

BEFORE THE
SURFACE TRANSPORTATION BOARD

235532

AB-57 (SUB-NO. 61X)

ENTERED
Office of Proceedings
February 27, 2014
Part of
Public Record

SOO LINE RAILROAD –
ABANDONMENT EXEMPTION
IN RACINE COUNTY, WISCONSIN

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES (WisDNR)
PETITION FOR NOTICE OF INTERIM TRAIL USE**

BACKGROUND

Soo Line Railroad Company, d/b/a Canadian Pacific (Soo Line) filed with the Surface Transportation Board (Board) a Notice of Exemption under 49 C.F.R. § 1152 Subpart F – Exempt Abandonments to abandon a 10.63-mile line of railroad, extending from milepost 7.8 and ending at milepost 18.43, in Racine County, WI. The line traverses through United States Postal Service Zip Codes 53139, 53182, and 53177.

On February 24, 2014, the Wisconsin Department of Natural Resources (WisDNR) executed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the 10.63-mile segment of Soo Line railroad, from milepost 7.8 to milepost 18.43, in Racine County, WI.

PURPOSE

The Wisconsin Department of Transportation (WisDOT) petitions to obtain a notice of interim trail use for interim highway, bicycle, pedestrian and other trail purposes and rail banking pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 for WisDNR for specified segments of the right of way involved in this proceeding. WisDNR will use or preserve the land corridor and related

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real property for interim public transportation and recreational purposes (including highway, pedestrian and other trail), subject to restoration for railroad purposes. WisDOT and WisDNR have agreed to work cooperatively to acquire and use the right of way.

STATE RESPONSIBILITIES

WisDOT is the designated state agency in rail matters in the State of Wisconsin. 49 C.F.R. § 1152.2(g); 49 C.F.R. § 266.1 and Ch. 85, Wis. Stats. WisDOT is responsible for all state and federally-aided highway construction and all state and federally-aided airport construction in Wisconsin. Secs. 84.01(2) and 114.32(1) and (5), Wis. Stats. WisDOT has the statutory first right to acquire for present or future transportation, recreational or scenic purposes, any property used in operating a railroad that is abandoned in Wisconsin. Sec. 85.09(2), Wis. Stats.

WisDOT has state statutory authority to incorporate trails into the highway right of way in sec. 84.06(11), Wis. Stats.:

"(11) **State Trails.** As a part of any highway improvement or as a separate project under this section, a portion of a hiking trail, cross-country ski trail, bridle trail or bicycle trail under the management of a state agency, municipality or nonprofit may be incorporated into the highway right-of-way, and facilities for safe crossing of the highway may be provided."

WisDNR and WisDOT need the interim trail use designation to fulfill federal and state transportation and environmental responsibilities.

NOTICE OF INTERIM TRAIL USE

WisDOT respectfully requests that the Board provide WisDNR a notice of interim bicycle, pedestrian and other trail use and rail banking condition to accomplish the above public purposes. WisDOT is interested in having WisDNR acquire and use the right of way of the rail line being abandoned for interim bicycle, pedestrian or other trail use and rail banking.

Exhibit 1 consists of a map showing the location of all the needed property in Racine County, Wisconsin.

Exhibit 2 is the required Statement of Willingness by WisDNR to assume full responsibility for management of the property.

This 10.63-mile segment would become part of the White River State Trail, which currently runs approximately from Burlington, Wisconsin to Kansasville, Wisconsin. It will bring an off-road trail connection closer to the City of Racine, the fifth largest city in Wisconsin. WisDNR partner, Racine County, Wisconsin, (“Racine County”) would develop and operate this section of trail along with the existing White River State Trail that Racine County already manages cooperatively with WisDNR. WisDNR is interested in pursuing this corridor because it is an extension of an existing trail and it is identified in the *State Trails Network Plan* (approved January 2001) which provides guidance as to which corridors it pursues for trail purposes.

The acquisition of this corridor will be an important step toward connecting the state’s trail network, as approved in the State Trails Network Plan and as supported by local and county government and advocacy organizations, such as the Wisconsin Bicycle Federation.

WisDOT requests that the Board consider this request despite its late filing. The Board retains jurisdiction because abandonment has not yet been consummated. Although this Petition is filed past the deadline of February 24, 2014, consideration of this Notice of Interim Trail Use request is consistent with all Congressional purposes. Neither abandonment nor discontinuance permitted by the Surface Transportation Board conditioned, as requested by WisDNR, would be inconsistent with or disruptive of potential future rail use.

CONCLUSION

WisDOT respectfully requests the Board to issue a Notice of Interim Trail Use for the land corridor and related real property, for the 10.63-mile segment of Soo Line railroad, from milepost 7.8 to milepost 18.43, in Racine County, Wisconsin to WisDNR. This will allow all forms of transportation to be provided in a unified, interconnected, economically-efficient, and environmentally sound manner.

Respectfully submitted,



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February 27, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing Petition for Notice of Interim Trail Use in regards to **AB57 (Sub-No. 61X)**, by electronic mail, or regular mail pursuant to 49 C.F.R. §1104.12, this 27th day of February 2014, on all parties of record on the service list.



