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**j.heffner@verizon.net**

**ORIGINAL**

219133

**SURFACE  
TRANSPORTATION BOARD**

BY HAND

April 18, 2007

APR 19 2007  
RECEIVED

Hon. Vernon A. Williams  
Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

**RE: STB Docket No. AB-383 Sub-No. 5X  
Wisconsin & Southern Railroad Co.  
- Abandonment Exemption -  
In Milwaukee County, WI**

**FEE RECEIVED**

APR 19 2007

**SURFACE  
TRANSPORTATION BOARD**

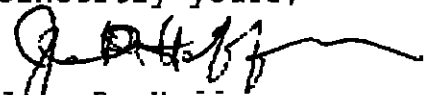
Dear Mr. Williams:

On behalf of Petitioner Wisconsin & Southern Railroad Co. ("WSOR") I am filing an original and ten copies of a petition for exemption under 49 U.S.C. 10502 from the provisions of 49 U.S.C. 10903 for the abandonment of 2.41 miles of railroad in Milwaukee County, WI.

I am also enclosing one check payable to the Board for \$5,300 to cover the applicable filing fee and a computer disk formatted in MS Word containing this filing.

Please date stamp and return one copy of this filing.

Sincerely yours,

  
John D. Heffner

Enclosures

cc: all parties  
MR. Tim Karp

ENTERED  
Office of Proceedings

APR 20 2007

Part of  
Public Record

ORIGINAL

219133

BEFORE THE  
SURFACE TRANSPORTATION BOARD

**FILED**

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SURFACE  
TRANSPORTATION BOARD

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STB DOCKET NO. AB-383 Sub-No. 5X  
WISCONSIN & SOUTHERN RAILROAD CO.  
- ABANDONMENT EXEMPTION -  
IN MILWAUKEE, WI

ENTERED  
Office of Proceedings

APR 20 2007

Part of  
Public Record

PETITION FOR EXEMPTION  
UNDER 49 U.S.C. 10502  
FROM 49 U.S.C. 10903

John D. Heffner  
John D. Heffner, PLLC  
Suite 800  
1920 N Street, N.W.  
Washington, D.C. 20036  
(202) 263-4180

Attorney for Petitioner

Dated: April 18, 2007

**FEE RECEIVED**

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SURFACE  
TRANSPORTATION BOARD

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

APR 19 2007  
RECEIVED

**STB DOCKET NO. AB-383 Sub-No. 5X  
WISCONSIN & SOUTHERN RAILROAD CO.  
- ABANDONMENT EXEMPTION -  
IN MILWAUKEE, WI**

**INTRODUCTION**

Pursuant to 49 U.S.C. 10502, the Wisconsin & Southern Railroad Co. ("WSOR" or "Petitioner") submits its Petition for Exemption from 49 U.S.C. 10903 seeking the Board's authorization for the discontinuance of service over and the abandonment of approximately 2.41 miles of track and railroad right-of-way in the Cities of Milwaukee and Glendale, Milwaukee County, WI. The subject line ("the Line") commonly known as the Nut Line extends between milepost 94.15 just east of N. 24<sup>th</sup> Street and milepost 96.76 just west of N. Richards Street. The subject line traverses United States Postal Service Zip Codes 53209 and 53212. Petitioner submits a map of the Line as Exhibit A. It also attaches to this Petition as Exhibit D the Verified Statement of its Vice President Tim Karp providing an explanation of how WSOR provides service over the Line,

detailing how the railroad developed various components of the operating costs associated with the Line, and identifying the reasons why WSOR decided to seek abandonment authority.

#### **BASIS FOR ABANDONMENT**

WSOR seeks authority to abandon this stub-ended Line because the amount of freight handled is very small and has been declining for some years and WSOR has received an offer from a third party to purchase the right of way for a nonrail use. See, Verified Statement of Tim Karp, Exhibit D (hereafter Karp VS) at 2. During the past seven years that WSOR has owned and operated the Line, the Line has served just three customers, with only two served in recent history, Bliffert Northside Lumber ("Bliffert") and Longview Fibre ("Longview"). Of these, Longview has stopped using rail for shipments. While Bliffert has continued to use rail, the number of carloads handled over the Line has been modest (34 carloads in 2005, 68 in 2006, and 13 for the year 2007 to date). WSOR has made arrangements to handle its traffic by offering to construct a transload dock or, if the customer prefers, it may use the service of another nearby company, Complete Warehouse. Karp VS at 2-3.

During 2005, 2006, and the year 2007 to date, WSOR has experienced the following operating revenues, direct expenses, and losses on the line proposed for abandonment here:

| <u>Year</u> | <u>Operating revenues</u> | <u>Direct expenses</u> | <u>Losses</u>           |
|-------------|---------------------------|------------------------|-------------------------|
| 2005        | \$47,341                  | \$80,171               | (\$32,830)              |
| 2006        | \$51,115                  | \$84,391               | (\$33,276)              |
| 2007        | \$10,124                  | \$22,153               | (\$12,029) <sup>2</sup> |

The estimated subsidy for 2007 is \$641,146 consisting of the \$12,029 quarterly loss adjusted to reflect a full year plus the \$492,530 cost of rehabilitation to an FRA class I track condition, and the \$100,500 opportunity cost.

Bliffert has available to it and uses other modes of transportation.' There are no other shippers on the Line and WSOR has found that the prospects for attracting other customers to the Line are poor.

In support of its request, Petitioner submits the following exhibits:

Exhibit A. A map depicting the subject line.

Exhibit B. A Combined Environmental and Historic Report (separate document).

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<sup>1</sup> Year to date

<sup>2</sup> Identified in Mr. Karp's statement at note 1 on page 3.

Exhibit C. A draft *Federal Register* notice.

Exhibit D. The Verified Statement of WSOR Vice President Tim Karp along with work papers explaining the revenue, cost, and loss calculations (submitted as Attachment 1 with Mr. Karp's statement).

Exhibit E. Excerpts from the appraisal of the Line performed by Kenneth Young.

EXHIBIT F. A copy of WSOR's published newspaper notice along with evidence of publication.

The subject line does not contain any federally granted rights-of-way. Any documentation in Petitioner's possession will be made available promptly to those requesting it.

A copy of this Petition has been served on all known shippers located on the subject line as well as those parties required to be served by 49 CFR 1150.50(d). See, 49 CFR 1160(d).

#### **STATEMENT OF FACTS AND CHRONOLOGY**

The Line was originally constructed, owned, and operated by the Milwaukee Road, many of whose railroad assets were acquired by the Soo Line Railroad Company, now part of Canadian Pacific Railway (CPR). In 2000, CPR sold the Line to WSOR as part of a package of rail lines in the Milwaukee area. See, Wisconsin & Southern Railroad Co. -

Acquisition Exemption - Lines of Soo Line Railroad Company  
d/b/a Canadian Pacific Railway, STB FD No. 33801, served  
June 5, 2000.

In the Fall of 2006 two reasons led the WSOR to decide to abandon the Line. First, it had received an attractive offer to buy some of the Line's right of way from a third party. Sale of that property would sever the continuity of the Line thereby precluding continued rail service to both Bliffert and Longview. Second, traffic over the Line has decreased over the past seven years with Bliffert remaining the only customer. The modest amount of Bliffert traffic (68 carloads in 2006 and 13 carloads to date in 2007), combined with poor prospects for locating other customers to the Line, the need to invest substantial sums in track rehabilitation, and the attractive offer to purchase the right of way led WSOR to its decision to abandon the Line and sell the right of way. Karp VS at 2-4.

#### ARGUMENT

As a general matter under 49 U.S.C. 10903 the Board must determine whether the present or future public convenience and necessity permit the proposed abandonment or discontinuance. 49 U.S.C. 10903(d). In implementing this standard, it balances the potential harm to affected shippers and communities against the present and future

burden that continued operations could impose on the railroad and on interstate commerce. Colorado v. United States, 271 U.S. 153 (1926).

More specifically, the Board determines whether the burden on the railroad from continued operation is outweighed by the burden on the shippers and public parties from the loss of rail service. This involves a question of whether, and to what degree, shippers will be harmed if rail service is no longer available. The fact that shippers are likely to incur harm and added expense is insufficient by itself to outweigh the detriment to the public interest of continued operation of uneconomic and excess facilities. Protestants must show that the harm to shippers and communities outweighs the demonstrated harm to the railroad and interstate commerce resulting from continued operation. See Chicago and North Western Transp. Co.-Abandonment, 354 I.C.C. 1, 7 (1977).

In deciding whether to grant or deny an abandonment or discontinuance request, the Board considers a number of factors, including operating profit or loss, other costs the carrier may experience (including rehabilitation and economic costs), and the effects on shippers and communities. No one factor is conclusive. See Cartersville

Elevator, Inc. v. ICC, 724 F.2d 668, aff'd on reh'g, en banc, 735 F.2d 1059 (8th Cir. 1984).

WSOR'S ABANDONMENT EXEMPTION  
SHOULD BE GRANTED

A railroad seeking abandonment authority for an actively used line has the option of filing a formal abandonment application or, as here, an individual petition for exemption. Generally, the Board policy allows railroads to utilize the exemption procedure where it anticipates that the request will be unopposed or the amount of traffic is so minimal or the losses so substantial that the facts weigh heavily in favor of the exemption procedure. Minnesota Northern Railroad, Inc. - Aband. Exempt. - between Redland Jct. and Fertile, in Polk County, MN STB Docket No. AB-497 (Sub-No. 2X) (decision served Nov. 14, 1997), slip op. at 11-12. Such is the case here where WSOR anticipates that neither Biffert nor Longview will oppose its abandonment request. But even if they did, the amount of traffic handled over the Line combined with the poor prospects for traffic growth and the need to perform substantial and unjustified track rehabilitation militate in favor of using an exemption.

Id.

The exemption provisions of the ICC Termination Act, 49 U.S.C. 10502, provide that the Board must exempt a transaction or service from regulation when it finds that: (1) continued regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power. Detailed scrutiny under 49 U.S.C. 10903 is not necessary to carry out the rail transportation policy.

With regard to the first standard of 49 U.S.C. § 10502(a), the need for regulation is to be tested against the provision(s) of the rail transportation policy that is (are) implicated by the statute from which an exemption is sought. The issue is whether a conventional abandonment application is required to determine whether the abandonment and discontinuance should be approved or whether it is so apparent that continued operation of the line is not required for an adequate rail transportation system that abandonment and discontinuance can be authorized by exemption without the need for such an application.

As to abandonment and discontinuance under 49 U.S.C. § 10903, the rail policy most directly implicated is 49 U.S.C. § 10101(4) in favor of continuation of a sound rail transportation system to meet the needs of the public and the national defense. Issuance of an exemption would also further the rail policies of 49 U.S.C. § 10101(3) in favor of promoting safe and efficient rail transportation; § 10101(7) in favor of reducing regulatory barriers to exit; and § 10101(9) in favor of encouraging efficient rail management.

Because the shipper on the Line appears to have adequate transportation alternatives that it is already using, application of 49 U.S.C. § 10903 to the proposed abandonment and discontinuance is also not necessary to protect shippers from an abuse of market power. Minnesota Northern Railroad, supra.

In light of that finding of no abuse of market power, the Board need not determine whether the proposed transaction is of limited scope. Nevertheless, the proposed abandonment of a 2.41 mile line handling fewer than 70 cars per year of traffic is clearly limited in scope.

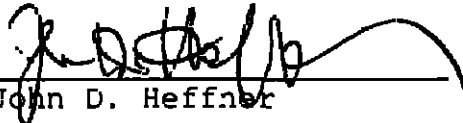
**LABOR PROTECTION**

The interests of railroad employees will be protected by the conditions imposed in Oregon Short Line R. Co.- Abandonment-Goshen, 360 I.C.C. 91 (1979).

**CONCLUSION**

Accordingly, WSOR respectfully requests that the Board grant its request for exemption from the provisions of 49 U.S.C. 10903 to permit it to discontinue service over and abandon the subject line.

