, respectively, measured at right angles, from the center line of said main track and extending between said Parcel "A" and a perpendicular to the center line of said main track at a distance of five hundred sixty-four (564) feet northwesterly measured along said center line from its intersection with the prolongation of the northwesterly line of said Parcel "A" "

Also except that parcel of land conveyed by Quit Claim Deed dated October 21, 1964, in Volume 184 on Pages 355, 356, and 357 of Records for Green Lake County, described as follows

"All that part of the Northwest Quarter of the Northeast Quarter and the Northeast Quarter of the Northwest Quarter of Section 8, Township 14 North, Range 13 East, described as follows

Beginning at a point in the west line of Section 5, Township and range aforesaid, 100 feet North of the Southwest Corner of said Section, said point being at the intersection of said West line of Section 5 with the centerline of Grantor's main track produced westward from the present end thereof; thence run easterly along said centerline of main track produced and along said centerline of main track 1,828 feet; thence southwesterly at right angles to said centerline of main track to a point 8.5 feet southwesterly of the centerline of the Grantor's most southerly side track as now there located and said point being the point of beginning of the land to be described, thence southeasterly, parallel to the centerline of said side track 475 feet; thence southwesterly at right angles 15 feet, thence southeasterly, parallel to the centerline of said side track, and parallel to the straight line prolongation of said centerline, 1040 feet, thence southwesterly at right angles 285 feet, more or less, to a point distant 50 feet southwesterly, as measured at right angles to the centerline of said main track, thence northwesterly, parallel to the centerline of said main track 865 feet, thence northeasterly at right angles 215 feet, thence northwesterly, parallel to said main track 650 feet, thence northeasterly at right angles to the point of beginning, containing 26,844 square feet of land, more or less "

Said parcel, tract or strip of land contains 145 acres, more or less.

Styler/Dup of Trans
Boj 649
Wankel 5387 Pd 10 00
 Brandon-Markesan
 Project 1000-24-83

VOL 873 PAGE 865

Parcel 1

MAR 1 8 57 AM '84

Document #

Received this 1 day of March 1984 at 8:10 A.M.and recorded in Vol. 580of Records, Page 303-309

REGISTER OF DEEDS, DODGE CO.

AWARD OF DAMAGES
BY STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
Section 84.09(2), 85.09

DOCUMENT NO.

This award of damages is made pursuant to an acquisition order of the State of Wisconsin Department of Transportation dated January 26, 1984, and filed in the office of the County Clerk of Dodge & Columbia Counties, for the present or future transportation, recreational, or scenic purposes in said counties.

The State of Wisconsin has determined it necessary to acquire, for the purpose set forth in and in accordance with said acquisition order, property as hereinafter set forth, in and to which the following persons may have an interest: Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor.

The interest acquired by this award is for the interest, if any, of the owner in the abandoned railroad property including land, trestles, bridges, culverts, buildings, rail, ties, and related track materials extending from an easterly point at railroad milepost 140.27 near the west line of Section 1, T11N, R15E, at Horicon, Wisconsin; thence in a westerly direction to a point near railroad milepost 165.70 at Cambria, Wisconsin, a distance of 25.39 miles. Also included are two connecting branch loop segments, one known as the Beaver Dam Loop and the other the Fox Lake Loop. The Beaver Dam Loop begins near railroad milepost 148.55, then proceeds in a southwesterly direction, with a length of 2.11 miles. The Fox Lake Loop begins near railroad milepost 154.5, then proceeds in a northerly direction, with a length of 2.74 miles. The total length of the main branch line and the two loops is 30.24 miles, all located in Dodge and Columbia Counties, as more particularly described in the attached description comprising pages 1 to 6, inclusive, and made a part hereof.

It is the intent of this document to correct the legal description of the original award of damages as recorded on March 24, 1980 in Volume 525, Pages 258-264, as document No. 631802 in the Office of the Register of Deeds for Dodge County; recorded on April 2, 1980 in Volume 217, Pages 245-251, as document No. 407997 in the Office of the Register of Deeds for Columbia County; and recorded on April 7, 1980 in Volume 51, Pages 206-210 of Railroad Mortgages in the Office of the Secretary of State of Wisconsin.

Said property will be occupied by the State of Wisconsin or its agents on February 25, 1984.

The State of Wisconsin, having complied with all jurisdictional requirements pursuant to law, hereby makes this award of damages to the above Trustee that may have an interest in said property, in the sum of THREE HUNDRED FORTY SEVEN THOUSAND EIGHT HUNDRED EIGHTY AND NO/100 Dollars (\$347,880.00), for acquisition of property as hereinbefore set forth.

The herein stated consideration of \$347,880.00 was paid on March 21, 1980 to above Trustee via State of Wisconsin check #0034070, dated March 20, 1980.

RECEIVED FOR RECORD

12 DAY OF March
A.D., 1984, at 8:10
O'CLOCK A M. AND RECORDED IN
VOL 266 OF Records PAGE 268

Carol A. Cullen
Register of Deeds, Dodge County
Columbia

Project 1000-21-65

(1689-7)

State of Wisconsin
Department of Transportation

Lowell B. Jackson FEB 20 1984
Lowell B. Jackson, P.E. Date
Secretary

This instrument was drafted by the State
of Wisconsin, Department of Transportation.

Parcel No. 1

IN TOWNSHIP 11 NORTH, RANGE 15 EAST OF THE EXTENDED FOURTH PRINCIPAL MERIDIAN,
TOWN OF OAK GROVE, DODGE COUNTY.

A strip of land 6 rods in width lying 3 rods in width on either side of a railroad centerline as laid out and located, that begins on the east line of Section 2, T 11 N, R 15 E, 126 4 feet more or less, south of the east 1/4 corner thereof, thence said centerline runs westerly as laid out and located through the N 1/2-SE 1/4, the S 1/2-NE 1/4 and S 1/2-NW 1/4, Section 2; the S 1/2-N 1/2, Section 3, the S 1/2-N 1/2 and Government Lot 4 (NW 1/4-NW 1/4) Section 4; the N 1/2-N 1/2, Section 5, the N 1/2-N 1/2, Section 6, all in T 11 N, R 15 E, to a point on the west line of said Section 6

ALSO all that part of the said N 1/2-SE 1/4, Section 2 lying northerly of the above described 6 rod strip.

ALSO all that part of the SE 1/4-NW 1/4, said Section 3, lying easterly of the C.&N.W. RY, northerly of the aforesaid centerline and southerly and westerly of a line which is 50 feet northeasterly from and parallel to a line which begins at a point on the aforesaid centerline approximately 65 feet westerly of the north and south 1/4 line of said Section 3 and runs northwesterly on a curve, concave to the northeast to a point on the centerline of the tracks of the C.&N.W. RY, approximately 663 feet northerly of the aforesaid centerline at a point known as "Minnesota Junction" which is the intersection of the C & N W RY and the C M & St P RY tracks, as recorded in Volume R on Page 46, records for Dodge County

AND ALSO a parcel of land conveyed in Q C D dated April 2, 1860, recorded in Volume 17 on Page 204, records for Dodge County, and described as

"Being the northwestern part of a piece of land conveyed to said first party hereto by Robert Walker and known as a part of the southeast quarter of the northwest fractional quarter of Section three in Township Eleven North, Range Fifteen East, described as commencing at the intersection of the southern boundary line of the right of way of the Chicago and Northwestern Railway Company, running thence southerly along the western boundary line last mentioned twenty-two rods, thence west ten feet, thence northwesterly on an eight and one-half degrees curve to the left, to the west boundary line of the land of said first party in said forty acres lot thence north along said western boundary line of lot to the southern boundary line of right of way first above mentioned thence easterly to the place of beginning sixteen rods containing five-sixths of an acre more or less Meaning and intending hereby to convey to said second party hereto all the said pieces and parcels of lands of the above described premises as lies northwesterly of a line drawn from the intersection of the centre lines of the main tracks of the railroads above mentioned running southwesterly bisecting the angle of intersection of said centre lines of tracks to the western boundary line of lands above described." ..

AND ALSO all that part of the W 1/2 of Government Lot 2 (NW 1/4-NE 1/4), said Section 5, lying within 148.5 feet southerly of the aforesaid centerline as recorded in Volume Y on Page 497, records for Dodge County.

AND ALSO all that part of the E 1/2 of Government Lot 3 (NE 1/4-NW 1/4), said Section 5, lying within 99 feet southerly of the aforesaid centerline, as recorded in Volume Y on Page 498, records for Dodge County

IN TOWNSHIP 11 AND 12 NORTH, RANGE 14 EAST OF THE EXTENDED FOURTH PRINCIPAL
MERIDIAN, TOWNS OF BEAVER DAM AND TRENTON, DODGE COUNTY

A strip of land 6 rods in width lying 3 rods on either side of a centerline that continues westerly from the last described course, as laid out and located, beginning at the east line of the Town of Beaver Dam in Section 1, T 11 N, R 14 E, running westerly and northwesterly through Government Lot 1 (NE 1/4-NE 1/4), Section 1, T 11 N, R 14 E, the S 1/2-S 1/2 and NW 1/4-SW 1/4, Section 36, the E 1/2-SE 1/4, NW 1/4-SE 1/4, NE 1/4-SW 1/4 and S 1/2-NW 1/4, Section 35, the S 1/2-N 1/2, Section 34, T 12 N, R 14 E, to a point on the west line of said Section 34

ALSO all that part of the NW 1/4-SW 1/4, said Section 36, the E 1/2-SE 1/4 and the S 1/2-NW 1/4 of said Section 35, the SW 1/4-NE 1/4 and the S 1/2-NW 1/4, said Section 34, lying within 50 feet on either side of the centerline

AND ALSO all that part of Outlots 10 and 11 in the SE 1/4-NW 1/4 of said Section 34, lying within 156 75 feet northerly of that portion of the centerline which runs from a point on said centerline 254 feet westerly of the east line of said SE 1/4-NW 1/4, westerly for a distance of 528 feet

A strip of land 100 feet in width, lying 50 feet on either side of a centerline that continues westerly and northerly from the last described course, as laid out and located, beginning at the west line of said Section 34, T 12 N, R 14 E, running westerly and northerly through the S 1/2-NE 1/4 and NW 1/4-NE 1/4, Section 33, the SW 1/4-SE 1/4, E 1/2-SW 1/4, SE 1/4-NW 1/4 and W 1/2-NW 1/4, Section 28, the SW 1/4-SW 1/4, Section 21, the E 1/2-SE 1/4, NW 1/4-SE 1/4, SW 1/4-NE 1/4 and E 1/2-NW 1/4, Section 20; the SE 1/4-SW 1/4 and W 1/2-SW 1/4, Section 17; the NE 1/4-SE 1/4, E 1/2-NE 1/4 and NW 1/4-NE 1/4 and NE 1/4-NW 1/4, Section 18, the SE 1/4-SW 1/4 and Government Lots 3 and 4 (W 1/2-SW 1/4), Section 7, all in T 12 N, R 14 E, to the west line of said Section 7 (Note The 100' strip referred to does not pertain to Outlot 16 in the NW 1/4-NE 1/4, said Section 33 which is included to provide continuity of the centerline A portion of Section 33 is hereinafter described.)

ALSO that certain parcel of land in the S 1/2-NE 1/4 and the NW 1/4-NE 1/4, said Section 33, as conveyed by cond W D dated April 28, 1856 and recorded in Volume 3 of the Records for Dodge County, on Page 488, and more particularly described as:

"All that parcel of land in the North East quarter of Section thirty-three (33) in town (12) twelve North of Range fourteen (14) East, Dodge County, which is laid off, set apart and described upon the plats of Millers Addition and also upon Rose & Havens Addition, to the town or village of Beaver Dam as "La Crosse & Milwaukee Depot Grounds", being the same now occupied in part by said company for that purpose, said grounds extending from the East line of said section, on the East, to the North side of the South half, of the North West quarter of the said North East Quarter of said section, for the most Northerly termination, and as now platted as aforesaid - containing in all about sixteen acres of land, more or less. Said lands lie between Block Five (5) and Six (6) of Miller's Addition and Blocks Eleven (11), Twelve (12) and Thirteen (13) of Rose Haven's Addition to Beaver Dam "

ALSO all that part of outlot 16 in the NW 1/4-NE 1/4, said Section 33 lying within 3 rods on either side of the centerline.

IN TOWNSHIP 12 NORTH, RANGE 13 EAST OF THE EXTENDED FOURTH PRINCIPAL MERIDIAN, TOWNS OF FOX LAKE AND WESTFORD, DODGE COUNTY

A strip of lane 100 feet in width lying 50 feet on either side of a centerline that continues northwesterly and westerly from the last described course, as laid out and located, beginning at the west line of Section 7, T 12 N, R 14 E, northwesterly and westerly through the NE 1/4-SE 1/4, SE 1/4-NE 1/4, W 1/2-NE 1/4, and N 1/2-NW 1/4, Section 12, the SW 1/4-SW 1/4, Section 1, the S 1/2-SE 1/4, SE 1/4-SW 1/4 and N 1/2-SW 1/4, Section 2, the N 1/2-S 1/2, Section 3, the N 1/2-S 1/2, Section 4, the N 1/2-S 1/2, Section 5, and the N 1/2-S 1/2, Section 6, T 12 N, R 13 E, to the west line of said Section 6, which is also the county line common to Dodge and Columbia Counties

ALSO all that part of the NE 1/4-SE 1/4, said Section 3, lying within 200 feet on either side of said centerline

AND ALSO all that part of the west 700 feet of the NE 1/4-SW 1/4 of said Section 4 lying within 60 feet northerly and that part of the west 200 feet of said NE 1/4-SW 1/4 lying within 100 feet northerly of the centerline.

AND ALSO all that certain parcel of land conveyed by warranty deed on March 3, 1857 and recorded in Vol. 7, on Page 272 of records for Dodge County, Wisconsin, meaning and intending to be the following described parcel:

" Part of the NW 1/4-SW 1/4 of Section 6, Township 12 North, Range 13 East, Village of Randolph, Dodge County Wisconsin, beginning at a point in the centerline of Columbus Street 50 feet northerly of the previously referenced main track, thence running northerly on said centerline of Columbus Street 216 feet, thence west 900 feet, thence south 160 feet, thence west to the County line, thence south 50 feet to a point 50 feet northerly of, measured at right angles, the centerline of said main track, thence east along a straight line to the point of beginning, containing five acres of land, more or less "

EXCEPT those parts or parcels of the above described land conveyed by quit claim deed to Dairymans State Bank dated September 22, 1976, recorded in Volume 469 on Pages 253, 254, and 255, and Quit Claim Deed to Randolph Building Center, Inc dated January 31, 1974 and recorded in Volume 427, on Page 47, all in Records for Dodge County, Wisconsin.

IN TOWNSHIP 12 NORTH, RANGE 12 E OF THE EXTENDED FOURTH PRINCIPAL MERIDIAN, TOWN OF COURTLAND, COLUMBIA COUNTY.

A strip of land, 100 feet in width, lying 50 feet in width on either side of a centerline which continues westerly from the last described course, as laid out and located, beginning at the west line of Dodge County, which line is also common to Columbia County, being the east line thereof and running thence westerly through the N 1/2-S 1/2, Section 1; the N 1/2-S 1/2, Section 2, the S 1/2-NE 1/4, N 1/2-SE 1/4 and S 1/2-NW 1/4, Section 3, the S 1/2-N 1/2, Section 4, the S 1/2-N 1/2, Section 5, the S 1/2-NE 1/4 and the SE 1/4-NW 1/4, Section 6, said point being near milepost 165 7, to the westerly end of the parcel being described

ALSO all that part of the east 900 feet of the SW 1/4-NE 1/4, said Section 3, lying within 60 feet northerly of the centerline

AND ALSO a parcel of land in the SE 1/4-NE 1/4, said Section 6, conveyed in Volume 35 of Deeds on Page 450, of Columbia County, and more particularly described as follows

"Commencing on the west line of the south east quarter of the north east quarter of Section No six in Town No Twelve North of Range No 12 E at a point 50 feet North of the centre of the main track of the La Crosse and Milwaukee Rail Road thence running north on said line fifteen feet to a point eight feet and six inches North of the centre of the side track of said rail road, thence easterly fifty feet to a point sixty-five feet six inches north of the centre of said main track, thence easterly 50 feet to a point sixty-six feet and three inches north of the centre of said main track, thence easterly fifty feet to a point sixty-seven feet north of the centre of said main track, thence easterly fifty feet to a point sixty-seven feet north of the centre of said main track thence easterly fifty feet to a point, sixty-six feet and six inches north of the centre of said main track thence easterly fifty feet to a point sixty-five feet north of the center of said main track Thence easterly fifty feet to a point sixty-one feet north of the centre of said main track thence easterly fifty feet to a point fifty-four feet and six inches north of the centre of said main track Thence easterly forty feet to a point fifty feet north of the centre of said main track Thence westerly on the northern boundary of the right of way of said Rail Road to the place of beginning."

AND ALSO all that part of the SW 1/4-NE 1/4, said Section 6, lying within 168 feet northerly and 100 feet southerly of said centerline and within 1172 feet westerly of the east line of said SW 1/4-NE 1/4, as measured along said centerline, said parcel comprising the Depot grounds and railyards of the Village of Cambria

IN TOWNSHIPS 11 AND 12 NORTH, RANGE 14 EAST OF THE EXTENDED FOURTH PRINCIPAL MERIDIAN, TOWN OF BEAVER DAM, DODGE COUNTY

A strip of land known as the "Beaver Dam Loop" 4 rods in width, lying 2 rods in width on either side of a centerline "E", as laid out and located, that commences at a point on the centerline of the C.M. & ST. P. & P. RY Company's Horicon-Portage line main track, at a point 403 2 feet westerly of (as measured along said centerline) of the east line of Section 33, T 12 N, R 14 E, extending thence westerly and southwesterly along said centerline "E" to the southerly

line of the said C M ST P.&P RY. right of way, being the north line of Outlot 81 of and in the 3rd Ward of the City of Beaver Dam (as of 1883) now 14th Ward, which is the point of beginning of centerline "E". Thence said centerline "E" continues westerly and southerly as laid out and located, through said Outlot 81, Outlots 23 and 24, said 3rd Ward; Outlot 84, said 3rd Ward, Lot No. 15 in Block No. 16 of Millers Addition to the City of Beaver Dam; Outlot 71 of the 3rd Ward (as of 1882) of the City of Beaver Dam, Outlot 79 of said 3rd Ward, the right of way of Parallel and Main Streets (as of 1883), Lots 11, 12, 13 and 14 in Block No. 3 of Rose and Farrington's Addition to Beaver Dam, Lots 4, 5, 6, 7, 8, 9, 10 and 12 of Block No. 1 of Mackies Addition to Beaver Dam, and Lot No. 5 of the Subdivision of Lots 3, 4, and 13 of Mackies Addition to Beaver Dam, in the 3rd Ward thereof (as of 1882), to the south line of the said Lot 5 which is the North line of Mackie Street

ALSO all that part of said Outlot 81 lying northwesterly of said centerline "E".

ALSO all that part of said Outlot 84 lying northwesterly of said centerline "E"

ALSO the west 8 feet of said Outlot 23, in the 14th Ward, City of Beaver Dam, lying southeasterly of said centerline "E"

EXCEPT that part of said Lot 5 of Block No. 1 of Mackies Addition lying northwesterly of a line located 20 feet northwesterly of and parallel to said centerline "E"

A strip of land 40 feet in width lying 20 feet in width on either side of centerline "E" that continues southwesterly from the last described course, as laid out and located, beginning at the north line of Mackie Street, running southwesterly through Lot 5 in Block 8 of Bicknell's Addition to Beaver Dam, Outlot No. 55 and 56 of the City of Beaver Dam; Lot No. 18 in Block 7 of Brower's Original Plat of Beaver Dam, to the south line of said Block 7, at the north line of Maple (Middle) street

A strip of land 30 feet in width, lying 15 feet in width on either side of centerline "E" that continues southwesterly from the last described course, as laid out and located, beginning at the north line of Maple (Middle) Street running southwesterly through Lots 12, 13 and 18 of Block 14 of Brower's Original Plat of Beaver Dam and Lots 5, 6, 10, 11, and 12 of Block 15 of said Brower's Original Plat to the south line of said Block 15 which is the north line of Washington Street

ALSO the East 32 feet of Lot 12 of said Block 14, the west 12 feet of Lot 12 of said Block 15 and that part of said Lots 10 and 11 of said Block 15 lying southeasterly of centerline "E"

Centerline "E" continues southwesterly from the last described course, as laid out and located, beginning at the north line of Washington Street, running southwesterly through Block 16 of Brower and Ackermans Addition to Beaver Dam, Block 28 of Ackermans Addition to Beaver Dam to the Mill Pond lying north of Mill Street, continuing southwesterly across the Mill Pond, Lots 1, 2, and 3 of the subdivision of Outlot 72 of the 2nd Ward of the City of Beaver Dam, on a curve to the left, thence continuing southerly, on the curve to the left being the easterly portion of the "Beaver Dam Loop", thence across Lot 1 of the Subdivision of Outlots 70, 80 and 81 of the 2nd ward of the City of Beaver Dam, thence southerly and southwesterly along Center Street, on a curve to the right, thence southwesterly, westerly and northwesterly on said curve to the right, across the Subdivision of Outlots 14 and 15 and Block "O" of Smith and Ordways Addition to Beaver Dam, thence continuing northerly across South Street, thence northerly and northeasterly, still on said curve to the right, across Blocks "K" and "G" of Smith and Ordways Addition, thence easterly along Mill Street, thence easterly and northeasterly, on a curve to the left, across Lot 5 of Block "B" of Ordways Addition to Beaver Dam; thence northeasterly across Center Street and Lots 2 and 3 of the Subdivision of said Outlot 72 of the 2nd ward of Beaver Dam to an intersection with the centerline "E" aforescribed and the end of the "Beaver Dam Loop", from which the following lands are described:

That part of Lot 1 of Block 28 of said Ackermans Addition to Beaver Dam lying northwesterly of a line located 25 feet southeasterly of and parallel to said centerline "E"; also, that part of Lot 1 of the Subdivision of Outlot 72 of the 2nd ward of Beaver Dam lying within 25 feet on either side of centerline "E"; also, that part of Lot 1 of the Subdivision of Outlots 70, 80, and 81 of the 2nd

ward of Beaver Dam lying westerly of a line located 25 feet easterly of and parallel to centerline "E", also, that part of Lot 5 of Block "I" of Smith and Ordways Addition to Beaver Dam lying within 25 feet westerly of centerline "E", also, that part of the subdivision of Outlot 14 and 15 of the 2nd ward of Beaver Dam and Block "O" of Smith and Ordways Addition to Beaver Dam lying within 25 feet on either side of centerline "E", also, that part of Lots 1, 3, 4, and 5 of Block "K" of Smith and Ordways Addition to Beaver Dam and vacated 2nd Street lying within 25 feet on either side of centerline "E", also, all that part of said lots 3 and 4 of Block "K" and that part of the north 1/2 of vacated Second Street lying southerly of the above described strip; also, that part of Lot 2 and the W 1/3 of Lot 1 of Block "G" of said Smith and Ordways Addition to Beaver Dam lying within 25 feet on either side of centerline "E", also, the E 2/3 of Lot 1, and Lots 3 and 4 of said Block "G" of Smith and Ordways Addition to Beaver Dam lying northerly of a certain piece or parcel of land conveyed by quit claim deed dated October 27, 1958 and recorded in Volume 310 on Pages 651 and 652, records for Dodge County; also, all that part of Lots 4 and 5 of Block "B" of Ordways Addition to Beaver Dam lying southerly of a certain piece or parcel of land conveyed by quit claim deed, dated December 21, 1965 and recorded in Volume 350 on Pages 4 and 5, records for Dodge County; also, all of Lots 2 and 3 of the subdivision of Outlot 72 of the 2nd ward of Beaver Dam lying southeasterly of a parcel of land conveyed to Louis Cohen on October 21, 1942, for which the conveyance is as yet unrecorded, also, Lots 18 and 19 and the S 1/2 of Lot 17 of Block 16 of Brower and Ackermans Addition to Beaver Dam

ALSO all that part of Outlot 24 in the 3rd ward of the City of Beaver Dam (as of 1882), lying within 25 feet in width on either side of a centerline "D", which begins at a point on centerline "E", 985 1 feet southwesterly of its place of commencement and extends thence northerly on a curve to the left across said Outlot 24 and northwesterly on said curve to its intersection with the centerline of the C M ST P & P RY Horicon-Portage line main track, at a point 1492 feet westerly, as measured along said centerline from the east line of Section 33, T 12 N, R 14 E

IN TOWNSHIPS 12 AND 13 NORTH, RANGE 13 EAST OF THE EXTENDED FOURTH PRINCIPAL MERIDIAN, TOWN OF FOX LAKE, DODGE COUNTY

A strip of land, known as the "Fox Lake Loop" 2 rods in width lying 1 rod in width on either side of a centerline "B" as laid out and located, that begins at a point on the centerline of the C M ST P & P RY Company's Horicon-Portage main line, 1049 2 feet easterly (as measured along said main line centerline) of the west line of Section 1, T 12 N, R 13 E, thence said centerline "B" runs westerly and northerly, as laid out and located through the SW 1/4-SW 1/4, Section 1, T 12 N, R 13 E, the E 1/2-SE 1/4, the SE 1/4-NE 1/4 and Government Lot 1 (NE 1/4-NE 1/4) of Section 2, T 12 N, R 13 E, the E 1/2-SE 1/4 and the E 1/2-NE 1/4, Section 35, T 13 N, R 13 E, to the north line of said Section 35

ALSO a strip of land, 50 feet in width, lying 25 feet in width on either side of a centerline "C", as laid out and located, which begins at a point on centerline "B", 129 3 feet south of the north line of the SE 1/4-NE 1/4, said Section 35, thence said centerline "C" runs northeasterly, northerly and northwesterly on curves to the right and left, to form the easterly half of the "Fox Lake Loop", through lots 14, 15, 16, and 18 of Block 2 of Davis 2nd Addition to Fox Lake, Lots 2, 3, 4, 5, 6, 8, 9, 12, 13, and 16 of Block 27 and Lots 1, 4, 5, 8, 9, 10, and 11 of Block 35 of the 1st Addition to Fox Lake

ALSO a strip of land 50 feet in width, lying 25 feet in width on either side of a centerline "D", as laid out and located, which begins at the place of beginning of centerline "C", thence said centerline "D" runs northwesterly-northerly and northeasterly, on curves to the left and right to form the westerly half of the "Fox Lake Loop", through Lot 17 of Block 2 of Davis 2nd Addition to Fox Lake and Lots 1, 2, the east 3/4 of Lot 3, Lots 4, 5, 6, 7, and 8 of Block 1 of Davis 2nd Addition to Fox Lake

AND ALSO all of Lots 1, 3, 4, 5, 6, 7, 8, 9 and 10 of Block 2 of Davis 2nd Addition to Fox Lake

ALSO a 17-foot easement across Lots 15, 16, 17, and 18 of Block 22 of the 1st Addition to Fox Lake, as the railroad is presently located.

