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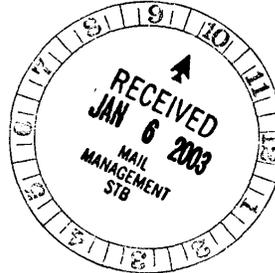
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January 3, 2003

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Office of Proceedings

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Public Record



Mr. Vernon A. Williams, Secretary
Office of the Secretary
Surface Transportation Board
Case Control Unit
1925 K Street, N.W.
Washington, D.C. 20423-0001

**RE: STB Docket No. AB-33 (Sub-No. 190X) Union Pacific Railroad Company--
Abandonment Exemption--In Dunn County, WI -- Comments**

Dear Mr. Williams:

Enclosed for filing are the original and ten (10) copies of the Comments on the above proposed abandonment. Wisconsin Department of Transportation ("WisDOT") is the designated state rail agency in rail matters in the state of Wisconsin. 49 C.F.R. § 266.1 and Ch. 85, Wis. Stats.

If the line is abandoned, the greatest potential for environmental damage is because of the failure to properly clean up debris, which is often left on former rail lines after items of value are removed. WisDOT has developed a Clean-up Policy for railroads. See enclosed Abandoned Railroad Line Salvage and Clean-up Policy/Standards/Procedures.

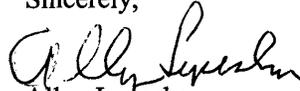
If the line is abandoned, the railroad needs to protect surveying benchmarks, monumentation and mapping information for the segment. Section 59.74, Wis. Stats.

Upon abandonment, the railroad must remove the rail, ties and ballast at the crossings of the state highways. The railroad is required to obtain a permit from the District Maintenance section to work on highway right-of-way. The railroad will need to handle traffic while the crossing is being removed. The roadway should be restored in like kind.

Before crossings are removed across other streets and roadways, the railroad must contact the maintaining authority to coordinate work with them.

By my signature below, I certify service upon the Union Pacific Railroad Company, Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Suite 1920, Chicago, IL 60606.

Sincerely,

A handwritten signature in cursive script, appearing to read "Allyn Lepeska".

Allyn Lepeska
Attorney

Enclosure

pc: Richard Steffes
Vicki Schaefer
Mack H. Shumate
Lowell Prange
Bert D. Peterson
Ronald Schroeder

**Wisconsin Department of Transportation
Abandoned Railroad Line Salvage
and Clean-up Policy**

PART ONE - PROCESS OUTLINE

SECTION I - PURPOSE AND OBJECTIVE

These procedures are for use by the Wisconsin Department of Transportation (WisDOT) and local roadway authorities in working with railroads owning rail lines which have been authorized for abandonment or service discontinuation. These procedures are intended to accomplish the following:

1. Preparation and development of site specific performance standards to be used in the salvage and clean-up of abandoned railroad lines.
2. Development of a process for railroads to consult with WisDOT during the preparation of a salvage/clean-up plan for a specific rail line, and the establishment of a time schedule for accomplishment and administration of the specific salvage/clean-up plan.
3. Coordination of site reviews and inspections to facilitate the implementation of the salvage/clean-up operation and roadway/street/highway restoration, commencing with the pre-planning development stage through to post salvage/clean-up review.
4. Issuance of written department documentation approving the salvage/clean-up plan and the final post-project acceptance.

SECTION II - GENERAL

During the past twenty years, more than 3000 miles of railroad lines have been abandoned in Wisconsin and the tracks removed. It is not unusual to find areas on these former rail lines where material relating to the railroad has been left in-place. Most often this material consists of railroad ties, culverts, and bridge piers, pilings and abutments.

Experience has shown that without an agreed upon plan for salvage and clean-up, quite often the work does not meet the public expectations with regards to the proper method of clean-up and disposal of debris and other discarded materials.

Likewise, poor quality, in both the workmanship and in the materials used in restoration of streets and roadways, has been experienced much too often.