Respectfully submitted,

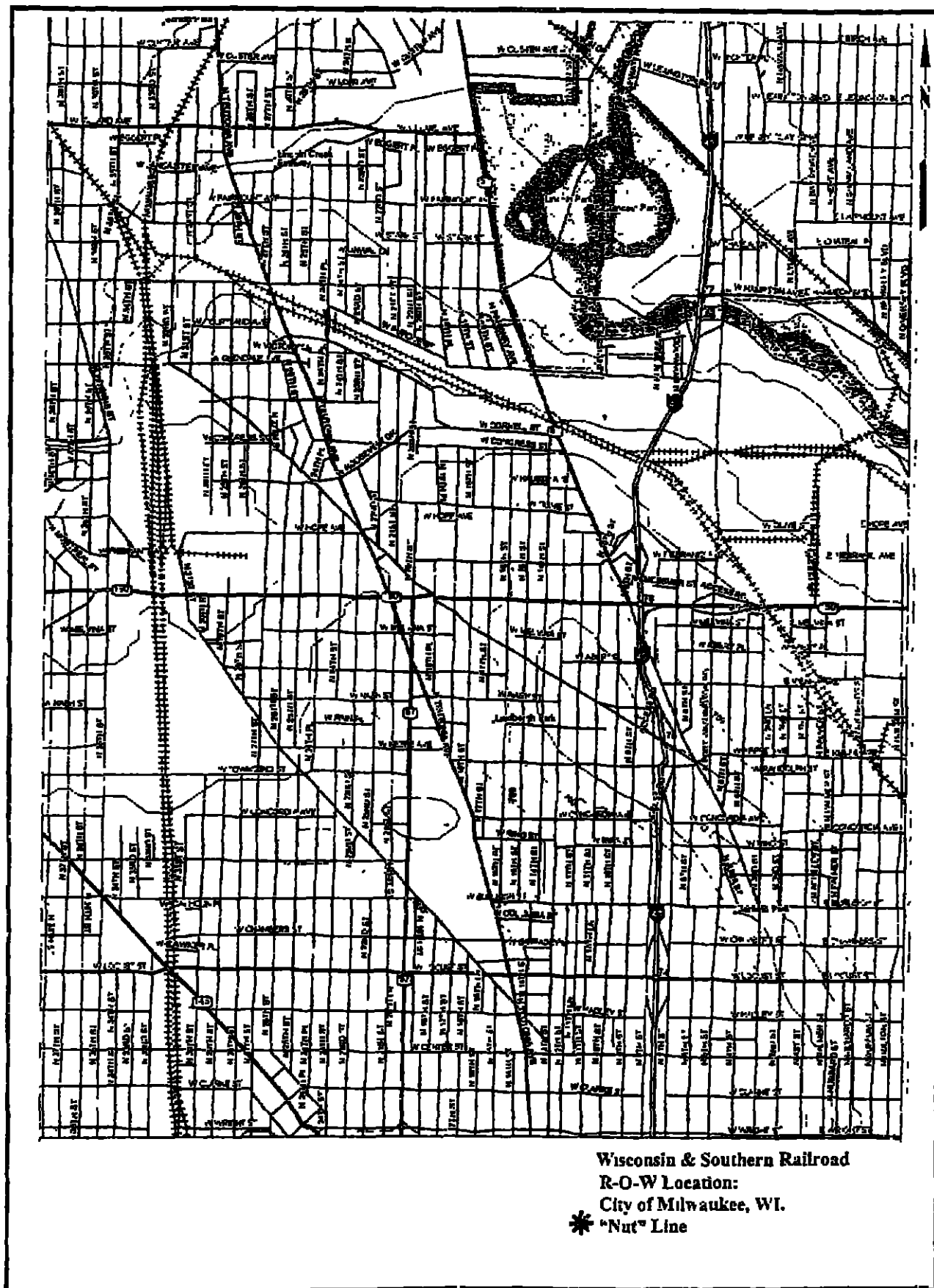


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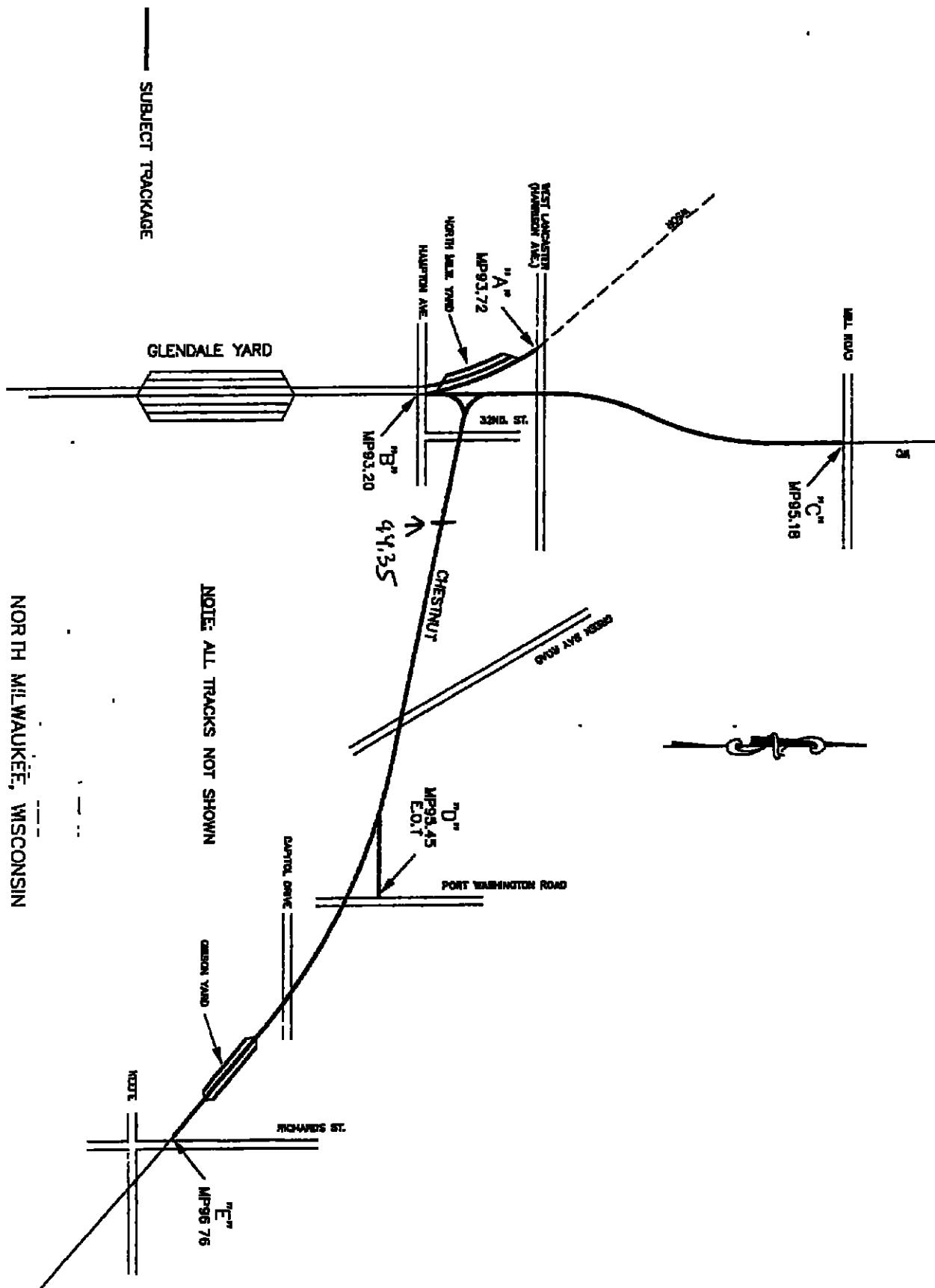
Counsel for Wisconsin &  
Southern Railroad Co.

Dated: April 18, 2007

## **EXHIBIT A**



Wisconsin & Southern Railroad  
R-O-W Location:  
City of Milwaukee, WI.  
\* "Nut" Line



## **EXHIBIT B**

**Exhibit submitted as separate document**

## **EXHIBIT C**

## DRAFT FEDERAL REGISTER NOTICE

STB Docket No. AB-383 Sub-No. 5X

### NOTICE OF PETITION FOR EXEMPTION TO DISCONTINUE SERVICE AND ABANDON

On April 18, 2007, the Wisconsin & Southern Railroad Co. (WSOR) filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the abandonment of (and discontinuance of service on) a line of railroad in Milwaukee County, WI. The subject line ("the Line") commonly known as the Nut Line extends between milepost 94.15 just east of N. 24<sup>th</sup> Street and milepost 96.76 just west of N. Richards Street, a distance of 2.41 miles in the Cities of Milwaukee and Glendale, Milwaukee County, WI. The subject line traverses United States Postal Service Zip Codes 53209 and 53212. The subject line has no stations.

The subject line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interests of railroad employees will be protected by the conditions imposed in Oregon Short Line R. Co.-Abandonment-Goshen, 360 I.C.C. 91 (1979).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after the notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental

issues may be directed to the Board's Section of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of service.

## **EXHIBIT D**

**VERIFIED STATEMENT  
OF TIMOTHY KARP**

Timothy Karp, being duly sworn, deposes and states as follows:

My name is Timothy Karp. My business address is 5300 North 33<sup>rd</sup> Street, Milwaukee, WI 53209. As Vice President-Finance and Treasurer for the Wisconsin & Southern Railroad Co. ("WSOR"), I am familiar with the facts and circumstances relating to the abandonment of the subject rail line. I have been with the railroad since May 1, 1993. My duties over the years have included financial and administrative functions, strategic planning, management information systems, and supervision of human resources.

WSOR is the largest independently owned railroad serving the State of Wisconsin. Originally established in 1980 to operate 93 miles of light density track acquired by the State of Wisconsin from the bankrupt Milwaukee Road, WSOR has grown in size from a modest class III railroad to a profitable class II carrier that owns or leases and operates 573 miles of track today.

The line proposed for abandonment was originally owned and operated by the Milwaukee Road. During the 1980's the Soo Line Railroad Company acquired substantially all of the active rail assets of the Milwaukee Road. After Canadian Pacific Railway ("CPR") acquired 100% control of the Soo, the company changed its name to the Soo Line Railroad Company

d/b/a Canadian Pacific Railway. In 2000 WSOR acquired the Line commonly known as the “Nut Line” as part of a “package” of lines that it was purchasing from CPR. WSOR has continued to operate this package of lines; however, declining car load traffic and a deteriorating track and right of way condition combined with an opportunity to sell a portion of the underlying right of way led WSOR to a decision to seek abandon of this short, stub-ended, 2.41 mile long rail line.

Prior to its acquisition in 2000, the Nut Line served no fewer than about six customers. It continued to serve at least three customers after WSOR’s year 2000 acquisition. The number of customers and carloadings has continued to shrink since then. By 2006, only two customers remained, Bliffert Northside Lumber (“Bliffert”), a lumber dealer, and Longview Fibre (“Longview”), a manufacturer of corrugated packaging. In 2006 Longview advised WSOR that it would no longer need rail service because it was discontinuing the line of business requiring rail transportation. Although Bliffert has continued to use rail for inbound traffic only, the number of carloads received has been modest and insufficient to support this Line. WSOR believes that Bliffert is unlikely to make any substantial use of rail except for handling some inbound product. Bliffert makes substantial use of

trucking for inbound loads as well.<sup>1</sup> The table below depicts the carloadings, commodities handled, and revenues for both Longview and Bliffert for calendar years 2005 and 2006 and the first three months of 2007.

| Longview Fibre |            |               |             | Bliffert Northside Lbr |                   |             |
|----------------|------------|---------------|-------------|------------------------|-------------------|-------------|
| <u>Year</u>    | <u>CLs</u> | <u>Comm'y</u> | <u>Revs</u> | <u>CLs</u>             | <u>Comm'y</u>     | <u>Revs</u> |
| 2005           | 75         | Pulps         | \$21,696    | 34                     | Lumber<br>Plywood | \$25,665    |
| 2006           | 1          | "             | \$ 750      | 68                     | "                 | \$50,365    |
| 2007           | 0          |               | \$ 0        | 13                     | "                 | \$10,124    |

Anxious to retain Bliffert's business, WSOR has made arrangements to handle its traffic by offering to construct a transload dock, or if the customer prefers, to use the services of another nearby WSOR rail customer, Complete Warehouse. WSOR does not believe that either Longview or Bliffert will oppose its abandonment request.

In connection with the filing of this abandonment petition, I checked with WSOR's engineering department regarding the physical condition of the Nut Line. They advised me that the majority of the rail on the Nut Line is 90 pound rail laid between 1918 and 1928 and is currently classified as scrap. Moreover, they tell me that the condition of the ties and ballast is poor, that the line fails to meet the Federal Railroad Administration's class I

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<sup>1</sup> Representative trucking companies serving the Milwaukee area and available to haul Bliffert's traffic include J & M Trucking, Road Runner, Dawes Transport, ABF Freightways, and Schneider National.

track standard, and is incapable of handling 286,000 pound freight cars as well as the heavier locomotives that WSOR is now employing on many of its trains. The engineering department estimates that the cost of rehabilitating the Line to an FRA class 1 track condition is \$492,530. I am appending to my statement Attachment 1 which includes a breakdown of these costs. Moreover, the Nut Line crosses West Capitol Drive on a 131 foot-long bridge that will be requiring maintenance. Finally, WSOR includes with its Petition as Exhibit E pertinent excerpts of an appraisal of the track and right of way prepared by Kenneth Young of Kenneth Young and Associates, a recognized expert on railroad track and right of way. Mr. Young assigns a net liquidation value of about \$1,348,872 to the Nut Line. In addition, WSOR has received a \$20,000 offer from a scrap dealer to purchase the track materials on the Line.

Recently a development company approached WSOR about the possibility of purchasing a portion of the right of way comprising the Nut Line. While WSOR found the offer attractive, it presented a problem. Sale of the land would interrupt the continuity of the right of way thereby terminating WSOR's ability to continue to serve Bliffert. WSOR evaluated the offer, the prospects for future rail freight from Bliffert or any other customers on the Line, and the physical condition of the Nut Line. WSOR

came to the conclusion that termination of rail service and sale of the property was the proper decision.