433278

via Dept of Transportation
Chicago, Milwaukee, St Paul & Pacific
RR

cc'd

~~2/18~~
2/15

INDEXED
Grantee ☒
Grantor ☒
RECHECKED
Grantor ☒

STATE OF WISCONSIN } ss
COLUMBIA COUNTY

Received for record the 12th
Day of March A.D. 1984
at 800 o'clock A.M. and recorded
in Vol 266 of Records Page 268.

Marian Johnson

Register of Deeds

Dept of Trans

ALSO all that part of Lot 15 of Block 21 of said 1st Addition to Fox Lake lying southwesterly of a line which runs in a straight line from a point on the northwest corner of said Lot 15 to a point on the south line thereof, 40 feet east of the southwest corner thereof

ALSO that part of the SE 1/4-NE 1/4, said Section 35, bounded by a traverse which begins at a point on centerline "B", 105 feet south of the south line of Trenton Street, thence east 16 5 feet, thence north-northeasterly 106.3 feet to a point on the south line of Trenton Street, 33 feet east of centerline "B", thence westerly along the south line of Trenton Street, 66 feet, thence south-southeasterly 106.3 feet to a point 16 5 feet west of the place of beginning, thence easterly 16 5 feet to the place of beginning of the traverse

ALSO a parcel of land conveyed by warranty deed dated July 26, 1884 and recorded in Volume 93 on Page 569, records for Dodge County and more particular described as follows

"A part of the South East quarter (SE 1/4) of the South East quarter (SE 1/4) of Section Two (2) Township Twelve (12) North of Range Thirteen (13) East, described as follows, viz

A strip belt or piece of land Fifty (50) feet wide extending from East line of said Section Two (2) and the South Westerly boundary of the right of way now owned by the Fox Lake Rail Road Company, to the Northerly boundary of the right of way of the Chicago, Milwaukee and St Paul Railway Company Said strip belt or piece of land being Twenty-five (25) feet in width on each side of the centerline of the proposed connection track, extending from the Fox Lake Railroad in a Southerly and Southwesterly direction to the Chicago, Milwaukee and St Paul Rail Way as the same is now located and staked out, containing 88/100 of an acre of land more or less "

ALSO all that certain piece and parcel of land described in a certain warranty deed from Patrick Sweeney to the La Crosse and Milwaukee Railroad Company, dated May 31, 1861, situated in the Town of Fox Lake and described as follows to wit:

"Beginning at the point of junction of the north line of the right of way of the "La Crosse and Milwaukee Railroad Company" and the southwest line of the right of way of the "Fox Lake Railroad Company" in Section No. One (1) in Township No Twelve (12) North of Range No Thirteen (13) East, thence running northwesterly along the line of the right of way of the "Fox Lake Railroad Company" three hundred and nine feet, thence southwesterly to a point in the north line of the right of way of the La Crosse and Milwaukee Railroad Company the said point being three hundred and forty-eight feet easterly from the point of beginning, thence easterly along said north line of the right of way aforesaid to the place of beginning, three hundred and forty-eight feet, containing one-half acre of land "

Said parcels, tracts, or strips of land contains 360 acres, more or less.

665971 VOL 581 PAGE 206
 APR 23 12 54 AM '84 1248865
 WASHINGTON COUNTY State of Wisconsin Department of Transportation
 465242 VOL 822 PAGE 312 AWARD OF DAMAGES
 BY STATE OF WISCONSIN
 DEPARTMENT OF TRANSPORTATION
 Section 84.09(2), 85.09
 DOCUMENT NO.
 REEL 596 PAGE 582

This award of damages is made pursuant to an acquisition order of the State of Wisconsin Department of Transportation dated January 26, 1984, and filed in the office of the County Clerk of Milwaukee, Waukesha, Washington and Dodge Counties), for the present or future transportation, recreational, or scenic purposes in said counties.

The State of Wisconsin has determined it necessary to acquire, for the purpose set forth in and in accordance with said acquisition order, property as hereinafter set forth, in and to which the following persons may have an interest: Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor.

The interest acquired by this award is for the interest, if any, of the owner in the abandoned railroad property including land, trestles, bridges, culverts, buildings, rail, ties, and related track materials extending from a southerly point at railroad milepost 93.72 near 35th Street at Milwaukee, Wisconsin; thence in a northwesterly direction to a westerly point at railroad milepost 140.27 near the depot at Horicon, Wisconsin, a distance of 46.55 miles, all located in Milwaukee, Waukesha, Washington, and Dodge Counties, as more particularly described in the attached description comprising pages 1 to 8, inclusive, and made a part hereof.

It is the intent of this document to correct the legal description of the original award of damages as recorded on April 10, 1980 in Volume 1289, Pages 223-228, as document No. 5392890 in the Office of the Register of Deeds for Milwaukee County; recorded on April 7, 1980 in Volume 403, Pages 640-645, as document No. 1124017 in the Office of the Register of Deeds for Waukesha County; recorded on March 28, 1980 in Volume 727, Pages 459-464, as document No. 426429 in the Office of the Register of Deeds for Washington County; recorded on March 24, 1980 in Volume 525, Pages 243-248, as document No. 631799 in the Office of the Register of Deeds for Dodge County; and recorded on April 21, 1980 in Volume 51, Pages 225-228 of Railroad Mortgages in the Office of the Secretary of State of Wisconsin.

Said property will be occupied by the State of Wisconsin or its agents on February 25, 1984.

The State of Wisconsin, having complied with all jurisdictional requirements pursuant to law, hereby makes this award of damages to the above Trustee that may have an interest in said property, in the sum of ONE MILLION SIX HUNDRED FORTY FOUR THOUSAND AND NO/100 Dollars (\$1,644,000.00), for acquisition of property as hereinbefore set forth.

The herein stated consideration of \$1,644,000.00 was paid on March 21, 1980 to above Trustee via State of Wisconsin check #0034072, dated March 20, 1980.

5705385
 REGISTER'S OFFICE } SS
 Milwaukee County, WI
 RECORDED AT 9:21 AM

APR 4 1984 253 TO
 REEL 1626 IMAGE 261 incl.

RECEIVED FOR RECORD

REGISTER
 OF DEEDS

23 DAY OF March
 A.D., 1984, at 8:54
 O'CLOCK A.M. AND RECORDED IN
 VOL 581 OF Records PAGE 206-214

Register of Deeds
 Dodge County

State of Wisconsin
 Department of Transportation
 Lowell B. Jackson, P.E.
 Secretary

This instrument was drafted by the State of Wisconsin, Department of Transportation.

Project 1000-22-35
 (1689-8)

Parcel No. 1

UPR-4-84 318920 • 5705385 F CH REC
 MAR 29 8 30 AM '84
 REC'D - REGISTER OF DEEDS
 2000

A strip of railroad property as now located in Milwaukee, Waukesha, Washington and Dodge Counties, State of Wisconsin, described as follows:

IN TOWNSHIP 8 NORTH, RANGE 21 EAST, MILWAUKEE COUNTY

A strip of land 100 feet in width, the centerline of which begins in the centerline of said railroad at Milepost 93 72 which is approximately 870 feet south and 520 feet west of the center of Section 36, Township 8 North, Range 21 East, then northwesterly along said centerline across the Southwest 1/4 and the South 1/3 of the South 1/2 of the Northwest 1/4 of Section 36, Township 8 North, Range 21 East.

A strip of land 99 feet in width which continues across the North 1/2 of the South 2/3 of the South 1/2 of the Northwest 1/4 of Section 36

A strip of land 100 feet in width which continues across the North 1/3 of the South 1/2 of the Northwest 1/4 and North 1/2 of the Northwest 1/4 of Section 36 and North 1/2 of the Northeast 1/4 of Section 35

A strip of land 99 feet in width which continues across the South 1/2 of Section 26, and the Northwest 1/4 of Section 26

All rights to the highway crossing in the Southwest 1/4 of the Southwest 1/4 of Section 23 and the Northeast 1/4 of the Northeast 1/4 of Section 27.

The 99 foot strip continues across the South 1/2 of Section 22

The Southeast 1/4 of the Northwest 1/4 of Section 22.

The West 1/2 of the Northwest 1/4 of Section 22, the Northeast 1/4 of Section 21, the South 1/2 and Northwest 1/4 of Section 16, the Northeast 1/4 of Section 17, the East 1/2 and Northwest 1/4 of Section 8, and the Northeast 1/4 of Section 7, all in Township 8 North, Range 21 East.

A strip of land 100 feet in width, which continues across the Southeast 1/4 of the Southeast 1/4 of Section 6, Township 8 North, Range 21 East.

A strip of land 99 feet in width, the centerline of which continues across the West 1/2 of the Southeast 1/4 and West 1/2 of Section 6, Township 8 North, Range 21 East.

- A strip of land of irregular width in the Northwest 1/4 of the Northwest 1/4 of Section 8 and the Northeast 1/4 of the Northeast 1/4 of Section 7, begin in the west line of the Northwest 1/4 of Section 8 in the south line of the railroad, which point is 454 feet south of the northwest corner of the section, then South 69° 20' East 400 feet along the south line of the railroad, then South 65° West 69 feet; then North 69° 20' West 337 feet, then North 63° 50' West 573 feet to a point in the south line of the railroad; then South 69° 20' East 551 feet to the point of beginning

The north 50 feet of the south 74.75 feet of that part of the Southeast 1/4 of the Southeast 1/4 of Section 6 lying east of this railroad and west of the Chicago and North Western Railway Co.

IN TOWNSHIP 8 NORTH, RANGE 20 EAST, WAUKESHA COUNTY.

The 99 foot strip of land continues across the Northeast 1/4 of the Northeast 1/4 of Section 1, Township 8 North, Range 20 East.

IN TOWNSHIP 9 NORTH, RANGE 20 EAST, WASHINGTON COUNTY.

The 99 foot strip of land continues across Section 36, the West 1/2 of Section 25, the Northeast 1/4 of Section 26, the South 1/2 of Section 23, the Northeast 1/4 of the Southeast 1/4, the Northwest 1/4 of the Southeast 1/4, the Southwest 1/4 of the Northeast 1/4, the Southwest 1/4 of the Northwest 1/4, and the Southeast 1/4 of the Northwest 1/4 of Section 22, all in Township 9 North, Range 20 East.

A strip of land 66 feet in width, which continues across the Southwest 1/4 of the Northwest 1/4 of Section 22, Township 9 North, Range 20 East

A strip of land 99 feet in width, which continues across the Northwest 1/4 of the Northwest 1/4 of Section 22 and the North 1/2 of Section 21, all in Township 9 North, Range 20 East.

Those lands in the Southeast 1/4 of Section 36 recorded in Railroad Deeds, Volume 1 of Page 84, Volume 1 of Page 89 and Volume 1 of page 90. Except those lands sold to the Chicago and Northwestern Railway Co

A 40 foot wide strip of land lying southwesterly of and adjoining the above described 99 foot strip of land in the Northwest 1/4 of the Southeast 1/4 of said Section 36, between the west line of said Northwest 1/4 of the Southeast 1/4 and a point 680 feet southeasterly therefrom, as measured along the southwesterly line of said 99 foot strip

Begin in the north line of the Northwest 1/4 of the Southeast 1/4 of Section 22 at a point 955 feet east of the northwest corner of the Southeast 1/4, then South 27° West to the northerly line of this railroad, then southeasterly along said northerly line to a point 33 feet southeasterly as measured normal to the last course, then North 27° East to the north line of the Southeast 1/4; then west to the beginning

Begin in the north line of the Northwest 1/4 of the Southeast 1/4 of Section 22 at a point 472.1 feet east of the northwest corner of the Southeast 1/4, then southeasterly along the southerly line of the railroad 513 5 feet, then southwesterly 20 feet at right angles, then northwesterly, parallel with the southerly line of the railroad, to the north line of the Northeast 1/4, then east to the beginning *termination*

All rights to the highway crossing in the Southeast 1/4 of the Southwest 1/4 of Section 16.

The 99 foot strip of land continues across the Southwest 1/4 of the Southwest 1/4 of Section 16, the South 1/2 of Section 17, the Northeast 1/4 of the Southeast 1/4 and the East 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 18

A strip of land 100 feet in width, which continues across the West 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 18.

A strip of land 99 feet in width, which continues across the Southwest 1/4 of the Northeast 1/4 of Section 18.

A strip of land 100 feet in width, which continues across the Northwest 1/4 of Section 18, Township 9 North, Range 20 East

That part of the Southwest 1/4 of the Southwest 1/4 of Section 16, beginning in the east line of said Southwest 1/4 of the Southwest 1/4 where the northerly line of said Milwaukee Road Railroad intersects it, then north along said east line 35 feet, then North 53° 30' West 375 feet, then South 76° West 190 feet to said railroad's northerly line, then southeasterly along said northerly line to the point of beginning. Except those lands sold by Quit Claim Deed recorded in Volume 60 of Deeds, Page 350

IN TOWNSHIP 9 NORTH, RANGE 19 EAST, WASHINGTON COUNTY

A strip of land 100 feet in width, which continues across the east 30 acres of the Northeast 1/4 of the Northeast 1/4 of Section 13

The west 10 acres of the Northeast 1/4 of the Northeast 1/4 of Section 13.

A strip of land 99 feet in width, which continues across the Southeast 1/4 of Section 12

A strip of land 100 feet in width which continues across the Southwest 1/4 of Section 12 and extends 170 feet further across the Northwest 1/4 of Section 12 to a property line at Station 1326+30

A strip of land 99 feet in width which extends further across said Northwest 1/4 to a property line at Station 1330+60.

A strip of land 100 feet in width which extends across the remaining portion of the Northwest 1/4 of Section 12

A strip of land 99 feet in width which continues across the Northeast 1/4 of Section 11 and Southeast 1/4 of the Southeast 1/4 of Section 2

A strip of land 100 feet in width which continues across the North 1/2 of the Southeast 1/4 and Southwest 1/4 of the Northeast 1/4 of Section 2.

In the Northeast 1/4 of the Southwest 1/4 of Section 12, a 25 foot strip of land lying northeasterly of and adjacent to (as measured normal) the northeasterly line of the 100 foot wide railroad right of way.

That part of the Southeast 1/4 of Section 2 beginning at a point in the southwesterly right of way line of the railroad, which is 88 5 feet southeasterly of and 50 feet southwesterly of the north line of said Southeast 1/4, as measured along and normal to the centerline of the railroad, thence southeasterly along said right of way line seven hundred (700) feet, thence southwesterly at right angles five (5) feet, thence northwesterly at right angles one hundred fifty (150) feet, thence northwesterly on a straight line three hundred two and fifteen hundredths (302 15) feet, more or less, to a point distant forty-one (41) feet southwesterly, measured at right angles, from said southwesterly right of way line opposite Railroad Station 1386+61, thence northwesterly on a straight line two hundred fifty-two and six tenths (252 6) feet, more or less, to a point distant five (5) feet southwesterly, measured at right angles, from said southwesterly right of way line opposite Railroad Station 1389+11; thence northeasterly five (5) feet, to the place of beginning

That part of the Southeast 1/4 of Section 2 beginning at a point in the northeasterly right of way line of the railroad, which is 38 5 feet southeasterly of and 50 feet northeasterly of the north line of said Southeast 1/4, as measured along and normal to the centerline of the railroad, thence southeasterly along said right of way line seven hundred (700) feet, thence northwesterly on a straight line three hundred (300) feet, more or less, to a point distant five (5) feet northeasterly, measured at right angles, from said right of way line opposite Railroad Station 1385+61, thence northwesterly on a straight line one hundred one and eight-tenths (101.8) feet, more or less, to a point distant twenty-four (24) feet northeasterly, measured at right angles, from said right of way line opposite Railroad Station 1386+61, thence northwesterly on a straight line two hundred (200) feet, more or less, to a point twenty (20) feet northeasterly, measured at right angles, from said right of way line opposite Railroad Station 1388+61, thence northwesterly on a straight line one hundred one and one-tenth (101.1) feet, more or less, to a point distant five (5) feet northeasterly, measured at right angles, from said right of way line opposite Railroad Station 1389+61, thence southwesterly five (5) feet, to the place of beginning

A strip of land 99 feet in width, which extends across the Northwest 1/4 of the Northeast 1/4 of Section 2

The Northeast 1/4 of the Northwest 1/4 of Section 2, Township 9 North, Range 19 East

IN TOWNSHIP 10 NORTH, RANGE 19 EAST, WASHINGTON COUNTY.

The 99 foot strip of land continues across the East 1/2 of the East 1/2 of the Southwest 1/4 of Section 35.

The West 1/2 of the East 1/2 of the Southwest 1/4 and the South 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 35

A strip of land 100 feet in width which continues across the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 35.

A strip of land 99 feet in width which continues across the Northwest 1/4 of Section 35.

A strip of land 100 feet in width which continues across the Northeast 1/4 of Section 34 and East 1/2 of the Southeast 1/4 of Section 27

A strip of land 99 feet in width which continues across the West 1/2 of the Southeast 1/4 and the East 1/2 of the West 1/2 of Section 27

The Northwest 1/4 of the Southwest 1/4 of Section 27

The Southwest 1/4 of the Northwest 1/4 of Section 27 and the Northeast 1/4 of Section 28

A strip of land 66 feet wide across the Northwest 1/4 of Section 28

A strip of land 100 feet wide across the Southwest 1/4 of Section 21 and the Southeast 1/4 and West 1/2 of Section 20

That part of the Northwest 1/4 of Section 28, beginning at a point in the northeasterly right of way line of the railroad, 1346 feet southeasterly of and 33 feet northeasterly of the north line of said section, as measured along and normal to the centerline of the railroad, then northwesterly along said right of way line 950 feet; then northeasterly at right angles to said right of way 50 feet; then southeasterly parallel with said right of way 175 feet; then northeasterly at right angles to said right of way 100 feet more or less to the northeasterly line of S.T.R. 175, then southeasterly along said line to a point at right angles to the point of beginning of this description; then southwesterly to the point of beginning

In the Southeast 1/4 of the Southeast 1/4 and Southwest 1/4 of the Southeast 1/4 of Section 20, begin at a point 275 feet north and 326 feet South 68° 15' East of the intersection of the west line of the Southeast 1/4 of the Southeast 1/4 with the centerline of this railroad, then North 68° 15' West 326 feet to the west line of the Southeast 1/4 of the Southeast 1/4, then south 27 feet along the west line of the Southeast 1/4 of the Southeast 1/4, then North 74° 30' West 492 feet, then South 78° 15' West to the northerly line of this railroad, then easterly along the northerly line of the railroad to a point South 18° 30' West of the point of beginning, then North 18° 30' East to the point of beginning

A strip of land 100 feet wide across the Southeast 1/4 of the Northeast 1/4 of Section 19

A strip of land 66 feet wide across the Northeast 1/4 of the Northeast 1/4 of Section 19

A strip of land 99 feet in width across the Southeast 1/4 and the West 1/2 of Section 18, Township 10 North, Range 19 East

That part of lands described in Railroad Deed Volume 1, Page 76, being a strip of land 50 feet wide in the Southeast 1/4 of Section 18, lying southerly of and adjoining the above described 99 foot strip of land

A strip of land 50 feet wide in the Southeast 1/4 of Section 18, lying southerly of and adjoining the above described 99 foot strip between the southeasterly boundary line of the depot grounds recorded in Railroad Deed Volume 1, Page 76 and a line 175 feet southeasterly therefrom, as measured normal to said boundary line

All that part of the Northwest 1/4 of the Southeast 1/4 of Section 18, lying between lines 49 5 feet northerly of and 199.5 feet northerly of the Railroad's centerline, bounded on the west by the quarter line of said Section, and bounded on the east by that parcel conveyed to Slinger Community School, Joint District No. 1, by deed dated December 9, 1968.

Part of the Northeast 1/4 of the Southwest 1/4 and Northwest 1/4 of the Southeast 1/4 of Section 18 lying between lines 49 5 feet northerly and 50 feet northerly of the railroad centerline and from a point 29 82 feet easterly of the west line of the Southeast 1/4 to a point 460 73 feet westerly therefrom.

IN TOWNSHIP 10 NORTH, RANGE 18 EAST, WASHINGTON COUNTY

A strip of land 66 feet in width which continues across the Southeast 1/4 of the Northeast 1/4 of Section 13, Township 10 North, Range 18 East

A strip of land 100 feet in width which continues across the Southeast 1/4 of Section 13

A strip of land 99 feet in width which continues across the Southwest 1/4 of Section 13

A strip of land 66 feet in width which continues across the Northeast 1/4 of the Southeast 1/4 of Section 14.

A strip of land 100 feet in width which continues across the South 1/2 of the Southeast 1/4 and the Southwest 1/4 of Section 14

That part of the Southeast 1/4 of the Northeast 1/4 of Section 13 lying south of the railroad.

The strip of land 100 feet in width continues across the Northwest 1/4 of the Northwest 1/4 of Section 23

A strip of land 66 feet in width which continues across the Northeast 1/4 and the Northeast 1/4 of the Northwest 1/4 of Section 22.

A strip of land 100 feet in width which continues across the West 1/2 of the Northwest 1/4 of Section 22

A strip of land 66 feet in width which continues westerly approximately 4900 feet through the North 1/2 of Section 21 to the east line of Block 7 of the original plat of Hartford *xx change*

In the east half of the Northwest 1/4 of Section 21, a strip of land 100 feet in width lying northerly of and adjoining the 66 foot wide railroad lands. The strip begins at the west line of the east half of the Northwest 1/4 and extends easterly 900 feet on the north line of the strip and 1100 feet easterly on the south line of the strip.

Begin in the east line of the Southwest 1/4 of the Northwest 1/4 of Section 21 where it intersects the north line of the railroad right of way, then north 50 feet along said east line; then southwesterly to a point in the north line of the railroad which is 200 feet westerly of the point of beginning, then easterly 200 feet to the point of beginning

All rights to the crossing of Wisconsin Street lying north of Block 7 of the original plat of Hartford in the Northwest 1/4 of Section 21.

That part of Lots 10 and 11 of Block 6 of the original plat of Hartford lying between the present centerline of the mainline track and a line 25 feet northerly thereof

Also, that part of Lot 9 of said plat lying between the centerline of said track and a line 27 35 feet northerly thereof, all in the Northwest 1/4 of Section 21

All rights to the crossing of Main Street in the City of Hartford in the Northwest 1/4 of Section 21 and the Northeast 1/4 of Section 20.

That part of vacated Wisconsin Street, which is south of Block 5 of the original Town Plat of Hartford that lies between the present centerline of the mainline track and a line 20 feet southerly thereof in the Northeast 1/4 of Section 20.

That part of block 5 of the original plat of Hartford lying south of a line 30 feet northerly of the present centerline on the mainline track, except in the west 40 feet of Lot 4 of said block and except in the east 45 feet of Lot 5 of said Block where the line is 22 feet northerly from the centerline of said track

That part of Johnson Street and State Street in the City of Hartford bounded on the south by the north line of Wisconsin Street and bounded on the north by a line 30 feet northerly of the present centerline of the mainline track, all in the Northeast 1/4 of Section 20

That part of Block 5 of the original plat of Hartford lying southwest of State Street.

That part of Block 4 of the original Town Plat of Hartford lying between the present centerline of the mainline track and a line 50 feet northerly thereof, and between said centerline and a line approximately 20 feet southerly thereof as described in Volume 60 of Deeds on Page 560.

A strip of land 100 feet in width which continues northwesterly from the west line of said Block 4 across the remainder of the Northeast 1/4 of Section 20 and the Northeast 1/4 of the Northwest 1/4 of Section 20.

A strip of land 99 feet in width which continues across the Southwest 1/4 of Section 17 and East 1/2 of the Southeast 1/4 of Section 18

A strip of land 100 feet in width which continues across the West 1/2 of the Southeast 1/4 and the West 1/2 of Section 18, Township 10 North, Range 18 East

IN TOWNSHIP 10 NORTH, RANGE 17 EAST, DODGE COUNTY

A strip of land 99 feet in width which continues across the East 1/2 of the Northeast 1/4 of Section 13.

A strip of land 100 feet in width which continues across the West 1/2 of the Northeast 1/4 and the Northwest 1/4 of Section 13.

A strip of land 99 feet in width which continues across the Northeast 1/4 of the Northeast 1/4 of Section 14

A strip of land 100 feet in width which continues across the Northwest 1/4 of the Northeast 1/4 of Section 14.

The strip of land 100 feet in width continues across the Northeast 1/4 of the Northwest 1/4 of Section 14 and the Southwest 1/4 of the Southeast 1/4 of Section 11

- * A strip of land 99 feet in width which continues across the Southwest 1/4 of Section 11, the Southeast 1/4 of the Southeast 1/4 of Section 10, the Northeast 1/4 and the Northwest 1/4 of Section 15.

- * That part of the Southwest 1/4 of the Southwest 1/4 of Section 11, beginning in the north line of said railroad right of way at the point of intersection with the east line of C.T.R. "P", also known as Main Street of Rubicon, then easterly along said right of way line to the east line of said Southwest 1/4 of the Southwest 1/4, then northerly along said east line 132 feet; then westerly parallel with said right of way to the east line of Block 2 of the plat of Rubicon, then southerly along said east line 66 feet to the southeast corner of said Block 2, then southwesterly 165 feet along the south line of said Block 2 to the east line of said highway; then southerly along said east line to the point of beginning of this description

A strip of land 99 feet in width which continues across the Southwest 1/4 of the Southeast 1/4 of Section 10

- * The Southwest 1/4 of Section 10 and the Southeast 1/4 of Section 9

That part of the Northwest 1/4 of the Southeast 1/4 of Section 9 lying southerly of the above described 99 foot strip of land.

A strip of land 99 feet in width which continues across the Northeast 1/4 of the Southwest 1/4 of Section 9.

A strip of land 100 feet in width which continues across the Southeast 1/4 of the Northwest 1/4 of Section 9

A strip of land 50 feet in width which continues across the West 1/2 of the Northwest 1/4 of Section 9 lying northeasterly of and adjoining the present centerline of track

A strip of land 50 feet in width which continues across the West 1/2 of the Northwest 1/4 of Section 9 lying southwesterly of and adjoining the present centerline of track

A strip of land 99 feet wide which continues across the North 1/2 of the Northeast 1/4 of Section 8

The South 1/2 of the Southeast 1/4 of Section 5

The North 1/2 of the South 1/2 of Section 5.

A strip of land 100 feet in width which continues across the south 50 rods of the Southeast 1/4 of the Northwest 1/4 of Section 5.