The failure to properly remove debris which is often left behind on these former rail lines after items of value have been removed contributes to a potential for environmental damage and hazards to safety and the general welfare of the public. Efforts to have these deficiencies corrected at a later time often result in substantial costs being passed onto the public sector.

SECTION III - PERFORMANCE STANDARDS FOR SALVAGE AND CLEAN-UP OPERATIONS

The following standards are to be applied to each abandoned rail line throughout its entire length unless alternative standards are agreed to in writing by WisDOT and the railroad for specific sites:

1. All rail, spikes, tie plates, joint bars, anchors and other metal track material shall be removed from the corridor. In cases of side track either owned by an industry or where the ownership of the track is unclear, the railroad shall contact the industry and work out an agreeable arrangement for the removal of all materials.

2. All ties shall be removed from the corridor. This includes ties which have been previously removed from use in the track and discarded alongside of the track zone.

3. All track material (rail, ties, other track materials and ballast) shall be removed from the full width of every road/street/highway right of way. The roadway shall be restored through the former crossing zone for such distance as necessary on each approach to the crossing zone that the restored portion of the roadway meets design standards appropriate to the type of roadway being restored. The traveled roadway surface shall be restored to the same standards of design, material and workmanship as exists on the adjacent roadway surface, subgrade, drainage and slope. This restoration shall also include the addition or replacement of sidewalk, curb and gutter if present on the approaching roadway.

4. All railroad warning devices (flashing lights, advance warning signs, cross-arm gates, cross-bucks, etc) shall be removed, including posts, footings, foundations and related electrical equipment associated with any warning device.

5. Bridges not associated with water.

a) All railroad bridges over roadways shall be removed, including footings, foundations, backwalls, abutments.

b) If a roadway bridge over the railroad is owned and maintained by the railroad, it shall be removed as per 5a unless the road authority having jurisdiction for the roadway agrees to accept ownership and maintenance of the structure.

c) If a roadway bridge over a railroad is owned by the railroad and maintained by the roadway authority, it shall be removed as per 5a at the joint expense of the railroad and roadway authority unless the roadway authority agrees to accept ownership of the structure.

d) Unless refuted by documentary evidence to the contrary, bridges ordered installed by a public regulatory body at railroad expense but which have been included by the roadway authority in its mileage calculations for receipt of state road maintenance aids, shall be removed at the expense of the roadway authority unless the roadway authority accepts ownership of the structure.

In cases where ownership is undocumented, acceptance of state road maintenance aids by the roadway authority, which included the bridge and the approaches to the mileage aids calculations, shall be defacto evidence of the roadway authority's ownership of the structure.

6. All bridges over water shall be removed to the level of the stream bed or lake floor. This removal shall include all footings, foundations, backwalls, abutments and piers.

7. All buildings and other structures shall be removed from the railroad property, including footings, foundations, retaining walls and piers.

8. All telegraph or signal communications poles and wire shall be removed from the corridor. Poles may be cut flush with the ground.

9. All waste products and debris from the salvage and clean-up activities, articles such as pieces of concrete, asphalt, wood, wire, glass and the like shall be removed from the corridor.

10. A traffic control methodology shall be developed for the control and direction of vehicular traffic at each roadway crossing restoration site.

11. All earth cuts and areas where the soil has been disturbed in the removal of bridge components shall be covered with topsoil and seeded with both a quick growing annual, and a perennial vegetation, to prevent erosion. Back slopes shall be cut at an angle no greater than 2½:1 to prevent erosion. In addition to the covering with topsoil and seeding, the early re-establishment of vegetation on the areas denuded by the salvage/clean-up operation may require one or more of the following methods to control sedimentation and erosion:

- a. silt fencing
- b. polyethylene sheeting
- c. sedimentation basins
- d. erosion bales and mulching

SECTION IV - SALE OF PROPERTY BY RAILROAD

Railroads shall inform WisDOT of any property it proposes to sell to others. A railroad may sell any or all of its property after receiving a written release statement in recordable form from WisDOT of the state's first right of acquisition (§85.09, stats.). The railroad shall have the release statement recorded within 90 days by register of deeds for each county in which the rail property is located. It shall be the responsibility of the individual or entity that acquires the abandoned railroad property to conform with local, state, and federal laws, ordinances, rules and regulations.