WSOR currently serves the Nut Line on an as needed basis, typically about one or sometimes two days per week utilizing WSOR train symbol ML which serves local customers in the North Milwaukee Area. That train operates out of WSOR's North Milwaukee Yard providing service to a series of customers on branches radiating out of that facility. Each trip serving Bliffert takes approximately one and one half hours. During 2006 WSOR served the Line 68 times. A typical trip involves the use of one 1500 HP model GP-7 road switcher locomotive and a two man crew with one or two box cars. Attachment 1 identifies many of the components of WSOR's operating costs including Transportation, Maintenance of Way, and Locomotive rental. Of these, the annual cost for the two person train crew including fringes (payroll taxes and benefits) is \$15,180. WSOR pays \$6,930 for the annual rental of a GP-7 engine. Regarding fuel consumption, I reviewed WSOR's records to determine WSOR's average diesel fuel costs during 2005, 2006, and 2007 to date. The per-gallon prices were \$1.81, \$2.12, and \$1.89, respectively. I also reviewed WSOR's locomotive fuel consumption records and determined that a GP-7 locomotive consumes about 41 gallons per hour when performing local train service on level

ground. Multiplying those figures, I have determined that the fuel consummation figures for servicing the Nut Line for the year 2006 is \$8,920,<sup>2</sup> with the amounts for 2005 and 2007 slightly lower. I assumed that freight car repair costs and miscellaneous supplies would be sufficiently small as not to warrant calculation. Furthermore, I have not included such indirect costs as office administration insurance, etc., because are not “avoidable” meaning that termination of this service would not eliminate or reduce this cost.

The next major cost component involves track, right of way, and bridge maintenance. According to company records, WSOR spent \$38,048, for routine maintenance for the Nut Line during 2006. I should hasten to add that WSOR also spent approximately \$5,200 for snow clearing as well. I realize that these figures seem extremely high for a branch line. There are several reasons. The Line is in such poor condition that our track crew must inspect the track and ties surfacing the track almost every time before a train can use it. Moreover, they must literally dig the track out of the mud in the each of the four street crossings. Additional crossing repair work is required during freezing weather and snow before a train can traverse a grade crossing.

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<sup>2</sup> WSOR's actual figure. Multiplying 68 trips at one and one-half hours apiece times about 41 gallons per hour times \$2.12 per gallon equals \$8,860

WSOR spent approximately \$3,000 on engine maintenance, a figure determined by prorating WSOR's total locomotive maintenance expense and then further allocating this cost to the Line on the basis of the number of hours served out of a year.

Attachment 1 also depicts as a revenue offset \$4,528 in switching costs that WSOR had to pay other connecting railroads for bringing Bliffert's inbound traffic to Milwaukee.

Finally, WSOR incurred two other operating expenses not reflected in Appendix 1, car hire and real estate taxes. Car hire is an expense that WSOR must pay other railroads for the use of their equipment. Cars handling the Bliffert traffic typically remain on WSOR's lines approximately 6 days from the time of interchange from the connecting class I carrier to the time WSOR returns the empty car. Multiplying the daily car hire rate of \$20 per car for the type of car used for the Bliffert traffic times the average number of days each car is on the WSOR System produces the car expense shown in the table below.

Car Hire Calculation

| <u>Year</u> | <u>Daily car hire</u> | <u>Number of cars</u> | <u>Total</u> |
|-------------|-----------------------|-----------------------|--------------|
| 2005        | \$20                  | 109                   | \$2,180      |
| 2006        | \$20                  | 69                    | \$1,400      |

2007                      \$20                                      13                                      \$ 260<sup>3</sup>

Next WSOR pays real estate taxes on the Nut Line. Statements from state taxing authorities show that the railroad paid or expects to pay \$960, \$1,185, and \$1,450, respectively, for the years 2005, 2006, and 2007.

Then I computed the direct operating losses for the Nut Line for the years 2005, 2006, and 2007 year to date as follows. I have actual expense figures for the year 2006 which are shown below. While I do not have complete figures for 2005 or 2007, I made the rather conservative assumption that the 2005 figures would be 95% of the 2006 figures (5% lower) and that the 2007 figures would be 105% of the 2006 figures (5% higher). On that basis I have computed the direct operating losses as follows:

| <u>Year</u> | <u>Railroad operating revenues</u> | <u>Direct expenses</u> | <u>Direct Loss</u>      |
|-------------|------------------------------------|------------------------|-------------------------|
| 2005        | \$47,341                           | \$80,171               | (\$32,830)              |
| 2006        | \$51,115                           | \$84,391               | (\$33,276)              |
| 2007        | \$10,124                           | \$22,153               | (\$12,029) <sup>4</sup> |

I have also assumed that the 2007 full year estimated loss would be \$48,116.

The Board allows railroads to claim the cost of maintaining a line to FRA class I condition. My engineering department tells me that the Line

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<sup>3</sup> Year to date  
<sup>4</sup> Year to date

will need approximately 1500 replacement ties at \$40 per tie for new ties for \$60,000. Additionally, proper and efficient installation and surfacing will be required. That work will require a four person track crew, four people to operate the required machinery, and a foreman working for five days. On a per tie basis the cost of installation runs about \$24 for a total cost of \$10,065.<sup>5</sup> The required machinery will include a backhoe, a tie crane, a ballast regulator, a tamper, and a hi-rail truck for a total rental cost of \$1,180 per day which is included in the cost of inserting ties and resurfacing the track. You will note that the largest single (\$333,000) component of the track rehabilitation expense is the cost of restoring the four street crossings that are in a deplorable condition. Adding these figures together results in a total rehabilitation cost of \$492,530.

The last component of WSOR's cost of operation is the opportunity cost calculation. As noted above, WSOR included with its Petition an Exhibit F prepared by Kenneth Young appraising the track and right of way at a net liquidation value of \$1,328,772 plus another \$20,000 for salvage the track and ties net of dismantling costs for a total of \$1,328,772. For the purpose of an abandonment exemption request, it is my understanding that the Board does not require petitioners to use the cost calculation procedures

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<sup>5</sup> Salary and fringes

required for formal applications so long as the method is logical. In determining the opportunity cost, I took the \$1,328,772 NLV and subtracted the taxes that WSOR would pay for the sale of this property assuming that the property basis was zero (\$504,933). I determined that figure by multiplying the NLV times the typical corporate tax rate of 38%. The calculation results in an adjusted NLV of \$823,839. I then multiplied that figure by the Board's current cost of capital of 12.2% for a return of \$100,500.

Adding all of these costs together would result in a full year 2007 subsidization cost of \$641,146.

VERIFICATION

STATE OF : Wisconsin  
: SS  
CITY OF : Milwaukee

Timothy J. Karp, being duly sworn according to law,  
hereby deposes and states that (s)he is authorized to make the  
Verification, has read the foregoing document, and knows the  
facts asserted therein are true and accurate as stated, to the  
best of (her)his knowledge, information and belief.

Timothy J. Karp

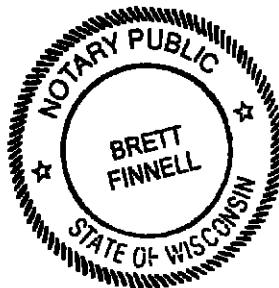
Subscribed and sworn to before me, a Notary Public, in and for  
the City of Milwaukee in the State of Wisconsin, this 9<sup>th</sup>  
day of April.

Brett Finnell

Notary Public

My Commission expires:

11/17/10



# **ATTACHMENT 1**

[illegible]

|    | A | B | C                                                                                                   | D | E      | F         | G             | H | I      |
|----|---|---|-----------------------------------------------------------------------------------------------------|---|--------|-----------|---------------|---|--------|
| 51 |   |   |                                                                                                     |   |        |           |               |   |        |
| 52 |   |   |                                                                                                     |   |        |           |               |   |        |
| 53 |   |   |                                                                                                     |   |        |           |               |   |        |
| 54 |   |   | Net Annual Loss from Operation of Line                                                              |   |        |           |               |   | 30,691 |
| 55 |   |   |                                                                                                     |   |        |           |               |   |        |
| 56 |   |   |                                                                                                     |   |        |           |               |   |        |
| 57 |   |   |                                                                                                     |   |        |           |               |   |        |
| 58 |   |   | Cost to keep the line in service the current track condition is less than acceptable for class 1 se |   |        |           |               |   |        |
| 59 |   |   | The track will need a safety tie program with ballast and resurfacing, there are also 3 road cross  |   |        |           |               |   |        |
| 60 |   |   |                                                                                                     |   |        |           |               |   |        |
| 61 |   |   |                                                                                                     |   | units  | Unit Cost | Total Cost    |   |        |
| 62 |   |   | Tie Program                                                                                         |   | 1500   | 40.00     | 60,000.00     |   |        |
| 63 |   |   | Spikes/per keg                                                                                      |   | 40     | 68.00     | 2,720.00      |   |        |
| 64 |   |   | Ballast/per ton                                                                                     |   | 840    | 9.00      | 7,560.00      |   |        |
| 65 |   |   |                                                                                                     |   |        |           |               |   |        |
| 66 |   |   | Cost per tie to install                                                                             |   | 1500   | 24.00     | 36,000.00     |   |        |
| 67 |   |   | Resurfacing /per foot                                                                               |   | 13,000 | 2.25      | 29,250.00     |   |        |
| 68 |   |   | Switch work                                                                                         |   | 1      | 24,000.00 | 24,000.00     |   |        |
| 69 |   |   | Crossing renewal /per foot                                                                          |   | 370    | 900.00    | 333,000.00    |   |        |
| 70 |   |   |                                                                                                     |   |        |           |               |   |        |
| 71 |   |   |                                                                                                     |   |        |           | \$ 492,530.00 |   |        |

|    | J                                        | K | L | M |
|----|------------------------------------------|---|---|---|
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| 57 |                                          |   |   |   |
| 58 | ervice.                                  |   |   |   |
| 59 | ings that are in need of reconstruction. |   |   |   |
| 60 |                                          |   |   |   |
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| 62 |                                          |   |   |   |
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| 69 |                                          |   |   |   |
| 70 |                                          |   |   |   |
| 71 |                                          |   |   |   |

## **EXHIBIT E**

### Segment 3, Nut Line:

The Nut Line begins on the east side of the Canco Line segment, north of Hampton Avenue at 32<sup>nd</sup> Street. The line generally extends in southeast direction from this "WYE" point (MP 93.20) terminating north of Keefe Street at MP 96.76. Estimated length of the corridor is 3.56 miles. Corridor width varies but is typically 99 or 100 feet. The south part of the corridor contains the Gibson Yard area and the beginning of the Beer Line. The Nut Line was the former property of the Canadian Pacific Railway (CP). Estimated area equals 35,853 acres.

From the starting point at MP 93.20 the corridor extends southeast crossing 32<sup>nd</sup> Street via an overhead railroad bridge. At this point the r-o-w contains a medium fill until reaching W. Hampton Avenue where the r-o-w levels out to grade level crossing Hampton Avenue and N. Teutonia Avenue. The adjoining corridor property is zoned I-H, Industrial Heavy by the City of Milwaukee. From 24<sup>th</sup> Street to 20<sup>th</sup> Street the segment continues southeast, paralleling Purdue Street to the north and Cornell Street to the south. Corridor topography is level as is the adjoining terrain. At the 20<sup>th</sup> Street the line extends southeast to N. Greenbay Avenue and remains within the City of Milwaukee zoning classifications which are typically IL2, Light Industrial or I-H, Industrial Heavy.

Southeast of N. Greenbay Avenue (State Highway 57) the r-o-w enters the City of Glendale zoning classifications. The r-o-w is bordered on the north side by the Evergreen Cemetery and to the south by industrial/light warehousing zoned property. Terrain is level for both the corridor and adjacent parcels. At a point approximately 2,000 feet southeast of Greenbay Avenue the r-o-w begins a turn to the south and crosses under Interstate 43. The corridor continues south to southeast within the Glendale zoning limits to Port Washington Road. At this point the Milwaukee zoning starts again. The corridor crosses Capital Drive via an overhead railroad bridge then enters the Gibson Yard area before terminating the segment north of Keefe Avenue at Richard Street (MP 96.76). At one point in time the Gibson Yard serviced multiple industrial plants in the area. The Gibson Yard is level as is the adjacent terrain and features some of the better industrial property within the area.

## PARCELIZATION PROCESS

We have divided the subject corridor segment into various land parcels. These parcels reflect the abutting land uses, topography, and alternate highest and best use. The primary objective of this technique was to estimate the value of the parcels contained within the corridor. The parcel values estimated as a result of our analysis are individual ATF values which indicate a market value range for each respective parcel under a piecemeal disposition concept. The following procedures were used in this valuation process.

Rights-of-Way within Dedicated Street Crossings - The valuation maps, property maps, and engineering documents indicate property boundaries, railroad parcel sizes, including in some cases those areas occupied by public road crossings. While those road crossing areas were negligible in size to the total property area, we did attempt where possible to exclude such areas from our area estimate. Our value estimate under this NLV scenario assumes good and marketable title for all other where noted on the valuation maps. Otherwise no consideration was given, nor did we check for title defects, easements, or license agreements.