A strip of land 99 feet in width which continues northerly of said south 50 rods across the Southeast 1/4 of the Northwest 1/4 and the West 1/2 of the Northwest 1/4 of Section 5, Township 10 North, Range 17 East

IN TOWNSHIP 11 NORTH, RANGE 17 EAST, DODGE COUNTY

- The 99 foot strip continues across the Southwest 1/4 of Section 31. *x Woodlawn*

In the West 1/2 of the Southwest 1/4 of Section 31, begin in the easterly line of the railroad at a point about 628 feet northwesterly of the south line of Section 31, then northerly 425 feet, more or less, along a curve concave to the west, then northwesterly about 460 feet to the easterly line of the railroad, then southerly about 870 feet to the point of beginning

The Southwest 1/4 of the Northwest 1/4 of Section 31.

IN TOWNSHIP 11 NORTH, RANGE 16 EAST, DODGE COUNTY

The 99 foot strip continues across the Northeast 1/4 of the Southeast 1/4 of Section 36

The Northeast 1/4 of Section 36 and the East 1/2 of the Southeast 1/4 of Section 25

A 100 foot strip of land which continues across the Northwest 1/4 of the Southeast 1/4 and the Southwest 1/4 of the Northeast 1/4 of Section 25

- A 99 foot strip of land which continues across the Northwest 1/4 of the Northeast 1/4 and the Northeast 1/4 of the Northwest 1/4 of Section 25, the Southwest 1/4 of Section 24, the Southeast 1/4 and the North 1/2 of Section 23, *xx I R.* the South 1/2 of the Southwest 1/4 of Section 14

In the North 1/2 of the Southeast 1/4 of Section 25, begin in the west line of the railroad at the western end of the bridge over Wildcat Creek, then southwesterly at right angles with the railroad to the Plank Road; then northerly along the Plank Road to the North line of the southeast 1/4, then east along the north line to the west line of the railroad, then southerly along the west line to the point of beginning.

- In the Northwest 1/4 and Northeast 1/4 of Section 25, the southwesterly 15 feet of a tract of land that begins at the intersection of the easterly line of the railroad with the west line of Mayville and Fond du Lac Plank Road, then northwesterly 650 feet along the west line; then southwesterly at right angles to the Plank Road, to the easterly line of the railroad, then southeasterly along the easterly line of the railroad to the point of beginning *xx SKIN RIBBE*

That part of the Southeast 1/4 of the Northeast 1/4 of Section 23 lying southwest of the above described 99 foot railroad right of way and east of the fence near the brook.

The 99 foot strip continues across the Northwest 1/4 of the Southwest 1/4 of Section 14,

- and the Southeast 1/4 of Section 15

A strip of land 100 feet in width which continues across the Southwest 1/4 of the Northeast 1/4 of Section 15.

- The Northwest 1/4 of Section 15, the East 1/2 of the Northeast 1/4 of Section 16.

The Northwest 1/4 of the Northeast 1/4 of Section 16,

and the Southwest 1/4 of the Southeast 1/4 of Section 9

- A strip of land 99 feet in width which continues across the Southwest 1/4 of Section 9

- That part of the Southeast 1/4 of Section 9 beginning at a point in the south line of said Section 181 5 feet east of the point of intersection of the northeasterly line of said railroad with the south line of said Section; then

westerly along said south line 181 5 feet, then northwesterly along said railroad line 198 feet, then northerly 198 feet to an oak stump, then southeasterly 445 5 feet to the point of beginning of this description

- A strip of land 99 feet in width which continues across the East 1/2 of Section 8.
- A 66 foot strip of land which continues across the Northwest 1/4 of Section 8
- A 99 foot strip of land which extends across the Northeast 1/4 of Section 7.

A 100 foot strip of land which extends across the Southeast 1/4 of the Southeast 1/4, Government Lot 3 and Race Street of Section 6 Blocks 5, 18, 19 and 20 of the south addition to Horicon, vacated Rich and Larabee Streets, the South 1/2 of vacated Pacific Street and the North 1/2 of vacated Michigan Street from the west line of Race Street to the west line of said addition, being a strip of land 115 feet wide across the Southeast 1/4 of the Southwest 1/4 of Section 6.

Also, those lands in Volume 170 of Deeds, Page 176 and Volume 170 of Deeds on Page 178, being in the Southeast 1/4 of the Southwest 1/4 of Section 6

A 99 foot strip of land which extends across the Southwest 1/4 of the Southwest 1/4 of Section 6 together with Volume 170 of Deeds, Page 177.

That part of Government Lot 3 in Section 6, Town 11 North, Range 16 East which lies west of Hubbard Street and south of Gray Street.

All rights to the crossing of public lands in the Southwest 1/4 of the Southeast 1/4 and the Southeast 1/4 of the Southwest 1/4 of Section 6, namely, the Rock River and Valley Street

That part of Lot 1, Block 1 of Conitts Addition to Horicon in the Southwest 1/4 of the Southwest 1/4 of Section 6 lying between lines 49 5 feet and 150 feet southwesterly of the centerline of the main track of said railroad, as measured normal to said centerline Except those lands lost by adverse possession.

A 100 foot strip of land which extends across the Northwest 1/4 of the Southwest 1/4 of Section 6.

IN TOWNSHIP 11 NORTH, RANGE 15 EAST, DODGE COUNTY.

• A strip of land 100 feet in width which extends across the Southeast 1/4 and the east 60 acres of the Southwest 1/4 of Section 1.

A strip of land 99 feet in width which extends across the remaining portion of the Southwest 1/4 of Section 1, Township 11 North, Range 15 East, to Milepost 140 27, said point is located in the west line of said Section 126.4 feet southerly of the northwest corner of the southwest one-quarter of said section

Said parcel, tract or strip contains 571 35 acres, more or less.

REEL 596 PAGE 590

1248805
 REGISTER'S OFFICE
 DODGE COUNTY, WIS.
 RECORDED ON
 1904 MAR -9 AM 9 14
 REEL 596 PAGE 582
H. L. H. H.
 REGISTER OF DEEDS

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VOL 580 PAGE 839

MAR 14 8 55 AM '84

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Document #
Received this 14 day of Mar 1984 at 8:55 a.m.
and recorded in Vol. 580
of Records Page 839-844
Roger E. Hill
REGISTER OF DEEDS, DODGE CO.

AWARD OF DAMAGES
BY STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
Section 84.09(2), 85.09

DOCUMENT NO.

This award of damages is made pursuant to an acquisition order of the State of Wisconsin Department of Transportation dated January 26, 1984, and filed in the office of the County Clerk of Dodge and Fond du Lac Counties, for the present or future transportation, recreational, or scenic purposes in said counties.

The State of Wisconsin has determined it necessary to acquire, for the purpose set forth in and in accordance with said acquisition order, property as hereinafter set forth, in and to which the following persons may have an interest: Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor.

The interest acquired by this award is for the interest, if any, of the owner in the abandoned railroad property including land, trestles, bridges, culverts, buildings, rail, ties, and related track materials extending from a southerly point at railroad milepost 139.0 at Horicon, Wisconsin; thence in a northerly direction to a north point at railroad milepost 169.80 near STH 44 at Ripon, Wisconsin, a distance of 30.8 miles, all located in Dodge and Fond du Lac Counties, as more particularly described in the attached description comprising pages 1 to 5, inclusive, and made a part hereof.

It is the intent of this document to correct the legal description of the original award of damages as recorded on March 24, 1980 in Volume 525, Pages 249-253, as document No. 631800 in the Office of the Register of Deeds for Dodge County; recorded on March 28, 1980 in Volume 811, Pages 160-164, as document No. 358348 in the Office of the Register of Deeds for Fond du Lac County; and recorded on April 7, 1980 in Volume 51, Pages 211-214 of Railroad Mortgages in the Office of the Secretary of State of Wisconsin.

Said property will be occupied by the State of Wisconsin or its agents on February 25, 1984.

The State of Wisconsin, having complied with all jurisdictional requirements pursuant to law, hereby makes this award of damages to the above Trustee that may have an interest in said property, in the sum of EIGHT HUNDRED THIRTY THOUSAND NINETY AND NO/100 Dollars (\$830,090.00), for acquisition of property as hereinbefore set forth.

The herein stated consideration of \$830,090.00 was paid on March 21, 1980 to above Trustee via State of Wisconsin check #0034073, dated March 20, 1980.

RECEIVED FOR RECORD

7 DAY OF Mar
A.D., 1984, at 8
O'CLOCK AM AND RECORDED IN
VOL 873 OF Records PAGE 851-856

Mary A. Brickle
Register of Deeds

Fond du Lac County

Project 1000-21-67

(1689-14)

State of Wisconsin
Department of Transportation
Lowell B. Jackson FEB 20 1984
Lowell B. Jackson, P.E. Date
Secretary

This instrument was drafted by the State of Wisconsin, Department of Transportation.

Parcel No. 1

VOL 873 PAGE 851

Atty Gen's Office
J.C. Brown & Co. 449 W. Wisconsin St.

IN TOWNSHIP 11 NORTH, RANGES 16 AND 15 NORTH OF THE EXTENDED FOURTH PRINCIPAL MERIDIAN, TOWNS OF HUBBARD AND OAK GROVE, DODGE COUNTY.

A strip of land, 5 rods in width lying 2-1/2 rods in width on either side of a centerline as laid out and located, that begins at a point on the centerline of the C M St P & P RY. Horicon-Portage Line, at milepost 139.5 of said line, which point is located in the SW 1/4-SW 1/4 of Section 6, T 11 N, R 16 E. Thence said centerline runs northwesterly on a curve, concave to the northeast for a distance of 871 feet, thence running northwesterly, as laid out and located, through the W 1/2-SW 1/4, Section 6, T 11 N, R 16 E, the NE 1/4-SW 1/4, E 1/2-NE 1/4 and NW 1/4-NE 1/4, Section 1, T 11 N, R 15 E to the north line of said Section 1 which is also the south line of the Town of Burnett, Dodge County.

ALSO all that part of Lot 1 of Block 1 of Connatts Addition in the SW 1/4-SW 1/4, Section 6, T 11 N, R 16 E, lying northerly of the main line of the said C M. St P & P RY, Horicon-Portage line

ALSO that part of the said W 1/4-SW 1/4 Section 6, lying southwesterly of the above described strip of land and northerly of the north line of the above mentioned Horicon-Portage line

AND ALSO that part of the said NE 1/4-SE 1/4 Section 1 lying northeasterly of the above described strip of land

AND ALSO a strip of land conveyed by warranty deed dated July 29, 1918 and recorded in Volume 170 on Page 185, records for Dodge County and more particularly described as follows

"A strip of land fifty (50) feet wide, having twenty-five (25) feet of such width on each side of the center line of a proposed Wye track as now there surveyed and staked out upon the ground and extending across that portion of Chandler's Addition to Horicon in the South East Quarter of Section One, Town Eleven North, Range Fifteen East, lying between the right of way of the Portage line of the Railway Company and the right of way of its Oshkosh branch said center line of Wye track being more particularly described as follows

Starting at a point on the main track of said Portage line, 662 feet more or less, northwesterly of the East line of said Section One, measured along said center line, thence Easterly on a six (6) degree .05 minute curve 94 feet, thence Northerly on a twelve (12) degree curve 1155 feet to a connection with the most Southerly side track of said Oshkosh branch at a point 145 feet more or less, Northwesterly of said East line of said Section One, measured along said side track. The land hereby conveyed embracing a portion of Block Seven (7), Pacific Street, Columbus Street, Grand Street, Oshkosh Street and Vliet Street, all in said Chandler's Addition to Horicon, Dodge County, Wisconsin "

IN TOWNSHIP 12 NORTH, RANGE 15 EAST OF THE EXTENDED FOURTH PRINCIPAL MERIDIAN, TOWN OF BURNETT, DODGE COUNTY

A strip of land 5 rods in width lying 2-1/2 rods in width on either side of a centerline that continues northwesterly from the last described course, as laid out and located beginning at the south line of Section 36 T 12 N, R 15 E, which is also the south line of the Town of Burnett, running northwesterly through the SW 1/4-SE 1/4, E 1/2-SW 1/4, NW 1/4-SW 1/4 and the SW 1/4-NW 1/4, Section 36, the E 1/2-NE 1/4 and NW 1/4-NE 1/4, Section 35, the W 1/2-SE 1/4, E 1/2-SW 1/4, S 1/2-NW 1/4 and NW 1/4-NW 1/4, Section 26, the NE 1/4-NE 1/4 Section 27, the S 1/2-SE 1/4, NW 1/4-SE 1/4, NE 1/4-SW 1/4, E 1/2-NW 1/4 and NW 1/4-NW 1/4, Section 22, the SW 1/4-SW 1/4, Section 15, the E 1/2-SE 1/4, NW 1/4-SE 1/4, SW 1/4-NE 1/4, E 1/2-NW 1/4 and NW 1/4-NW 1/4, Section 16, the S 1/2-SW 1/4 and NW 1/4-SW 1/4, Section 9, the NE 1/4-SE 1/4, S 1/2-NE 1/4 and NW 1/4-NE 1/4, Section 8, the SW 1/4-SE 1/4, E 1/2-SW 1/4 and E 1/2-NW 1/4 of Section 5, all in T 12 N, R 15 E, to the north line of said Section 5, which is also the line common to the towns of Burnett and Chester.

ALSO all that part of the said E 1/2-SE 1/4, Section 16 lying easterly of the east line of Market Street, north of the south line of Main Street as formerly laid out through said E 1/2-SE 1/4, easterly of said Market Street, and southwesterly of the aforescribed right of way.

AND ALSO all that part of the SE 1/4-SE 1/4, said Section 16, lying westerly of the C & NW RY right of way and easterly of a line located 20 feet westerly of and parallel to the centerline of a connection track between trackage of the said C & NW RY and trackage of the C M St P & P RY

AND ALSO all that part of Government Lot 3 (NE 1/4-NW 1/4) said Section 5, lying within 200 feet westerly of the centerline

IN TOWNSHIP 13 NORTH, RANGE 15 EAST OF THE EXTENDED FOURTH PRINCIPAL MERIDIAN
TOWN OF CHESTER, DODGE COUNTY

A strip of land, 5 rods in width, lying 2-1/2 rods in width on either side of a centerline that continues northerly from the last described course, as laid out and located, beginning at the south line of Section 32, T 13 N, R 15 E, which is also the south line of the Town of Chester, running northerly through the W 1/2-SE 1/4 and W 1/2-NE 1/4, Section 32, the W 1/2-SE 1/4 and W 1/2-NE 1/4, Section 29, the W 1/2-SE 1/4 and W 1/2-NE 1/4, Section 20, the W 1/2-SE 1/4 and W 1/2-NE 1/4, Section 17, the W 1/2-SE 1/4 W 1/2-NE 1/4 and NE 1/4-NW 1/4, Section 8, the SW 1/4-SE 1/4, NW 1/4-SE 1/4, NE 1/4-SW 1/4, SW 1/4-NE 1/4, SE 1/4-NW 1/4, Government Lot 2 (NW 1/4-NE 1/4), Government Lot 3 (NE 1/4-NW 1/4) Section 5, all in T 13 N, R 15 E, to the north line of said Section 5 which is also the north line of Dodge County

ALSO all that part of said NE 1/4-NW 1/4, Section 8, lying within 50 feet westerly of the said centerline

IN TOWNSHIP 14 NORTH, RANGE 14 AND 15 EAST OF THE EXTENDED FOURTH PRINCIPAL
MERIDIAN, TOWNS OF WAUPUN AND ALTO, FOND DU LAC COUNTY

A strip of land 5 rods in width lying 2-1/2 rods in width on either side of a centerline that continues northerly from the last described course, as laid out and located, beginning at the south line of Section 32, T 14 N, R 15 E, at the south 1/4 corner thereof which is also the south line of Fond du Lac County, running northerly through the W 1/2-SE 1/4, E 1/2-SW 1/4 and E 1/2-NW 1/4, Section 32, the S 1/2-SW 1/4, NW 1/4-SW 1/4 and W 1/2-NW 1/4, Section 29, the NE 1/4-NE 1/4, Section 30, the E 1/2-SE 1/4, SE 1/4-NE 1/4 and W 1/2-NE 1/4, Section 19, the W 1/2-SE 1/4, E 1/2-SW 1/4, E 1/2-NW 1/4 and Government Lot 1 (NW 1/4-NW 1/4), Section 18, Government Lots 1, 2, 3, and 4, Section 7, all in T 14 N, R 15 E, the NE 1/4-NE 1/4, Section 12, the E 1/2-SE 1/4, NW 1/4-SE 1/4, SE 1/4-NE 1/4 and W 1/2-NE 1/4, Section 1, all in T 14 N, R 14 E to the north line of said Section 1, T 14 N, R 14 E which is the south line of T 15 N, R 14 E

ALSO all that part of the SW 1/4-SE 1/4, said Section 32, bounded by a traverse which begins at a point on the centerline, 25 rods northerly from the south line of said Section 32, thence East at right angles 8 rods, thence North, parallel to the centerline, to the north line of said SW 1/4-SE 1/4; thence west along the north line thereof, 8 rods to the centerline, thence south along the centerline to the point of beginning, excepting therefrom all that part of Lester Sexton's Addition to the Village of East Waupun (now City of Waupun) conveyed by Deed dated July 30, 1874 and recorded on October 22, 1983 in Volume 98 of Deeds on Page 630, office of the Register of Deeds, Fond du Lac County.

AND ALSO all that part of the SE 1/4-SW 1/4, said Section 32 bounded by a traverse which begins at the point of beginning of the above traverse and runs thence west, at right angles to the centerline, 7 1/2 rods, thence north, parallel to the centerline, 54 rods, thence east 7 1/2 rods to the centerline, thence south along the centerline, 54 rods to the point of beginning.

AND ALSO, that certain piece or parcel of land conveyed by Quit Claim Deed dated November 6, 1899 and recorded in Volume 124 of records for Fond du Lac County, on Page 330

IN TOWNSHIP 15 NORTH, RANGE 14 EAST OF THE EXTENDED FOURTH PRINCIPAL MERIDIAN,
TOWN OF METOMEN, FOND DU LAC COUNTY

A strip of land 5 rods in width lying 2 1/2 rods in width on either side of a centerline that continues northerly from the last described course, as laid out and located, beginning at the south line of Section 36, T 15 N, R 14 E, running northerly through the SW 1/4-SE 1/4, E 1/2-SW 1/4, E 1/2-NW 1/4 and the NW 1/4-NW 1/4, Section 36, the W 1/2-SW 1/4 and SW 1/4-NW 1/4, Section 25; the E 1/2-NE 1/4, Section 26, the E 1/2-SE 1/4, NW 1/4-SE 1/4 and W 1/2-NE 1/4, Section 23, the SW 1/4-SE 1/4, E 1/2-SW 1/4, E 1/2-NW 1/4 and NW 1/4-NW 1/4, Section 14, the W 1/2-SW 1/4 and SW 1/4-NW 1/4, Section 11, the NE 1/4-SE 1/4 and E 1/2-NE 1/4, Section 10, the SE 1/4, W 1/2-NE 1/4 and Government Lot 3, Section 3, all in T 15 N, R 14 E, to the north line of said Section 3, T 15 N, R 15 E which is also the south line of T 16 N, R 14 E

ALSO all that part of the SW 1/4-SW 1/4, said Section 25 bounded by a traverse which begins at a point 2 rods west and 2 rods north of the southeast corner of said SW 1/4-SW 1/4 and running thence north parallel to the east line thereof 264 feet, thence west parallel with the south line thereof 264 feet; thence south, parallel with the east line thereof 264 feet, thence easterly 264 feet to the point of beginning, excepting therefrom a parcel described as beginning at the northwest corner of the above parcel, thence south along the west line thereof 93 feet, thence easterly and northerly a distance of 65 feet to a point 2 1/2 rods westerly at right angles from the centerline, thence northwesterly parallel with the centerline to the north line of the above described parcel, thence westerly along the north line thereof 35 5 feet to the point of beginning of the parcel being excepted

AND ALSO a strip of land described as follows Commencing at a point on the north line of the NE 1/4-NE 1/4, Section 10, T 15 N, R 14 E, 2 1/2 rods east of, at right angles from the centerline, thence southerly, parallel to the centerline 825 feet, thence east, parallel with the north line of said NE 1/4-NE 1/4, 132 feet, thence northerly, parallel with the centerline 825 feet, thence westerly 132 feet to point of commencement

ALSO a certain piece or parcel of land, near the North West corner of the South West quarter of Section Eleven (11) in Town Fifteen (15) North of Range Fourteen (14) East, commencing in the center of the highway at a point five rods or thereabout South of the North West corner of said quarter section, thence running East twenty (20) feet to the West line of the right of way of said Chicago, Milwaukee, and St. Paul Railroad Company, thence along the West line of said right of way South East One Hundred and Sixty Four (164) feet, thence West Seventy Two (72) feet to the centerline of said highway, thence along said centerline North to the place of beginning

IN TOWNSHIP 16 NORTH, RANGE 14 EAST OF THE EXTENDED FOURTH PRINCIPAL MERIDIAN,
TOWN OF RIPON, FOND DU LAC COUNTY

A strip of land, 5 rods in width, lying 2 1/2 rods in width on either side of a centerline that continues northerly from the last described course, as laid out and located, beginning at the south line of Section 34, T 16 N, R 14 E, running northerly through the E 1/2-SW 1/4, the SE 1/4-NW 1/4 and W 1/2-NW 1/4, Section 34, the W 1/2-SW 1/4, Section 27, the NE 1/4-SE 1/4 and E 1/2-NE 1/4, Section 28, the S 1/2-SE 1/4 and the S 18 rods of the N 1/2-SE 1/4, Section 21, all in T 16 N, R 14 E to a point 18 rods north of the south line of the said N 1/2-SE 1/4 of said Section 21

The centerline continues northerly, for purposes of continuity from the last described course, as laid out and located, to a point on the east and west 1/4 line of Section 16, T 16 N, R 14 E

ALSO all that part of the SW 1/4-SE 1/4, said Section 21, T 16 N, R 14 E bounded by a traverse which begins at a point on the center of East Fond du Lac Road 12.5 feet west of the centerline of the westerly side track of the C M St P & P RY; thence southeasterly, parallel with the centerline of said side track to the east line of said SW 1/4-SE 1/4, thence north on said east line to the center of said East Fond du Lac Road, thence westerly along said centerline to the point of beginning

AND ALSO Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9 of the Depot Addition of the City of Ripon in the NW 1/4-SE 1/4, said Section 21

AND ALSO a parcel of land conveyed by quit claim deed, dated June 26, 1854 and recorded in Volume 4 on Pages 160 and 161, records for Fond du Lac County and more particularly described as follows

"Commencing at a point on the north and south (1/8) Section line of the northeast quarter of Section Twenty one (21) in Town Sixteen (16) North, Range Fourteen (14) twelve rods north of the south line of said quarter section, thence east ten rods, thence south parallel with the said north and south (1/8) sec line and the north and south 1/8 Section line of the south east quarter of said Section seventy four rods, thence west twenty rods, thence north parallel with the said 1/8 Section lines seventy four rods thence east ten rods to the place of beginning "

AND ALSO the south 48 feet of the west 179 feet of the SE 1/4-NE 1/4, said Section 21

AND ALSO all that part of former Goodrich Street vacated by ordinance of the City of Ripon, being a part of the SE 1/4-NE 1/4 of Section 21, T 16 N, R 14 E, and shown on the right of way plat of railroad project 1000-21-67, as railroad parcel 38, on Page 4 27, as said plat is filed with the Clerk of Fond du Lac County, Wisconsin

AND ALSO all that part of the SE 1/4-NE 1/4, said Section 21 lying within 2 1/2 rods easterly of the centerline

AND ALSO the east 2 1/2 rods of the W 1/2-NE 1/4, and the west 2 1/2 rods of the NE 1/4-NE 1/4, said Section 21

AND ALSO all that part of Motley Street in the City of Ripon or originally platted which lies within 25 feet easterly of the centerline

AND ALSO the west 2 1/2 rods of the E 1/2-SE 1/4, Section 16, T 16 N, R 14 E

AND ALSO that parcel of land described in a certain warranty deed dated January 14, 1867 and recorded in Volume 46 of records, on Page 231, records for Green Lake County, as follows

"Beginning at a point in the North line of the Fond du Lac Road forty one and one half feet directly west from the center of the Main track of the Milwaukee and St Paul Railway Track Company (formerly Milwaukee and Horicon Rail Road Company) and running thence North on a line parallel with said main track and 41 feet West therefrom to Grand Street thence directly West Eighty nine (89) feet; thence South to a point, in the North line of said Fond du Lac Road One hundred and thirty one and one half feet directly west of the center of said main track, thence South Easterly along the North line of said Fond du Lac Road to the place of beginning "

AND ALSO

"All that part of the Southeast Quarter (SE 1/4) of Section Sixteen (16), Township Sixteen (16) North, Range Fourteen (14) East, which is more particularly described as follows

Commence in the center of Oshkosh Street in the City of Ripon where the east line of the right of way of said Grantees intersects the center of said street, thence north on said east line of the Grantees' right of way Two Hundred Eighty-three (283) feet to the point of beginning of the land to be described; thence continue north along said east right of way line Three Hundred (300) feet, thence east and parallel with the center line of said Oshkosh Street One Hundred Forty (140) feet, thence south and parallel with said east line of the Grantees' right of way Three Hundred (300) feet, thence west and parallel with the center line of said Oshkosh Street One Hundred Forty (140) feet to the place of beginning, containing 0.96 of an acre, more or less, and being subject to an easement for side track purposes over and across the southwest corner of the land hereby conveyed, which easement is more particularly described in deed dated February 26th, 1931 from said Grantors to the Wadhams Oil Company and recorded in the office of the Register of Deeds of said Fond du Lac County on March 30th, 1931 in Volume 237 of deeds on page 402 "

AND ALSO all that part of the NE 1/4-SE 1/4, said Section 16, lying northerly of the Ripon Agricultural fair grounds, and within 2 1/2 rods easterly of the centerline, except all that part sold by QCD, dated 12/5/83, to Ripon Foods, Inc.

AND ALSO all that part of the SW 1/4-SE 1/4, said Section 16, lying within 45 feet westerly of the centerline, except the westerly 5 feet of the south 495 feet thereof

Said parcel, tract or strip of land contains 340 00 acres, more or less

*By Als / Ripon / Grand
PO 1016-19
Waukegan 53187 #1
you*

Horicon-Ripon
Project 1000-21-67

Page 5 of 5 Pages

Parcel 1

MAR 14 8 54 AM '84
14 King 665766

396811

Document #
 Received this 14 day of Mar 1984 at 1:34 A.M.
 and recorded in Vol. 580
 of Record Page 833-838
Register of Deeds, Dodge Co.

State of Wisconsin Department of Transportation

AWARD OF DAMAGES
 BY STATE OF WISCONSIN
 DEPARTMENT OF TRANSPORTATION
 Section 84.09(2), 85.09

DOCUMENT NO.

This award of damages is made pursuant to an acquisition order of the State of Wisconsin Department of Transportation dated January 26, 1984, and filed in the office of the County Clerk of Dodge and Fond du Lac Counties, for the present or future transportation, recreational, or scenic purposes in said counties.

The State of Wisconsin has determined it necessary to acquire, for the purpose set forth in and in accordance with said acquisition order, property as hereinafter set forth, in and to which the following persons may have an interest: Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor.