SECTION V - SPECIFIC ENVIRONMENTAL CONSIDERATIONS

The start-up, continuation or completion of the salvage/clean-up operation may be restricted to certain time periods to prevent biological disruption or damage to various species, habitat, or water and air quality. Such time restrictions shall be made a part of the salvage/clean-up plan.

SECTION VI - ROLE COORDINATION

Three groups have a major role in the salvage/clean-up of an abandoned railroad line. They are the railroad abandoning the rail line, the Wisconsin Department of Transportation and the local road authorities.

The salvage of the rail lines is usually performed by a individual/company under contract with the owning railroad. This contractor often subcontracts with others to perform specific portions of the salvage and clean-up work. It is the responsibility of the railroad to contract for and monitor its agents, contractors and assigns, to ascertain that the standards of performance set forth in these guidelines or as agreed to in writing between the parties in the specific salvage/clean-up plan, are adhered to, and fulfilled.

The role of each group is as follows:

1. The railroad and its agents, contractors and assigns, shall:
 - a. Participate in an on-site inspection of the abandoned railroad property as arranged by WisDOT for the purpose of developing a site specific salvage and clean-up plan, including but not limited to, the scope of work and specifications.
 - b. Provide map(s) of the abandoned property which adequately located the railroad property, roadway crossings, bridges, buildings, etc., by reference points, identification numbers or other familiar methods of identity.

c. Participate in the preparation of the "railroad abandonment salvage and clean-up disposition form" with WisDOT and the local roadway authority. This form will set forth the project method, process, work scope and project timing as agreed to by the various parties in the salvage and clean-up of the individual elements of the abandoned railroad property.

d. Monitor the work of its agents, contractors and assigns to assure all work is accomplished according to the standards agreed to and delineated in the salvage and clean-up plan.

e. Correct any defect or deficiency in the work performed by its agents, contractors and assigns when notified of a defect or deficiency in writing by either WisDOT or the local roadway authority, and upon completion of the corrective action required, shall request in writing from appropriate party an acknowledgment that the corrective action was satisfactorily performed.

f. Notify WisDOT in writing when the salvage and clean-up project is completed.

2. The Wisconsin Department of Transportation and its agents shall:

a. Upon its own initiative or upon written request from a railroad, arrange a meeting of the affected local road authorities, the railroad and appropriate units of WisDOT staff to conduct the on-site inspection of the abandoned railroad property for the purpose of establishing the project method, process, work scope, project timing and any special conditions, together with preparing the "railroad abandonment salvage and clean-up disposition form".

b. If authorized in writing, represent the interests of local road authorities.

c. Conduct progress inspections of the removal, clean-up and restoration work activities.

d. Provide written notice to the railroad, its agents, contractors and assigns of defective and deficient work, and shall provide timely written acknowledgment to the railroad, etal., when the corrective action has been satisfactorily performed.

e. Provide written notification to the railroad, etal., if the work is acceptable upon the completion of the railroad abandonment salvage and clean-up project.

f. Provide the railroad, etal., with written notification delivered by certified mail, if the final work for completion of the railroad abandonment salvage and clean-up project is unacceptable. The notification that the final project is unacceptable shall contain a detailed list of all defective and deficient work remaining. A copy of this notification shall be forwarded to WisDOT's Office of General Counsel.

