

August 19, 2014

William P. Breitsprecher
Friends for Responsible Rail Development
318 W Main Street
Sun Prairie, WI 53590Honorable Judge Cynthia T. Brown
Chief, Section of Administration
Office of Proceeding
Surface Transportation Board
395 E Street S.W.
Washington DC 20423RE: Misrepresentations in Petition for Declaratory Order, docket number FD_35854_0, titled
Wisconsin Department of Transportation-- Petition for Declaratory Order

Honorable Judge Cynthia T. Brown:

Wisconsin DOT knows or should know that Wisconsin DNR has identified Sauk County as having unique quartz-silica sand formations which are in high-demand as frac sand. Wisconsin DOT knows or should know that the City of Reedsburg, in their own planning documents, have identified these resources as a potential area of economic growth.

Wisconsin DOT knows or should know that every other section of Wisconsin that has these unique quartz-silica formations and that also has rail service has seen an explosion of frac sand mine development along with supporting processing facilities.

Wisconsin DOT knows or should know that the probability, based on Wisconsin Department of Natural Resources own reports & The City of Reedsburg 2012 Economic Plan that there is significant potential for the development of frac sand mining in Sauk County.

Wisconsin DNR has no right to belittle citizens that point these objective and verifiable facts to any party, including STB, WI DNR and Devils Lake State Park. The emails quoted below are insulting and entirely devoid of facts – there is good reason to assess this rail transaction in-terms of frac sand mining and significant increases in traffic:

From: Chung, Kathleen - DOT
Sent: Tuesday, August 19, 2014 9:26 AM
To: Huntington, Frank - DOT; Siebert, David R - DNR; Trainer, Patricia - DOT; Tollers, Kimberly – DOT
Cc: Halsted, Michael S - DNR; Burkel, Rebecca - DOT; Brown-Martin, Donna - DOT; Graff, Daniel A - DOT; Morrison, Mark - DOT
Subject: RE: Wis Southern through Devils Lake SP

Thanks for the clarification Frank. I also received your voice mail, and understand that you spoke with him, and felt that his claims/ideas were "fiction."

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

From: Huntington, Frank - DOT
Sent: Tuesday, August 19, 2014 9:05 AM
To: Chung, Kathleen - DOT; Siebert, David R - DNR; Trainer, Patricia - DOT; Tollers, Kimberly - DOT
Cc: Halsted, Michael S - DNR; Burkel, Rebecca - DOT; Brown-Martin, Donna - DOT; Graff, Daniel A - DOT; Morrison, Mark - DOT
Subject: RE: Wis Southern through Devils Lake SP

The claims in the email you received are baseless. I talked to Mr. Breitsprecker last Friday and attempted to calm his fears.

While we hope that traffic on the line will increase, there are no immediate expectations of substantial growth. If something developed that created unit train traffic, it might mean one train per day, max.

Frank

From: Chung, Kathleen - DOT
Sent: Monday, August 18, 2014 12:17 PM
To: Siebert, David R - DNR; Huntington, Frank - DOT; Trainer, Patricia - DOT; Tollers, Kimberly - DOT
Cc: Halsted, Michael S - DNR; Burkel, Rebecca - DOT; Brown-Martin, Donna - DOT; Graff, Daniel A - DOT; Morrison, Mark - DOT
Subject: RE: Wis Southern through Devils Lake SP

Link to WisDOT filing w/STB, which does not mention increased rail traffic (and I am not aware of any). (Large filing, may take time to download.) I'm available to meet tomorrow.