The interest acquired by this award is for the interest, if any, of the owner in the abandoned railroad property including land, trestles, bridges, culverts, buildings, rail, ties, and related track materials extending from a southerly point at railroad milepost 133.0 near STH 67 at Iron Ridge, thence in a northerly direction to a northerly point at railroad milepost 160.73 near Forest Avenue at Fond du Lac, Wisconsin, a distance of 27.73 miles, (less the C&NW trackage from railroad milepost 157.47-158.88), all located in Dodge and Fond du Lac Counties, as more particularly described in the attached description comprising pages 1 to 5, inclusive, and made a part hereof.

It is the intent of this document to correct the legal description of the original award of damages as recorded on March 24, 1980 in Volume 525, Pages 254-257, as document No. 631801 in the Office of the Register of Deeds for Dodge County; recorded on March 28, 1980 in Volume 811, Pages 165-168, as document No. 358349 in the Office of the Register of Deeds for Fond du Lac County; and recorded on April 7, 1980 in Volume 51, Pages 204-206 of Railroad Mortgages in the Office of the Secretary of State of Wisconsin.

Said property will be occupied by the State of Wisconsin or its agents on February 25, 1984.

The State of Wisconsin, having complied with all jurisdictional requirements pursuant to law, hereby makes this award of damages to the above Trustee that may have an interest in said property, in the sum of TWO HUNDRED THIRTY SIX THOUSAND SEVEN HUNDRED EIGHTY AND NO/100 Dollars (\$236,780.00), for acquisition of property as hereinbefore set forth.

The herein stated consideration of \$236,780.00 was paid on March 21, 1980 to above Trustee via State of Wisconsin check #0034078, dated March 20, 1980.

RECEIVED FOR RECORD

7 DAY OF Mar
 A.D., 1984, at 1:34
 O'CLOCK AM AND RECORDED IN
 VOL 873 OF RECORD PAGE 866-871

Mary A. Brickle
 Register of Deeds

Fond du Lac County

Project 1000-22-24

(1689-12)

State of Wisconsin
Department of Transportation

Lowell B. Jackson, P.E. FEB 20 1984
 Secretary Date

This instrument was drafted by the State of Wisconsin, Department of Transportation.

Parcel No. 1

VOL 873 PAGE 866

State of Wisconsin
 Department of Transportation
 1000-22-24
 1689-12

A parcel or strip of railroad property as now located in Dodge and Fond du Lac Counties, State of Wisconsin, described as follows:

IN TOWNSHIP 11 NORTH, RANGE 16 EAST, DODGE COUNTY

From a point in the centerline of the Iron Ridge to Fond du Lac section of said railroad at Milepost 133.0 which is approximately 1180 feet east and 840 feet north of the southwest corner of Section 24, Township 11 North, Range 16 East, proceed northwesterly approximately 260 feet along said centerline to the northeasterly property line of the North Milwaukee to Horicon section of said railroad and point of beginning of a 50 foot wide strip of land which extends northerly across the Southwest 1/4 and Northwest 1/4 of Section 24, Township 11 North, Range 16 East

A strip of land approximately 50 feet in width which continues across the Southwest and Northwest 1/4 of Section 13

A strip of land 60 feet in width which continues across the Southwest 1/4 of Section 12

A strip of land 50 feet in width which continues across the Southwest 1/4 of the Northwest 1/4 of Section 12, and the Southeast 1/4 of the Northwest 1/4 of Section 12

The Northwest 1/4 of the Northwest 1/4 of Section 12 and the East 1/2 of the Southeast 1/4 of Section 2,

And the Southeast 1/4 of the Northeast 1/4 of Section 2,

And the Northeast 1/4 of the Northeast 1/4 of Section 2, Township 11 North, Range 16 East

All rights in the public roads in the Southwest 1/4 of the Southwest 1/4 of Section 1, Township 11 North, Range 16 East.

All interests and rights the railroad has under agreements entered into with the Mayville White Lime Works, Custodian No S-996, dated January 3, 1907 and Custodian No. S-1323, dated August 13, 1909 which are located in the Southwest 1/4 of Section 1 and the Southeast 1/4 of Section 2

IN TOWNSHIP 12 NORTH, RANGE 16 EAST, DODGE COUNTY.

The 50 foot strip of land, whose centerline is the present centerline of track, continues across the Southeast 1/4 of the Southeast 1/4 of Section 35,

The North 1/2 of the Southeast 1/4 of Section 35,

The Northeast 1/4 of Section 35,

The Northwest 1/4 of Section 35, and Southwest 1/4 of Section 26,

The Northwest 1/4 of Section 26, and Southwest 1/4 of Section 23.

That part of the Southeast 1/4 of the Northwest 1/4 of Section 26 which begins at the intersection of the north line of the Southeast 1/4 of the Northwest 1/4 with the west line of the 50 foot strip of land, then westerly along said north line to a point 270 feet westerly of, as measured normal to, the centerline of the 50 foot strip of land, then southerly parallel with said centerline 577.28 feet, then southeasterly and to the right along a curve (said curve is 25 feet southwesterly of the wye track 12° curve) to a point 75 feet westerly of, as measured normal to, said centerline, then southerly parallel with said centerline, to the south line of the Southeast 1/4 of the Northwest 1/4; then easterly along said south line to a point in the west line of the 50 foot strip of land, then northerly to the point of beginning

- The 50 foot strip of land continues across the Northwest 1/4 of the Southeast 1/4 of Section 23,

- Across that part of the Southwest 1/4 of the Northeast 1/4 of Section 23 lying south of a property line which is 188 76 feet south of the north line of the Southwest 1/4 of the Northeast 1/4, and

Across the north 188.76 feet of the Southwest 1/4 of the Northeast 1/4 of Section 23 *Mayville*

That part of the Southwest 1/4 of the Northeast 1/4 of Section 23 described in Volume 118 of Deeds on Page 393

The 50 foot strip of land, whose centerline is the centerline of the existing main tract, extends across Block 29 and 30 of Tower's Addition to Mayville in the Northwest 1/4 of the Northeast 1/4 of Section 23

That part of Lots 12 to 16 in said Block 29 lying within 25 feet of the original centerline of the railroad.

That part of Lots 27, 28 and 29 of said Block 30 lying west of the 50 foot strip of land

All rights in the public streets in the Northwest 1/4 of the Northeast 1/4 of Section 23

A strip of land 50 feet in width which runs northerly 1240 feet from the south line of the Southeast 1/4 of Section 14 to the centerline of the Rock River as described in Volume 134 of Deeds, Page 405 and Volume 170 of Deeds on Page 63, and in H. Schwarzenholz lands condemned on August 17, 1904

A strip of land 100 feet in width which continues northerly from the centerline of the Rock River, 2075 5 feet across a portion of the Southeast 1/4 and Northeast 1/4 of Section 14

A 50 foot strip of land whose centerline is the present centerline of track continues northeasterly approximately 620 feet to the east line of Section 14

The strip of land of variable width continues northeasterly 590 feet to a property line as described in Volume 213 of Deeds on Page 554 and Volume 81 of Deeds on Page 137, Volume 134 of Deeds on Page 411, Volume 167 of Deeds on Page 616, and lands condemned in Volume 28 on Page 547.

All rights in the public road in the Southwest 1/4 of the Northwest 1/4 of Section 13

The centerline of track continues to the north line of the Northwest 1/4 of Section 13 and includes lands described in Volume 28 on Page 54, Volume 28 on Page 538, a 48 foot strip of land lying easterly of the above parcels in the Southwest 1/4 of the Northwest 1/4 of Section 13, Volume 65 of Deeds on Page 333, and Volume 170 of Deeds on Page 62

A 60 foot strip of land described in Volume 84 of Deeds on Page 415 located in the Southeast 1/4 of the Southwest 1/4 of Section 12 and a parcel of land adjoining it as condemned in Volume 28 on Page 552

A 14 foot strip of land which continues across the Southwest 1/4 of the Southeast 1/4 of Section 12 together with a permanent easement described in Volume 217 of Deeds on Page 36

A 50 foot strip of land which continues across the Northwest 1/4 of the Southeast 1/4 and the Southwest 1/4 of the Northeast 1/4 of Section 12

A 60 foot strip of land which continues across the East 1/2 of the Northeast 1/4 of Section 12

A 50 foot strip of land which continues across the Southeast 1/4 of the Southeast 1/4 of Section 1, Township 12 North, Range 16 East,

The Northeast 1/4 of the Southeast 1/4 and the Southeast 1/4 of the Northeast 1/4 of Section 1

IN TOWNSHIP 12 NORTH, RANGE 17 EAST, DODGE COUNTY.

A 48 foot strip of land continues across the Southwest 1/4 of the Northwest 1/4 of Section 6, Township 12 North, Range 17 East.

A 50 foot strip of land continues across the Northwest 1/4 of the Northwest 1/4 of Section 6

IN TOWNSHIP 13 NORTH, RANGE 17 EAST, DODGE COUNTY

A 50 foot strip of land which continues across the Southwest 1/4 of the Southwest 1/4 of Section 31, Township 13 North, Range 17 East,

Across the Northwest 1/4 of the Southwest 1/4 of Section 31,

Across the East 1/2 of the Southwest 1/4, the West 1/2 of the Northwest 1/4 and the Northwest 1/4 of the Northeast 1/4 of Section 31

A 66 foot strip of land which continues across the South 1/2 of the Southwest 1/4 of the Southeast 1/4 of Section 30

A 62 foot strip of land which continues across the North 1/2 of the Southwest 1/4 of the Southeast 1/4 of Section 30

A 60 foot strip of land which continues across the Northwest 1/4 of the Southeast 1/4 of Section 30

A strip of land measured 30 feet easterly of and 30 feet westerly of the present centerline of track in the West 1/2 of the Northeast 1/4,

And the Northeast 1/4 of the Northeast 1/4 of Section 30,

And a strip of land lying between said track and a line 25 feet easterly of said track in the Southeast 1/4 of the Northeast 1/4 of Section 30.

Part of a strip of land 50 feet in width in the East 1/2 of the Southeast 1/4 of Section 19

X Part of a strip of land 50 feet in width in the West 1/2 of the Southeast 1/4 of Section 19

A 60 foot strip of land which continues across the Northeast 1/4 of Section 19

A 50 foot strip of land which continues across the South 1/2 of the Southeast 1/4 of Section 18,

• And the North 1/2 of the Southeast 1/4 of Section 18.

All interests and rights the railroad has under agreements entered into with the Nast Brothers Lime and Stone Co , Custodian No S 2006, dated September 8, 1913 which is in the northwest 1/4 of the Southeast 1/4 of Section 18

A 60 foot strip of land which continues across the South 1/2 of the Northeast 1/4 of Section 18,

And the North 1/2 of the Northeast 1/4 of Section 18

(A 50 foot strip of land which continues across the Southeast 1/4 of Section 7, and the West 1/2 of the Southwest 1/4 of Section 8,

The Northeast 1/4 of the Southwest 1/4 of Section 8,

And the southerly 886 feet of the Southeast 1/4 of the Northwest 1/4 of Section 8 to a property line

A 60 foot strip of land which continues across the remainder of the Northwest 1/4 of Section 8

Begin at the intersection of the north line of Section 8 with the east line of the 60 foot strip of land; then south 1000 feet along said east line; then east 40 feet at right angles to said east line, then north, parallel with said east line, to the north line of Section 8, then westerly to the point of beginning.

The 60 foot strip of land continues across the Southeast 1/4 of the Southwest 1/4 of Section 5,

And the Northeast 1/4 of the Southwest 1/4 of Section 5

The east 60 feet of the Northwest 1/4 of Section 5, Township 13 North, Range 17 East.

IN TOWNSHIP 14 NORTH, RANGE 17 EAST, FOND DU LAC COUNTY.

- The 60 foot strip of land continues across the Southeast 1/4 of the Southwest 1/4 of Section 32,

- The Southeast 1/4 and the Northeast 1/4 of Section 32, the East 1/2 of Section 29,

- The Northwest 1/4 of Section 28, and the Southwest 1/4 of the Southwest 1/4 of Section 21

- The Northwest 1/4 of the Southwest 1/4 and the Southwest 1/4 of the Northwest 1/4 of Section 21.

- A strip of land 50 feet in width continues across the Northwest 1/4 of the Northwest 1/4 of Section 21

Begin at the intersection of the east line of the 60 foot strip with the south line of the Northwest 1/4 of Section 21, then east 66 feet along the south line of the Northwest 1/4, then northerly 396 feet to a point 53 feet east of the east line of the 60 foot strip then northerly 132 feet to the east line of a public highway, then west 49 5 feet to the east line of the 60 foot strip, then southerly along the east line of the 60 foot strip to the point of beginning.

- A strip of land 60 feet in width continues across the Southwest 1/4 of Section 16

- A strip of land 49.5 feet in width continues across the Northwest 1/4 of Section 16

- A strip of land 40 feet wide on the south end and 60 feet wide on the north end and running entirely across the West 1/2 of the Southwest 1/4 of Section 9

- A strip of land 60 feet in width which continues across the West 1/2 of the Northwest 1/4 of Section 9, and East 1/2 of the Northeast 1/4 of Section 8, and the south 10 acres of the Southeast 1/4 of the Southeast 1/4 of Section 5.

- A strip of land 50 feet in width which continues across the north 30 acres of the Southeast 1/4 of the Southeast 1/4 and the Northeast 1/4 of the Southeast 1/4 of Section 5 and across the East 1/2 of the Northeast 1/4 of Section 5 and West 1/2 of the Northwest 1/4 of Section 4, Township 14 North, Range 17 East.

IN TOWNSHIP 15 NORTH, RANGE 17 EAST, FOND DU LAC COUNTY

- The 50 foot strip of land continues across the Southwest 1/4 of Section 33

- The west 60 feet of the Northwest 1/4 of Section 33 and the west 60 feet of that part of the Southwest 1/4 of the Southwest 1/4 of Section 28 lying south of the Chicago and Northwestern Railway

- A triangular piece of land described in Volume 478 of Deeds on Page 635

- Trackage rights along the Chicago and Northwestern Railway in the Southwest 1/4 and North 1/2 of Section 28 and Southeast 1/4 of Section 21, Township 15 North, Range 17 East.

- That part of a 50 foot wide strip of land described in Volume 82 of Deeds on Page 204 which lies northeasterly of the southwesterly line of present U.S H 41.

A triangular piece of land described in Volume 480 of Deeds on Page 425

- A strip of land 60 feet in width which continues across the Northeast 1/4 of Section 21, Township 15 North, Range 17 East

A strip of land 40 feet in width which continues across Lot 44 of the Original Subdivision of the City of Fond du Lac in the Southeast 1/4 of the Southeast 1/4 of Section 16

A strip of land 50 feet in width which continues across Lot 37 in the Southeast 1/4 of the Southeast 1/4 of Section 16 and the south 4/10 of Lot 34 in the Northeast 1/4 of the Southeast 1/4 of Section 16.

All interests and rights the railroad has under the agreement entered into with the Bechaud Brewery, Custodian No. 8475, dated November 13, 1901 which is in Lot 34 of the Northeast 1/4 of the Southeast 1/4 of Section 16.

- A strip of land 60 feet in width which continues across the North 6/10 of Lot 34 and across Lot 24 in the Northeast 1/4 of the Southeast 1/4 of Section 16.

Part of Lot 24 beginning in the west line of the 60 foot strip at the south line of Grove Street, then west 91 feet along Grove Street, then South 0° 24' East 260 feet, then South 44° 36' West 150 feet to the shore of the river; then south to the center of river, then east, along the center and original center of river, to the west line of the 60 foot strip, then northerly along the west line to the point of beginning

- A strip of land 60 feet in width continues across Lot 21 in the Southeast 1/4 of the Northeast 1/4 of Section 16

- That part of Lot 21 lying west of the 60 foot strip, north of the center of Grove Street, east of the present center of the west branch of the Fond du Lac River, and south of the original center of said river

- A strip of land 40 feet in width continues across Lot 22 in the Southeast 1/4 of the Northeast 1/4 of Section 16

- And across Lot 13 in the Southeast 1/4 of the Northeast 1/4 of Section 16 to the west line of Hickory Street.

- All rights in the public streets known as Hickory Street in Section 16, and Western Avenue in Section 15

The 40 foot strip of land continues northeasterly approximately 1249 feet to the west line of land described in Volume 93 of Deeds on Page 72.

- Two triangular parcels described in Volume 93 of Deeds on Page 72 and Volume 82 of Deeds on Page 306.

A strip of land which lies 20 feet easterly of and 20 feet westerly of the present centerline of track and extends northeasterly approximately 303 feet from the east line of Lot 40 to Taylors Second Addition to the centerline of Ruggles Street

A tract of land bounded on the south by the centerline of Ruggles Street, bounded on the north by the south line of Forest Street, bounded on the east by the east line of Lots 44, 45, 74, 75 and 76 in Taylors Second Addition, and bounded on the west by a line 24 feet westerly of the centerline of the present main track. The point of ending in the south line of Forest Street is at Milepost 160.73 which is approximately 1300 feet east and 30 feet south of the northwest corner of Section 15, Township 15 North, Range 17 East.

All parcels contains 195 54 acres, more or less

City of Fond du Lac
Bo 1649
Waukegan 53187
 800
 Iron Ridge-Fond du Lac
 Project 1000-22-24

396809

State of Wisconsin Department of Transportation

AWARD OF DAMAGES
BY STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
Section 84.09(2), 85.09

DOCUMENT NO.

This award of damages is made pursuant to an acquisition order of the State of Wisconsin Department of Transportation dated January 26, 1984, and filed in the office of the County Clerk of Fond du Lac and Winnebago Counties, for the present or future transportation, recreational, or scenic purposes in said counties.

The State of Wisconsin has determined it necessary to acquire, for the purpose set forth in and in accordance with said acquisition order, property as hereinafter set forth, in and to which the following persons may have an interest: Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor.

The interest acquired by this award is for the interest, if any, of the owner in the abandoned railroad property including land, trestles, bridges, culverts, buildings, rail, ties, and related track materials extending from a southerly point at milepost 169.30 near Ripon, Wisconsin, to a northerly point at railroad milepost 187.64 near Oshkosh, Wisconsin, a distance of 18.34 miles, all located in Fond du Lac and Winnebago Counties, as more particularly described in the attached description comprising pages 1 to 4, inclusive, and made a part hereof.

It is the intent of this document to correct the legal description of the original award of damages as recorded on February 25, 1980 in Volume 809, Pages 994-952, as document No. 357571 in the Office of the Register of Deeds for Fond du Lac County; and as recorded on February 26, 1980 in Volume 2, as document No. 546582 in the Office of the Register of Deeds for Winnebago County; and recorded on March 6, 1980 in Volume 51, Pages 169-172 of Railroad Mortgages in the Office of the Secretary of State of Wisconsin.

Said property will be occupied by the State of Wisconsin or its agents on February 25, 1984.

The State of Wisconsin, having complied with all jurisdictional requirements pursuant to law, hereby makes this award of damages to the above Trustee that may have an interest in said property, in the sum of ONE HUNDRED THIRTY EIGHT THOUSAND, NINE HUNDRED AND NO/100 Dollars (\$138,900.00), for acquisition of property as hereinbefore set forth.

The herein stated consideration of \$138,900.00 was paid on February 22, 1980 to above Trustee via State of Wisconsin check #0033224, dated February 3, 1980.

RECEIVED FOR RECORD

7 DAY OF May
A.D., 1984 at
O'CLOCK AM. AND RECORDED IN
VOL. 873 OF RECORDS PAGE 857-861

Mary P. Brickle
Register of Deeds

Fond du Lac County

Project 1000-23-54

(1689-2)

State of Wisconsin
Department of Transportation
Lowell B. Jackson, P.E. Date
Secretary FEB 20 1984

This instrument was drafted by the State of Wisconsin, Department of Transportation.

Parcel No. 1

VOL 873 PAGE 857

IN TOWNSHIP 16 NORTH, RANGE 14 EAST OF THE 4TH PRINCIPAL MERIDIAN, TOWN OF
RIPON, FOND DU LAC COUNTY.

A strip of land 50 feet in width lying 25 feet in width on either side of the centerline of the former C M ST P & P. RY Company's Ripon Jct.-Oshkosh Line which commences on the centerline of the former C M. ST. P. & P. RY. Co., Ripon-Berlin Line, which point is 1106.8 feet southerly of the north line of section 21, T 16 N, R 14 E, at milepost 169.3 of said Ripon-Berlin Line; thence
✓ said centerline runs northerly and easterly on a curve to the RT, as surveyed, located and laid out through the NE 1/4-NE 1/4, Section 21, T 16 N, R 14 E to the south line of Section 16, T 16 N, R 14 E

EXCEPT Lots 7, 8, and 14 of Henton's Addition to the City of Ripon, Fond du Lac County, Wisconsin

ALSO commencing at the southeast corner of Lot-7, Henton's Addition, City of Ripon, Fond du Lac County, Wisconsin, thence north 10 1/2 feet, thence
✓ southwesterly to a point on the south line of said Lot 7 10 1/2 feet west of the southeast corner of said Lot, thence east to beginning.

ALSO commencing at the northeast corner of Lot 8, Henton's Addition, City of Ripon, thence west 10 1/2 feet, thence southwesterly to a point on the south line
✓ of said Lot 8, 12 1/2 feet west of the northeast corner of Lot 13 in said Addition, thence east 65 feet, thence northeasterly parallel with the southwesterly line abovementioned to the east line of said Lot 8, thence north to beginning.

AND ALSO commencing at the northwest corner of Lot 14, Henton's Addition, City of Ripon, Fond du Lac County, Wisconsin, thence south 61 feet, thence
✓ northeasterly 81 feet to the north line of said Lot at a point 53 feet east of beginning, thence west 53 feet to beginning

✓ A strip of land 66 feet in width lying 33 feet in width on either side of the centerline which continues northeasterly from the above described centerline as surveyed, located and laid out through Sections 16 and 15, all in T 16 N, R 14 E to the east line of said Section 15.

✓ A strip of land 66 feet in width lying 33 feet in width on either side of the centerline which continues northeasterly from the above described centerline as surveyed, located and laid out through Sections 14, 11, 12, and 1, all in T 16 N, R 14 E to the east line of said Section 1

• IN TOWNSHIP 16 NORTH, RANGE 15 EAST OF THE 4TH PRINCIPAL MERIDIAN, TOWN OF
ROSENDALE, FOND DU LAC COUNTY.

✓ A strip of land 60 feet in width lying 30 feet in width on either side of the centerline which continues northeasterly from the above-described centerline as surveyed, located and laid out through Section 6, T 16 N, R 15 E to the north line of said Section 6, which is also the boundary line common to Fond du Lac and Winnebago Counties.

IN TOWNSHIP 17 NORTH, RANGE 15 EAST OF THE 4TH PRINCIPAL MERIDIAN, TOWNS OF
UTICA AND RUSHFORD, WINNEBAGO COUNTY.

A strip of land 66 feet in width lying 33 feet in width on either side of the centerline which continues northeasterly from the above-described centerline as surveyed, located and laid out through Sections 31, 32, 29, 28, and 21, all in T 17 N, R 15 E, to the east line of the the W 1/2-SE 1/4, said Section 21.

ALSO that part of the SW 1/4-NW 1/4, said Section 32 which lies west of Hillside Road and within 50 feet on either side of said centerline.

A strip of land 60 feet in width lying 30 feet in width on either side of the centerline which continues northeasterly from the above-described centerline, as surveyed, located and laid out through the NE 1/4-SE 1/4, Section 21, T 17 N, R 15 E to the north line of said NE 1/4-SE 1/4.

A strip of land 66 feet in width lying 33 feet in width on either side of the centerline which continues northeasterly from the above-described centerline, as surveyed, located and laid out through Sections 21, 22, and 15, all in T 17 N, R 15 E to the north and south 1/4 line of said Section 15.

ALSO that part of the north 143 feet of the NW 1/4-NW 1/4 said Section 22 (as said 143 feet is measured along the centerline) lying within 50 feet northwesterly of the centerline.

A strip of land, the centerline of which continues northeasterly from the above-described centerline, as surveyed, located and laid out, on a bearing of N 40° 38' E for a distance of 128.5 feet; thence by a 1 degree curve to the left for a distance of 400 feet to point "A", said strip of land being 66 feet in width, 33 feet on either side of said centerline for the first 215 feet as measured from the said north and south 1/4 line and 82.5 feet in width, 41 25 feet on either side of said centerline for the remaining 313 5 feet of this portion of the centerline just described.

A strip of land, the centerline of which continues from the aforesaid point "A" northeasterly to the east line of the SW 1/4-NE 1/4, said Section 15, the northwesterly line of which begins at a point on the west line of the east 3/4 of the NW 1/4-SE 1/4, said Section 15, which point is 50 feet northwesterly of and at right angles from said centerline and runs thence in a straight line to a point on the said east line of the SW 1/4-NE 1/4 which point is 33 feet northwesterly of and at right angles from said centerline, the southeasterly line of which begins at a point on the west line of the east 3/4 of said NW 1/4-SE 1/4, which point is 50 feet southeasterly of and at right angles to said centerline and runs thence in a straight line to a point on the east line of said SW 1/4-NE 1/4, which point is 33 feet southeasterly of and at right angles from said centerline.

A strip of land 66 feet in width lying 33 feet in width on either side of the centerline, which continues northeasterly from the above-described centerline, as surveyed, located and laid out through Sections 15, 14, and 11, all in T 17 N, R 15 E, to the north line of the S 1/2 of said Section 11.

ALSO all that part of the SW 1/4-SW 1/4, said Section 11, lying southeasterly of the aforescribed 66 foot strip and lying northerly and westerly of a line which begins at a point on the south line of said SW 1/4-SW 1/4 which point is 60 feet southeasterly of and as measured at right angles to the centerline, thence northeasterly in a straight line for a distance of 850 feet to a point which is 56 feet southeasterly of and as measured at right angles to said centerline, thence on a curve to the right with a radius of 215 feet, for a distance of 234 feet to the east line of said SW 1/4-SW 1/4

A strip of land 73 feet in width, lying 33 feet northwesterly of and 40 feet southeasterly of the centerline, which continues northeasterly from the above-described centerline, as surveyed, located and laid out across the SW 1/4-NE 1/4, said Section 11, to the east line thereof

A strip of land 66 feet in width lying 33 feet in width on either side of the centerline which continues northeasterly from the above-described centerline, as surveyed, located and laid out through the E 1/2-NE 1/4, said Section 11, Section 12, and Section 1, all in T 17 N, R 15 E to the east line of said Section 1, T 17 N, R 15 E

IN TOWNSHIP 17 NORTH, RANGE 16 EAST OF THE 4TH PRINCIPAL MERIDIAN, TOWN OF NEKIMI, WINNEBAGO COUNTY

A strip of land 66 feet in width lying 33 feet in width on either side of the centerline which continues northeasterly from the above-described centerline, as surveyed, located and laid out through Sections 5 and 6, T 17 N, R 16 E, to the north line of said Section 5 and 6

IN TOWNSHIP 18 NORTH, RANGE 16 EAST OF THE 4TH PRINCIPAL MERIDIAN, TOWN OF ALGOMA, WINNEBAGO COUNTY.