Topography and Grades - The topography and grades vary from level to a small fill or small cut. There are points where the abutting land is at a different grade level from the subject right-of-way. Our approach to these situations is to consider the adjoining land as we find the subject terrain. The majority of the corridor is level to small fill/cuts and as such we have not applied any adjustments to our estimate of ATF land value for the subject's topographical variances.

Access - Access for each parcel was designated as poor, fair, or good, depending upon the proximity to access routes or the nearest arterial street. This rating deals with the parcel's alternate highest and best use rather than the corridor as a whole.

Zoning - Zoning was determined by a review of the records of the various city statutes and applying the appropriate zoning jurisdiction to the individual parcels.

Utilities - In determining the availability of city utilities such as water, sewer, gas, and electricity, we have assumed if utilities were serving the land abutting the corridor, then utilities were available to each parcel.

Date of Sale - An analysis of comparable sales indicate that land values have remained relatively stable over the recent past. We did adjust for sales that were over two years old. Where applicable negative adjustments have been made to asking prices. Properties available for sale tend to sell for prices below those listed due to negotiations between buyers and sellers.

Shape - Adjustments have been made, when deemed appropriate to reflect variances in frontage to depth ratios.

## Summary of Parcel Values Milwaukee/Glendale, Wisconsin Segments

| Parcel Number       | Zone       | Parcel Area (Acres) | Location/Description                            | Estimated Parcel Value |
|---------------------|------------|---------------------|-------------------------------------------------|------------------------|
| <b>Horicon Line</b> |            |                     |                                                 |                        |
| Parcel 1-1          | Ind.       | 8.633               | S. of Hampton Ave to Lancaster Ave.             | \$345,320              |
| <b>Canco Line</b>   |            |                     |                                                 |                        |
| Parcel 2-1          | Ind.       | 1.913               | S. of Hampton Ave to Cameron Ave                | \$68,868               |
| Parcel 2-2          | Ind.       | 3.316               | Cameron Ave. to Villard Ave                     | \$119,376              |
| Parcel 2-3          | Ind.       | 2.893               | Villard Ave to W. Custer Ave                    | \$110,657              |
| Parcel 2-4          | Ind.       | 4.050               | Custer Ave to Glendale Limits                   | \$206,550              |
| Parcel 2-5          | Lt Manuf.  | 3.535               | Carmen St. N to CN&W Ry r-o-w                   | \$148,470              |
| Parcel 2-6          | Lt Manuf.  | 2.181               | CN&W Ry, 450' each side                         | \$65,430               |
| Parcel 2-7          | Lt Manuf.  | 3.329               | 450' North of CN&W to Mill St                   | \$179,766              |
| <b>Nut Line</b>     |            |                     |                                                 |                        |
| Parcel 3-1          | Ind.       | 3.442               | Canco Line SE to 31 <sup>st</sup> St.           | \$110,144              |
| Parcel 3-2          | Ind.       | 2.097               | 31 <sup>st</sup> St. SE to W. Hampton Ave       | \$75,492               |
| Parcel 3-3          | Ind.       | 0.735               | W. Hampton Ave SE to Teutonia Ave               | \$36,383               |
| Parcel 3-4          | Ind.       | 2.250               | Teutonia Ave SE to 24 <sup>th</sup> St          | \$126,000              |
| Parcel 3-5          | Ind.       | 3.949               | 24 <sup>th</sup> St. SE to 20 <sup>th</sup> St. | \$213,246              |
| Parcel 3-6          | Ind.       | 5.687               | 20 <sup>th</sup> St. SE to N. Green Bay Ave     | \$230,324              |
| Parcel 3-7          | Lt Manuf.  | 5.295               | N. GB Ave to 500' SE of I-43                    | \$285,930              |
| Parcel 3-8          | Ind.       | 2.386               | 500' SE of I-43 to Port Wash Rd                 | \$124,549              |
| Parcel 3-9          | Lt. Manuf. | 3.469               | Port Washington Rd. to Capital Dr               | \$180,388              |
| Parcel 3-10         | Ind.       | 6.543               | Capital Dr. SE to Keesee St.                    | \$294,435              |
| <b>Beer Line</b>    |            |                     |                                                 |                        |
| Parcel 4-1          | Ind-Office | 2.100               | Keesee St. SE to Townsend St.                   | \$86,100               |
| Parcel 4-2          | Ind-Medium | 6.977               | Townsend St. SE to Burleigh/Bremen St           | \$286,057              |
| <b>Totals</b>       |            | <b>74.780</b>       |                                                 | <b>\$3,293,485</b>     |

#1328872

Equipment by the Machinery and Equipment Textbook Committee of the American Society of Appraisers as follows

*Orderly liquidation allows for the extension of time for piecemeal negotiable sales. This time associated with orderly liquidation depends on the scope of the project. This concept carries with it the assumption that a knowledgeable liquidator would be able to properly advertise and merchandise the listed assets in order to stimulate a correct response, which creates the consummated sales. The value must, again, take into consideration physical location, difficulty of removal, adaptability, specialization, marketability, physical condition, overall appearance, and over all psychological appeal.*

### **Description of Assets**

The subject assets valued within this report consist of in-place rail, cross ties, and switches. The classification of materials was calculated for track items only and specifically excluded ballast, bridges in-place, grade crossings, and signal equipment, which is consistent with industry practice that states that the value of such assets generally results in a zero value. Located within the addenda of this report is track information prepared by Mr. Ben Meighan, Superintendent of Maintenance of Way for the WSRC and utilized in the preparation of this report.

Rail for the system ranges from 90# jointed to 100# jointed and installed for main rail purposes. The majority of the rail is a 9020 Inland Steel design manufactured between 1918 and 1928. The rail was inventoried and classified as to use; Relay Rail, Reroller Rail or Scrap Rail. The majority of the rail (90#) was classified as scrap rail and priced accordingly. Rail was inspected at various intervals as to head wear, engine burns, fractures etc.

The most significant marketable materials reflected in this valuation are the steel track components (Rail & OTM), assumed to be sold for railroad reuse or as steel mill scrap. Generally, rail in the main track can be reused as "relay" in other railroad applications, if it weighs at least 112 pounds per yard.

If not suitable for rail relay, the next application is as reroller, where rail is rolled into new products. Railroad rails are manufactured from relatively high quality steel, so a demand exists for such rail for the reroll process. Reroll mills cut used rail into three longitudinal parts (head, web and base), heat the parts in a furnace, and "roll" the heated parts into new shapes much the same way as a conventional steel mill rolls new steel "blooms" into various shapes. Because the rail is not completely melted and reformed as in the scrapping process, reroll mills are willing to pay a higher price than scrap value for used rail. A premium of 15 percent or more over scrap price is typical.

Rail not suitable for reroll because of excessive side or head wear, excessive metal flow, holes in mid-rail, short length, insufficient weight, or attached asphalt or concrete is suitable only as scrap.

Other steel track components (OTM) include joint bars, tie plates, spikes, bolts, gauge rods, and rail anchors. Some of these other components that are compatible with the more popular rail sections merit resale value, while the balance is sold for scrap.

Regarding the valuation of the ties we have relied upon information developed from the high-rail inspection trip and the tie tests conducted. The allocation of ties to the classifications of relay, landscape or scrap was on a percentage basis based on the results from our tie tests. The samples taken resulted in an overall average of 2-5% as relay quality, 55% as landscape quality and 45% as scrap.

Ballast was not considered within this valuation study. The majority of the ballast was a mixture of slag limestone and granite. The track ballast system was in poor condition.

Miscellaneous assets such as signals, communications towers, highway crossing signals, culverts, and highway crossing panels were considered to have no net salvage value. Highway crossing signals generally have little or no alternative use value. Use by even a short-line railroad to replace a damaged signal is unlikely; no inventory is kept on-hand and new replacements are ordered from standard suppliers for immediate installation. Marketing costs to inform railroads of second-hand availability and handling costs would exceed amounts which would be recovered through sale. Signal materials scrap value would not exceed salvage costs. Likewise, there is no ready market in which to sell used highway crossing panels, and culvert removal costs would exceed any resale value.

### **Restoration Expense**

As a condition of service termination and non-rail reuse of the real property, governments frequently require correction of existing conditions that might cause the public sector to incur future expense. Such regulations affect the subject NLV determination in three principal asset categories: (1) bridges & culverts; (2) highway crossings; and (3) structures.

Some states require bridge superstructure removal along the subject right-of-way as a condition of service termination and reuse of the real property. However, Kenneth Young & Associates has assumed a zero value for the bridges in that demolition of the superstructure would equal any salvage value resulting in no impact on NLV (and in keeping with FRA theory).

All tracks in public roadways and crossing protection devices must be removed and pavement restored as a condition of service termination. The removal of track materials from pavement and restoration of pavement was estimated at \$1,000 per public crossing. The various right-of-way segments intersect with major public crossings and those that do intersect are to be regarded as smaller crossings. We estimate crossing restoration at a total of \$12,000.

The impact of wear on rail and fastenings, together with the anticipated loss of track materials during removal and recovery was analysed and the gross tonnage for rail was reduced at 10% for

Other Track Material (OTM) and 2% for rail wear due to end cropping and head wear

### Assumptions

- This NLV appraisal has been prepared on the basis that all line segments would be removed, with no revenue service remaining during the dismantling period and that a reasonable time period for the dismantling and disposition of materials would approximate one to two years
- Salvage materials would be moved into staging areas in proximity to foreign railroads or highways, during the dismantling. Crossties classified as suitable for reuse would be sold at the staging areas. Relay materials would be transported to markets beyond staging areas and scrap metals would also be disposed of at the closest scrap market
- The unit prices which have been utilized for the NLV estimates were based on consultants best judgement using (1) recent market quotes, (2) recent sales, (3) quotations from national rail suppliers and (4) past experiences in the area of railroad appraisal. The unit price for scrap metals is based on published scrap prices quoted in the *Wall Street Journal* and *American Metals Market* reflecting the market prices of the week of November, 2004.
- It is assumed that the market prices as utilized herein reflect the relatively flat nature of the U.S. steel industry and that the disposition of the metals included in this appraisal would not have the impact of "flooding the market".
- Assume only 112 pound and heavier rail as fit for relay rail. All other smaller rail and OTM to be valued as scrap. A four-hole joint bar for 90 # and heavier, six-hole joint bar for all rail 112# and over
- Two tie plates per tie and 2 spikes per plate for tangent rail and 2 spikes for curved rail.
- All main line r-o-w assets as well as sidings, spurs, will be owned in fee simple and the sole property of the Wisconsin and Southern Railroad Company.
- Main line tie quantities are estimated at 3100 ties per mile, sidings and spurs were estimated to contain 3000 ties per mile.
- All amounts used in this estimate have been stated in current November 2004 dollars and have not been discounted in any manner.

### Methodology

In order to conduct this estimate an inventory was conducted based on age, section of rail, type and size of fastenings and quantities of crossties taken from listings as provided by Wisconsin & Southern Railroad. Each segment of track was classified according to the highest and best use the materials could be expected to achieve on the open market, yet taking into consideration sound railroad practice. After completion of the take-off, unit prices were assigned to reflect market and scrap values in-place. Next, factors such as recovery costs, waste and loss are considered, after

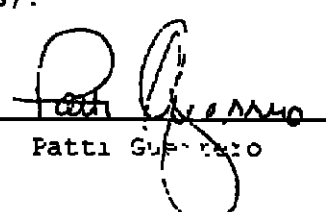
## **EXHIBIT F**

AFFIDAVIT OF PUBLICATION

0002710711

WISCONSIN & SOUTHERN RAILROAD CO  
5300 N. 33RD ST  
PO BOX 90229  
TIM KARP  
Milwaukee, WI 532090229

Patti Guerrero hereby states that she is authorized by Journal Sentinel Inc to certify on behalf of Journal Sentinel Inc publisher of the Milwaukee Journal Sentinel and The Sunday Journal Sentinel, public newspapers of general circulation, printed and published in the city and county of Milwaukee; published in the Daily Edition of the Milwaukee Journal Sentinel on 03/30/2007, the Milwaukee Journal Sentinel and The Sunday Journal Sentinel newspapers printed in the English language and that said printed copy was taken from said printed newspaper(s).

  
Patti Guerrero

State of Wisconsin, ss  
County of Milwaukee;

Subscribed and sworn before me this 4<sup>th</sup> day of April  
Jenni Rose

Notary Public State of Wisconsin

My Commission Expires 2.20.11

LEGAL NOTICE

Wisconsin & Southern Railroad Co. (WSOR or Applicant) gives notice that on or about April 2, 2007, it will file with the Surface Transportation Board a petition for expropriation under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10933 et seq., permitting the abandonment of 2.4 miles of railroad in Milwaukee County, WI. The subject line ("the Line") commonly known as the A.M. Line extends between milepost 94.15 just east of N 24th Street and milepost 96.76 just west of N Richards Street. The Line traverses United States Postal Service 210 Cocos 53309 and 53212. The proceeding has been docketed as STB Docket Number AS-383 Sub-No. 5X.

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for abandonment exemption. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to SEA, Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423 or by calling SEA at 202-245-0295.