[http://www.stb.dot.gov/filings/all.nsf/d6ef3e0bc7fe3c6085256fe1004f61cb/7b5407e3630f182485257d2e0052cfc1/\\$FILE/236416.pdf](http://www.stb.dot.gov/filings/all.nsf/d6ef3e0bc7fe3c6085256fe1004f61cb/7b5407e3630f182485257d2e0052cfc1/$FILE/236416.pdf)

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

From: Siebert, David R - DNR
Sent: Monday, August 18, 2014 9:59 AM
To: Huntington, Frank - DOT; Trainer, Patricia - DOT; Tollers, Kimberly - DOT; Chung, Kathleen - DOT
Cc: Halsted, Michael S - DNR; Burkel, Rebecca - DOT; Brown-Martin, Donna - DOT
Subject: RE: Wis Southern through Devils Lake SP

Here is email I received. Any information and facts from DOT on this is greatly appreciated.

David R. Siebert Director, Bureau of Environmental Analysis and Sustainability
Wisconsin Department of Natural Resources
101 South Webster Street
PO Box 7921
Madison, WI 53707-7921
Phone: 608-264-6048
Cell Phone: 608-516-3178
david.siebert@wisconsin.gov

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

From: Huntington, Frank - DOT
Sent: Sunday, August 17, 2014 7:06 PM
To: Siebert, David R - DNR; Trainer, Patricia - DOT
Cc: Halsted, Michael S - DNR; Tollers, Kimberly - DOT; Chung, Kathleen - DOT
Subject: RE: Wis Southern through Devils Lake SP

David

I am out of the office this week. But the contact you recieved may be mis representing the facts.

WisDOT is purchasing the Madison to Reedsburg line from the UP railroad. The WSOR railroad will continue to operate the line as it has for the past 15+ years.

Traffic may increase, but there is no new traffic come on line that I am aware of.

Frank

From: Siebert, David R - DNR
Sent: Friday, August 15, 2014 3:51 PM
To: Huntington, Frank - DOT; Trainer, Patricia - DOT
Cc: Halsted, Michael S - DNR
Subject: Wis Southern through Devils Lake SP

I was asked what I know about some recent STB filings to evidently increase traffic on rail line that goes through Devil's Lake State Park. Can you shed any light?

We are committed to service excellence.
Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

David R. Siebert
Director, Bureau of Environmental Analysis and Sustainability Wisconsin
Department
of Natural Resources
101 South Webster Street
PO Box 7921
Madison, WI 53707-7921
Phone: 608-264-6048
Cell Phone: 608-516-3178
david.siebert@wisconsin.gov

I am not surprised that Atty. Kathleen Chung and fellow WI DOT member Frank Huntington are being so disingenuous. Atty. Chung appears to have made serious misrepresentations (largely by omission) in filings and conversations with me in the past. She falsely stated that providing copies of operating agreements, for example, was somehow a massive request that she could not comply with.

She also would not put on the Docket in 2011 that Wisconsin & Southern Railroad had been, for years, repeatedly used to illegally launder money to political candidates that former WSOR owner Bill Gardner supported. The chain of emails copied above again suggests that Atty. Chung is "ticklish" about these subjects and is not above making insulting and inappropriate statements.

The facts in this matter before STB are:

1. Once WI DOT, transit authorities, and certain others comply with necessary, just, and legal open records requests, a Petition to Revoke void ab initio will be filed Decision FD_35573_0, 2011).
2. Atty. Chung misleadingly stated there were no objections to this plan even though the plan and its implications were entirely withheld from WI DNR prior to representations made to STB.
3. Atty. Chung and DOT Frank Huntington have no authority to make any representations on future rail use once the State of Wisconsin subsidizes the acquisition of Reedsburg-Madison rail corridor and upgrading to modern railroad standards.
4. Any and all representations made by Atty. Chung and Huntington are not binding and have no legal basis in fact. Once the line is developed, WATCO and other interests will develop whatever industries that they deem fit. Atty. Chung & Huntington have no right to misrepresent anything to the contrary.

5. I can demonstrate (email pasted in the bottom of this document) that WI DOT never contacted DNR prior to contacting STB even though they know the line runs through Wisconsin's #1 tourist attraction – Wisconsin's beautiful Devils Lake State Park.