3. The local roadway authorities, their agents and assigns, shall have sole jurisdiction over matters pertaining to salvage and clean-up of roadway crossings under its jurisdiction, unless such authority has been delegated in writing to WisDOT. The local roadway authority shall:

a. Discuss with a WisDOT representative, prior to on-site inspections of the abandoned salvage and clean-up operation, the specifications for restoration work or vehicular traffic control desired by the roadway authority.

b. Determine if it will delegate its authority regarding the restoration work on the salvage and clean-up operations to WisDOT.

c. If authority regarding the restoration work on the salvage and clean-up operations is not delegated to WisDOT, meet with the railroad, its agents, contractors and assigns, and with WisDOT at each roadway crossing under its jurisdiction to prepare the project method, process, work scope, timing and special conditions, together with preparing the "railroad abandonment salvage and clean-up disposition form".

d. At its option, conduct progress inspections of the removal, clean-up and restoration work.

e. Provide written notice to the railroad, its agents, contractors and assigns of defective and deficient work, and shall provide timely written acknowledgment to the railroad, etal., when the corrective action has been satisfactorily performed.

f. Provide written notification to the railroad, etal., if the work is acceptable upon the completion of the railroad abandonment salvage and clean-up project.

g. Provide the railroad, etal., with written notification delivered by certified mail, if the final work for completion of the railroad abandonment salvage and clean-up project *is unacceptable*. The notification that the final project is unacceptable shall contain a detailed list of all defective and deficient work remaining. A copy of this notification should be forwarded to the local roadway authority's legal counsel.

SECTION VII - SCHEDULING THE SALVAGE AND CLEAN-UP EFFORTS

The railroad abandonment salvage and clean-up work may be divided into three categories. The first is the planning and design function. The second is the implementation activities. The third is the approval and close-out role.

1. The development of a railroad abandonment salvage and clean-up plan, including the preparation of the "railroad abandonment salvage and clean-up disposition form", may begin any time after the abandonment or service discontinuation authority has been granted by a regulatory or judicial body having jurisdiction for such action. In circumstances where such authority is not required by either a regulatory or judicial body, development of the railroad abandonment salvage and clean-up plan may begin at the request of the railroad. The railroad shall provide WisDOT with the necessary evidence that proper authority to abandon the rail line or discontinue service has been received, or that such authority is not required, whichever is appropriate.

2. Neither the removal of improved property (track and structures) nor the sale of either personalty or realty may commence until WisDOT has declared that there is no state interest in acquiring any of the property and has issued a written release document in recordable form of the state's first right of acquisition to the abandoned railroad property.

WisDOT is not obligated to make a determination of the state's interest in abandoned railroad property, nor issue a release statement, unless the abandoning railroad or other eligible entities file a qualified request for such release. (See s85.09(4), Wis. Stats.,)

3. The agreed upon salvage and clean-up plan may be altered or modified by mutual written agreement to handle unforeseen circumstances such as extreme weather conditions which could affect the implementation or operation activities of the salvage and clean-up work.

SECTION VIII - OBLIGATION OF RAILROAD RELATE TO IMPLEMENTATION DELAYS

It is the public objective that the salvage and clean-up of abandoned rail lines commence as soon as possible after the decision or authority to abandon a rail line has been determined. This policy is intended to minimize safety, transportation and environmental challenges which could arise by delay. Nevertheless, there may exist reasonable corporate reasons for delaying the start-up and implementation of the salvage and clean-up operations.

After notification has been received from either regulatory or judicial authority authorizing abandonment or discontinuance of service over a rail line, a railroad shall be required to continue to properly maintain all roadway crossings for the safety of the traveling public. Within 90 days after receiving said notification of abandonment, if the railroad has not commenced a WisDOT approved salvage and clean-up operation, the railroad shall erect signs at all public road crossings notifying the public that the rail line is "abandoned".

It is the public objective that the salvage and clean-up operation be completed within 12 months of the approval of the final plan.