Appropriate offers of financial assistance to certain rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trail use, public use, and offers of financial assistance) must be filed with the Board's Office of the Secretary, 395 E Street, S.W., Washington, DC 20423 [See 49 CFR 1104.11(a) and 1104.11(a)(1)] and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trail use may be directed to the Board's Office of Congressional and Public Services at 202-245-

8230. Copies of any comments or requests for conditions should be served on the applicant's representative John D. Hartner, P.L.C., 1920 N Street, NW, Suite 8CC Washington, DC 20036.

## CERTIFICATE OF SERVICE

Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting.

I, John D. Heffner, certify that a copy of the Petition for Exemption was served on April 18, 2007 to the following by first-class mail:

Public Service Commission of Wisconsin  
610 North Whitney Way  
P.O. Box 7854  
Madison, WI 53707

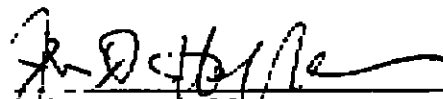
National Park Service  
Recreation Resources Assistance Division  
P.O. Box 37127  
Washington, DC 20013-7127

Chief of the Forest Service  
U.S. Department of Agriculture  
P.O. Box 960-90  
Washington, DC 20050

U.S. Department of Defense  
Surface Deployment and Distribution Command  
Transportation Engineering Agency  
Railroads for National Defense Program  
5611 Columbia Pike  
Room 770 (MT-SA)  
Falls Church, VA 22041-5050

Longview Fibre  
3832 N. Third Street  
Milwaukee, WI 53212

Bliffert Northside Lumber  
1014 E. Chambers Street  
Milwaukee, WI 53212

  
John D. Heffner

ORIGINAL

COMBINED ENVIRONMENTAL AND HISTORIC REPORT

Environmental Issues

The following information is provided in accordance with  
F.P.R. § 1105.7:

(1) Proposed Action and Alternatives

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

Wisconsin & Southern Railroad Co. (WSOR, hereafter "the Applicant"), proposes to discontinue service over and abandon a line of railroad called the Nut Line (the subject line or the line). The subject line extends from milepost 94.35 just east of N. 24<sup>th</sup> Street to milepost 96.76 just west of N. Richards Street, a distance of 2.41 miles, in the Cities of Milwaukee and Glendale, Milwaukee County, WI. WSOR seeks to abandon the line because the amount of freight handled is very small and has been declining for some years and WSOR has received an offer from a third party to purchase the right of way for a future use. During the past several years that WSOR has owned and operated the line, the line has served just two customers, Bliffert Northside Lumber and Longview Fibre. Of these, Longview Fibre has stopped using rail for shipments. While Bliffert Northside Lumber has continued to use rail, the number of carloads handled over the

line has been modest (34 carloads in 2005 and 68 in 2006). WSCR has made arrangements to handle its traffic by offering to construct a transload dock or, if the customer prefers, it may use the service of another nearby company, Complete Warehouse. The only alternative to this action would be to forego abandoning the subject line and to pass the costs of returning the subject line to its customers located on other parts of WSCR's system. This would not be a prudent utilization of carrier resources.

(2) Transportation System

Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

Applicant anticipates that the proposed action will have no effect on regional or local transportation systems or patterns and will result in only a modest diversion of traffic to other transportation modes or systems.

(3) Land Use

(1) Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

Applicant believes that the proposed action will not be inconsistent with local land use plans. On March 9, 2007,

WSOR's counsel contacted officials in Milwaukee County, the City of Milwaukee, and the City of Glenview, seeking information as to the current land use plans for each jurisdiction.

(Attachments 1A-1C). Applicant will provide SEA with copies of replies by local land use officials as soon as they are received.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

On March 9, 2007, WSOR contacted the appropriate National Resource Conservation Services Office,<sup>1</sup> and is currently awaiting its response. (Attachment 2) Applicant will advise SEA as soon as it receives a response.

(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9.

On March 9, 2007, WSOR contacted the Wisconsin Department of Administration, Wisconsin Coastal Management Program section to comment on the impact of the abandonment, if any, on the State's coastal zone program. (Attachment 3). Because the subject line lies inland, Applicant believes that there will be no coastal zone impacts.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 1030c and explain why.

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<sup>1</sup> formerly the U.S. Soil Conservation Service.

Applicant does not believe that the subject line's right-of-way is suitable for alternative public use. However, Applicant will discuss alternate public uses of the right-of-way with affected local interests as well as with Wisconsin transportation agencies.

(4) Energy

(i) Describe the effect of the proposed action on transportation of energy resources. (ii) Describe the effect of the proposed action on recyclable commodities. (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why. (iv) If the proposed action will cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

The proposed abandonment will have little effect on the transportation of energy resources because only a limited amount of traffic has moved over the subject line during the past two years (109 carloads in 2005 and 69 carloads in 2006). There will be no effect on the transportation of recyclables because no recyclables move over the subject line. The proposed action will increase overall energy efficiency by saving the energy that would otherwise be needed to maintain the unused subject line. The proposed action will cause only limited diversion from rail to motor carriage.

(5) Air

Will the proposed action result in (A) a minimum increase in rail traffic of 100 percent (measured in gross tons annually) or eight trains per day on an affected rail line, (B) an increase in rail yard activity of 100 percent as measured in carload activity or (C) an increase in motor carrier traffic of either 50 vehicles per day or an increase in truck traffic exceeding 10 percent of the average daily traffic on a given highway segment? If any of the enumerated thresholds is exceeded, quantify the anticipated increase in air emissions. If a Class I or nonattainment area is affected, are increased emissions within parameters of the affected State Implementation Plan?

The above thresholds will not be exceeded. See (2) above.

(6) Noise

If any of the thresholds identified in item (5) is surpassed, state whether the proposed action will cause an increase in noise levels exceeding either (i) a three decibel Ldn incremental increase or (ii) 65 decibels?

The above thresholds will not be exceeded.

(7) Safety

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

Applicant believes that the proposed action will result in improvement to public safety by removing a public road crossings on the line.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency or

service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous material.

The proposed action is a discontinuance and abandonment, therefore, no hazardous materials are expected to be transported over the subject line.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills or the right-of-way, identify the location of those sites and the types of hazardous materials involved.

There are no known hazardous waste sites on the subject line, and Applicant is not aware of any hazardous materials spills that may have occurred along the right-of-way.

### (3) Biological Resources

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

On March 9, 2007, WMOR's counsel contacted the U.S. Fish and Wildlife Service about the proposed action. (Attachment 4) Applicant does not believe that the abandonment will affect any endangered or threatened species or critical habitats.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected and describe any effects.

Applicant does not anticipate that the abandonment will affect any wildlife sanctuaries or refuges, or National or State parks or forests. Nevertheless, WSOB contacted the National Park Service to obtain its views and will furnish SEA with any comments received. (Attachment 5).

(9) Water

(a) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistency.

No in-stream salvage operations will be required. No action known to be inconsistent with federal, state, and/or local water quality standards is contemplated. If any permits or applications are found to be necessary, they will be obtained and any conditions or procedures required by regulatory agencies will be complied with. WSOB contacted state and federal agencies in Wisconsin responsible for environmental matters.

(Attachments 6A and 6B).

(b) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the affects.

On March 9, 2007, WSOB contacted the U.S. Army Corps of Engineers. (Attachment 7) While Applicant does not anticipate that any permits under Section 404 will be required or that any

designated wetlands or 100-year flood plains will be affected, Applicant will provide SHA with the Corps of Engineers' response.

(iii) State whether permits under section 401 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.

On March 9, 2007, WSOB contacted both the U.S. Environmental Protection Agency and the environmental agency in Wisconsin regarding this question and will provide their comments once received. (Attachments 6A and 6B) Applicant does not anticipate that any permits will be required.

#### (12) Proposed Mitigation

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Applicant does not expect any adverse impacts, therefore it is not proposing any mitigation measures.

#### Historic Issues

The following information is provided in accordance with 49 CFR 1105.8(d).

##### (1) Map

A copy of a map of the subject line is attached to this report as Attachment 9.

(2) Description of the subject line

The subject line is a portion of a line called the Mar Line. It is a segment of track that comes off a wye at the northend of WSCB's Glendale Yard. The Line then extends in a southeasterly direction from milepost 94.35 just east of N. 24<sup>th</sup> Street to milepost 96.76 just West of N. Richards Street, a distance of 2.41 miles, in the Cities of Milwaukee and Glendale, Milwaukee County, WI. The width of the right of way varies but is generally 99-100 feet wide and level.

(3) Photographs of structures at least 50 years old

Photographs of the Line are attached as Attachments 6A and 6B. There is only one bridge on the Line (over a city street) and no buildings or structures of any sort.

(4) Dates of construction/alteration of structures

Applicant has little information about the dates of construction of the line and structures. WSCB purchased the Line from CP Rail (formerly the Soo Line Railroad) which had previously acquired substantially all of the rail real properties of the former Chicago, Milwaukee, St. Paul & Pacific Railroad (more commonly known as "the Milwaukee Road") in the early 1980's.

(5) History of carrier operations

The subject line was built in the later 1800's and formerly owned and operated by the CP Rail's predecessor, the Milwaukee Road. In 2000, WSCOR purchased the subject line from CP Rail as part of a "package" of lines known as the "Gibson Lines." As noted above, WSCOR has had one active customer on the subject line, Bliffert Northside Lumber.

(6) Documents in carrier's possession

Applicant is unaware of any significant structures on the subject line that merit historical comment. No bridges or buildings that are of significant architectural design are on the subject line.

(7) Eligibility for National Register; archaeological resources

Applicant is unaware of any structures on the right-of-way that are eligible for listing in the National Register. On March 9, 2007, Applicant contacted the State Historic Preservation Officer and is awaiting his or her reply.

(Attachment 13). Applicant will forward to SEA any comment received. Any potential archaeological sites within the right of way would have previously been disturbed during the construction of the subject line.

(8) Description of ground disturbance or fill

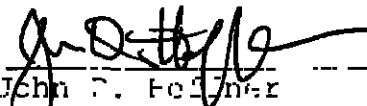
(8) Description of ground disturbance or fill

The line was built in the traditional constructed on mounds for the line. There are no additional deep cuts or fill

Certification

In accordance with the requirement at 49 CFR 1105.7(b), WSOF certifies that it has sent a copy of the Environmental and Historic Report to all agencies listed at 1105.7(b) and to the State Historic Preservation Officer and that it has consulted with these agencies in preparing this report.

Respectfully submitted,

  
John L. Hoffner  
John L. Hoffner, ELIC  
1920 N Street, N.W.  
Suite 900  
Washington, D.C. 20036  
Telephone: (202) 263-4161

Counsel for Wisconsin &  
Sutter Railroad Company

Dated: March 2, 2007

# **ATTACHMENT 1-A**

**JOHN D. HEFFNER, PLLC**

**1920 N STREET, N.W.**

**SUITE 800**

**WASHINGTON, D.C. 20036**

**(202) 263-4180**

**FAX (202) 296-3939**

**j.heffner@verizon.net**

March 9, 2007

Mayor Tom Barrett  
Office of the Mayor  
200 E. Wells Street  
City Hall – Room 201  
Milwaukee, WI 53202

Re: STB Docket No. AB-383 Sub-No. 4X  
Wisconsin & Southern Railroad Co.,  
Abandonment Exemption

Dear Mayor Barrett:

This letter is to advise you that Wisconsin & Southern Railroad Co. ("Applicant") proposes to abandon a rail line known as the Nut Line between milepost 94.35 just east of N. 24<sup>th</sup> Street, and milepost 96.76 just west of N. Richards Street in the cities of Milwaukee and Glendale, Milwaukee County, WI, a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U.S.C. 10502. This line traverses US postal service zip codes 53209 and 53212.

Enclosed is a draft Environmental and Historic Report ("EHR"), a document which Applicant must complete and file with the STB as a component of its abandonment filing. The draft EHR explains in greater detail the scope of the proposed rail line abandonment, including a more particular description of the rail line in question. We have also enclosed a map which should assist in your review of the environmental and/or historic impacts (if any) that may arise as a consequence of the abandonment or salvage of the rail structure on this line.

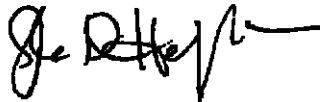
We have contacted you at this time to seek your assistance in completing the EHR. You will note that the EHR addresses issues pertaining to local land use plans – particular issues for which we seek your comment. See, item 3 of the EHR at pages 2-3. We encourage

you to review the enclosed draft EHR, and contact me, John D. Heffner, within 30 days of the date of this letter, with any feedback or guidance that you may be able to offer. Your feedback will be incorporated into the final EHR, which, as we have mentioned, will be delivered to the STB.

Applicants have not yet filed their abandonment petition at the STB. However, at such time as Applicants submit their request to abandon service over the line in question, we will serve you with copies of the request and the final EHR. At that time, if not sooner, we will supply you with information sufficient for you to issue comments directly to the STB's Section of Environmental Analysis as well as to us.

We appreciate your cooperation. If you have any questions regarding the enclosed materials, please contact me at the address and phone number at the top of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Heffner", with a long horizontal flourish extending to the right.