Attorney Chung has a duty to follow certain ethics and codes-of-conduct for all lawyers operating in the State of Wisconsin. I have already had to file one complaint with this office to compel compliance with reasonable, just, and necessary open records requests to obtain operating agreements that were signed by, held by, and then transferred by serial criminal Bill Gardner who repeatedly used Wisconsin & Southern Railroad's operations to criminally launder money.

Even if Atty. Chung now wants to backtrack and claim, after the fact, that there is no opposition to her proposed rail filings because she has talked to WI DNR weeks after misrepresenting that people had an opportunity to express concerns or object, this does not change the fact:

1. Atty. Chung knew or should have known that the public would have concerns about development of a frac sand corridor along the Madison Reedsburg line.
2. Atty Chung knew or should have known that these concerns are legitimate and based on scientific surveys of Sauk County and the State of Wisconsin.
3. Atty. Chung knew or should have known that every other section of Wisconsin with these valuable and high-demand quartz-silica deposits has seen rapid and exponential development for frac sand mining and processing ONCE THERE IS ADEQUATE RAIL TRANSPORTATION.
4. Atty. Chung has no right to be dismissive, insulting, or slanderous to those that point out objective facts which can be verified by official State of Wisconsin documents – public documents that she has materially withheld from other Wisconsin agencies, the public, and Surface Transportation Board.

I must humbly demand that Honorable Judge Cynthia Brown set the record straight and disallow & disqualify any misleading statements from Atty. Chung, anyone else at WI DOT, or WATCO to be part of the docket. It is entirely appropriate to point out DNR Geological Surveys and maps of rail corridors with frac sand mining & processing operations superimposed on top of them – all confirm that frac sand mining is likely to be a major commodity on the Reedsburg-Madison line in the future.

I must humbly demand that STB does not allow disingenuous, insulting, and potentially slanderous remarks from a Wisconsin State public servant – the record and facts clearly show that frac sand mining is likely to occur in Sauk County once the Merrimac Bridge is up-to-standards, the line is acquired from Union Pacific, and investments are made to upgrade the roadbed and track.

I pray that Atty. Chung will not be allowed to slander anyone as promoting “fiction” when references are made to objective facts that WI DOT had access to prior to planning the purchase of the Reedsburg-Madison line. It is entirely objective, verifiable, and true that Sauk County

could be the next community devastated by frac sand mining and all of this traffic would go through Devils Lake State Park.

If Atty. Chung chooses to file incomplete and potentially materially misleading documents with STB, only she is responsible for those decisions. It is not appropriate to insult, demean, or slander honest hard-working citizens that put objective and verifiable facts on the record.

Sincerely

William Breitsprecher

Documentation: Atty Kathleen Chung and WI DOT never informed anyone at DNR about plans to purchase and upgrade a rail corridor through Devils Lake State Park. This undermines any and all statements filed with STB that there is no opposition.

> TO: Bill Breitsprecher

>

> Bill,

>

> In response to your email below here, I am sending this information:

>

> 1. I had no prior knowledge of your explanation given to me in a phone

> call of August 7, 2014 regarding increased rail traffic through

> Devil's Lake State Park on the Reedsburg rail line before your call.

> You stated you believe the DNR knows that Reedsburg is sitting on a

> major silicon sand field and the sole purpose of the proposed rail

> improvement is to allow that sand to be shipped out through Devil's

> Lake State Park. I said I would check into the claim on your part and

> respond back

> to you.

>

> 2. During the phone call with you on August 7th I did make the

> statement that we would be interested to know of any planned rail

> expansion that would involve increased traffic through Devil's Lake

> State Park. I did not speak of being concerned about a rail traffic

> increase being a public safety issue. Our State Park system has

> considerable experience in public safety serving more than 15 million

> visitors

> each year.

>

> 3. After August 7th, I spoke with Dave Siebert, our DNR Director,

> Bureau of Environmental Analysis and Sustainability about your

> concerns. As expected Mr. Siebert spoke with his counterparts at WiDOT

> who are best able to respond to the question of expected rail traffic

> increase.