A strip of land 66 feet in width lying 33 feet in width on either side of the centerline which continues northeasterly from the above-described centerline as surveyed, located and laid out through Sections 31, 32, 33, 28, and 27, T 18 N, R 16 E to the north and south 1/4 line of said Section 27

A strip of land 66 feet in width lying 33 feet in width on either side of the centerline which continues northeasterly from the above-described centerline as surveyed, located and laid out through the E 1/2 of said Section 27, Section 26, T 18 N, R 16 E and the W 1/2 of Section 23, T 18 N, R 16 E, to the north and south 1/4 line of said Section 23.

ALSO that part of Lot 4 of the subdivision of the SW 1/4 of Section 23, T 18 N, of R 16 E, in the Third Ward, City of Oshkosh, per Palmer's Map, said lands now known as and being a part of Map of SW 1/4 of Section 23, in the sixth ward, City of Oshkosh, per Leach's Map of 1894, Winnebago County, Wisconsin, described as follows, viz

A strip of land extending through said lot which is 80 feet in width on the west line of said lot and 110 feet on the east line of said lot, being the right of way of the former Chicago, Milwaukee, St Paul and Pacific Railroad Company (formerly the Oshkosh and Mississippi River Railroad).

Also that part of Lot 3 of the subdivision of the SW 1/4 of Section 23, in the third ward, City of Oshkosh, per Palmer's Map, said lands now known as and being a part of the subdivision of Lot 3 in subdivision of SW 1/4 of Section 23, T 18 N, R 16 E, in the sixth ward, City of Oshkosh, per Leach's Map of 1894, Winnebago County, Wisconsin, described as follows, viz

Commencing at the northeast corner of said Lot 3, thence west along the north line of said lot 40 feet, thence southwesterly to a point on the west line of said lot that is 145 feet south of the northwest corner of said lot, thence south along the west line of said lot 110 feet; thence northeasterly to a point on the east line of said lot that is 120 feet south of the place of beginning, thence north along the east line of said lot 120 feet to the place of beginning

AND ALSO Lot 56 according to MAP OF SW 1/4 of Section 23, in the sixth ward, City of Oshkosh, per Leach's Map of 1894, Winnebago County, Wisconsin.

ALSO Lot 4 in SUBDIVISION OF LOT 3 in Subdivision of SW 1/4 of Section 23, T 18 N, of Range 16 E, in the sixth ward, City of Oshkosh, per Leach's Map of 1894, Winnebago County, Wisconsin.

ALSO that part of Lots 1 and 2 of Block 75, a part of Lot 24 of Block 92, a part of Lots 9, 10, 11, 12, 19, 20, 21, 22, and 23 of Block 93, a part of Lots 3, 4, 5, 6, 7, 13, 14, 15, 16, 17 and 18 of Block 94, a part of vacated Second Street and vacated Third Street, all in the Plat of the ORIGINAL THIRD WARD, in the Sixth Ward, City of Oshkosh, per Leach's Map of 1894, Winnebago County, Wisconsin, described as follows, viz

Commencing at the NW corner of Lot 13 of said Block 94, thence south 1 degree 2 minutes 32 seconds east along the east line of Ohio Street 101.63 feet, the place of beginning, thence northeasterly 71 64 feet along the arc of a curve to the left, having a radius of 1022 02 feet and the chord of which bears north 49 degrees 27 minutes 14 seconds east 71 62 feet and a central angle of 4 degrees 0 minutes 58 seconds, being a line that is 15 00 feet northwesterly of and parallel to the centerline of the main track of the former Chicago, Milwaukee, St. Paul and Pacific Railroad Company (formerly the Oshkosh and Mississippi River Railroad); thence north 47 degrees 26 minutes 45 seconds east, 98.34 feet along a line 15 00 feet northwesterly of and parallel with the centerline of said main track; thence northeasterly 69.54 feet, along the arc of a curve to the left, having a radius of 464.43 feet, and the chord of which bears north 43 degrees 9 minutes 23 seconds east 69 47 feet and a central angle of 8 degrees 34 minutes 44 seconds, being a line that is 15 00 feet northwesterly of and parallel to the centerline of a spur track of said Railroad; thence northeasterly 95.64 feet along the arc of a reverse curve to the right, having a radius of 931 47 feet and the chord of which bears north 41 degrees 48 minutes 30 seconds east 95 60 feet and a central angle of 5 degrees 52 minutes 58 seconds, being a line that is 15.00 feet northwesterly of and parallel to the centerline of said spur track, thence north 44 degrees 44 minutes 59 seconds east 47 10 feet along a line that is 15 00 feet northwesterly of and parallel to the centerline of said spur track, thence northeasterly 264 07 feet along the arc of a curve to the left, having a radius of 2087 82 feet and the chord of which bears north 41 degrees 7 minutes 34 seconds east 263.90 feet and a central angle of 7 degrees 14 minutes 49 seconds, being a line that is 15.00 feet northwesterly of and parallel to the centerline of said spur track, thence north 37 degrees 30 minutes 10 seconds east 211 21 feet along a line that is 15.00 feet northwesterly of and parallel to the centerline of said spur track, to the west line of Michigan Street, thence continuing northeasterly to the bank of the Fox River, thence southeasterly along the bank of said river, to the east line of Lot 2 of said Block 75, thence southwesterly, parallel with the southeasterly line of Texas Street (now vacated), to the north line of Lot 19 of said Block 94, thence west to the northeast corner of Lot 18 of said Block 94; thence south

to the southeast corner of Lot 18 of said block 94 and the south line of said Block 94, thence west along the south line of said Block 94 to the east line of said Ohio Street; thence north along the east line of said Ohio Street to the place of beginning.

EXCEPT that part of the above description lying northeasterly of a line which is perpendicular to the centerline and located 242.8 feet southwesterly of the southwest bank of the Fox River.

Lots 19 and 20 of Block 94 in the Plat of the ORIGINAL THIRD WARD, in the Sixth Ward, City of Oshkosh, per Leach's Map of 1894, Winnebago County, Wisconsin.

Said parcel, tract, or strip of land contains 149 39 acres, more or less.

Styolas/Deery/James
*12- *Box 1649 Waukegan 53187*
Jew
Ripon Junction-Oshkosh
Project 1000-23-54

607086 11

Register's Office
Winnebago County, Wis.
Received for record
this 14th Day of
March
A.D. 1934
L. J. O'Neil
REGISTER OF DEEDS

clg 340
14
V.D.T.
Subst 2
Mar 649 Winnebago 53187

984517

DOCUMENT
NUMBER: _____

QUITCLAIM
DEED

WISCONSIN CENTRAL LTD., an Illinois corporation,
located at 17641 S Ashland Avenue, Homewood, IL 60430,
hereinafter referred to as Grantor

STATE OF WISCONSIN, WISCONSIN DEPARTMENT
OF TRANSPORTATION, located at
4802 Sheboygan Avenue, Room 701
P O Box 7914, Madison, WI 53707,
hereinafter referred to as Grantee

0811031

RONALD A. VOIGT
OZAUKEE COUNTY
REGISTER OF DEEDS
PORT WASHINGTON, WI
TXID: 11681

RECORDED ON
01/31/2005 11:47AM

REC FEE: 27.00
TRANS FEE: 8.00
PAGES: 9
EXEMPT #: 0

1757610

SHEBOYGAN COUNTY, WI
RECORDED ON

02/11/2005 12:07PM

DARLENE J. NAVIS
REGISTER OF DEEDS

RECORDING FEE: 27.00
TRANSFER FEE:

STAFF ID 2
TRANS # 56970

OF PAGES: 9

Return to:
Vicki Schaefer, WisDOT
P O Box 7914 - Rm 701
Madison, WI 53707



VOL 2064 PG 685

\$27 chg

STATE OF WI - MTWC CO
PRESTON JONES REG/DEEDS
RECEIVED FOR RECORD
03/18/2005 11:04:42 AM

WITNESSETH

In consideration of the sum of Ten and no/100 Dollars (\$10 00) and other good and valuable consideration in hand paid to Grantor by Grantee, the receipt and sufficiency whereof is hereby acknowledged by Grantor, Grantor hereby CONVEYS AND QUIT CLAIMS unto Grantee, without any covenants or warranties of title whatsoever, on an "as is, where is" basis, AND WITHOUT RECOURSE TO Grantor, all of the Grantor's right, title, interest, estate, claim, and demand in and to the lines of railroad between Grantor's milepost 114 8 and Grantor's milepost 151 8 in the counties of Ozaukee, Sheboygan and Manitowoc more particularly described in the attached Exhibit A, including the real property, estates, roadbeds, rights-of-way, station grounds, railroad yards, yard and terminal facilities, locomotive servicing repair facilities, freight car repair facilities, fixtures, and appurtenances thereto, together with all improvements and structures located thereon, therein, or thereunder, and specifically including (1) associated rail facilities, including without limitation all rails, ties ballast, switches, turnouts, wyes, crossovers, grade crossings, machinery, fixtures, rights-of-way (and improvements thereto), pipes, conduits, wires, communication and signal devices and facilities (including centralized traffic control, train defect detectors, and radio communication and telephone

9



systems), parking and storage areas, sidings, spurs, trestles, bridges, and culverts, (ii) pole lines, buildings, and structures appurtenant thereto or situated thereon (except that which is indicated as specifically excluded on Exhibit A hereto), and (iii) contiguous property not used for railroad purposes, all of which is situated in the Counties of Ozaukee, Sheboygan and Manitowoc in the State of Wisconsin, TO HAVE AND TO HOLD all the estate, right, title, and interest whatsoever of Grantor in said property, whether in law or in equity, to the use and benefit of Grantee, and Grantee's successors and assigns, forever

THIS CONVEYANCE IS SUBJECT TO

- (1) Standard exceptions of a Title Company in its title policies issued in the State of Wisconsin,
- (2) Special taxes or assessments for improvements not yet completed, if any,
- (3) Installments not due at the date hereof of any special tax or assessment for improvements completed, if any,
- (4) General taxes, if any, for the tax year prior to the year in which the Deed is delivered and subsequent years,
- (5) Building, building lines and use or occupancy restrictions, zoning and building laws or ordinances, and other laws, ordinances, requirements, limitations, restrictions, regulations and codes which are or may be imposed upon the property by any governmental authority having jurisdiction thereof,
- (6) Roads and highways, if any,
- (7) Judgment liens, however, any judgment against Grantor which may appear of record as a lien against the property shall be settled and satisfied by Grantor if and when it is judicially determined to be finally valid, and Grantor shall indemnify Grantee for all loss arising out of Grantor's failure to have such judgment lien so settled and satisfied. This provision shall survive the Closing and the delivery of the Deed,
- (8) Covenants, conditions and restrictions of record, and recorded licenses and easements,
- (9) The rights of any owner of the mineral estate in said property, if any. If, however, it is found that Grantor has a mineral right in the property, such rights will not be retained by Grantor but will pass to Grantee by this Deed,
- (10) Rights of any government agencies, public or quasi-public utilities for the use, maintenance, repair, replacement and reconstruction of existing driveways, roads and highways, conduits, sewers, drains, water mains, fiber optics cables and/or communication systems, gas lines, electric power lines, wires, and other utilities and easements,
- (11) Acts, by through or under Grantee,



- (12) A perpetual easement held by the Wisconsin & Southern Railroad Co ("WSOR") for the purpose of providing common carrier rail freight transportation service thereon and more particularly described in Exhibit B, attached and incorporated herein

GRANTOR RESERVES FOR ITSELF, its successors and assigns, a perpetual nonexclusive easement, fifteen (15) feet in width, in, over, under, through and along the entire property, to construct, maintain, operate, use, replace, relocate, renew and/or remove, at the sole expense of Grantor, a fiber optic communication system consisting of cables, lines or facilities beneath the surface of the property, together with all ancillary equipment or facilities (both underground and surface), including the right to attach the same to existing bridges or poles on the property and such surface rights as are necessary to accomplish the same. Grantor further reserves the right to assign, provided notice of assignment is given to Grantee, said reserved fiber optic easement, rights and facilities (the "Fiber Optic Easement"), in whole or in part, and to lease, license or permit third parties to use the Fiber Optic Easement, provided, however, that the exercise of such rights does not unreasonably interfere with Grantee's or WSOR's safe and efficient use of the property, or any improvements thereon. Grantor shall not perform any work in connection with the construction, reconstruction, repair, operation or maintenance of such fiber optic communication system within twenty-five (25) feet of the centerline of any railroad track located on the property until it shall have given Grantee and WSOR at least five (5) days' written notice prior to commencing such work. The foregoing notice requirements shall not apply in case of emergency, but in such event notice shall be provided as soon as possible. Any such construction shall be subject to reasonable and customary safety procedures required by WSOR for similar construction projects on its railroad.

Grantee may, in the sole exercise of Grantee's discretion, decline to accept or record this deed pending a determination by the United States Surface Transportation Board ("STB") as to whether STB has jurisdiction to approve or exempt this conveyance or whether acceptance of the deed imposes any common carrier liability upon Grantee. In the event the STB decides that it has jurisdiction to approve or exempt the conveyance or that acceptance of the deed would result in common carrier liability to Grantee, Grantee may, in the sole exercise of Grantee's discretion, decline to accept and record this deed.

IN WITNESS WHEREOF, WISCONSIN CENTRAL LTD, the Grantor, has caused these presents to be signed by Gordon T Trafton II, he being thereunto duly authorized this 10th day of January, 2005.

WISCONSIN CENTRAL LTD



By

(Name)

Gordon T Trafton II

(Title)

Senior VP - United States Region



WITNESS Robert W. Widen
(Name) Robert W. Widen
(Title) AVP Network Strategist



STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, Marietta D. Sullivan, a Notary Public in and for the County of Cook, State of Illinois, Do Hereby Certify that Gordon T. Trotter II and Robert Wedam, personally known to me to be the Sr VP US Region and Asp Network Strategist, of WISCONSIN CENTRAL LTD, an Illinois corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged under oath that as such Sr VP US Region and Asp Network Strategist, they signed and delivered the said instrument as Sr VP US Region and Asp Network Strategist of said corporation, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth

Given under my hand and seal this 10th day of January, 2005

By Marietta D. Sullivan
Notary Public



This instrument drafted by
CN Real Estate Department
17641 S Ashland Avenue
Homewood, IL 60430



EXHIBIT A
FOR PROPERTY ON THE GB LINE SAUKVILLE TO KIEL, WI

Commencing at the point of intersection of the centerline of the Grantor's main track at or near the Village of Saukville, in the County of Ozaukee, State of Wisconsin, in the NE $\frac{1}{4}$, Section 23, Township 11 North, Range 21 East,) which point is also known as Railroad Engineer's Survey Station 1576+90 (milepost 114.80), and extending northerly along said centerline a distance of approximately 37.00 miles in and through Ozaukee, Sheboygan, and Manitowoc Counties, Wisconsin, and terminating at the point of intersection of the centerline of the Grantor's main track located in the City of Kiel, County of Manitowoc, State of Wisconsin, in the NW $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 30, Township 17 North, Range 21 East,) which point is also known as Railroad Engineer's Survey Station (approximately) 3530+73 (milepost 151.80), all of which is more particularly described on right-of-way maps designated V-5-Wisc /6 through S-15, and are made a part hereof by reference.

PROPERTY EXCEPTED

EXCEPTING, HOWEVER, a parcel of land and depot building located between mileposts 139.16 and 139.27 on Grantor's westerly right of way in Plymouth, WI, as shown in cross-hatch on the attached map labeled Property Excepted Map 1 and described as follows:

All that portion of Wisconsin Central Ltd. Station Ground property at Plymouth, Wisconsin, located in the Northwest Quarter of the Northwest Quarter of Section 27, Township 15 North, Range 21 East of the 4th Principal Meridian, Sheboygan County, Wisconsin, lying Northerly of Reed Street, Southerly of Thayer Street, Easterly of Appleton Street and Westerly of the following described Line "A",

Line "A" Description

Beginning at the point of intersection of the Southerly line of said Thayer Street and a line parallel with and 20 feet normally distant Westerly from the centerline of said Wisconsin Central Ltd. Main Track,

Thence Southeasterly along said parallel line 214 feet,

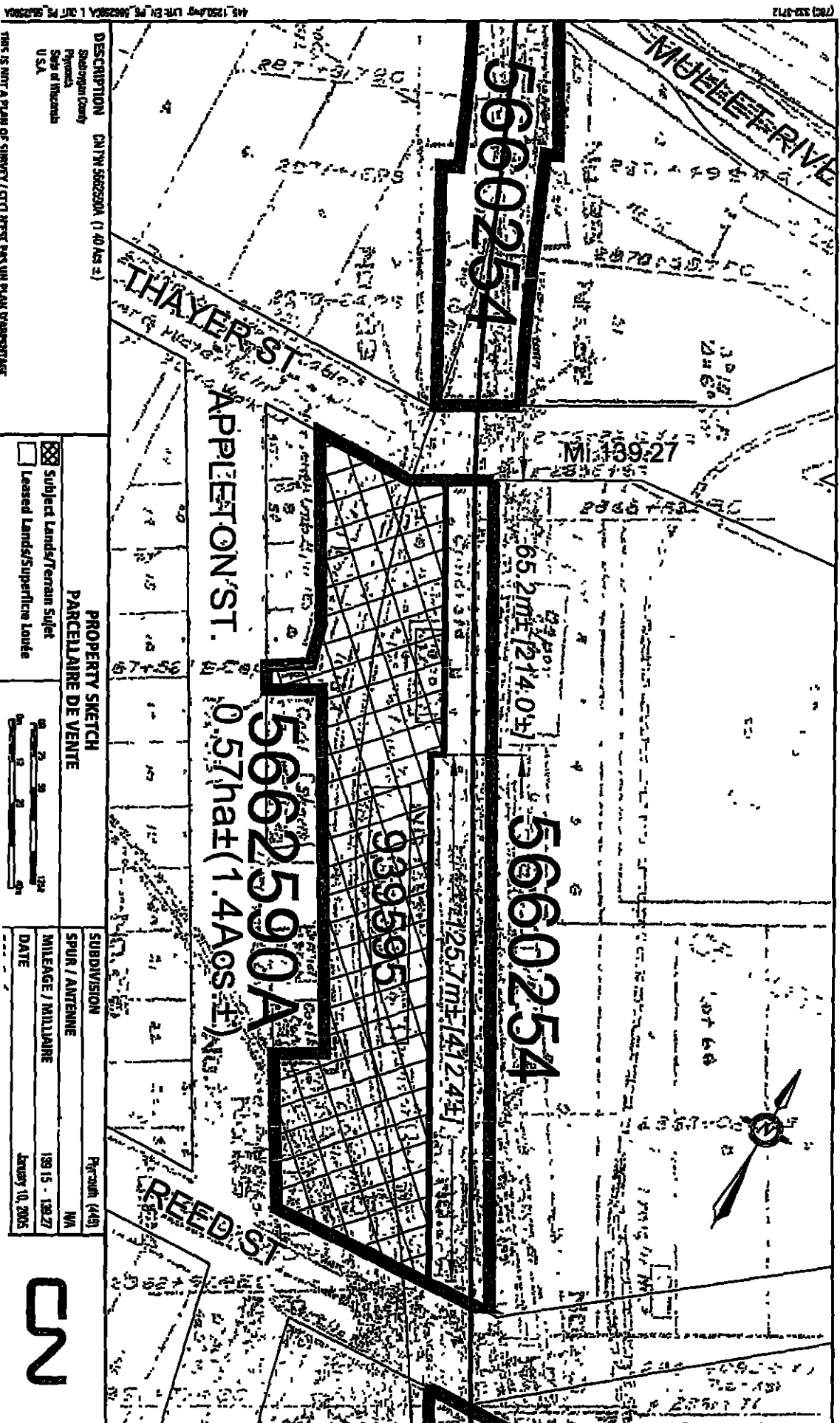
Thence Southwesterly at right angles 10 feet,

Thence Southeasterly parallel with and 30 feet normally distant Westerly from said Main Track centerline a distance of 365 feet, more or less, to the Northerly line of said Reed Street and there terminating.



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PROPERTY EXCEPTED MAP 1



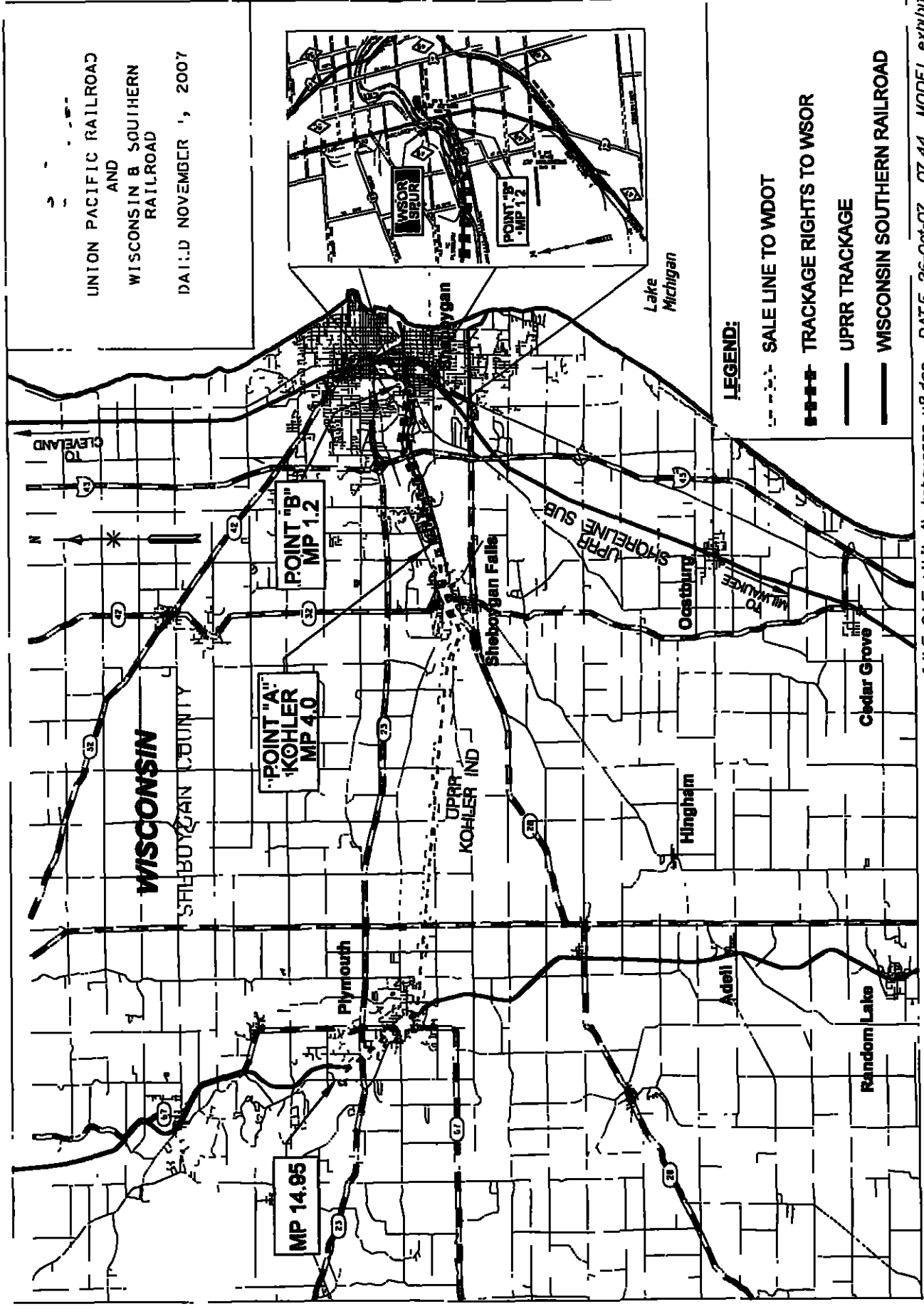


VOL 2064 PG 693

**EXHIBIT B
FREIGHT EASEMENT**

SEE DOC. #0811032

ATTACHMENT C
PROPERTY DESCRIPTION OF
KOHLER TO PLYMOUTH RAILLINE SEGMENT



UNION PACIFIC RAILROAD COMPANY

Sheboygan County, Wisconsin

All right, title and interest in and to that certain line of property, variable in width, of the Union Pacific Railroad Company, known as the Kohler Industrial Lead as formerly constructed and operated in, over, and across the following legal Subdivisions extending in a westerly direction from a point in the SE $\frac{1}{4}$ of Section 30, Township 15 North, Range 23 East 4th Principal Meridian being Railroad Mile Post 4 to a point in the NE $\frac{1}{4}$ of Section 21, Township 15 North, Range 21 East 4th Principal Meridian being Railroad Mile Post 14.95 in Sheboygan County, Wisconsin:

<u>Subdivisions</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Meridian</u>
SE $\frac{1}{4}$	30	15 N	23 E	4 th
SW $\frac{1}{4}$	30	15 N	23 E	4 th
NW $\frac{1}{4}$	31	15 N	23 E	4 th
NE $\frac{1}{4}$	36	15 N	22 E	4 th
NW $\frac{1}{4}$	36	15 N	22 E	4 th
NE $\frac{1}{4}$	35	15 N	22 E	4 th
SE $\frac{1}{4}$	35	15 N	22 E	4 th
SW $\frac{1}{4}$	35	15 N	22 E	4 th
NW $\frac{1}{4}$	35	15 N	22 E	4 th
NE $\frac{1}{4}$	34	15 N	22 E	4 th
NW $\frac{1}{4}$	34	15 N	22 E	4 th
NE $\frac{1}{4}$	33	15 N	22 E	4 th
NW $\frac{1}{4}$	33	15 N	22 E	4 th
NE $\frac{1}{4}$	32	15 N	22 E	4 th
NW $\frac{1}{4}$	32	15 N	22 E	4 th
SW $\frac{1}{4}$	29	15 N	23 E	4 th
SE $\frac{1}{4}$	29	15 N	22 E	4 th
SW $\frac{1}{4}$	30	15 N	22 E	4 th
SE $\frac{1}{4}$	25	15 N	21 E	4 th
SW $\frac{1}{4}$	25	15 N	21 E	4 th
SE $\frac{1}{4}$	26	15 N	21 E	4 th
SW $\frac{1}{4}$	26	15 N	21 E	4 th
SE $\frac{1}{4}$	27	15 N	21 E	4 th

NE ¼	27	15 N	21 E	4 th
NW ¼	27	15 N	21 E	4 th
SW ¼	22	15 N	21 E	4 th
SE ¼	21	15 N	21 E	4 th
NE ¼	21	15 N	21 E	4 th

Contains 120.135 Acres more or less.