John D. Heffner  
Attorney for  
Wisconsin & Southern Railroad Co

# **ATTACHMENT 1-B**

**JOHN D. HEFFNER, PLLC**

**1920 N STREET, N.W.**

**SUITE 800**

**WASHINGTON, D.C. 20036**

**(202) 263-4180**

**FAX (202) 266-3939**

**j.heffner@verizon.net**

March 9, 2007

Mr Scott Walker  
Milwaukee County Executive  
901 N. 9<sup>th</sup> Street  
Courthouse Room 306  
Milwaukee, WI 53233-1458

Re STB Docket No. AB-383 Sub-No.5X  
Wisconsin & Southern Railroad Co.,  
Abandonment Exemption

Dear Mr Walker

This letter is to advise you that Wisconsin & Southern Railroad Co ("Applicant") proposes to abandon a rail line known as the Nut Line between milepost 94.35 just east of N. 24<sup>th</sup> Street, and milepost 96.76 just west of N. Richards Street in the cities of Milwaukee and Glendale, Milwaukee County, WI, a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U.S.C. 10502. This line traverses US postal service zip codes 53209 and 53212.

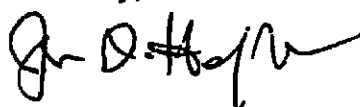
Enclosed is a draft Environmental and Historic Report ("EHR"), a document which Applicant must complete and file with the STB as a component of its abandonment filing. The draft EHR explains in greater detail the scope of the proposed rail line abandonment, including a more particular description of the rail line in question. We have also enclosed a map which should assist in your review of the environmental and/or historic impacts (if any) that may arise as a consequence of the abandonment or salvage of the rail structure on this line.

We have contacted you at this time to seek your assistance in completing the EHR. You will note that the EHR addresses issues pertaining to local land use plans - particular issues for which we seek your comment. See, item 3 of the EHR at pages 2-3. We encourage you to review the enclosed draft EHR, and contact me, John D. Heffner, within 30 days of the date of this letter, with any feedback or guidance that you may be able to offer. Your feedback will be incorporated into the final EHR, which, as we have mentioned, will be delivered to the STB.

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We appreciate your cooperation. If you have any questions regarding the enclosed materials, please contact me at the address and phone number at the top of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Heffner", written in a cursive style.

John D. Heffner  
Attorney for  
Wisconsin & Southern Railroad Co.

# **ATTACHMENT 1-C**

**JOHN D. HEFFNER, PLLC**  
**1920 N STREET, N.W.**  
**SUITE 800**  
**WASHINGTON, D.C. 20036**  
**(202) 263-4180**  
**FAX (202) 296-3939**  
**j.heffner@verizon.net**

March 9, 2007

Mayor Jerome Teppner  
City of Glendale  
5909 N Milwaukee River Parkway  
Glendale, WI 53209

Re. STB Docket No AB-383 Sub-No 5X  
Wisconsin & Southern Railroad Co ,  
Abandonment Exemption

Dear Mayor Teppner

This letter is to advise you that Wisconsin & Southern Railroad Co. ("Applicant") proposes to abandon a rail line known as the Nut Line between milepost 94.35 just east of N. 24<sup>th</sup> Street, and milepost 96.76 just west of N. Richards Street in the cities of Milwaukee and Glendale, Milwaukee County, WI, a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U.S.C. 10502. This line traverses US postal service zip codes 53209 and 53212.

Enclosed is a draft Environmental and Historic Report ("EHR"), a document which Applicant must complete and file with the STB as a component of its abandonment filing. The draft EHR explains in greater detail the scope of the proposed rail line abandonment, including a more particular description of the rail line in question. We have also enclosed a map which should assist in your review of the environmental and/or historic impacts (if any) that may arise as a consequence of the abandonment or salvage of the rail structure on this line.

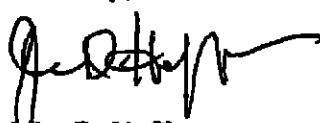
We have contacted you at this time to seek your assistance in completing the EHR. You will note that the EHR addresses issues pertaining to local land use plans, particular issues for which we seek your comment. See, item 3 of the EHR at pages 2-3. We encourage

you to review the enclosed draft EHR, and contact me, John D. Heffner, within 30 days of the date of this letter, with any feedback or guidance that you may be able to offer. Your feedback will be incorporated into the final EHR, which, as we have mentioned, will be delivered to the STB.

Applicants have not yet filed their abandonment petition at the STB. However, at such time as Applicants submit their request to abandon service over the line in question, we will serve you with copies of the request and the final EHR. At that time, if not sooner, we will supply you with information sufficient for you to issue comments directly to the STB's Section of Environmental Analysis as well as to us.

We appreciate your cooperation. If you have any questions regarding the enclosed materials, please contact me at the address and phone number at the top of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'John D. Heffner', with a stylized flourish extending to the right.

John D. Heffner  
Attorney for  
Wisconsin & Southern Railroad Co.

## **ATTACHMENT 2**

**JOHN D. HEFFNER, PLLC**  
**1920 N STREET, N.W.**  
**SUITE 800**  
**WASHINGTON, D.C. 20036**  
**(202) 263-4180**  
**FAX (202) 296-3939**  
**j.heffner@verizon.net**

March 9, 2007

USDA Natural Resource Conservation Service  
8030 Excelsior Drive  
Suite 100  
Madison, WI 53717

Re: STB Docket No. AB-383 Sub-No 5X  
Wisconsin & Southern Railroad Co.,  
Abandonment Exemption

To Whom It May Concern:

This letter is to advise you that Wisconsin & Southern Railroad Co. ("Applicant") proposes to abandon a rail line known as the Nul Line between milepost 94.35 just east of N 24<sup>th</sup> Street and milepost 96.76 just west of N Richards Street in the cities of Milwaukee and Glendale, Milwaukee County, WI a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U.S.C. 10502. This line traverses US postal service zip codes 53209 and 53212.

Enclosed is a draft Environmental and Historic Report ("EHR"), a document which Applicant must complete and file with the STB as a component of its abandonment filing. The draft EHR explains in greater detail the scope of the proposed rail line abandonment, including a more particular description of the rail line in question. We have also enclosed a map which should assist in your review of the environmental and/or historic impacts (if any) that may arise as a consequence of the abandonment or salvage of the rail structure on this line.

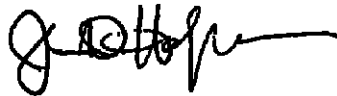
We have contacted you at this time to seek your assistance in completing the EHR. You will note that the EHR addresses issues pertaining to prime agricultural land – particular issues for which we seek your comment. See, item 3 of the EHR at page 3. We

encourage you to review the enclosed draft FHR, and contact me, John D. Heffner, within 30 days of the date of this letter, with any feedback or guidance that you may be able to offer. Your feedback will be incorporated into the final FHR, which, as we have mentioned, will be delivered to the STB.

Applicant has not yet filed its abandonment petition at the STB. However, at such time as Applicant submits its request to abandon service over the line in question, we will serve you with copies of the request and the final FHR. At that time, if not sooner, we will supply you with information sufficient for you to issue comments directly to the STB's Section of Environmental Analysis as well as to us.

We appreciate your cooperation. If you have any questions regarding the enclosed materials, please contact me at the address and phone number at the top of this letter.

Sincerely,

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John D. Heffner  
Attorney for  
Wisconsin & Southern Railroad Co.

## **ATTACHMENT 3**

**JOHN D. HEFFNER, PLLC**  
**1920 N STREET, N.W.**  
**SUITE 800**  
**WASHINGTON, D C. 20036**  
**(202) 263-4180**  
**FAX (202) 296-3039**  
**j.heffner@verizon.net**

March 9, 2007

Coastal Zone Management Agency  
Wisconsin Department of Administration  
Wisconsin Coastal Management Program  
P.O. Box 8944  
101 East Wilson Street  
Madison, WI 53708-8944

Re. STB Docket No. AB-383 Sub-No.5X  
Wisconsin & Southern Railroad Co.,  
Abandonment Exemption

To Whom It May Concern:

This letter is to advise you that Wisconsin & Southern Railroad Co ("Applicant") proposes to abandon a rail line known as the Nut Line between milepost 94.35 just east of N. 24<sup>th</sup> Street, and milepost 96.76 just west of N. Richards Street in the cities of Milwaukee and Glendale, Milwaukee County, WI, a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U.S.C. 10502. This line traverses US postal service zip codes 53209 and 53212.

Enclosed is a draft Environmental and Historic Report ("EHR"), a document which Applicant must complete and file with the STB as a component of its abandonment filing. The draft EHR explains in greater detail the scope of the proposed rail line abandonment, including a more particular description of the rail line in question. We have also enclosed a map which should assist in your review of the environmental and/or historic impacts (if any) that may arise as a consequence of the abandonment or salvage of the rail structure on this line.

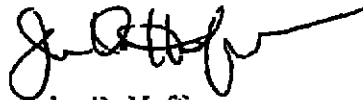
We have contacted you at this time to seek your assistance in completing the EHR. You will note that the EHR addresses issues pertaining to coastal zone impacts -

particular issues for which we seek your comment. See, item 3 of the EHR at page 3. We encourage you to review the enclosed draft EHR, and contact me, John D. Heffner, within 30 days of the date of this letter, with any feedback or guidance that you may be able to offer. Your feedback will be incorporated into the final EHR, which, as we have mentioned, will be delivered to the STB.

Applicant has not yet filed its abandonment petition at the STB. However, at such time as Applicant submits its request to abandon service over the line in question, we will serve you with copies of the request and the final EHR. At that time, if not sooner, we will supply you with information sufficient for you to issue comments directly to the STB's Section of Environmental Analysis as well as to us.

We appreciate your cooperation. If you have any questions regarding the enclosed materials, please contact me at the address and phone number at the top of this letter.

Sincerely

A handwritten signature in black ink, appearing to read 'John D. Heffner', with a long horizontal flourish extending to the right.

John D. Heffner  
Attorney for  
Wisconsin & Southern Railroad Co.

## **ATTACHMENT 4**

**JOHN D. HEFFNER, PLLC**

**1920 N STREET, N.W.**

**SUITE 800**

**WASHINGTON, D.C. 20036**

**(202) 263-4180**

**FAX (202) 296-3939**

**j.heffner@verizon.net**

March 9, 2007

U S. Fish and Wildlife Service  
One Federal Drive  
BIIW Federal Building  
Fort Snelling, MN 55111-4056

Re. STB Docket No. AB-383 Sub-No 5X  
Wisconsin & Southern Railroad Co.,  
Abandonment Exemption

To Whom It May Concern:

This letter is to advise you that Wisconsin & Southern Railroad Co ("Applicant") proposes to abandon a rail line known as the Nut Line between milepost 94.35 just east of N 24<sup>th</sup> Street, and milepost 96.76 just west of N Richards Street in the cities of Milwaukee and Glendale Milwaukee County, WI, a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U.S.C. 10502. This line traverses US postal service zip codes 53209 and 53212.

Enclosed is a draft Environmental and Historic Report ("EHR"), a document which Applicant must complete and file with the STB as a component of its abandonment filing. The draft EHR explains in greater detail the scope of the proposed rail line abandonment, including a more particular description of the rail line in question. We have also enclosed a map which should assist in your review of the environmental and/or historic impacts (if any) that may arise as a consequence of the abandonment or salvage of the rail structure on this line.

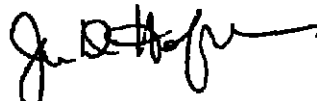
We have contacted you at this time to seek your assistance in completing the EHR. You will note that the EHR addresses issues pertaining to endangered or threatened species or critical habitats - particular issues for which we seek your comment. See, item 8 of

the FHR at pages 6-7. We encourage you to review the enclosed draft EHR, and contact me, John D. Heffner, within 30 days of the date of this letter, with any feedback or guidance that you may be able to offer. Your feedback will be incorporated into the final EIR, which, as we have mentioned, will be delivered to the STB.

Applicant has not yet filed its abandonment petition at the STB. However, at such time as Applicant submits its request to abandon service over the line in question, we will serve you with copies of the request and the final EHR. At that time, if not sooner, we will supply you with information sufficient for you to issue comments directly to the STB's Section of Environmental Analysis as well as to us.

We appreciate your cooperation. If you have any questions regarding the enclosed materials, please contact me at the address and phone number at the top of this letter.

Sincerely,

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John D. Heffner  
Attorney for  
Wisconsin & Southern Railroad Co

## **ATTACHMENT 4-A**



## United States Department of the Interior

**FISH AND WILDLIFE SERVICE**  
Bishop Henry Whipple Federal Building  
1 Federal Drive  
Fort Snelling, MN 55111-4056

IN REPLY REFER TO

FWS/NWRS-RE - General  
Railroad Abandonments

March 20, 2007

Mr John D Heffner, PLLC  
1920 N Street, N W.  
Suite 800  
Washington, D.C. 20036

Dear Mr. Heffner:

Thank you for the opportunity to comment on the proposed abandonment of the rail line known as the Nut Line approximately 2.41 miles of railroad line between Milepost 94.35 just east of N. 24<sup>th</sup> Street, and Milepost 96.76 just west of N. Richards Street in the cities of Milwaukee and Glendale, Milwaukee County, Wisconsin, STB Docket No. AB-383 (Sub-No. 5X) Wisconsin and Southern Railroad Company.