PART TWO - PROCESS DEVELOPMENT

SECTION I - SALVAGE AND CLEAN-UP PLAN DEVELOPMENT

1. At the request of a railroad or upon its own initiative, WisDOT shall in accordance with Part One - Section VII (1) herein, arrange for an on-site inspection of the abandoned rail line for the purpose of determining the scope of work and materials and performance standards for the work which will constitute the salvage and clean-up of the abandoned rail line.
2. The on-site inspection shall be conducted by the groups set forth in Part One - Section VI (1)(2)(3) herein.
3. The groups identified in Part One - Section VI(1)(2)(3) shall identify in the plan the person or persons (together with addresses and telephone numbers) who will be the official representative for the plan and any subsequent notifications relating to the same.
3. The representatives of the respective group shall on the basis of the site inspection develop an agreed upon general statement of work for the salvage and clean-up plan and for specify activities for inclusion in the "railroad abandonment salvage and clean-up disposition form" which includes the following:
 - a. Removal of track materials from roadway crossings;
 - b. Restoration of roadway crossings;
 - c. Removal of bridges (if applicable);
 - d. Removal of culverts (if applicable);
 - e. Removal of track material from remainder of railroad corridor;
 - f. Disposition of signal and railroad warning devices;
 - g. Removal of buildings and other structures;
 - h. Removal of telegraph or signal communication facilities;
 - i. Removal of all other waste or debris on the railroad corridor;
 - j. Traffic control methodology developed for control at each crossing;
 - k. Erosion control steps for appropriate sites;
 - l. The time schedule for accomplishing the salvage and clean-up operation;
 - m. Any specific environmental challenges and considerations;
 - n. First right releases as appropriate.

4. A separate *"railroad abandonment salvage and clean-up disposition form"* shall be completed for each roadway crossing and signed by representatives from the railroad, local roadway authority as appropriate, and WisDOT. WisDOT will prepare the subject form for all state and federal highways, and if requested, will assist the local roadway authorities with the preparation of the subject forms for roadway crossing within the appropriate local roadway jurisdictions.

5. The railroad shall provide plat(s), map(s), track chart(s) or other appropriate documentation, which adequately locates the various components set forth in Part Two - Section I (3) above. Such documentation shall become a part of the salvage and clean-up plan.

SECTION II - PLAN APPROVAL, MODIFICATION AND NOTICES

1. Upon completion of the plan and the appropriate *"railroad abandonment salvage and clean-up disposition forms"*, together with the plats, maps and other documents used to accurately locate the various components and specific sites on the project, WisDOT will execute a letter of approval of the salvage and clean-up plan. (This letter of approval will not cover local roadway items unless the local roadway authority(s) has delegated its authority to WisDOT or has notified WisDOT in writing of its approval of those items under its jurisdiction.) WisDOT will deliver a copy of this approval letter, together with a copy of the plan, forms and plats/maps to the railroad and the local roadway authorities as appropriate.

2. No term or provision of the final approved salvage and clean-up plan, including attached documents, may be changed, waived, discharged or terminated orally, but require a written letter from WisDOT. Consents and approvals required, and interpretations of the plan may be made or granted by letter, or by an exchange of letters between the parties.

3. Any notice required or permitted relating to the approved salvage and clean-up plan shall be mailed by certified United States Mail, return receipt requested, postage prepaid, to the person or persons at addresses as indicated in the plan.

SECTION III - WORK PERFORMANCE AND PROGRESS MONITORING

1. The railroad may commence salvage and clean-up of the abandoned rail line upon receipt from WisDOT (and local roadway jurisdictions) of the approved plan.

2. WisDOT (and local roadway jurisdictions) may conduct progress inspections during the salvage and clean-up operation. If, as a result of an inspection, a defect or deficiency in workmanship or material is discovered, written notice shall be given by WisDOT (or local roadway authority) to the railroad to correct the situation.

3. When the defect or deficiency has been remedied, the railroad shall notify WisDOT (and local roadway authority if applicable) in writing that the corrective action has been taken. WisDOT (or local roadway authority as appropriate) shall promptly reinspect the property, and if the corrective action is sufficient, issue a written acknowledgment to the railroad that the corrective action was satisfactorily performed.

4. In the event that agreement cannot be reached on resolution of an alleged defect or deficiency, a brief written report on the situation shall be exchanged between the railroad and WisDOT (and local roadway authority as appropriate). If in the judgment of WisDOT that immediate resolution of the disagreement over the alleged defect or deficiency does not greatly or materially impact the remaining salvage and clean-up items, work may continue on the salvage and clean-up project. If however, in the judgment of WisDOT, that the disagreement over an alleged defect or deficiency does substantially impact and materially affect the remaining salvage and clean-up project, then an

immediate remedy under law may be pursued by WisDOT (or the local roadway authority as appropriate.)