OFFICE OF REAL ESTATE
OMAHA, NEBRASKA
WRITTEN: JCO
February 1, 2005
228221.leg

ATTACHMENT 4

WSOR OPERATING AGREEMENT

OPERATING AGREEMENT

FOR RAIL SERVICE CONTINUATION

BY AND BETWEEN

EAST WISCONSIN COUNTIES RAILROAD CONSORTIUM

AND

WISCONSIN & SOUTHERN RAILROAD CO

AGREEMENT NO 0490-40-50(I'-1)

MARCH 28, 2008

**ATTACHMENT 2
II-1**

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OPERATING AGREEMENT

This Agreement made and entered into this 28th day of March, 2008, by and between East Wisconsin Counties Railroad Consortium, established in accordance with Sec 66 0301 (formerly Sec 66 30) Wis Stats, having its principal office at Dodge County Administration Building, 127 E Oak Street, City of Juneau, County of Dodge, State of Wisconsin, ("Commission") and Wisconsin & Southern Railroad Co, a railroad company organized and existing under the laws of the State of Wisconsin and fully empowered to act as a railroad company in Wisconsin, having its principal office at 5300 N 33rd Street, City of Milwaukee, County of Milwaukee, State of Wisconsin ("Operator")

WITNESSETH

WHEREAS, this Agreement supersedes Agreement No 0490-40-50(F), dated July 1, 1990, and Agreement No 0490-40-50(G) dated January 12, 2005, and,

WHEREAS, certain rail facilities in Columbia, Dodge, Fond du Lac, Green Lake, Manitowoc, Milwaukee, Ozaukee, Sheboygan, Washington, Waukesha and Winnebago Counties, Wisconsin, have been abandoned, or have been threatened with abandonment, and have been purchased by the Wisconsin Department of Transportation (hereinafter referred to as WisDOT), and,

WHEREAS, Commission is currently comprised of the counties of Columbia, Dodge, Fond du Lac, Green Lake, Ozaukee, Sheboygan, Washington and Winnebago, and Commission may accept additional member counties in the future, and,

WHEREAS, Commission was created for the purpose of providing for the continuance of rail service to its member counties with authority to acquire the use of the Rail Line by purchase, lease or otherwise and to provide for the operation of freight rail service thereon by contract or otherwise, and,

WHEREAS, WisDOT has acquired ownership of the Principal Line Segments in the State of Wisconsin as defined under Section 1 0(q) of this Agreement, and,

WHEREAS, WisDOT owns the Principal Line Segments in Wisconsin, and the Commission owns the Improved Property, or has been granted use of the Improved Property of the Principal Line Segments in Wisconsin subject to all the conditions and limitations set forth in the Grant Agreement and Land Use Agreement identified in Section 1 0(i) and (m) respectively, and,

WHEREAS, Operator is also operating over the tracks of the Wisconsin River Transit Commission d/b/a Wisconsin River Rail Transit Commission and Pecatonica Rail Transit Commission under similar Operating Agreements, and

WHEREAS, the parties hereto have negotiated and agreed to a long-term operating agreement which is this instrument, and,

WHEREAS, Operator has been furnished copies of and reviewed the Land Use Agreement by and between Commission and WisDOT dated March 28, 2008, and the Operating Agreement for Rail Service Continuation By and Between the Commission and WisDOT dated March 28, 2008, and,

WHEREAS, Operator has inspected the Rail Line and is knowledgeable as to its needed repairs, maintenance and possible rehabilitation and is making certain financial commitments relating thereto which are hereinafter set forth in this Agreement, and,

NOW THEREFORE, in consideration of the promises and the mutual covenants contained herein, the parties hereto covenant and agree as follows

ARTICLE 1.0 - DEFINITIONS.

As used in this Agreement and also, unless otherwise more particularly defined, in other instruments referred to herein

- a "AREMA" means American Railway Engineering and Maintenance-of-Way Association
- b "Building" means any structure built to stand more or less permanently with columns or walls and designed to support a roof, and constructed as either an addition which increases the outside dimensions of another structure, or as a detached entity which is not physically connected to another structure and which was primarily intended and designed for human use, occupancy or the storage of goods and materials
- c "Commencement Date" means the date this Agreement is approved in writing by WisDOT on the Signature Page of this Agreement
- d "Commission" means the East Wisconsin Counties Railroad Consortium
- e "Commuter Passenger Service" means mass transit by rail characterized by morning and evening weekday peak ridership period service and by multiple ride tickets
- f "CN" means the Canadian National Railroad D/B/A the Wisconsin and Central Railroad Co. and its successors, if any
- g "CPR" means the Canadian Pacific Railway D/B/A the Soo Line Railroad Company and its successors, if any
- h "FRA" means the Federal Railroad Administration of the United States Department of Transportation.

- i "Grant Agreement" means the Operating Agreement For Rail Service Continuation No 0490-40-50(B-2) By And Between The East Wisconsin Counties Railroad Consortium And Wisconsin Department Of Transportation, dated March 28, 2008, and any amendments thereto.
- j "Gross Operating Revenues" means all income produced from operations on the rail line which shall include freight bill revenues from complete on-line hauls, freight bill revenues retained by Operator under a division of revenues with other rail lines, shipper contract charges, surcharges, net equipment per diem, demurrage, and equipment storage. Specifically excluded is income received from contract car repair, building of or scrapping of rail equipment, and excursion trains. Gross Operating Revenues shall be computed on an accrual basis.
- k "Improved Property" means Buildings and Trackage located upon the Land of the Rail Line.
- l "Land" means the real estate, generally 66 feet in width, the use of which is provided to Operator by Commission, upon which the trackage that is leased to Operator under this Agreement is located and which is the subject of the Land Use Agreement.
- m "Land Use Agreement" means the Land Use Agreement No 0490-40-50(A-1) by and between the East Wisconsin Counties Railroad Consortium and the Wisconsin Department of Transportation, dated March 28, 2008, and any amendments thereto.
- n "Operator" means the Wisconsin & Southern Railroad Company, and its successors, if any.
- o. "PRTC" means Pecatonica Rail Transit Commission.
- p "Person" means an individual, a partnership, an association, or bodies politic or corporate.
- q. "Principal Line Segment" means one of the following as defined by their beginning and end points:
 - (1) North Milwaukee, Milepost 93.4 to Horicon, Milepost 139.1
 - (2) Horicon, Milepost 139.1 to Cambria, Milepost 165.2
 - (3) Beaver Dam, Milepost 154.5 to Fox Lake, Milepost 156.7
 - (4) Horicon, Milepost 139.1 to Ripon, Milepost 168.9, including the Peachey Bros Spur at Burnett
 - (5) Ripon, Milepost 168.9 to Oshkosh, Milepost 188.3
 - (6) Iron Ridge, Milepost 132.91 to Mayville, Milepost 141.6
 - (7) Markesan, Milepost 172.6 to Brandon, Milepost 161.1
 - (8) Saukville, Milepost 114.8 to Kiel, Milepost 151.8
 - (9) Kohler, Milepost 4.0 to Plymouth, Milepost 14.95

- r "Rail Line" means the Principal Line Segments in aggregate
- s "RHS" means Railroads and Harbors Section of the WisDOT
- t "South Central" means South Central Wisconsin Rail Transit Commission
- u "STB" means the Surface Transportation Board of the United States Department of Transportation, or its successors, if any.
- v "Trackage" means the rails, ties, ballast, track material, bridges, switches, culverts, signals, and all other non-Land property acquired by WisDOT and provided under grant to the Commission subject to certain express conditions and limitations. This term does not include Land
- w "UP" means the Union Pacific Railroad and its successors, if any
- x "WisDOT" means the Wisconsin Department of Transportation
- y "WRRIC" means the Wisconsin River Transit Commission D/B/A the Wisconsin River Rail Transit Commission

ARTICLE 2.0 - LEASE, LICENSE, TERM AND RESERVATION.

Section 2.1 - Lease, License and Term.

(a) Commission hereby leases to Operator the Improved Property and grants to Operator an exclusive right and license to use the Land for the purpose of providing freight rail service and for all other purposes necessary to the foregoing, subject, however, to the uses and reservations identified in Section 2.2 hereafter and subject to the uses and reservations set forth in the governing Land Use and Grant Agreements. Operator agrees to cooperate with Commission to allow supplemental freight rail service to be provided by Commission on Principal Line Segments identified in subsections 1(q)(1) – (7) of this Agreement in situations where Operator cannot justify and is unable to provide a desired level of freight rail service, provided that Commission indemnifies Operator in all respects under this Agreement and that Commission and WisDOT release in writing Operator from any obligation or liability which would be incurred if Operator were performing the service provided by Commission. The written release shall specify the terms and conditions under which the release is issued. This provision does not apply to the Principal Line Segments between Saukville, Milepost 114.8 to Kiel, Milepost 151.8 identified in subsection 1(q)(8) and between Kohler, Milepost 4.0 to Plymouth, Milepost 14.95 identified in subsection 1(q)(9).

(b) This Agreement is to be executed upon authorization of the Board of Directors of the Commission, and the Sole Director of WSOR. This Agreement shall be effective upon the "Commencement Date", and shall end at 12:01 A.M. December 31, 2047, provided, however, that either party may terminate this Agreement under Article 7.0.

(c) Operator shall have the right to renew this Agreement for successive additional ten (10) year periods. Each option to renew shall be for a period of ten (10) years and shall be exercised at least one (1) year but no more than two (2) years prior to the expiration of the then current term, said renewal notice to be exercised in writing to the Commission with a copy of the notice to WisDOT. All terms and conditions of this Agreement shall apply to the renewal periods unless amended by mutual agreement.

Section 2.2 - Reservation.

The Land and Improved Property involved in this Agreement are the Land and Improved Property obtained by Commission from WisDOT through the agreements defined in Section 1.0(i) and (m) herein. Future operations may show WisDOT that portions of the Land or Improved Property are not needed for railroad use or are of sufficient width to allow other uses as co-uses.

Land and Improved Property used predominantly in generating income not included within Gross Operating Revenues shall be deemed not used for railroad purposes. Partial use of the line by Operator for future Commuter Passenger Service is possible if first authorized under a separate operating agreement in the manner set forth in Section 2.2(g). During the term of this Agreement some consolidation of yards, interchanges and terminal facilities of the various railroads serving the particular area may require relocation of Improved Property and other facilities which could affect portions of the Rail Line. WisDOT may, upon request from Commission, Operator or others, determine that the use of the Rail Line for railroad purposes is such that the width of the Land at particular points also permits recreational or scenic uses. Commission hereby makes this lease subject to the following conditions:

(a) Subject to Section 2.2(b) below, the right is retained for WisDOT to sell or lease Land, Improved Property or both that WisDOT determines is not needed for the continuation of freight rail service. Such determination shall be made after consultation with Commission and Operator. When notified of a pending sale by WisDOT, Commission shall forthwith notify Operator.

(b) In the event WisDOT determines certain parcels of Land or Improved Property are not reasonably required for the preservation of railroad services, WisDOT may, upon its own initiative, sell, permit, or lease such Land or Improved Property located outside 33 feet of the center line of the main track to any party. Before a sale, WisDOT must first offer the Land or Improved Property to Commission and to other state and local government units under the provisions of Section 85.09, Wis. Stats. Commission shall promptly notify Operator in writing whether it intends to exercise any right to purchase Land and Improved Property offered by WisDOT. If Commission does not elect to exercise such right, Operator may, within thirty (30) days following receipt of the foregoing notice, supply Commission with the purchase funds, and Commission shall purchase the Land and Improved Property to the extent that it may be accomplished under Section 85.09, Wis. Stats., and convey same to Operator, provided that Commission shall not be required to purchase such Land and Improved Property on behalf of Operator if in its reasonable judgment Commission determines that the Land and Improved Property will not be used for a public purpose, in which case the funds furnished by Operator to Commission shall be promptly returned. Commission shall not consent to WisDOT sale or lease of any Land and Improved Property within 33 feet of the center line of the

main track without Operator approval if the parcel to be sold is unoccupied by permanent structures, or is to be sold to an owner of property abutting the main track. Operator approval is not required for Commission's consent to a WisDOT sale or lease of Land and Improved Property within 33 feet of the center line of the main track when the Land and Improved Property are subject to a lease and are occupied by a permanent structure legally existing on the date of the Grant Agreement, or if the sale or lease is for utility or communication use provided that the lessee or purchaser agrees in writing to indemnify Operator against loss or disruption to Operator's business caused by such lessee's or purchaser's use of the Land or Improved Property so acquired.

(c) Commission retains the right to retake or retain possession of any of the Rail Line under lease to third parties for itself or for WisDOT, subject to the right of the Operator to provide service. In the Land Use Agreement, WisDOT presently retains the right to approve all leasing of Improved Property and to conduct all the leasing of Land. If there presently are sidetracks on any of the Land leased to third parties, Commission shall provide Operator with the right of continued use of the sidetrack and Land 16.5 feet from the center line on each side of the side track.

(d) The right to lease Land, which is not under license and lease to Operator or not presently leased to third parties, is retained for WisDOT. If requested by Operator, Commission will attempt to exercise such rights as it may have to obtain a lease or sale of the property to a party or parties who will use the property or improve the property for a use that will involve freight rail transportation.

(e) Any building or other structure presently on the Land being used for railroad purposes or previously built for railroad purposes, except as may be specifically excluded elsewhere herein or in an existing lease or by law, will be available for use by Operator. If any such building or buildings are not needed by Operator for its operation, Commission reserves the right to lease any such building or buildings to third parties for periods not to exceed two (2) years. In some instances, this might involve leasing a portion of the building with Operator using the other portion. Commission agrees to consult with Operator in making such leases.

(f) The transfer of use of the Land to Operator is subject to existing utility easements, street and highway easements, and other existing easements, permits or licenses of grant or use. Commission retains the right of WisDOT or Commission to grant future utility easements and public or private highway or road crossing authorizations. Commission retains to itself or WisDOT all easement and right-of-way rental, purchase price, or other easement, right-of-way or property transfer payments.

(g) Commission reserves the right to contract for the use of the Rail Line or portions thereof for Commuter Passenger Service. Such contract may be with Operator or a governmental unit or Commission may provide that service itself, provided, however, that Commission may alternatively contract, directly or indirectly, with an entity other than Operator or a governmental unit if it notifies Operator, in writing, of its intention to do so and offers Operator an option to provide the same service on the rail line portion proposed to be operated over by such other entity, upon the same terms and conditions, which option may be exercised by Operator within thirty (30) days following receipt of the foregoing notice. Neither Operator nor any other operator may provide Commuter Passenger Service over any portion of the rail line without first entering into a separate agreement authorizing that service. Before Commuter Passenger Service may begin, Commission must sign the authorizing agreement, and WisDOT must approve it. Further, it is a condition of

this reservation that Commission may contract with a third party respecting the provision of Commuter Passenger Service only if reasonable advance notice is given to Operator and Operator is afforded the opportunity of participation in the negotiating and establishing of the conditions of the co-use of these facilities. The granting of such co-use is on the further condition that any upgrading or changing of the Rail Line or other facilities to accommodate the co-use shall be first approved by WisDOT in accordance with Commission's obligations under the Land Use Agreement and shall not involve any additional cost to Operator and that a reasonable division of costs for the servicing, maintaining and repairing of the trackage and other facilities for the co-use shall be established. It is a further condition that such a joint use shall not unreasonably restrict the use of the particular facilities by Operator. This joint use may involve testing or trial operations as well as permanent operations.

(h) As to the planning operations and the changes which might occur because of planning operations, Commission reserves to WisDOT, itself and the governmental entities along the Rail Line the right to do such planning and to provide for relocation of facilities, including Improved Property and the elimination of certain trackage, buildings and other facilities, in order to carry out the determinations arrived at from such planning. It is a condition of this Agreement that Commission reserves the right to negotiate the contract as to such matters to itself and WisDOT on the condition that Operator be given notice and the opportunity to act as a participant or an observer at any such negotiations and that the following factors are controlling insofar as they affect Operator. Operator agrees that it will cooperate in implementing any agreements made by Commission as to the matters set forth in this subsection providing that the alternate facilities made available to Operator are approximately equal to those released by Operator, and, that any major costs of the changes are not imposed on Operator. No change shall interfere with Operator's duty to provide service unless Operator and Commission agree to such change.

(i) It is understood that no lease money or sale receipts are to accrue to Operator in the event of any sales or leases of Land or Improved Property.

(j) The purpose of this section is to merely require Operator to receive a written permit from WisDOT before Operator itself provides passenger rail service. This section does not limit Operator's ability to provide freight services. If Operator proposes to operate or allow the operation of any train over any portion of the Rail Line which is to carry any person paying a fee for carriage, Operator shall first apply for and receive a written permit from WisDOT for the passenger operation on the Rail Line. WisDOT in consultation with Commission may grant or deny a permit based solely upon any of the following: adequacy of liability insurance coverage, terms and amount as set forth in Section 6.2 below, trackage condition, proposed speed of operation, preparations for crowd control, parking and clean-up, and sufficiency of consumer protection assurances associated with each use by Operator of any portion of the Rail Line subject to this Agreement to be operated over by Operator or by an affiliate, subcontractor or lessee of Operator. The permit may be denied if not requested in writing a minimum of ten days prior to the proposed use date, or if a fully executed copy of an acceptable certificate of binding insurance is not submitted for Commission and WisDOT review ten days prior to the proposed use date, or if insurance coverage is inadequate or flawed in the reasonable judgment of Commission or WisDOT, or if a prior fee remains unpaid in whole or in part.

ARTICLE 3.0 - RENT.

(a) Each year Operator shall pay rent to Commission for use of the Land and Improved Property, and all other rights and privileges under this Agreement, due and payable quarterly. The amount of rent which Operator shall pay to Commission each year shall be an amount equal to the amount calculated by multiplying the Rate Per Mile (hereinafter denoted the "RPM") by the number of miles of track operated, excluding yard, passing and side tracks.

(b) The RPM is hereby established as follows:

(i) The RPM in effect during the calendar years of 2009 through 2013, both inclusive, shall be \$100.00 (One hundred dollars)

(ii) The RPMs in effect during the calendar years after 2013 shall be RPMs which shall have been adjusted according to the provisions of this Article 3.0 which are set forth below.

(iii) The RPM shall be adjusted beginning in January of the year 2014 and shall be adjusted again every fifth year thereafter.

(c) When an adjustment to the RPM is to be made, it shall be made in the month of January. The adjustment to the RPM shall be calculated by increasing or decreasing the RPM which was in effect during the previous calendar year in proportion to the change in the CPI-U over the five year period ending on December 31 of the previous calendar year.

(d) CPI-U means the US Department of Labor, Bureau of Statistics, Consumer Price Index for the United States, All Urban Consumers, All Items, unadjusted index.

(e) Adjustments to the RPM shall be calculated by the following process:

(i) Subtract the CPI-U for the month of December of the year which is six years prior to the current year from the CPI-U for the month of December of the immediately preceding calendar year. The difference between these two CPI-U numbers is the Index Point Change over the preceding five year period.

(ii) Divide the Index Point Change by the CPI-U for the month of December of the year which is six years prior to the current year, and add one to the quotient, and round the sum to the third decimal place, to establish the RPM Adjustment Multiplier.

(iii) Determine the adjusted RPM by multiplying the RPM in effect during the previous calendar year by the RPM Adjustment Multiplier to establish the new RPM.

(f) In addition to any rental due under Section 3.0(a) of this Agreement, Operator shall pay Commission 10% of its gross receipts in excess of \$100,000 per year from excursion trains permitted by WisDOT and operated on the Land and Improved Property.

(g) For calendar year 2008, Operator shall pay rent in the amount of \$15,250 to Commission for use of the Land and Improved Property, and all other rights and privileges under this Agreement, due and payable in one lump sum on September 30, 2008

ARTICLE 4.0 - REVENUE DIVISIONS, TRACKAGE RIGHTS, INTERCHANGES AND COORDINATION WITH OTHER LINES.

Section 4.1 - Division of Revenues.

Operator has represented to Commission that it has made necessary and satisfactory arrangements for divisions of revenues with all connecting railroads. Operator obligates itself to make arrangements for division of revenues as are needed if there are other interchange points needed for proper operation of the Rail Line and to furnish Commission documented evidence of such divisions after being obtained.

Section 4.2 - Trackage Rights.

(a) Operator and Commission have the responsibility for obtaining the necessary trackage rights required to permit the operation over the Rail Line that is required to perform the necessary freight rail service for shippers along the Rail Line. Operator and Commission shall use their best efforts to obtain such rights or to purchase such additional trackage and land or both as are necessary to provide access by Operator to the Improved Property. This section shall not be construed to require Commission to expend funds, or acquire property or rights. Operator shall file all trackage rights agreements with the STB as may be required by law.

(b) Operator shall furnish Commission and WisDOT copies of trackage rights or lease agreement(s) allowing Operator to operate over

- (i) CN property from Rugby Jct to Waukesha
- (ii) CN property from Saukville to Canco
- (iii) UP property from Kohler to Sheboygan
- (iv) Such other railroad property as is or as may become necessary to operate the Rail Line

Section 4.3 - Interchange Agreements.

It is recognized that Operator may enter into interchange agreements with the CN, CPR and UP in various locations to facilitate the service to the Rail Line. Operator agrees to supply Commission and WisDOT with documented evidence of the interchange agreements and any amendments thereto after obtaining the same.

Section 4.4 - Interline Divisions.

(a) Operator shall adhere to and comply with the interline accounting rules of the Association of American Railroads in dividing revenues, under through rates, among participating carriers. Operator covenants and agrees to make such divisions at the time and in the manner provided herein.

(b) Operator shall remain current on its financial obligations to connecting railroad companies. In the event that any or all connecting railroad companies place Operator on a "junction settlement" basis, or any modification thereto, except by voluntary written agreement between Operator and connecting railroad, Commission may, at its option, declare Operator in default of this Agreement.

ARTICLE 5.0 - RAILROAD OPERATIONS.

Section 5.1 - Authority to Operate.

(a) Operator has obtained the requisite operating authority from the STB for the railroad operations described under this Agreement and shall keep such authority in full force and effect throughout the term of this Agreement. Operator shall make all required filings and reports to the STB and the Wisconsin Office of the Commissioner of Railroads.

(b) Commission hereby as a part of this Agreement grants Operator the right to operate over all Principal Line Segments of the Rail Line under Commission jurisdiction as a common carrier railroad providing exclusive originating and terminating freight rail service on the Rail Line, including line-haul and switching services to shippers on the Principal Line Segments over which it is operating as a freight rail carrier. In such operation, Operator shall have the power and authority to exclusively control, manage, staff and plan for the provision of freight rail service on the Principal Line Segments over which it is operating as a freight rail carrier. As a part of its operation, Operator shall have power to effect such additions, changes, betterments, and repairs to the Improved Property as Operator may, in its judgment, deem necessary, expedient or proper to assist or improve rail service over the Rail Line, subject to the approval of Commission if approval is otherwise required by other provisions in this Agreement, the Land Use Agreement or Grant Agreement, other applicable agreements or by law. Commission grants Operator the right to adopt and promulgate rules governing access to, use of, and operation of the Land and Improved Property, provided any such rules affecting freight rail service which differ from the General Code of Operating Rules adopted by Burlington Northern Santa Fe Railway, CP Railway, and Union Pacific Railroad, effective April 3, 2005, or as subsequently revised, shall be lawful under Federal and state statutes and regulations governing such service and shall have been approved by WisDOT within 180 days of the issuance of the order adopting or promulgating such rules and provided any such rules are consistent with this Agreement.

Section 5.2 - Agreement of Operator to Operate and Agreements and Covenants as to Operator.

Operator hereby agrees to operate a railroad on the Rail Line licensed and leased to it as set forth above. As part of this Agreement, Operator hereby covenants and agrees to do the following things and to perform in the following manner:

(a) Service Operator agrees to provide revenue freight rail service to current and future shippers and receivers connected to or on the Rail Line. This is freight rail service including provision of rail cars, switching, line haul and other related services and includes bridge traffic. Operator is required and hereby agrees to provide the current and future shippers and receivers connected to or on the Rail Line freight rail services upon the same terms and conditions as such service is provided to other shippers and receivers served by Operator, or as otherwise agreed between Operator and any shipper or receiver. Failure to provide minimum service required or agreed to hereunder or required under Section 7.10 shall at Commission's option subject Operator to termination for default as hereinafter provided.

(b) Maintenance Operator shall perform or cause to be performed all maintenance of the Rail Line including trackage, crossings at grade, bridges, buildings, drainage ways and structures, fences, other appurtenances, and any other portion of the Land or Improved Property reasonably necessary for the safe operation of freight rail service or any other service provided by Operator. Tracks shall be maintained to FRA Class II standards, or to a standard determined by WisDOT after consultation with Operator, as of an inspection date prior to sixty (60) days following the Commencement Date. Upon its completion, a list of line segments that shall be maintained to FRA Class II standards and a list of line segments that shall be maintained to FRA Class I standards shall be included as Attachment 3 to this Agreement. Any Principal Line Segment that has been rehabilitated as part of a WisDOT assisted project after the date of this Agreement shall be maintained to the WisDOT maintenance specifications specified as part of the contract covering WisDOT assistance to that rehabilitation project. In the event of a dispute between Operator and WisDOT as to the condition of the trackage following the inspection referred to above, Operator and WisDOT shall jointly request FRA to determine the FRA track safety classification. Bridges shall be maintained in compliance with Chapter 7, Part 3 of the Manual for Railway Engineering, as amended, published by AREMA. Operator may be declared in default, as hereinafter provided, or in the case of buildings, may lose the right of possession and occupancy, if a deviation from the applicable maintenance standards or local and state building codes remains uncorrected for more than ninety (90) days after notification of the deviation as hereinafter provided or if Operator has not diligently commenced to correct such deviation within the 90 day period. Operator is prohibited from using trackage located in sidetracks, sidings or other locations as maintenance material unless prior written permission to do so is requested from and first granted by WisDOT. Compensation to WisDOT from Operator for materials used with or without permission may be required by Commission and WisDOT. Any costs of trackage installed on or funds expended for maintenance of any portion or component of the Rail Line under the jurisdiction of Commission by grant from WisDOT that is not approved by WisDOT as part of a rehabilitation project shall not be eligible for reimbursement by Commission or WisDOT upon sale of the Rail Line or transfer of operating rights over the trackage to another agency or operator.

(c) Safety and Other Inspections Operator agrees to facilitate the inspection of the Rail Line facilities as required by governmental agencies. Operator agrees to inform WisDOT and Commission of the time and place of any inspection requested by a federal or insurance inspector. Operator shall permit representatives of WisDOT authorized by the Secretary of WisDOT or Chief of the Railroads and Harbors Section of WisDOT and representatives of Commission authorized by Commission chairman to accompany the inspector. Operator is required and hereby agrees to provide access to all documents related to any inspection by any governmental or insurance agency. Operator agrees upon reasonable notice during normal business hours to permit inspection of the Rail Line, the rolling stock and maintenance equipment, and the operating and maintenance practices of Operator and Operator's affiliates performing work on the Rail Line, by Commission or WisDOT or their agents. Operator covenants and agrees to furnish Commission and WisDOT with copies of all inspection reports from federal agencies or insurance agencies and safety orders from federal agencies or insurance agencies and to furnish Commission any like reports and orders from WisDOT or the Wisconsin Office of the Commissioner of Railroads.