We have researched our ownerships in the vicinity and have determined we do not own any lands or interests in land in the vicinity of the proposed rail line abandonment. We do not have any concerns regarding real estate matters in the abandonment.

Sincerely,

Patrick G. Carroll  
Senior Realty Officer  
Division of Realty

## **ATTACHMENT 5**

**JOHN D. HEFFNER, PLLC**  
**1920 N STREET, N.W.**  
**SUITE 800**  
**WASHINGTON, D C. 20036**  
**(202) 263-4180**  
**FAX (202) 296-3939**  
**j.heffner@verizon.net**

March 9, 2007

U S National Park Service  
601 Riverfront Drive  
Omaha, NE 68102-4226

Re STB Docket No. AB-383 Sub-No.5X  
Wisconsin & Southern Railroad Co ,  
Abandonment Exemption

To Whom It May Concern

This letter is to advise you that Wisconsin & Southern Railroad Co ("Applicant") proposes to abandon a rail line known as the Nut Line between milepost 94.35 just east of N 24<sup>th</sup> Street, and milepost 96.76 just west of N Richards Street in the cities of Milwaukee and Glendale, Milwaukee County WI, a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U.S.C. 10502. This line traverses US postal service zip codes 53209 and 53212.

Enclosed is a draft Environmental and Historic Report ("EHR"), a document which Applicant must complete and file with the STB as a component of its abandonment filing. The draft EHR explains in greater detail the scope of the proposed rail line abandonment, including a more particular description of the rail line in question. We have also enclosed a map which should assist in your review of the environmental and/or historic impacts (if any) that may arise as a consequence of the abandonment or salvage of the rail structure on this line.

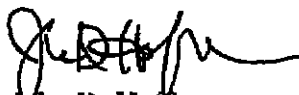
We have contacted you at this time to seek your assistance in completing the EHR. You will note that the EHR addresses issues pertaining to wildlife sanctuaries or refuges or national or state parks or forests - particular issues for which we seek your comment. See, item 8 of the EHR at pages 6-7. We encourage you to review the enclosed draft EHR, and contact

me, John D. Heffner, within 30 days of the date of this letter, with any feedback or guidance that you may be able to offer. Your feedback will be incorporated into the final EIR, which, as we have mentioned, will be delivered to the STB.

Applicant has not yet filed its abandonment petition at the STB. However, at such time as Applicant submits its request to abandon service over the line in question, we will serve you with copies of the request and the final EIR. At that time, if not sooner, we will supply you with information sufficient for you to issue comments directly to the STB's Section of Environmental Analysis as well as to us.

We appreciate your cooperation. If you have any questions regarding the enclosed materials, please contact me at the address and phone number at the top of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'John D. Heffner', with a stylized flourish extending to the right.

John D. Heffner  
Attorney for  
Wisconsin & Southern Railroad Co.

## **ATTACHMENT 6-A**

**JOHN D. HEFFNER, PLLC**

**1920 N STREET, N.W.**

**SUITE 800**

**WASHINGTON, D.C. 20036**

**(202) 263-4180**

**FAX (202) 296-3939**

**j.heffner@verizon.net**

March 9, 2007

Wisconsin Department of Natural Resources  
101 S. Webster Street  
P.O. Box 7921  
Madison, WI 53703

Re: STB Docket No. AB-383 Sub-No. 5X  
Wisconsin & Southern Railroad Co.,  
Abandonment Exemption

To Whom It May Concern

This letter is to advise you that Wisconsin & Southern Railroad Co ("Applicant") proposes to abandon a rail line known as the Nut Line between milepost 94.35 just east of N 24<sup>th</sup> Street, and milepost 96.76 just west of N Richards Street in the cities of Milwaukee and Glendale, Milwaukee County, WI, a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U.S.C. 10502. This line traverses US postal service zip codes 53209 and 53212.

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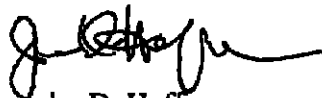
We have contacted you at this time to seek your assistance in completing the EHR. You will note that the EHR addresses issues pertaining to air and water quality, wet lands, and flood plains – particular issues for which we seek your comment. See, items 5 and 9 of the

FHR at pages 4-8. We encourage you to review the enclosed draft FHR, and contact me, John D. Heffner, within 30 days of the date of this letter, with any feedback or guidance that you may be able to offer. Your feedback will be incorporated into the final FHR, which, as we have mentioned, will be delivered to the STB.

Applicant has not yet filed its abandonment petition at the STB. However, at such time as Applicant submits its request to abandon service over the line in question, we will serve you with copies of the request and the final FHR. At that time, if not sooner, we will supply you with information sufficient for you to issue comments directly to the STB's Section of Environmental Analysis as well as to us.

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Sincerely,

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John D. Heffner  
Attorney for  
Wisconsin & Southern Railroad Co

## **ATTACHMENT 6-B**

**JOHN D. HEFFNER, PLLC**

**1920 N STREET, N W.**

**SUITE 800**

**WASHINGTON, D.C. 20036**

**(202) 263-4180**

**FAX (202) 296-3939**

**j.heffner@verizon.net**

March 9, 2007

Environmental Protection Agency  
Metcalf Building  
Office of Strategic Environmental Analysis  
77 West Jackson Boulevard - Mailcode B-19J  
Chicago, IL 60604

Re. STB Docket No. AB-383 Sub-No 5X  
Wisconsin & Southern Railroad Co.,  
Abandonment Exemption

To Whom It May Concern:

This letter is to advise you that Wisconsin & Southern Railroad Co ("Applicant") proposes to abandon a rail line known as the Nut Line between milepost 94.35 just east of N. 24<sup>th</sup> Street, and milepost 96.76 just west of N. Richards Street in the cities of Milwaukee and Glendale, Milwaukee County, WI, a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U.S.C. 10502. This line traverses US postal service zip codes 53209 and 53212.

Enclosed is a draft Environmental and Historic Report ("EHR"), a document which Applicant must complete and file with the STB as a component of its abandonment filing. The draft EHR explains in greater detail the scope of the proposed rail line abandonment, including a more particular description of the rail line in question. We have also enclosed a map which should assist in your review of the environmental and/or historic impacts (if any) that may arise as a consequence of the abandonment or salvage of the rail structure on this line.

We have contacted you at this time to seek your assistance in completing the EHR. You will note that the EHR addresses issues pertaining to air and water quality, wet lands, and flood plains - particular issues for which we seek your comment. See, items 5 and 9 of the

EIR at pages 4-8. We encourage you to review the enclosed draft EIR, and contact me, John D. Heffner, within 30 days of the date of this letter, with any feedback or guidance that you may be able to offer. Your feedback will be incorporated into the final FHR, which, as we have mentioned, will be delivered to the STB.

Applicant has not yet filed its abandonment petition at the STB. However, at such time as Applicant submits its request to abandon service over the line in question, we will serve you with copies of the request and the final EIR. At that time, if not sooner, we will supply you with information sufficient for you to issue comments directly to the STB's Section of Environmental Analysis as well as to us.

We appreciate your cooperation. If you have any questions regarding the enclosed materials, please contact me at the address and phone number at the top of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Heffner", with a long horizontal flourish extending to the right.

John D. Heffner  
Attorney for  
Wisconsin & Southern Railroad Co.

## **ATTACHMENT 7**

**JOHN D. HEFFNER, PLLC**  
**1920 N STREET, N.W.**  
**SUITE 800**  
**WASHINGTON, D.C. 20036**  
**(202) 263-4180**  
**FAX (202) 296-3039**  
**j.heffner@verizon.net**

March 9, 2007

U S Army Corps of Engineers  
190 Fifth East  
St Paul, MN 55101-1638

Re. STB Docket No. AB-383 Sub-No 5X  
Wisconsin & Southern Railroad Co.,  
Abandonment Exemption

To Whom It May Concern:

This letter is to advise you that Wisconsin & Southern Railroad Co ( 'Applicant') proposes to abandon a rail line known as the Nut Line between milepost 94.35 just east of N. 24<sup>th</sup> Street, and milepost 96.76 just west of N. Richards Street in the cities of Milwaukee and Glendale, Milwaukee County, WI, a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U S C 10502. This line traverses US postal service zip codes 53209 and 53212.

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We have contacted you at this time to seek your assistance in completing the EHR. You will note that the EHR addresses issues pertaining to water quality, wetlands, and flood plains – particular issues for which we seek your comment. See, item 9 of the EHR at pages 7 and 8. We encourage you to review the enclosed draft EHR, and contact me, John D. Heffner,

within 30 days of the date of this letter, with any feedback or guidance that you may be able to offer. Your feedback will be incorporated into the final EHR, which, as we have mentioned, will be delivered to the STB.

Applicant has not yet filed its abandonment petition at the STB. However, at such time as Applicant submits its request to abandon service over the line in question, we will serve you with copies of the request and the final EHR. At that time, if not sooner, we will supply you with information sufficient for you to issue comments directly to the STB's Section of Environmental Analysis as well as to us.

We appreciate your cooperation. If you have any questions regarding the enclosed materials, please contact me at the address and phone number at the top of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Heffner".