>

> 4. Mr. Frank Huntington from WiDOT responded and his email and those

> of others at WiDOT are included here for your review.

>

> 5. Today, on August 19, 2014, as promised, I followed up with you on

> the issue review by WiDOT and explained to you that WiDOT has no

> knowledge of a planned major increase in rail service that would

> impact DLSP. In that call you alleged that WiDOT is not telling the
> truth and that the truth is being covered up.
>
> Bill, as per your request, this includes every form of communication I
> have had on this issue to date. As I mentioned to you in today's call,
> we need to deal with facts here and WiDOT's complete response is quite
> clear to me. Thank you again for your interest in Devil's Lake State Park!
>
> We are committed to service excellence.
> Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I
> did.
>
> Peter Biermeier
> Recreation, Planning and Development Chief Wisconsin State Park System
> Wisconsin Department of Natural Resources
> 101 S. Webster Street
> Madison, WI 53707-7921
> 608.264.6136
> 608.516.4739 Cell
> Peter.Biermeier@wisconsin.gov

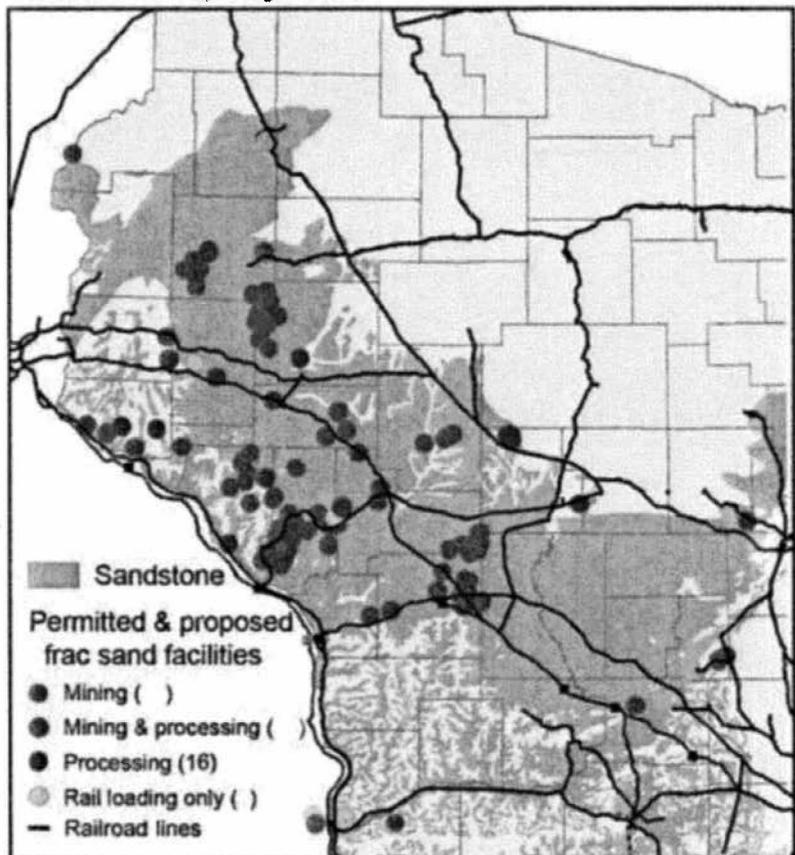
Wisconsin's Silica Sand Formation, Rail Service, and Development of Frac Sand Mining in Wisconsin

The unstated purpose of rail subsidies and development of the Reedsburg and Madison rail line is to develop another frac sand rail corridor in Wisconsin. This is being withheld from the public, just like WI DOT, Bill Gardner, and WATCO withheld critical and material information about the 2011 transfer of operating agreements which Gardner and key employees breached when they repeatedly used Wisconsin and Southern Railroad operations to criminally launder money, more than \$50,000, to Friends of Scott Walker.