(d) Equipment Operator agrees to provide and maintain at its own expense all suitable locomotives, cars and other rail equipment as are necessary in the operation of this freight rail service. Operator shall be solely responsible for and agrees to provide all tools and other equipment necessary to properly maintain the operating equipment, Improved Property, and Land on the Rail Line.

(e) Operating Personnel Operator agrees to obtain and maintain the necessary personnel for operation and management of its operations over the Rail Line. Said personnel shall be under the sole control and direction of Operator. It is understood and agreed that no personnel of Operator are agents, employees, servants or subcontractors of Commission or WisDOT. All such personnel shall be qualified and properly trained for such service, but this shall be the sole responsibility of Operator.

(f) Accounting Services Operator agrees to establish and perform all necessary accounting services appropriate to conducting business as a railroad and to comply with this Agreement. Operator is required and hereby agrees to permit access by WisDOT and Commission and their agents to all documents related to the business operation of Operator including, but not limited to, agreements for leases, loans, revenue divisions and records of rail traffic, receipts and expenditures.

(g) Use of Property Operator shall have use of all the Land and Improved Property under the ownership or control of Commission, including buildings, which are reasonably required for the operation of the Rail Line. This shall not, however, negate any reservations held or any actions taken by Commission or WisDOT under the reservations set forth in Section 2.2 of this Agreement. Operator covenants and agrees to provide maintenance and upkeep for any such buildings. In the event it becomes desirable to construct buildings or other structures on the Land, the same may be constructed by Operator at its expense, subject to Commission's and WisDOT's approval. Operator has no authority to enter into easements, permits, licenses or leases affecting the Land whether under the use of Operator or outside the use of Operator. Commission is under contract with WisDOT as to leases of Land and Improved Property, and any such lease income shall be income to WisDOT or Commission. Commission agrees, however, to cooperate with Operator in providing leases to businesses or users who would benefit the rail business through operation of any such leases. Operator understands that any agreement for leasing Land is subject to the Grant Agreement.

or Land Use Agreement as to securing authority and approval from WisDOT and as to the division of rents.

(h) Promotion of Business Operator covenants and agrees to use its best efforts to promote the use of freight rail services by customers located along the Rail Line and in the immediate vicinity and agrees to diligently seek new freight rail business and customers for such services

(i) Use of Land or Trackage as Collateral Neither the Land for which a lease and license to use is granted nor the Improved Property leased under this Agreement shall be used by Operator in any form or amount as equity, security, or collateral for any borrowing or other means of raising capital by Operator or as collateral for any other purpose.

(j) Public Order Operator hereby assumes full responsibility for preserving public order upon the subject property and for resolving matters concerning trespass upon or from the Land and Improved Property adjacent to private lands. Operator may adopt and enforce any necessary rules in accordance with Section 5 1(b) in order to protect the Rail Line. Operator shall have the right to post signs and erect barricades necessary to delineate the Rail Line as railroad property and to prevent entrance upon the subject Rail Line by unauthorized vehicles or individuals

(k) Fencing Operator assumes such responsibility as may exist to third parties for providing fencing required under Chapter 90, Wis Stats, local ordinance or contract

(l) Vegetation Control Operator assumes such responsibility as may exist for the eradication, control and removal of vegetation as required by applicable state law or local ordinance.

(m) Crossing over Waters and Drainage Systems Operator assumes full responsibility for the ordinary repair and maintenance of all culverts, trestles and bridge structures on the Rail Line

(n) Highways and Streets Operator assumes full responsibility on the Rail Line for the maintenance of trackage, warning devices, and railroad highway crossings whenever crossing maintenance is required by law from Operator

(o) Private Crossings Operator may, according to applicable statutory provisions, abrogate any private crossing established by agreement, which interferes substantially with Operator's performance of freight rail services. Operator shall obtain authorization from WisDOT and, if necessary, the Office of the Commissioner of Railroads, prior to permitting any additional private crossings

(p) Maintenance Plan

(i) Operator agrees to prepare an annual maintenance plan for the Rail Line. This plan shall be combined with like plans for any and all other Rail Lines provided to Operator by any other rail transit commission existing in Wisconsin. The plan shall be prepared in consultation with WisDOT and shall be fully completed and delivered by Operator to WisDOT for WisDOT review and reasonable approval not later than February 1 of each year. The plan required to be submitted shall include the quantities of materials to be installed during the year in which the plan is submitted, the numbers and types of

personnel to be employed for the proposed maintenance, the numbers and types of machines to be utilized for performing the proposed maintenance, the location of the proposed maintenance and the schedule for performing the proposed maintenance. Estimated prices for materials, labor and machines shall be included as well as the projected rates of production.

(ii) A maintenance plan shall not be eligible for WisDOT approval unless the sum of expenses and the capitalized maintenance expenditures called for in the plan during each calendar year are a minimum of 10 percent of Gross Operating Revenues. Notwithstanding the above, in the event maintenance is required to meet the track classification levels required under Section 5 2(b), sufficient funds to achieve the classification level required shall be expended. The Plan or modification shall be revised and resubmitted within 30 days following a WisDOT request so as to overcome the deficiencies, if any, identified by WisDOT.

(iii) Operator shall respond to inquiries from WisDOT concerning Operator's implementation of the approved Maintenance Plan. Operator shall provide WisDOT with a revised Maintenance Plan within 10 days following WisDOT's request for revisions following a review in accordance with Section 5 2(b).

(q) Liens Against Rail Line. Operator shall not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or other security interest or claim on or with respect to the Land or Improved Property or any interest therein. Operator will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest, or claim if the same shall arise at any time.

(r) Rail Banked Lines. The obligation of Operator under this and other sections of this Agreement shall not apply to Principal Line Segments classified as rail banked lines.

ARTICLE 6.0 - LIABILITY AND INSURANCE.

Section 6.1 - Hold Harmless.

Except to the extent that the same arises from or is related to co-uses permitted by Commission or WisDOT pursuant to Section 2 2(g) above, Operator shall save and hold Commission, Commission's member counties and WisDOT harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which arise out of or are connected with, or are claimed to arise out of or be connected with, any act, omission or operation of Operator, or its agents, servants, subcontractors, officers or employees, or which arise out of or are connected with, or are claimed to arise out of or be connected with any accident or occurrence which happens or is alleged to have happened, in or about the place where such operation, act or omission is being performed or in the vicinity thereof (1) while Operator is performing its work, or (2) during the period this Agreement between Commission and Operator is in effect, or (3) while any of the Operator's property, equipment, or personnel, are in or about such place or the vicinity thereof by reason of or as a result of the performance of Operator's operations including, without limiting the generality of the foregoing, all liabilities, damages, losses, claims, demands and actions

on account of personal injury, death or property loss to WisDOT, its officers, employees, agents, subcontractors or frequenters, or to Commission, its officers, employees, agents, subcontractors or frequenters, or to any other person whether based upon, or claimed to be based upon, contract, tort, or having its basis in worker's compensation (except worker's compensation claims by employees or agents of Commission or WisDOT) under Federal or state statutes or having any other code or statutory basis, or based upon administrative laws or other provisions. Without limiting the generality of the foregoing, the liability, damage, loss, claims, demands and actions indemnified against shall include all liability, damage, loss, claims, demands and actions for trademark, copyright or patent infringement, for unfair competition or infringement of any so-called "intangible" property right, for defamation, false arrest, malicious prosecution or any other infringement of personal or property rights of any kind whatsoever. Operator shall at its own expense investigate all such claims and demands, attend to their settlement or other disposition, defend all actions based thereon and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claim, demand or action.

Section 6.2 - Insurance.

(a) Required Coverage During the term of this Agreement, Operator shall maintain, at its own cost and expense, a Comprehensive Railroad Liability Policy with limits of not less than \$20,000,000 per occurrence, or other form approved by WisDOT, WisDOT and Commission, and Commission's member counties, and their officers, employees, and agents shall be named as additional insureds under such policies. Operator agrees to maintain and keep in force worker's compensation and employer's liability insurance as applicable under the Federal Employer's Liability Act to the extent, if any, that it is not covered under the Comprehensive Railroad Liability Policy. Further, Operator shall carry Wisconsin Worker's Compensation Insurance to the extent that it is necessary over and above federal employer's liability coverage and for the covering of any employees, if any, who are not covered under the Federal Employer's Liability Act. Operator further agrees to carry fire and extended coverage for any buildings and structures subject to damage in an amount not less than \$5,000,000. All such insurance shall cover Commission, Commission's member counties and WisDOT to the extent of their ownership in any of said properties and to include under such coverage buildings, and trackage owned by Commission and leased to Operator hereunder, even though some of said buildings or structures might not be included in the property used by the Operator, except that coverage need not be maintained on improvements sold, leased, licensed or otherwise disposed of by WisDOT or Commission to any third party. Items of coverage for Commission may be waived by letter from Commission to the Operator.

(b) Validation of Coverage and Notice of Cancellation Upon initial purchase and each renewal of insurance coverage, the insurance carrier shall be subject to approval of WisDOT, such approval shall not be unreasonably withheld, and Operator shall provide to both WisDOT and Commission written documentation from the insurance carrier or its authorized representative of the terms and effective date of coverage and within 60 days thereafter a copy of the Comprehensive Railroad Liability Policy and the other policies of insurance aforesaid. In the event of suspended coverage or insurance cancellation by any insurance carrier, both the insurance carrier and the Operator shall provide WisDOT and Commission with notification of such suspension or cancellation no less than 10 days prior to such suspension or cancellation.

(c) Self-Insured Retention It is understood and agreed that both the Comprehensive Railroad Liability Policy and the Rolling Stock Policy to be obtained and kept in force by Operator may contain a self-insured retention. A Comprehensive Railroad Liability Policy provides coverage for liabilities resulting from railroad operations such as grade crossing incidents, injuries to third parties while on railroad property and injuries to railroad employees under FELA. A Rolling Stock Policy provides coverage for damage to rail equipment, track structure, customer product loss and third party property resulting from a derailment or collision between rail equipment. The Operator shall maintain a self-insured retention of not more than \$250,000 per occurrence for railroad liability, employee injuries under FELA, and rolling stock equipment. If for whatever reason, the Operator determines that maintaining such a level of self-insured retention is either impractical, unavailable or uneconomical, then Operator agrees to confer with Commission and WisDOT on the amount of self-insured retention at least 60 days prior to policy renewal or at such other time as review may be required by the insurer. It is a condition of this Agreement that Operator shall annually provide WisDOT with an independently audited financial statement showing the financial capability of the Operator to be sufficient to satisfy the self-insured retention. It is a condition of this Agreement that, upon the request of Commission, which request shall be set forth in a resolution adopted by the Board of Directors of the Commission, at a meeting of the Board of Directors of the Commission, by an affirmative vote of not less than two-thirds of the fixed membership of the Board of Directors of the Commission (notwithstanding whether all members are present at a meeting to vote on such resolution), Operator shall provide Commission with an independently audited financial statement showing the financial capability of the Operator to be sufficient to satisfy the self-insured retention.

(d) Reporting of Incidents and Claims. During the term of this Agreement and any extension thereof, any damage or injury to person or property occurring on the Rail Line or from the operation of the equipment of Operator or by the employees of Operator (herein referred to as an "incident") shall be immediately reported to Commission and WisDOT. Operator shall, within 5 days, provide a written report, which shall also include a brief resume of the facts of the incident and an estimate by the Operator as to the approximate potential claim, which might arise thereunder. If a notice of injury or claim of damage is made to Operator, then Operator shall forthwith furnish Commission and WisDOT with copies thereof. Thereafter, Operator shall provide Commission and WisDOT copies of any further instruments, reports, or records involving such matter and shall periodically, but not less frequently than semi-annually, report to Commission and WisDOT as to further happenings regarding the incident including the final disposition of the matter.

(e) Self-Insured Retention Set Aside. Operator shall, within 30 days after receiving a claim or notice of claim alleging an incident or after being notified of a claim or notice of claim being received by Commission, a member county of Commission, or a WisDOT employee alleging an incident, set aside a separate, segregated reserve for each claim, including claim defense. The reserve fund set aside for each claim and for its defense shall be determined by Commission's counsel, Operator's counsel and WisDOT's counsel. If the counsels are unable to agree, they shall select a fourth party to make the determination. Pending that determination, at least the lesser amount shall be set aside for the purposes of monitoring Operator's performance under this Agreement relating to claims. Operator agrees to provide any Commission or WisDOT representative full and complete access to all documents and records related to Operator's operations or financial position. In the event that the ratio of Operator's current assets to current liabilities, including claim reserves, as determined from General Ledger Trial Balance sheets filed

with Commission and WisDOT within 45 days after the end of each quarter, is less than 1 to 1, as determined by WisDOT, Commission shall have the right to terminate this Agreement by fifteen (15) days written notice to Operator. If, upon receipt of such notice of termination, Operator shall desire to continue this Agreement in effect, Commission or Operator shall have the right to do so by (i) purchasing, at its own cost and expense, such insurance as WisDOT and Commission shall deem necessary in their reasonable judgment or by (ii) causing the equity owners of Operator to contribute such additional amounts to the capital of Operator as are required to increase such ratio to 1 to 1.

(f) Review and Modification of Liability Insurance. The coverage limits of Operator's Comprehensive Railroad Liability Insurance for freight and excursion operations shall be subject to review by Commission and WisDOT no more than once every twelve months. Modifications to self-insured retention amounts shall be governed by Section 6.2(c) herein. Modifications increasing coverage limits shall be effective upon notice by Commission or WisDOT to Operator. Any modifications decreasing coverage limits may not in any event reduce the requisite insurance coverage below that required under Section 6.2(a) herein and shall be effective only upon WisDOT approval and upon amendment to this Agreement. Review of liability insurance shall be conducted by Commission, Operator, and WisDOT no less than 30 days prior to the expiration date of the policy then in force, except that a special review may be conducted in the event Operator experiences a cancellation of or a modification or a refusal to renew its liability insurance. Such special review shall be governed solely by Section 6.2(f)(iv), (v), and (vi) herein. The following conditions shall apply to the review and modification of Comprehensive Railroad Liability Insurance:

- (i) Commission or WisDOT may require Operator to expend up to a fixed percentage of Operator's Gross Revenue, as determined under Sections 6.2(f)(ii) and 6.2(f)(iii) herein, to purchase comprehensive railroad liability insurance covering the liability as is required and naming the additional insureds as is required under Section 6.2(a) herein. Operator's decision to obtain insurance beyond that which is required under Section 6.2(a) herein for any aspect of coverage shall not result in Operator purchasing any less insurance coverage for any other aspect of coverage required under Section 6.2(a) herein.
- (ii) A base percentage of Gross Operating Revenue expended for the purchase of comprehensive railroad liability insurance is established for the duration of this Agreement at 4% of Operator's Gross Operating Revenue for the Operator's most recent fiscal year, as determined by independent audit. Commission or WisDOT may require Operator to expend up to an amount equal to 150% of the base percentage, which amount is 6% of Gross Operating Revenues, for comprehensive railroad liability insurance. The amount of liability insurance coverage purchased by this sum shall be maintained in force by Operator until next modified under the terms of this section.

At no time, however, may this base percentage or the review and modification procedure established under this Section 6.2(f) herein be used to reduce the requisite insurance amounts and coverages below that required under Section 6.2(a) herein. Those insurance requirements stated in Section 6.2(a) herein are minimal requirements and shall be met regardless of the base percentage of Gross Operating

Revenue calculation or of the review and modification procedures described in this section

- (iii) The amount of the increase, if any, in the Operator's expenditure for liability insurance required by Commission or WisDOT may be used to adjust coverage limits or self-insured retention limits or both and shall only be required upon the approval of the increase by two of the following three entities. Commission, Operator, and WisDOT. In the event one of these three entities takes a position on the approval of the required increase contrary to the other two, the entity holding the minority position may require the required increase to be subject to arbitration through the use of the American Arbitration Association and its procedures. The arbitrator shall determine what liability insurance coverage is sufficient for (1) the reasonable and full compensation of the public and persons who may be injured or damaged, (2) the protection of the interests of the Commission, WisDOT, and Operator, and their officers, employees, and agents, including their interests as indemnities and for contribution, in the event of property damage, personal injury, or other loss that may occur, and (3) the availability of that coverage to the Operator in the insurance market place pursuant to the limitations established under Section 6 2(f)(ii). The arbitrator shall then determine the amount of expenditure increase that is reasonably necessary to acquire the liability insurance coverage the arbitrator has so determined to be sufficient. In determining the amount of expenditure increase, the arbitrator is limited to the expenditure level increase required by the majority of the three entities, or the one proposed by the minority entity, neither of which shall exceed the increase allowed under Section 6 2(f)(ii). The arbitrator's determination shall be final and binding on Commission, WisDOT, and Operator as to the amount of the expenditure increase required. The arbitrator shall render a decision within 30 days of being assigned the arbitration case. An arbitrator, if used, shall be assigned the case no less than 50 days prior to the expiration of the insurance coverage then in effect. The cost of arbitration shall be paid equally by Commission, Operator, and WisDOT.
- (iv) Operator shall at a minimum expend such amounts as may be required to maintain liability insurance coverage limits no less than that in force at the time of review.
- (v) Commission, WisDOT, and Operator shall establish the coverage level to be obtained by Operator and shall amend this and companion agreements in accordance thereto in the event insurance coverage limits in effect at the time of the review cannot be maintained due to the refusal by insurance carriers to issue a policy of insurance at that coverage limit to Operator.
- (vi) In the event the three entities are unable to reach a common position on the amount of insurance coverage to be obtained, under Section 6 2(f)(v) herein, any one of them may require arbitration in accordance with Section 6 2(f)(iii) herein to determine the required amount of insurance coverage.
- (vii) Notwithstanding any other provision regarding insurance contained herein, Operator shall at a minimum obtain and maintain liability insurance coverage and limits no less than that required now or in the future by the laws of the State of Wisconsin and

no less than that required now or in the future by the laws or regulations of the federal government or its agencies, naming WisDOT and Commission and their officers, employees, and agents as additional insureds

Modification to the comprehensive railroad liability insurance limits for excursion operations shall be established by Commission, Operator and WisDOT under the process set forth in Section 6 2(f)(iii) herein, but in no event shall the coverage limit be less than \$20,000,000 per occurrence, or other form approved by WisDOT, or the coverage limit then in effect for freight operations, whichever is greater

ARTICLE 7.0 - TERMINATION OR SUSPENSION.

Section 7.1 - Declaration of Default.

(a) Default A condition of default exists (1) when either party to this Agreement fails to abide by or perform in a material respect any one or more of its terms and conditions, (2) when Operator's insurance coverage lapses, is suspended, is canceled, or fails to satisfy all the terms and conditions of Section 6 2 of this Agreement or any amendment thereto, (3) when Operator files for protection under any bankruptcy statute, or (4) in the option of Operator, when the Land Use Agreement or the Grant Agreement between Commission and WisDOT expires, or is terminated, amended, or revoked without Operator approval

(b) Notice of Default A declaration of default shall be made in writing and delivered to the alleged defaulting party by certified mail sent to the address shown in Section 13 2 below The letter shall identify the action or inaction constituting the default and reference the portion of the Agreement under which the default occurs The date of default shall be the date of delivery of notice of default or the date required insurance coverage ceased or the date of filing for bankruptcy protection, whichever occurs first

Section 7.2 - Termination for Default.

In the event of any default described in Section 7 1 above, the non-defaulting party shall have the right to and at its option may, after first giving the required notice to the party in default and notwithstanding any waiver by the party giving notice of any prior breach thereof or concurrent breach, terminate this Agreement, unless the breach is cured within the period set forth in Section 7.3 below, and the exercise of such right shall not impair any other rights of the party giving notice under this Agreement or any rights of action against the defaulting party for the recovery of damages whether arising under this Agreement or otherwise

Section 7.3 - Ability to Cure Default.

(a) Removal of Operator Default Operator shall have ten (10) calendar days from written notification by Commission of default by Operator or from the date required insurance coverage ceased or from the date Operator filed for bankruptcy, whichever occurs first, to remove the cause

of the default. Such correction shall be completed and available for Commission review within the ten (10) day period. Upon written petition by Operator, Commission may extend the period for removal of a default condition. Such extension shall only be given in writing and may not be unreasonably withheld. If the remedial action is satisfactory, Commission shall provide appropriate written notice to Operator.

(b) Removal by Operator of Commission Default. If for any reason Commission is in default of an agreement with WisDOT, Commission shall so notify Operator, and Operator shall have such time as WisDOT allows in writing from the date of notification of Commission to remove the default on behalf of Commission and shall have the right to quiet enjoyment of the Land and Improved Property within the allowed time period until the condition of default is resolved.

Section 7.4 - Contractual Obligations Upon Termination.

Except as otherwise agreed to by the parties in writing, the obligations of Operator to Commission to provide freight rail service and to maintain the Land and Improved Property under this Agreement shall cease on the effective date of the termination hereof except as provided for in the following Section 7.9, but all other obligations of the parties shall remain in full force and effect until all operations of Operator hereunder have ceased. Both parties agree to make reasonable efforts to satisfy their surviving obligations promptly after termination. Upon termination, however, Operator's rights as a lessee of the Improved Property and its lease and license to use the Land and Improved Property shall cease immediately subject to Section 7.8.

Section 7.5 - Termination Approvals.

Both parties recognize that the termination of Operator's lease and license may require regulatory agency approval before termination can be effective. Operator and Commission both agree to cooperate in necessary efforts associated with obtaining such approvals and, if action is required by WisDOT, to cooperate with WisDOT in all necessary efforts associated with obtaining such approvals.

Section 7.6 - Bankruptcy of Operator.

If any proceeding shall be commenced by or against Operator for any relief which includes, or might result in, any modification of the obligations of Commission or its Operator hereunder or under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of such obligations), and, unless such proceedings shall have been dismissed, nullified, or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), it may be declared cause for default and said contract may be terminated upon 10 days notice by Commission to Operator. If all the obligations of Operator hereunder shall not have been and shall not continue to be duly assumed in writing pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for Operator, or for its property in connection with any such

proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees or receiver or receivers, within ten (10) days after proceedings shall have been commenced, it may be declared cause for default. Arrangements may be made in such event by Commission with the trustee or bankruptcy court for continuation under such terms as agreed to by Commission.

Section 7.7 - Return of Property Upon Bankruptcy Default.

If this Agreement shall terminate pursuant to Section 7.6, Operator shall forthwith deliver possession of the Land and Improved Property to Commission. Land and Improved Property so delivered shall be in the same or better operating order, repair, and condition as when originally delivered to Operator, reasonable wear and tear in service excepted, shall meet the standards of all applicable laws and shall have removed therefrom at Operator's expense any addition, modification, or improvement owned by Operator and for which Commission or WisDOT has not made a specific request for it to remain with the property.

Section 7.8 - Vacating the Rail Property.

Upon determination by Commission that the remedial action has not removed the default condition, it may provide written notice to Operator to vacate the Rail Line, and Operator shall vacate the Rail Line within 10 days of delivery of such notice. Commission shall arrange with Operator for an inventory of the Rail Line to be conducted within this 10 day period. If Operator does not remove any of its equipment within the 10 day period, Commission shall have the option to remove it at Operator's expense.

Section 7.9 - Obligations of Operator in the Event of Termination.

Operator hereby agrees in the event of termination that it will mitigate the expenses of termination to the greatest extent possible. If there is any unused material in the hands of Operator at the time of termination belonging to Commission or in which Commission has an interest arising out of a rehabilitation program where funds of Commission or WisDOT have been expended to pay for materials or materials otherwise have been paid for by Commission or partially paid for by Commission from its funds or from funds secured from WisDOT, Operator shall set such material aside on property belonging to Commission. In addition to all other obligations in the event of termination, Operator is obligated to remove all cars from the Rail Line of Commission within 10 days following its receipt of a notice to vacate and to deliver all cars to or from shippers on the Rail Line, which are in transit to, or from any source.

Section 7.10 - Service Failure.

Failure to provide freight rail service to any station on a Principal Line Segment of the Rail Line is defined as

(a) The unavailability of freight rail service for 30 consecutive days to any station on such Principal Line Segment, or

(b) The availability of an average of less than one train per week for a consecutive 12 week period to any station on such Principal Line Segment, or

(c) The failure to move any revenue freight car loads for 12 consecutive months over such Principal Line Segment

In the event Operator fails to provide freight rail service, as defined above, (except to the extent contemplated by Section 5.2(a)), on any Principal Line Segment(s), Operator agrees to return possession of such Principal Line Segment or portion of a Principal Line Segment to Commission upon 10 days written notice of demand by Commission. Notwithstanding the foregoing, in the event that Operator, Commission, and WisDOT agree in writing that a Principal Line Segment or Principal Line Segments need not be operated over, or if service is temporarily suspended on a Principal Line Segment or Principal Line Segments pursuant to Sections 7.11 or 7.12 below, lack of service on such Principal Line Segment(s) shall not constitute a failure by Operator to provide freight rail service as defined in this section.

Section 7.11 - Immediate Suspension of Rail Operations.

Upon emergency notice from Commission, RHS, or Division of State Patrol (by telephone and later confirmed in writing), Operator shall immediately suspend the movement of trains or motive power when, in the reasonable judgment of Commission or WisDOT, after consulting with Operator if possible, operation of trains or motive power would be unsafe or if the liability insurance coverage of Operator lapses, is suspended, or is canceled for any reason, or is less comprehensive than is required under Section 6.2 of this Agreement. Operation of trains and motive power by Operator shall remain suspended until the president or general manager of Operator is contacted by Commission and WisDOT and until the safety hazard is ameliorated and the required insurance coverage is reinstated. Suspension of operations for safety reasons shall be ordered when operations are not or would not be in compliance with FRA safety regulations. At the option of Operator, safety officials of FRA may be called upon to determine the existence or non-existence of any safety hazard cited by WisDOT or Commission as a sufficient reason for suspending operations. When the FRA is called upon, operations shall be suspended until such determination is made by FRA.

Section 7.12 - Force Majeure.

The parties hereto will be excused from performance of any of their respective obligations hereunder, for the duration of any interruption occasioned by any event beyond their respective control (not due to their own fault or actions), which shall include, without limitation, except the unavailability of insurance coverage in full accordance with Section 6.2 of this Agreement or any amendment thereto: acts of God, strikes or other labor troubles, other causes beyond the reasonable control of the parties, interruption of service caused by explosion, fires, vandalism, or malicious mischief, or unavoidable interruption or cessation of service for a period of less than 120 days.

caused by a connecting railroad. Operator shall not be required to operate with liability insurance coverage levels less than those set forth in Section 6.2, but may be declared in default for non-compliance with Section 6.2.