Kathleen Chung, Attorney
State Bar no. 1032802
Wisconsin Department of Transportation
Office of General Counsel

EXHIBIT 1

Soo Line Railroad Company Aproximate location of Mile 7.8-18.43

Burlington to
Kansasville State Trail

Racine County

Estimated Rail
Line Length

-  DNR Fee Title
-  DNR Easement
(Closed to Public Access)
-  DNR Project Boundary
-  Recreation
Trail
-  PLSS Section Line
-  Public Land - Funded
by Stewardship Grants
-  NRCS - WRP (Wetland Reserve
Program - Closed to public access)

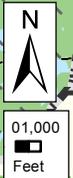
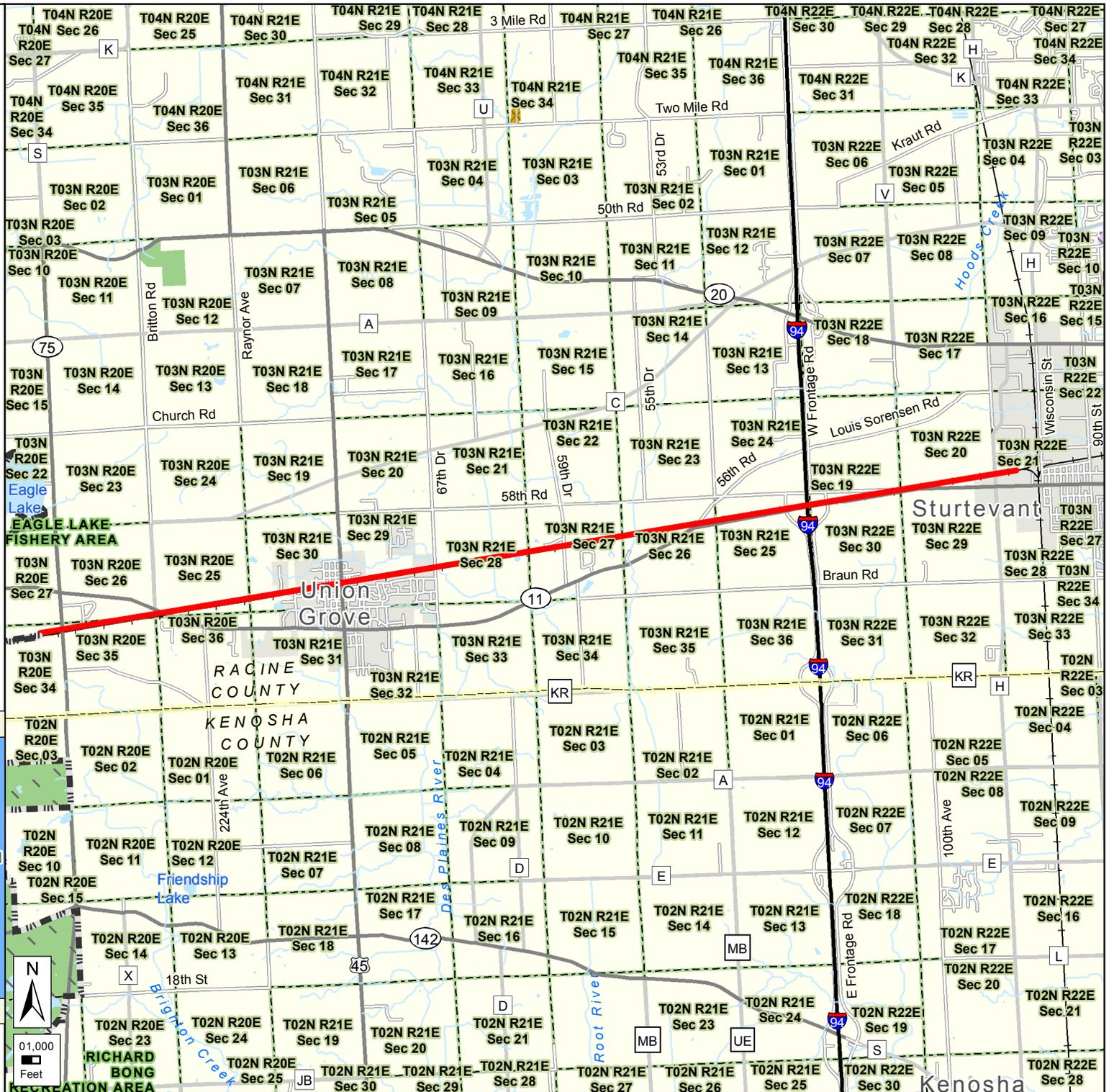
Regional View



★ Location of Property



WISCONSIN DEPARTMENT
OF NATURAL RESOURCES
Bureau of Facilities of Lands
Map Created: Feb 21, 2014 kmh



The data shown on this map have been obtained from various sources, and are of varying age, reliability and resolution. This map is not intended to be used for navigation, nor is this map an authoritative source of information about legal land ownership or public access. Users of this map should confirm the ownership of land through other means in order to avoid trespassing. No warranty, expressed or implied, is made regarding accuracy, applicability for a particular use, completeness, or legality of the information depicted on this map.

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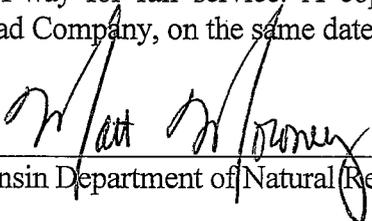
SOO LINE RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
RACINE COUNTY, WISCONSIN

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY BY
STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
PURSUANT TO 49 CFR 1152.29

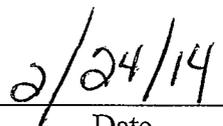
In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR § 1152.29, the State of Wisconsin Department of Natural Resources (WDNR) is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by the Soo Line Railroad Company (d/b/a Canadian Pacific). The property extends from railroad milepost 7.8 to railroad milepost 18.43 (Waxdale Spur) which traverses through United States Postal Service Zip Codes 53139, 53182, and 53177 in Racine County, Wisconsin, a distance of approximately 10.63 miles. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-57 (Sub-No. 61X).

A map depicting the property depicting the right-of-way is attached as **Exhibit 1**.

WDNR acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad, Soo Line Railroad Company, on the same date it is being served on the Board.



Wisconsin Department of Natural Resources



Date

By: Matt Moroney
Deputy Secretary
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