It is a fact that:

1. The State of Wisconsin possesses unique quartz-rich silica sand formations containing crystal structures ideal for gas and oil fracking.
2. These formations are concentrated in certain regions of the state (demonstrated to right).
3. While these deposits are currently being exploited and extracted, in areas with adequate rail service, this activity is increasing exponentially.
4. Reedsburg is at the tip of where the lodes of silica formations converge – it is ideally located to be developed into a frac sand hub.
5. The Comprehensive Plan of the City of Reedsburg (2012 draft) acknowledges the huge potential of large-scale silica and mining.
6. The Merrimac Bridge on the line and the fact that this rail line is intertwined with The State of Wisconsin's #1 tourist destination, Devils Lake State Park, hinder development. This is the only reason Sauk County is not currently actively mined for quartz-silica sand.

Frac Sand Mining and Processing Facilities in Wisconsin, July 2012



Source: Crawford Stewardship Project combined maps from Sandstone, U.S. Geological Survey; Mine Sites, WCIJ reporting and Wisconsin Department of Transportation.

7. Gov. Scott Walker's DOT is addressing the first obstacle above by continuing to provide grants and public money to repair and upgrade the Merrimac Bridge. This structure, however, was designed for axle loadings for steam locomotives – the bridge will need to be substantially rebuilt/reinforced, at estimated cost between \$30- \$60 million dollars, to safely handle the axle loadings of modern freight trains – especially frac sand cars.
8. Gov. Scott Walker's DOT is withholding any and all plans to develop the Reedsburg-Madison rail line from Wisconsin DNR add their park services.
9. As the map on the previous page indicates, rail access is the key component to the development of frac sand mining and processing facilities.
10. WATCO is currently filling wetlands without a permit (per DNR regulations and federal law) for the purpose of building a frac sand marshalling yard. Their legal opinion stating they have a right to do so provides the justification for any and all Wisconsin & Southern Railroad partners, such as Paterson Sand, to proclaim themselves free from any and all city, county, and state regulations as well.
11. WATCO, a transportation holding company with barge operations, appears to be developing a frac sand hub in Reedsburg and infrastructure in Prairie du Chien to allow it to store and eventually potentially transload silica frac sand to the Mississippi River for points south and then via Gulf of Mexico to any point in the world where operations extract oil and gas.
12. Silica dust and sand are known to be dangerous carcinogens.

The record clearly shows that it is reasonable to consider and even probable that the result of the Reedsburg-Madison rail purchase, entirely withheld from the public, is not to accommodate 7 shippers on that rail line (1. Grede Foundries, 2. Primex Plastics Corp, 3. Reedsburg Hardwoods, 4. Meister Log and Lumber, 5. Henke Trucking, 6. Loeb Lorman Recycling Company, and 7. Hartje Lumber Company). These rail customers have not indicated they will increase rail shipments significantly if Wisconsin DOT purchases the rail line. They minimally, if at all, use rail service today.

Wisconsin DOT has released no data, studies, surveys or other information to justify the public investment of tens-of-millions of dollars into developing the minimally used rail corridor that was subject to talk of abandonment with owned by Chicago and North Western Railroad. Because of the secrecy surrounding the proposed rail acquisition proposed by Wisconsin DOT, it is entirely misleading and a material misrepresentation for any filing with Surface Transportation Board to proclaim there is no opposition to their plans for this rail corridor.

If Attorney Kathleen Chung wants to directly state on the docket that there is no opposition to proposals before STB, she is being demonstrably disingenuous. Wisconsin DOT must not be granted any waivers, exemptions, or expeditions. Instead, Surface Transportation Board must compel WI DOT and WATCO to:

1. Promptly release any and all data, surveys, and justification for this proposed transaction, especially since it is entirely subsidized by taxpayers' dollars.
2. Inform Wisconsin Department of Natural Resources of the acquisition of this rail line and work with the Parks & Recreation division to develop a workable plan to protect the public's use, investment, and safety at Devils Lake State Park.
3. File materially accurate, complete, and honest information with the Surface Transportation Board and accept an adequate and extended approval process so that all material facts, including all concerns, be part of the docket.
4. Submit for public and STB scrutiny the legal position of WATCO and other stakeholders in-terms of acknowledging and accepting comments, input, oversight, regulation, and permits required by any legitimate authority. If WATCO feels they can begin filling wetlands in Prairie du Chien without a permit and in defiance to all applicable rules, laws, regulation, and permits; they cannot be allowed to develop a rail line that appears to be intended to serve as a frac sand hub and corridor in the near future without cooperating to put all material facts and information on the public record.