SECTION IV - SALVAGE AND CLEAN-UP PROJECT CLOSE OUT

1. At the time the railroad determines that the salvage and clean-up operation on the entire line is completed (except for elements that may still be in dispute), it shall in accordance with Part Two - Section II, Plan Approval, Modification and Notices (3), notify WisDOT (and the local roadway authority(s) as appropriate) that it is requesting a final inspection of the project.
2. WisDOT (and the local roadway authority(s) as appropriate), shall within 30 days of receipt of the foregoing final inspection request, a) conduct a final inspection of the work performed, and b) provide the railroad with a written acceptance (or denial of acceptance) report. Unless snow cover or flooding makes a final inspection impossible, failure to conduct a final inspection or failure to provide written acceptance (or denial of acceptance) within the said 30 day period shall constitute acceptance and close out of the salvage and clean-up project.
3. For each element denied, or for each defect or deficiency noted, WisDOT (or local roadway authority(s) as appropriate) shall describe in writing the corrective action required or the work remaining to be done to obtain final acceptance.
4. Railroad shall have 30 days to correct the defects and deficiencies noted by WisDOT (or local roadway authority) in the final inspection report. Railroad may request in writing additional time to accomplish the corrective action. Upon notification by railroad that corrective action has been accomplished, WisDOT (or local roadway authority(s) as appropriate) shall reinspect the work performed, if found to be acceptable, prior written notification to railroad as earlier set forth.
5. In the event that railroad does not request an extension of time to make corrective actions and 30 days passes without notification from the railroad that corrective action has been taken to remedy the defects and deficiencies earlier noted, WisDOT (or local roadway authority as appropriate) may pursue judicial relief to accomplish the public objective of satisfactory salvage and clean-up of the abandoned railroad corridor to minimize safety, transportation and environmental issues.

PART THREE - FORMS AND APPROVAL LETTERS

SECTION I - RAILROAD ABANDONMENT SALVAGE AND CLEAN-UP DISPOSITION FORM

RAILROAD ABANDONMENT SALVAGE AND CLEAN-UP DISPOSITION FORM

RAILROAD:

DOCKET NUMBER:

CONTACT PERSON:

MAILING ADDRESS:

TELEPHONE NUMBER:

RAIL LINE IDENTIFICATION:

Major Termini Points: _____ to _____

Mile Posts _____ to _____

SALVAGE ELEMENT:

Roadway Crossing

Railroad Bridge over Roadway

Buildings

Crossing Signals

Roadway Bridge over Railroad

Poles/Wire

Track - Steel

Railroad Bridge over Water

Culvert

Track - Ties

Residual Waste and Debris

Other

ELEMENT IDENTIFICATION:

WORK PLAN: (Describe action to be taken, by whom and when. Include appropriate measurements, starting and ending points. Describe materials, type of process or workmanship for work to be done as appropriate. List specific environmental considerations if any.)

SITE INSPECTION:

WisDOT: _____ Date: _____

Railroad: _____ Date: _____
(Employee _____)(Agent _____)

Local Road Authority: _____ Date: _____
(County of _____)
(Town of _____)
(City of _____)
(Village of _____)

SECTION II - SAMPLE LETTERS

1. Approval of Plan

Dated _____

Dear _____:

On behalf of the Wisconsin Department of Transportation (and local roadway authority if applicable) I hereby acknowledge acceptance of the salvage and clean-up plan which was presented on _____ date _____ for the railroad line between _____ and _____ in the County(s) of _____.

Sincerely,

WisDOT official

2. Notification of Defect or Deficiency
3. Notification of Corrective Action Taken
4. Acceptance of Corrective Action
5. Request for Final Inspection
6. Final Inspection Acceptance
7. Final Inspection Approval Denied