ARTICLE 8.0- DISPOSITION OF PROPERTY AND PROCEEDS.

Section 8.1 - Option to Purchase.

(a) Operator shall have the right to exercise an option to purchase the Land and Improved Property at any time after the start-up of operations under the provisions of s 85.09(4), Wis Stats. This right shall exist throughout the term of this Agreement and any renewals thereto, so long as Operator is not in default at the time of exercise of said option, or at the time of closing of the intended purchase.

(b) If the option is exercised, it shall be for the entire Rail Line (unless the parties hereto agree otherwise) and the purchase price for the Rail Line shall be at fair market value, which shall be determined by appraisal.

(c) The terms of payment shall be as follows:

(i) At the time of exercise of the option, Operator shall forward to WisDOT a cashier's check in the amount of \$10,000, which shall be considered a good faith deposit and shall be placed in an interest bearing escrow account in favor of the buyer. In the event the Operator defaults in its purchase, the said \$10,000 amount shall be retained as liquidated damages by WisDOT since it would be extremely difficult, if not impossible, to ascertain the actual damages.

(ii) At closing, WisDOT shall be paid in cash or in such other manner as WisDOT shall agree, an amount equal to the remainder of the purchase price less any credit allowed under Section 8.3.

(d) Closing shall be held within 120 days after exercise of option at Madison, Wisconsin or at such other mutually agreed time or place.

(e) All appropriate STB or other governmental approvals must be obtained as a condition precedent to closing.

(f) If the parties cannot agree on one appraiser, then each party shall elect one appraiser and the two selected appraisers shall select a third appraiser within 15 days of their selections. The three appraisers shall then, by majority vote, determine the fair market value of the properties being purchased according to proper appraisal methods then current and approved. If option to purchase is not exercised, the cost of such appraisals shall accrue to the Operator. If option to purchase is exercised, the cost of the third appraisal is shared equally with each party also paying its respective appraiser.

(g) It is understood that title to the Land and Improved Property on certain Principal Line Segments shall be held by WisDOT, and WisDOT shall relinquish said title upon settlement herein. It is further understood that title to the track and other improved facilities on certain Principal Line Segments are with the Commission, and therefore, the Commission shall have the authority to relinquish its property rights upon settlement herein subject to Commission's compliance with its obligation to compensate WisDOT upon sale of the property.

Section 8.2 - Right of First Refusal.

(a) Should WisDOT or Commission as the case may be, propose to sell or otherwise transfer all or any part of the Rail Line to any other person or entity, Operator shall to the extent permitted by law have a right of first refusal for a period of sixty (60) days after written notification of such proposed sale, to substitute itself in place of such proposed bona fide purchaser, subject to all of the terms and conditions of such sale. An exact copy of the agreement under which the bona fide purchaser is intending to purchase, shall be submitted to Operator with the written notification of such proposed sale so that Operator may have an opportunity to review the terms and conditions therein.

(b) Written notice of election to exercise this right of first refusal shall be delivered to the Commission or WisDOT as the case may be, within such 60 day period. Should Operator intend to purchase, it shall purchase under the same terms and conditions as set forth in the agreement executed by the bona fide purchaser, which the WisDOT intends to accept. The bona fide purchaser shall, prior to its executing any agreement, be advised that there exists a prior right of first refusal in the Operator. Should the Operator, in writing fail to respond within such 60 day period with notification of Operator's intent to purchase, under the same terms and conditions, such failure to respond shall be considered as the Operator's desire not to purchase. Hereafter, should the sale be consummated with a third party, other than the Operator, the Operator in that event shall nevertheless have the right to receive from the proceeds of such sale, the proportionate amount of proceeds by which the Operator's contribution of money bears to the entire contribution made by Commission, WisDOT and Operator.

Section 8.3 - Apportionment of Proceeds.

(a) Conceptual Basis WisDOT, Commission and Operator have invested in the acquisition of the Improved Property. Furthermore, Operator accepts the obligation to physically maintain the Land and Improved Property so as to maintain its value. Over time, three results are possible: (1) Operator invests in maintenance sufficiently to retain the value of the Land and Improved Property, or (2) Operator, in violation of the terms of this Agreement, under-invests in maintenance thereby reducing the value of the Land and Improved Property, or (3) Operator, on their own initiative, over-invests in maintenance, thereby either maintaining, reducing or enhancing the value of the Land and Improved Property. In the event of liquidation of the Land and Improved Property, WisDOT, Commission and Operator have a claim on the net proceeds of the liquidation in the same proportion as the original acquisition and subsequent, if any, rehabilitation of the Improved Property.

(b) Computation The Investment Basis of WisDOT, Commission and Operator shall be defined as the total financial contributions of each to the cost of acquisition, and rehabilitation of the Improved Property, and the cost of construction of new Improved Property for which grant funds are expended. For the purposes of computing the Investment Basis of the Improved Property, the initial investment of each party is as follows: (1) WisDOT - \$2,746,402; (2) Commission - \$0.00, and, (3) Operator - \$440,018. Subsequent to the initial investment, Operator has increased its investment in the Improved Property to \$686,601. In addition to these amounts, as of March 1, 1990, WisDOT has contributed \$4,937,185 for rehabilitation of the Improved Property and construction of new Improved Property, and Operator has contributed \$1,240,228 for rehabilitation of the Improved Property and the construction of new Improved Property. Expenditures on the Badger loop track are subject to a separate agreement and are not part of these totals. In addition, since March 1, 1990, WisDOT has contributed \$11,337,051, the Commission has contributed \$747,700 and the Operator has contributed \$2,086,563 for rehabilitation of the Improved Property and construction of new Improved Property. Therefore, as of April 1, 2007, the Investment Basis for Improved Property for each party is as follows: (1) WisDOT is \$19,020,638; (2) the Commission is \$747,700, and, (3) the Operator is \$4,013,392. Upon termination of the Grant Agreement, the basis of WisDOT, Commission and Operator shall be calculated as follows:

(i) No more than 60 days following the closing of a sale of any Improved Property by Commission or the failure by Commission or Operator to remove a condition of default, the gross salvage value of the Improved Property on the Rail Line or any portion thereof subject to the default shall be determined in accordance with Section 8.1(f) of this Agreement.

(ii) The estimated costs of liquidation, which include both direct salvage operation costs and WisDOT administrative costs, shall be deducted from the appraised value.

(iii) WisDOT's, Commission's and Operator's percentage share of the Improved Property shall be determined by dividing each party's respective Investment Basis in the Improved Property by the total Investment Basis.

(iv) Each party's share of any proceeds from the sale of any Improved Property shall be determined by multiplying that party's percentage share of the Improved Property by the net liquidation value of the Improved Property. WisDOT shall receive 100% of the net liquidation value of the Land. Neither Commission nor Operator shall receive funds from the liquidation of the Land inasmuch as neither has invested its own funds in the acquisition.

(v) In the event the property is liquidated, the net proceeds of the liquidation are used in place of appraised value in steps (i) through (iv) except that the estimated costs of liquidation, which include both direct salvage operation costs and WisDOT's administrative costs, shall not be deducted from the net proceeds of the liquidation under step (ii).

(c) Any property installed or funds expended for maintenance of any portion or aspect of Rail Line under the jurisdiction of Commission by permit or grant from WisDOT which is not approved by WisDOT as part of a rehabilitation project shall not be eligible for reimbursement.

(a) Operator has the power and authority to enter into this Agreement and to carry out its obligations under this Agreement

(b) To the best of its knowledge, the execution of this Agreement and the providing of the freight rail service it is obligated to provide will not violate any statute, rule, regulation, order, writ, injunction or other decree of any court, administrative agency or governmental body

(c) In the event that termination occurs and Commission requires Operator to do so, Operator will support Commission efforts to provide a replacement freight rail service, without obligation by Operator to expend additional funds to do so

(d) That all non-federal funding required for completion of the objectives of this Agreement and/or required under the terms of the grant agreement, by and between WisDOT and FRA (rail service continuation subsidy, routine maintenance, accelerated maintenance, rehabilitation or improvement, substitute service and/or construction on these rail facilities) will be provided by the Operator from sources other than federal programs prohibited from use as match for other federal program funds

Section 9.2 - Commission.

Commission represents and warrants to and covenants with Operator as follows

(a) Commission was created pursuant to Section 66 0301 (formerly 66 30), Wis Stats , for the purpose of establishing, acquiring, maintaining, and operating a local transportation system As a Section 66 0301, Wis Stats Commission, it has full power and authority to enter into an agreement such as this Agreement and to carry out the functions, which it has obligated itself to undertake in this Agreement This Agreement has been authorized and approved by the Board of Directors of Commission

(b) To the best knowledge of Commission and its Board of Directors, the entering into and performance of this Agreement on the part of Commission does not violate any statute, rule, regulation, order, writ, injunction or decree of any court, administrative agency, governmental body, or any other agreement

(c) In possession of Operator, and hereby made a part of this Agreement by reference, are true and correct copies of the Land Use Agreement and the Grant Agreement, in effect on the date of this Agreement, and the same have not been further amended, terminated or revoked It is the intention of Commission not to provide for or to agree to any act or procedure or extend any right not permitted to Commission in any of the agreements with WisDOT To the best knowledge of Commission after due inquiry, nothing in this Agreement conflicts with or is prohibited by the Land Use Agreement or Grant Agreement between Commission and WisDOT as of the date of the execution of this Agreement.

(d) Commission represents and warrants to and covenants with Operator that WisDOT will, during the term of this Agreement, comply with all of the provisions of the Land Use Agreement and the Grant Agreement and will abide by the provisions of this Agreement which refer to or

contemplate action by WisDOT, and Commission shall take actions to attempt to ensure WisDOT's performance as aforesaid

ARTICLE 10.0 - REPORTS AND ACCOUNTS.

Section 10.1 - Reports.

(a) Upon the request of Commission, which request shall be set forth in a resolution adopted by the Board of Directors of the Commission, at a meeting of the Board of Directors of the Commission, by an affirmative vote of not less than two-thirds of the fixed membership of the Board of Directors of the Commission (notwithstanding whether all members are present at a meeting to vote on such resolution), Operator shall submit the following information to Commission within 45 days after receipt by Operator of such request and for the period of time requested by the Commission.

(i) An unaudited Statement of Revenues, Expenses, Taxes and Income and General Ledger Trial Balance,

(ii) A summary of originating and terminating traffic by commodity, by Principal Line Segment, and by month,

(iii) A statement of major traffic gains or losses and a summary of operating and maintenance activity by Principal Line Segment, and

(iv) A report of income that is excluded from Gross Operating Revenues generated from activities other than rail transportation of freight, including, but not limited to, rail car storage fees, building rent, excursion trains, and car repair revenues. The report shall describe the amounts received and the duration of the period for which the income is received

(b) Operator shall submit the following information to WisDOT within 45 days after the end of each quarter year for its operations

(i) An unaudited Statement of Revenues, Expenses, Taxes and Income and General Ledger Trial Balance,

(ii) A summary of originating and terminating traffic by commodity, by Principal Line Segment, and by month,

(iii) A statement of major traffic gains or losses and a summary of operating and maintenance activity by Principal Line Segment, and

(iv) A report of income that is excluded from Gross Operating Revenues generated from activities other than rail transportation of freight, including but not limited to rail car storage fees, building rent, excursion trains, car repair revenues, and the like

The report shall describe the amounts received, the duration of the period for which the income is received and the payer

(c) Operator shall submit the following reports to WisDOT

(i) Independently audited financial statements for each year ending December 31, to be submitted on or before June 30 each year,

(ii) A certificate of insurance submitted on or before each insurance coverage renewal date appropriately showing that all the terms and conditions of Section 6.2 of this Agreement are fully met,

(iii) Appropriate documentation showing any changes in operating status or authority 30 days prior to its effective date, and

(iv) Immediate notice of damage or injury to persons or property as required under Section 6.2 of this Agreement

Section 10.2 - Accounts.

(a) Operator shall establish and maintain a system of accounts as prescribed by the STB or as determined by WisDOT if the STB no longer prescribes a system of accounts

(b) Operator shall make available to WisDOT's auditors or agents, or auditors of any other governmental agency having jurisdiction over Operator, the records related to the accounts and reports identified under this Article and shall likewise make those accounts and reports available to Commission

ARTICLE 11.0 - TAXES.

As of the date of this Agreement, unless waived or abated, Operator shall be responsible for and pay when due, all taxes due as a result of its possession and use of the Rail Line or its assets including possession of real and personal property as well as for all taxes due on property owned by Operator together with taxes, if any, levied or assessed on Commission for Land owned by or in the possession of Commission. Operator agrees to hold Commission and WisDOT harmless from, indemnify against and defend all claims and liabilities with regard thereto

ARTICLE 12.0 - OTHER COMMITMENTS.

Section 12.1 - Handicapped.

Operator agrees that no otherwise qualified handicapped individual in the United States, as defined in Section 706(7)(a) of Title 29 USC and in subchapter II of Chapter 111, Wis Stats, shall,

solely by reason of handicap, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving benefits under this Agreement

Section 12.2 - Environmental Protection.

(a) Operator agrees that facilities or equipment shall not be acquired, constructed or improved as a part of its operations unless such facilities or equipment are designed and equipped to comply with all applicable environmental requirements, and that all operations conducted under this Agreement will be done in compliance with all applicable environmental requirements

(b) Operator hereby certifies that no facilities, which will be utilized or improved as a part of its operations, are listed on any state or federal list of violating facilities

(c) Operator stipulates that it will notify WisDOT as soon as it or any subcontractor receives any communication from a state or federal agency indicating that any facility, which will be utilized or improved as a part of its operations, is under consideration to be included on any state or federal contaminated property list.

(d) It is understood and agreed by Operator that no publicly-owned land from a public park, recreation area, or wildlife or water fowl refuge, as determined by the Federal, state or local officials having jurisdiction thereof, or any land from a historic site of national, state or local significance, as so determined by such officials, may be used for operations without the prior concurrence of the administrator of the EPA and the State Historical Preservation Officer

Section 12.3 - Prohibited Interest in the Proceeds of Operations.

(a) Neither Operator nor any of its subcontractors shall enter into any contract, subcontract, or agreement in connection with a project or operation of any property included or planned to be included in Operator's operations, that constitutes a violation of Section 946 13, Wis. Stats

(b) The Operator shall insert in all agreements entered into by it in connection with approved projects, or in connection with any property included or planned to be included in any project for which federal assistance may be sought, and shall require its contractors to insert in each of their subcontracts the following provision "No director, officer, or employee of the East Wisconsin Counties Railroad Consortium and Columbia, Dodge, Fond du Lac, Green Lake, Ozaukee, Sheboygan, Washington, and Winnebago Counties during their tenure or for one (1) year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof"

(c) The provisions of this subsection shall not be applicable to any agreement between the Commission and its fiscal depositories or to any agreement for utility services for which rates are fixed by government regulation

(d) No member of or delegate to Congress or the Wisconsin Legislature shall be admitted to any share of any benefit that may arise from this Agreement, but this provision shall not restrict the making of any contract with a corporation for the general benefit of such corporation

Section 12.4 - Nondiscrimination.

(a) In connection with the performance of activities under this contract, Operator agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Section 51.01(5), Wis Stats., sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities. Operator agrees to post in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause.

(b) Operator agrees to comply with the following laws, policies, regulations, and pertinent directions as may be applicable and will require its subcontractors by contractual agreement to similarly comply:

- (i) Title VI of the Civil Rights Act of 1964, 42 USC 2000d, et seq
- (ii) Subchapter II of Chapter 111, Wis Stats
- (iii) Section 16.765, Wis Stats

(c) Operator in its procurement process shall not discriminate against minority owned or operated firms qualified to bid and perform on contracts or subcontracts, or to supply materials for procurement connected with the operations provided under this Agreement.

ARTICLE 13.0 - GENERAL PROVISIONS.

Section 13.1 - Choice of Law.

This Agreement shall be interpreted in accordance with the statutes and laws of the United States of America and the State of Wisconsin. Interpretation may be had in any court of record of any of the counties, which are a part of Commission. When applicable, this Agreement or portions thereof may be enforced through mandamus.

Section 13.2 - Notice.

Any notice required or permitted under this Agreement shall be personally served on or mailed by certified United States mail, return receipt requested, postage prepaid, to the following addressed persons at the following addresses and to such other persons and addresses as the following persons shall direct by notice pursuant to this Section:

Chief, Railroads and Harbors Section
Wisconsin Department of Transportation
P O. Box 7914
Madison, Wisconsin 53707

Chairman
East Wisconsin Counties Railroad Consortium
Dodge County Administration Building
127 E. Oak Street
Juneau, Wisconsin 53039-1329

President
Wisconsin & Southern Railroad Company
5300 N 33rd St.
P O Box 9229
Milwaukee, Wisconsin 53209

Section 13.3 - Status of Operator.

Operator (including officers, directors, employees, agents or representatives thereof) is an independent contractor, and in no way shall it be deemed an affiliate, partner, joint venturer, or associated in any manner whatsoever with WisDOT or Commission

Section 13.4 - Assignment.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Operator's rights hereunder shall not be assignable whether by way of assignment, sublease, license or otherwise, directly or indirectly, without Commission's prior written consent and without WisDOT's prior written consent. This Agreement shall not create rights of any sort in Operator to assign, sublease or transfer, in any fashion whatsoever, its rights under this Agreement to any other person, firm or corporation, including any affiliated corporation, firm or person.

Section 13.5 - Severability.

If any term, covenant, condition or provision (or part thereof) of this Agreement, or the application thereof to any party or circumstance, shall at any time or to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision, or remainder thereof, to parties or circumstances other than those as to which it is held to be invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

Section 13.6 - Amendments, Consents, and Approvals.

No term or provision of this Agreement, or any of its attachments to which Commission is a party, may be changed, waived, discharged or terminated orally, but only by an instrument in

writing signed by both parties to this Agreement and with WisDOI's approval Consents and approvals required under this instrument and interpretations of this instrument may be made or granted by letter from one party to the other party hereunder or by an exchange of letters between the parties.

Section 13.7 - Captions.

The captions used in this Agreement are used for convenience and identification purposes only and do not form a part of this Agreement

Section 13.8 - Compliance by Operator with Agreement.

Operator acknowledges it has reviewed the Land Use Agreement and the Grant Agreement by and between Commission and WisDOT, and will meet any of the covenants and conditions required of Commission therein insofar as the same would be the responsibility of Operator In the event of additional agreements arising in grant or other aid instruments hereinafter made between Commission and WisDOT, Operator shall review the same and shall comply with the same insofar as it pertains to Operator Notwithstanding the foregoing, Commission shall not terminate, alter, amend, revoke or modify the Land Use Agreement or the Grant Agreement without the prior written consent of Operator It is the intent of Commission not to enter into any other agreement without Operator consent, which would adversely affect the rights of Operator hereunder or impose additional expense or obligations on Operator

Section 13.9 - Additions or Extensions to Present Track.

Additions or extensions to the present Improved Property may be desired by either of the parties hereto or by a user In that event, such extension or addition shall be constructed at the option and cost of Operator However, if Commission desires such an extension or addition and this is not concurred in by Operator, then Operator agrees to make such addition or extension but at the cost of Commission Permits for and disposition of such extensions shall be in compliance with Section 8.4

Section 13.10 - Additions, Remodeling or Replacement of Buildings.

In the event additions, remodeling, replacements or new construction for buildings or other structures except for trackage are desired by Operator, Operator may construct the same at its cost except that any improvement of existing buildings or structures requires the prior written approval of WisDOT and Commission. Permits for and disposition of such additions, remodeling, or replacements of buildings shall be in compliance with Section 8.4

Section 13.11 - Failure of Commission to Obtain and Retain Right of Possession and Limitations on Commission and Operator.

(a) The title of the Land located in Wisconsin hereby leased and licensed to Operator is held by WisDOT for the State of Wisconsin. The Improved Property is conditionally owned by or granted to Commission but is subject to certain liens and controls by WisDOT, all as set forth in agreements between WisDOT and Commission referred to in Section 13.8 above. The right of Commission to the continued use of the Land and Improved Property is subject to termination in the event of default or certain happenings with a final termination at the end of the term of the Land Use Agreement and Grant Agreement between WisDOT and Commission. It is a condition of this Agreement, that in the event Commission loses its right to possession or use of any of the Land or Improved Property because of conditions imposed by WisDOT or because of future failures or inability of Commission to meet all the requirements for holding and retaining the Land and Improved Property, then this Agreement terminates and ceases, and no liability attaches to Commission for such termination, provided that Commission has fulfilled its obligation herein to offer Operator an opportunity to cure any such default.

(b) References are made in this Agreement to rights of WisDOT to sell and lease portions of the Land acquired by the State and permitted to Commission. It is the position of Commission that all the Land that has been acquired was used for transportation purposes and should be retained for present or future transportation purposes. However, WisDOT retains the right, subject to the provisions of Section 2.2 of this Agreement, to retake and sell portions determined by it not to be needed for transportation purposes on the assumption that future use and experience may indicate there are portions of the Land which might be declared excess for present or future transportation uses or are not needed for preservation of railroad service and therefore should be sold. As to leasing, it is the assumption of Commission that property presently provided to Commission does have or in the future would have a transportation use. Included in this assumption are the notions that portions of the Land immediately accessible to the Rail Line contribute to the transportation use when the lessee is a user or potential user of rail service and the Land should remain available for future rail transportation uses. It is a contention of WisDOT that there are certain portions of the Land, which can be leased for limited co-use purposes to adjacent owners without jeopardizing the use by Operator, or future required full use by Operator. WisDOT has retained the right to make co-use leases in such situations, but it has been the position of Commission as stated to WisDOT that this type of lease should be limited in use and in time. Except as restricted under Section 2.2, present buildings are part of the property conditionally owned or controlled by Commission. Commission is giving the use of buildings to Operator as a part of this lease and license when needed by Operator, but otherwise Commission has retained the right to lease them in accordance with Section 2.2(e). Commission retains the exclusive right to decide conclusively whether these buildings are needed by Operator.

Section 13.12 - Rehabilitation.

(a) In the event Operator determines in the future that application should be made for rehabilitation, Commission agrees to cooperate with Operator in making such an application or applications. In the event rehabilitation grants are obtained, Operator agrees to comply with the Federal and state laws as imposed by any such Grant Agreement and will be subject to and comply

with Federal and state laws as imposed by the Grant Agreement as to handicap restrictions, environmental protection, approved project procurement, prohibited interest in the proceeds, affirmative action requirements and other applicable laws

(b) All rehabilitation and improvements and substitute service facilities, installed or accomplished using state or federal financial assistance regardless of the ownership of the property on which they are located, when any such property is no longer used for its original approved project purpose, shall be subject to disposition as described by State and Federal regulations. In connection with any rehabilitation or improvement, the Operator shall file on behalf of the owner of such property, in the appropriate land records, a notice reciting that property was improved or installed with Federal assistance and that its use and disposition are subject to the terms of this Agreement. If the Operator's chief legal counsel advises that such notice cannot be filed, the Operator shall so advise the Commission, and shall recommend alternate procedures whereby compliance with the provisions of this Agreement can be achieved.

Section 13.13 – Arbitration.

(a) General In the event of any unresolved disagreements between the parties concerning the construction of the Agreement or performance by each of the parties hereunder, the parties shall submit such disagreement to arbitration.

(b) Procedure The party desiring arbitration shall give notice in writing to the other party identifying the matters in issue and designating an individual as their arbitrator. Within ten (10) days thereafter, the other party shall, by written notice to the original party, agree to said arbitrator or appoint a second arbitrator. The two arbitrators so appointed shall, within ten (10) days thereafter, appoint a third arbitrator as mutually agreed, and the three arbitrators shall hold the hearing and commence to determine the matter within thirty (30) days of the appointment of the third arbitrator. If the second arbitrator shall not have been appointed, the first arbitrator shall proceed to commence to determine the matter within thirty (30) days of the failure to so appoint a second arbitrator. If the two arbitrators selected by the parties are unable to agree upon the third arbitrator, the third arbitrator shall be appointed by the American Arbitration Association. Except as otherwise provided herein, the arbitrators shall arbitrate the issues in accordance with the rules and procedures of the American Arbitration Association, and a determination of the majority of the arbitrators, or of the sole arbitrator as the case may be, shall be final and conclusive between and upon the parties, and judgment upon same may be entered in any court having jurisdiction thereof. The arbitrator(s) shall give written notice of their findings to each party.

Section 13.14 - Specific Performance.

Operator and Commission shall have the right, as provided by law, to require specific performance by the other party of the other party's obligations under this Agreement. This right may be asserted at any time after thirty (30) days from the time Operator or Commission has first notified the other party of the other party's obligation to perform.

Section 13.15 - Approval by WisDOT.

This Agreement to be effective must be approved by WisDOT. This is in compliance with the agreements between WisDOT and Commission and the charter contract of Commission

Section 13.16 - Execution.

This instrument shall be fully executed in triplicate with a copy being delivered to each party and to WisDOT and in such further counterparts as may be desired by the parties

Section 13.17 - Entire Agreement.

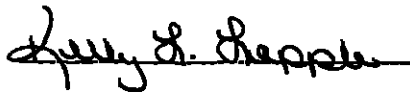
This Agreement together with those documents referred to herein contains the entire agreement of the parties and supersedes any and all prior agreements and draft agreements, or oral understandings between the parties

Signatures.

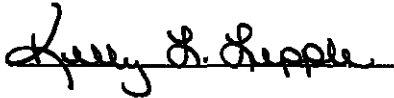
IN WITNESS WHEREOF, the East Wisconsin Counties Railroad Consortium, by its Board of Directors, has caused this Agreement to be signed by its duly authorized officers, this 25th day of March, 2008

WITNESS

EAST WISCONSIN COUNTIES RAILROAD
CONSORTIUM



Daniel Goetz, Chair

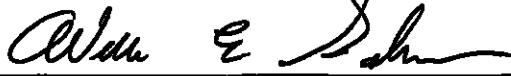
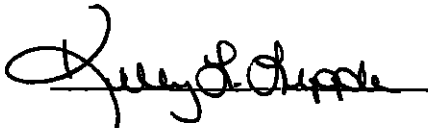


Jeff Hall (Secretary)

IN WITNESS WHEREOF, the Wisconsin & Southern Railroad Company, by its Sole Director, has caused this Agreement to be signed by its President, this 28th day of March, 2008

WITNESS

WISCONSIN & SOUTHERN RAILROAD COMPANY



William E. Gardner, President

WisDOT APPROVAL in Accordance with Section 13.15 of this Agreement

WISCONSIN DEPARTMENT OF TRANSPORTATION

March 28, 2008
Commencement Date



Ronald E. Adams, Chief
Railroads and Harbors Section

ATTACHMENT 3

**A LIST OF LINE SEGMENTS THAT SHALL BE MAINTAINED TO FRA CLASS II
STANDARDS AND A LIST OF LINE SEGMENTS THAT SHALL BE MAINTAINED
TO FRA CLASS I STANDARDS**