There appears to be an ongoing pattern of incomplete and misleading statements being filed at STB by Wisconsin Department of Transportation and WATCO. No approval of any petition for waiver, exemption, and expedition related to a subsidized rail purchase of the Reedsburg-Madison rail corridor can be approved until:

1. Issues related to material omissions of filings in 2011 are redressed.
2. Complete information about Bill Gardner & key employee's serial criminal use of Wisconsin and Southern Railroad and the legal ramifications per "Representations, Warranties, and Covenants" in operating agreements are released, verified, and presented to STB completely and accurately on current docket filings and under a Petition to Revoke which will be submitted when all pertinent information is released.
3. Wisconsin Department of Transportation informs the public and acknowledges any and all issues related to traffic and safety that arise directly and indirectly from the proposed heavily publicly subsidized purchase of the Reedsburg-Madison rail line. This includes publicly stating the purpose of massive subsidies, commodities likely to be hauled, and all issues related to the material fact that silica frac sand mining reasonably appears to underlie

Exhibits

Exhibit A: Proposed Sale, Reedsburg-Madison Rail Line, to Wisconsin Department of Transportation

<http://breitlinks.com/pdfFilesSTB/WISDOT%20SALE%20EXHIBIT%20A%20Revised%201-17-2014%20%284%29.pdf>

Exhibit B: Wisconsin & Southern Rail Lines – Essentially all owned by the State of Wisconsin

<http://breitlinks.com/pdfFilesSTB/southwestWisconsinCommissionRailLinesAndTrails.jpg>

Exhibit C: WATCO Presentation, ENERGY! ENERGY! ENERGY! Reveals that Frac Sand is a Key Commodity that Future Growth Hinges On.

<http://breitlinks.com/pdfFilesSTB/10-31-12%20NW%20University%20Sandhouse%20Gang%2011%201%2012.pdf>

Exhibit D: WSOR Pre-emptive Notice to Wisconsin Department of Natural Resources

<http://breitlinks.com/pdfFilesSTB/wsorPreemptionNoticeToWDNR-1.pdf>

Exhibit E: Rail storage yard proposed at sand loading site in PdC

<http://breitlinks.com/pdfFilesSTB/sandStorageAndYardPrairieDuChien.pdf>

Exhibit F: Frac sand in Wisconsin

<http://breitlinks.com/pdfFilesSTB/frac-sand-factsheet.pdf>

Exhibit G: Geology of Sauk County

<http://breitlinks.com/pdfFilesSTB/Sauk%20Jordan%20Sand%20.jpeg>

Exhibit H: Probable Frac Sands, Sauk County

http://breitlinks.com/pdfFilesSTB/ProbableFracSands_V1.0.pdf

Exhibit I: Probable Frac Sands, Sauk County-Jordan

http://breitlinks.com/pdfFilesSTB/ProbableFracSands_V2.0-B&W.pdf

Exhibit J: Probable Frac Sands, Sauk County-Jordan Twenty Foot Contour Map

http://breitlinks.com/pdfFilesSTB/ProbableFracSands_V2.0Contours.pdf

Exhibit K: Planning and Zoning for “Frac Sand” Mining

<http://breitlinks.com/pdfFilesSTB/planninAndZoningFracSandMining.pdf>

Exhibit L: Comprehensive Plan of the City of Reedsburg

http://breitlinks.com/pdfFilesSTB/2012_Comp_Plan_Update.pdf

Exhibit M: Trail Guide, Devils Lake State Park (**NOTE:** *The Reedsburg-Madison rail corridor is commonly used by park visitors and campers to move from the north end and beach to the south end*).

<http://breitlinks.com/pdfFilesSTB/devilsLakeTrailsRails.pdf>

Exhibit N: Some links useful for more education about Frac Sand Mining in Wisconsin

<http://breitlinks.com/pdfFilesSTB/Frac%20Sand%20mining%20reference%20links.pdf>

Exhibit O: Wisconsin Frac Sand Mines and Silica Dust

<http://breitlinks.com/pdfFilesSTB/MEA%20Health%20Effects%20of%20Silica%20Dust%20from%20Frac%20Sand%20Mines.pdf>

Exhibit P: Silica as a Carcinogen, Report on Carcinogens, 12th Edition, National Institute of Health

<http://breitlinks.com/pdfFilesSTB/Silica%20as%20Carcinogen%20NIH%20report.pdf>

**Exhibit C: WATCO Presentation, ENERGY! ENERGY!
ENERGY! Reveals that Frac Sand is a Key Commodity that
Future Growth Hinges On.**

NOTE: This file is too large for the limitations of STB e-Filing System. It provides important context and must be part of the record.

It is available to view and/or download at:

<http://breitlinks.com/pdfFilesSTB/10-31-12%20NW%20University%20Sandhouse%20Gang%2011%201%2012.pdf>

Exhibit H: Probable Frac Sands, Sauk County

NOTE: This file is too large for the limitations of STB e-Filing System. It provides important context and must be part of the record. It is available to view and/or download at:

http://breitlinks.com/pdfFilesSTB/ProbableFracSands_V1.0.pdf

Exhibit I: Probable Frac Sands, Sauk County-Jordan

NOTE: This file is too large for the limitations of STB e-Filing System. It provides important context and must be part of the record. It is available to view and/or download at:

http://breitlinks.com/pdfFilesSTB/ProbableFracSands_V2.0-B&W.pdf

Exhibit J: Probable Frac Sands, Sauk County-Jordan Twenty Foot Contour Map

NOTE: This file is too large for the limitations of STB e-Filing System. It provides important context and must be part of the record. It is available to view and/or download at:

http://breitlinks.com/pdfFilesSTB/ProbableFracSands_V2.0Contours.pdf

NOTE: *All three files referred to above demonstrate that, once a rail line is upgraded to handle modern freight car axel loadings, Sauk County will experience and explosion of frac sand mining just like every other part of the state with the unique quartz-silica formations – ideal frac sand not available in this quality anywhere else in the world.*

Exhibit L: Comprehensive Plan of the City of Reedsburg

NOTE: This file is too large for the limitations of STB e-Filing System. It provides important context and must be part of the record. It is available to view and/or download at:

http://breitlinks.com/pdfFilesSTB/2012_Comp_Plan_Update.pdf

NOTE: *The file above indicates that The City of Reedsburg acknowledges and will potentially target the development of silica frac sand mining once a rail line is upgraded to handle modern freight car axel loadings, Sauk County will experience and explosion of frac sand mining just like every other part of the state with the unique quartz-silica formations – ideal frac sand not available in this quality anywhere else in the world.*

Date: **September 13, 2014**

CERTIFICATE OF SERVICE

I certify that I this day have served a copy of the forgoing **reply to FD 35854** by First Class Mail to the offices of the following:

Kathleen Chung, 4802 Sheboygan Ave, Room 115B, Madison WI, 57307-7910.

Name (person/company being served copies)
Address

There are no other entities on this service list

William P. Breitsprecher
Electronic Signature

Name

**William P. Breitsprecher
308 W Main Street
Sun Prairie WI 53590**

NOTE: Per Kenatta Clay (Kenyatta.Clay@stb.dot.gov) my filing (cover memo and exhibits) is ready to submit to Rail Service Attorneys and then Processing.