John D. Heffner  
Attorney for  
Wisconsin & Southern Railroad Co

## **ATTACHMENT 8**





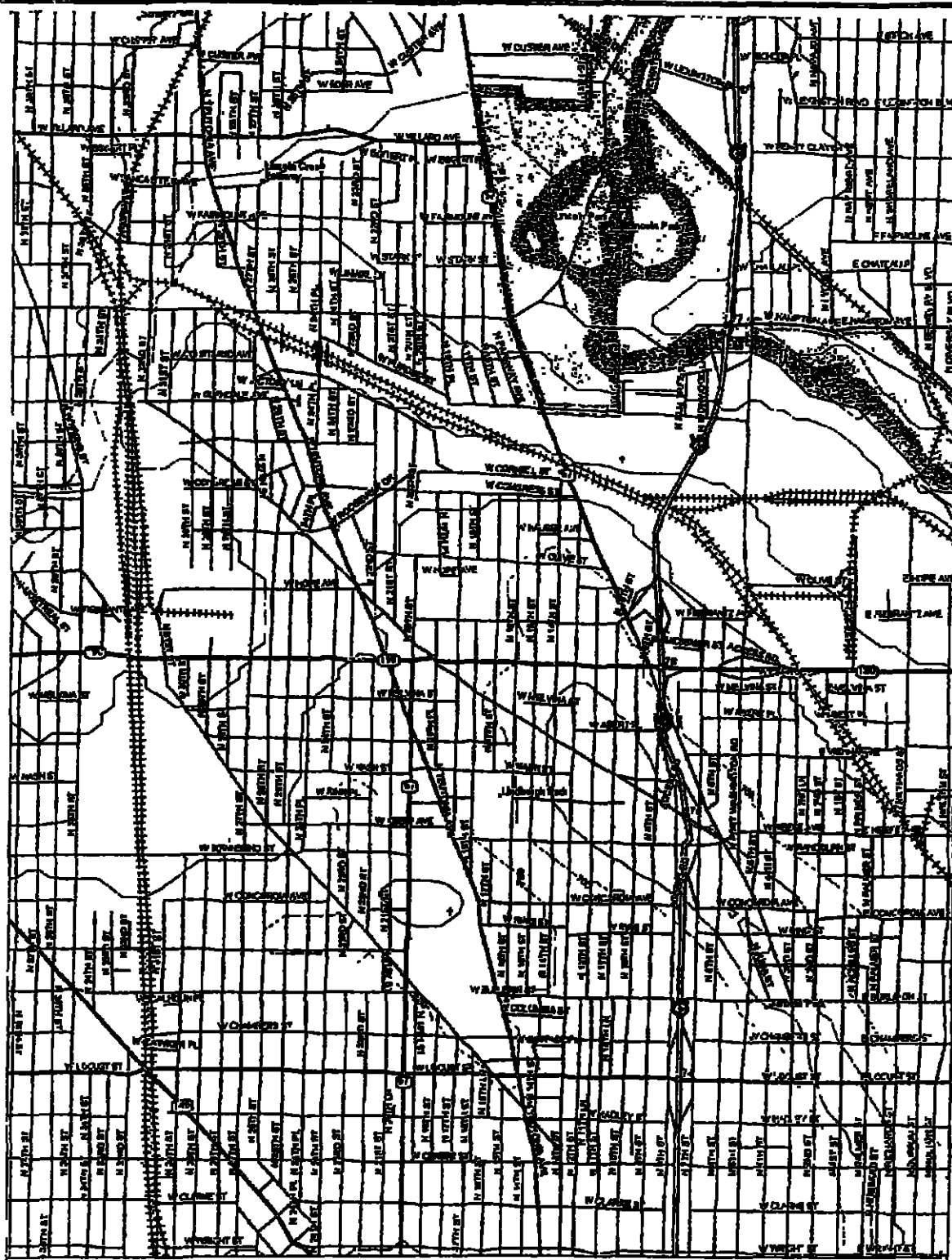




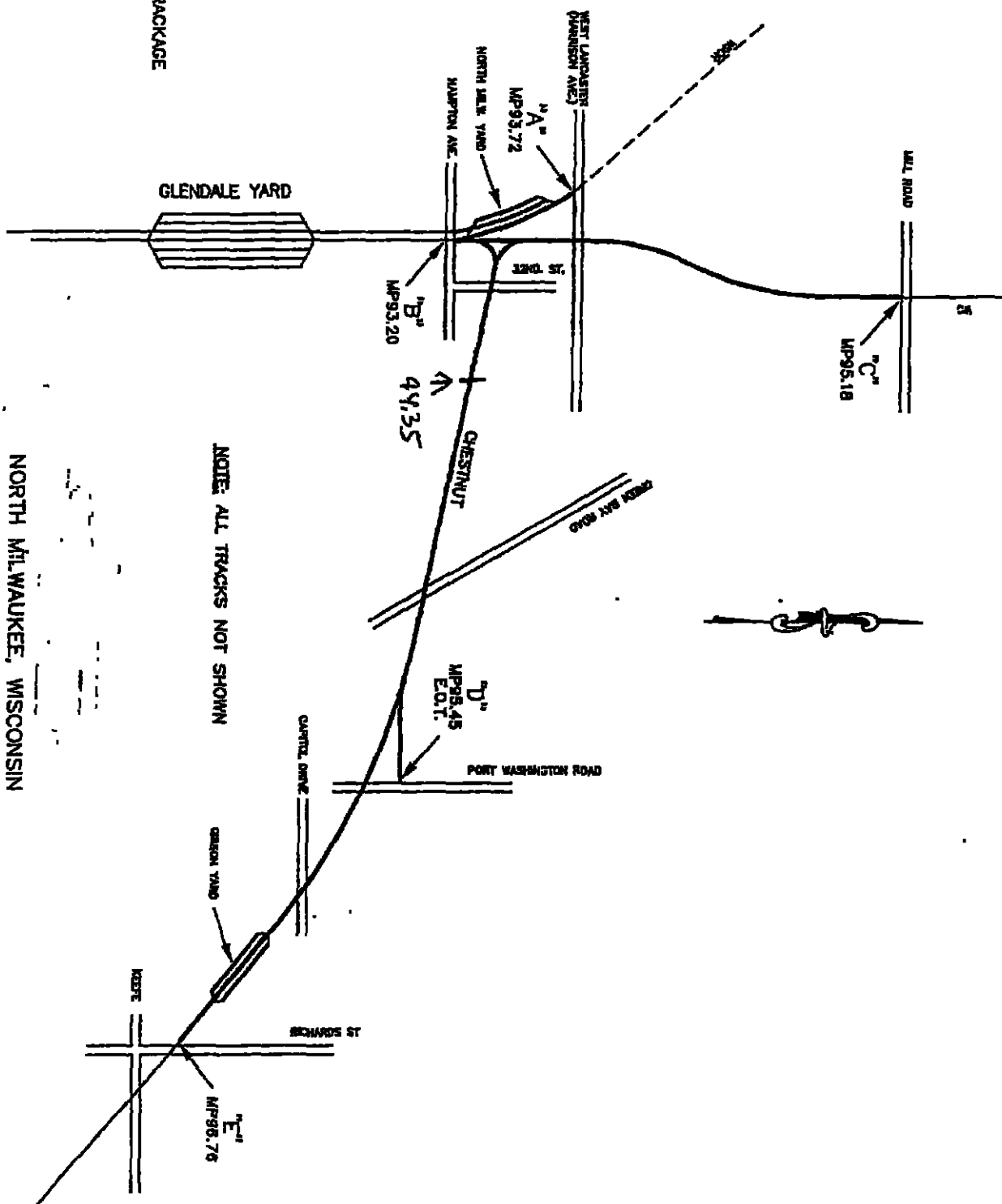




## **ATTACHMENT 9**



Wisconsin & Southern Railroad  
 R-O-W Location:  
 City of Milwaukee, WI.  
 \* "Nut" Line



## **ATTACHMENT 10**

**JOHN D. HEFFNER, PLLC**  
**1920 N STREET, N.W.**  
**SUITE 800**  
**WASHINGTON, D.C. 20036**  
**(202) 263-4180**  
**FAX (202) 296-3939**  
**j.heffner@verizon.net**

March 9, 2007

Mr. Ron Adams  
Chief Rail Project Management  
Wisconsin Department of Transportation  
P.O. Box 7914  
Madison, WI 53707

Re STB Docket No. AB-393 Sub-No. 5X  
Wisconsin & Southern Railroad Co.,  
Abandonment Exemption

To Whom It May Concern:

This letter is to advise you that Wisconsin & Southern Railroad Co. ("Applicant") proposes to abandon a rail line known as the Nut Line between milepost 94.35 just east of N. 24<sup>th</sup> Street, and milepost 96.76 just west of N. Richards Street in the cities of Milwaukee and Glendale, Milwaukee County, WI, a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U.S.C. 10502. This line traverses US postal service zip codes 53209 and 53212.

Enclosed is a draft Environmental and Historic Report ("EHR"), a document which Applicant must complete and file with the STB as a component of its abandonment filing. The draft EHR explains in greater detail the scope of the proposed rail line abandonment, including a more particular description of the rail line in question. We have also enclosed a map which should assist in your review of the environmental and/or historic impacts (if any) that may arise as a consequence of the abandonment or salvage of the rail structure on this line.

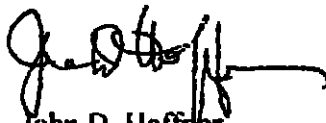
We have contacted you at this time to seek your assistance in completing the EHR. You will note that the EHR addresses issues pertaining to transportation systems, local

land use plans, energy resources, noise and safety-particular issues for which we seek your interest. See, items 2, 3, 4, 6, and 7 of the EHR at pages 2-6. We encourage you to review the enclosed draft EIR, and contact me, John D. Heffner, within 30 days of the date of this letter, with any feedback or guidance that you may be able to offer. Your feedback will be incorporated into the final EIR, which, as we have mentioned, will be delivered to the STB.

Applicant has not yet filed its abandonment petition at the STB. However, at such time as Applicant submits its request to abandon service over the line in question, we will serve you with copies of the request and the final EIR. At that time, if not sooner, we will supply you with information sufficient for you to issue comments directly to the STB's Section of Environmental Analysis as well as to us.

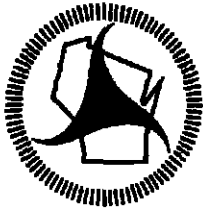
We appreciate your cooperation. If you have any questions regarding the enclosed materials, please contact me at the address and phone number at the top of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'John D. Heffner', with a long horizontal flourish extending to the right.

John D. Heffner  
Attorney for  
Wisconsin & Southern Railroad Co.

## **ATTACHMENT 10-A**



## Wisconsin Department of Transportation

www.dot.wisconsin.gov

Jim Doyle  
Governor

Frank J. Busalacchi  
Secretary

Office of General Counsel  
4802 Sheboygan Ave., Rm. 115B  
P.O. Box 7910  
Madison, WI 53707-7910

Telephone 608-266-8810  
FAX 608-267-6734  
E-mail [ogc.exec@dot.state.wi.us](mailto:ogc.exec@dot.state.wi.us)

April 10, 2007

John D. Heffner  
John D. Heffner, PLLC  
1920 N. Street, N.W.  
Suite 800  
Washington, D.C. 20036

**Re: Request for Comments on Potential Environmental Impacts of Proposed Line Abandonment Located between Milepost 94.35 just East of N. 24<sup>th</sup> Street to Milepost 96.76 just West of N. Richards Street, in the Cities of Milwaukee and Glendale, Milwaukee County – STB Docket No. AB-393 (Sub-No. 5X)**

Dear John

At your request, we have reviewed the environmental effects of the proposed abandonment of the rail line of the Wisconsin and Southern Railroad Company known as the Nut Line from Milepost 94.35 to Milepost 96.76, a distance of approximately 2.41 miles all in Milwaukee County. You indicated that the line ends just west of N. Richards Street. My Google map search shows the line continuing east of N. Richards Street. You may want to double-check the end point of this line. See enclosed map.

As a multimodal agency, WisDOT would encourage the preservation of this transportation corridor consistent with existing land use plans and essential for efficient use of natural resources for future transportation needs if the line is abandoned. At the present time, WisDNR is not interested in the corridor for trail use.

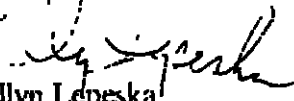
If the line is abandoned, the greatest potential for environmental damage is because of the failure to properly clean up debris, which is often left on former rail lines after items of value are removed. Because of this, the Son Line must comply with the WisDOT Abandoned Railroad Line Salvage and Clean-up Policy/Standards/Procedures when they do the abandonment and related activities.

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

Upon abandonment, the railroad must remove the rail, ties and ballast at the crossings of the streets. Before crossings are removed across other streets and roadways, the railroad must contact the maintaining authority to coordinate work with them.

If you have any questions, feel free to contact me

Sincerely,

  
Allyn Lepeska  
Attorney

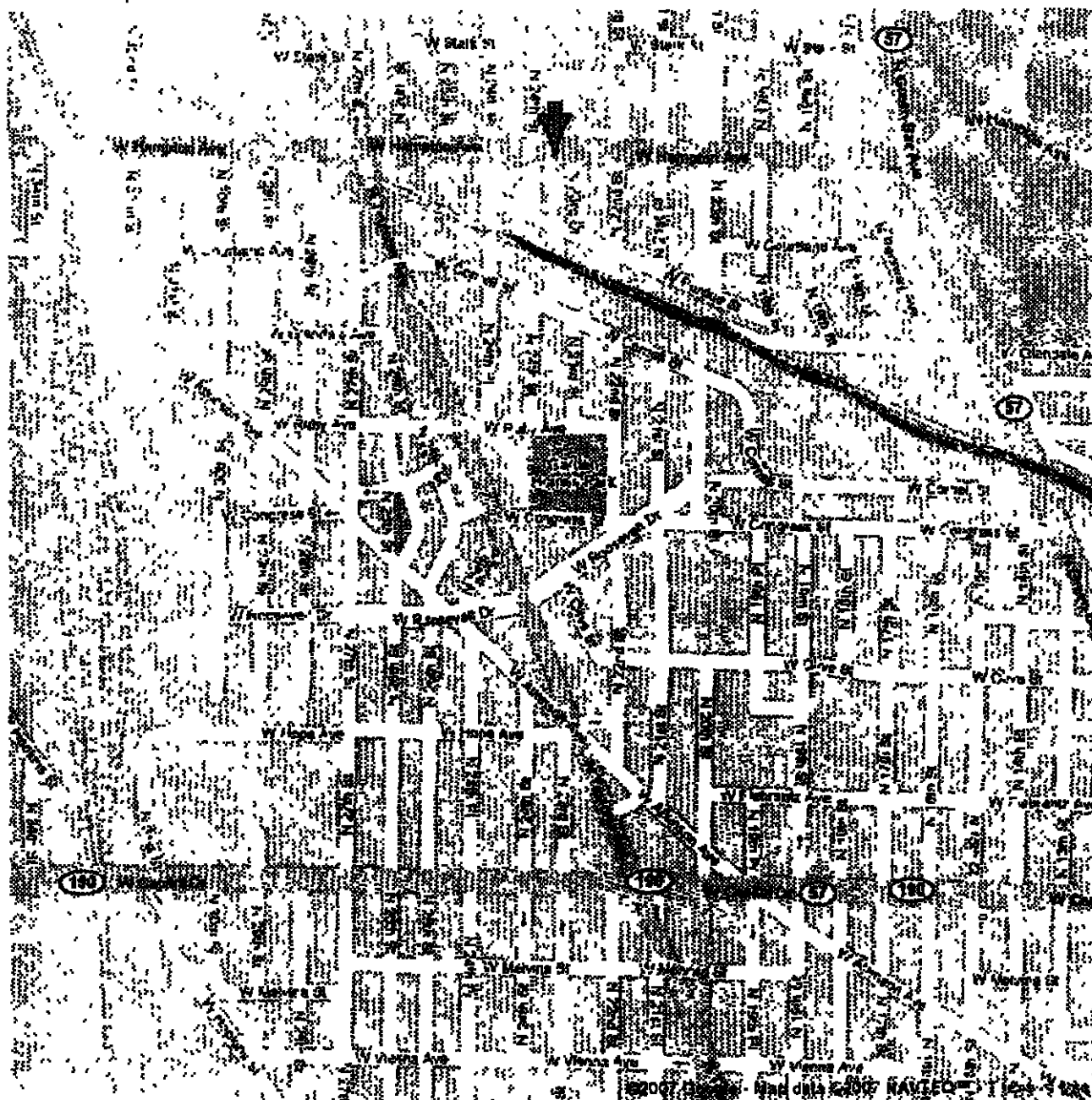
Enclosure

pc Donna Brown  
Vicki Schaefer  
Richard Steffes



Address **W Hampton Ave**  
**Milwaukee, WI**

Notes **WSOR**  
**AB-393 Sub-No Ex**

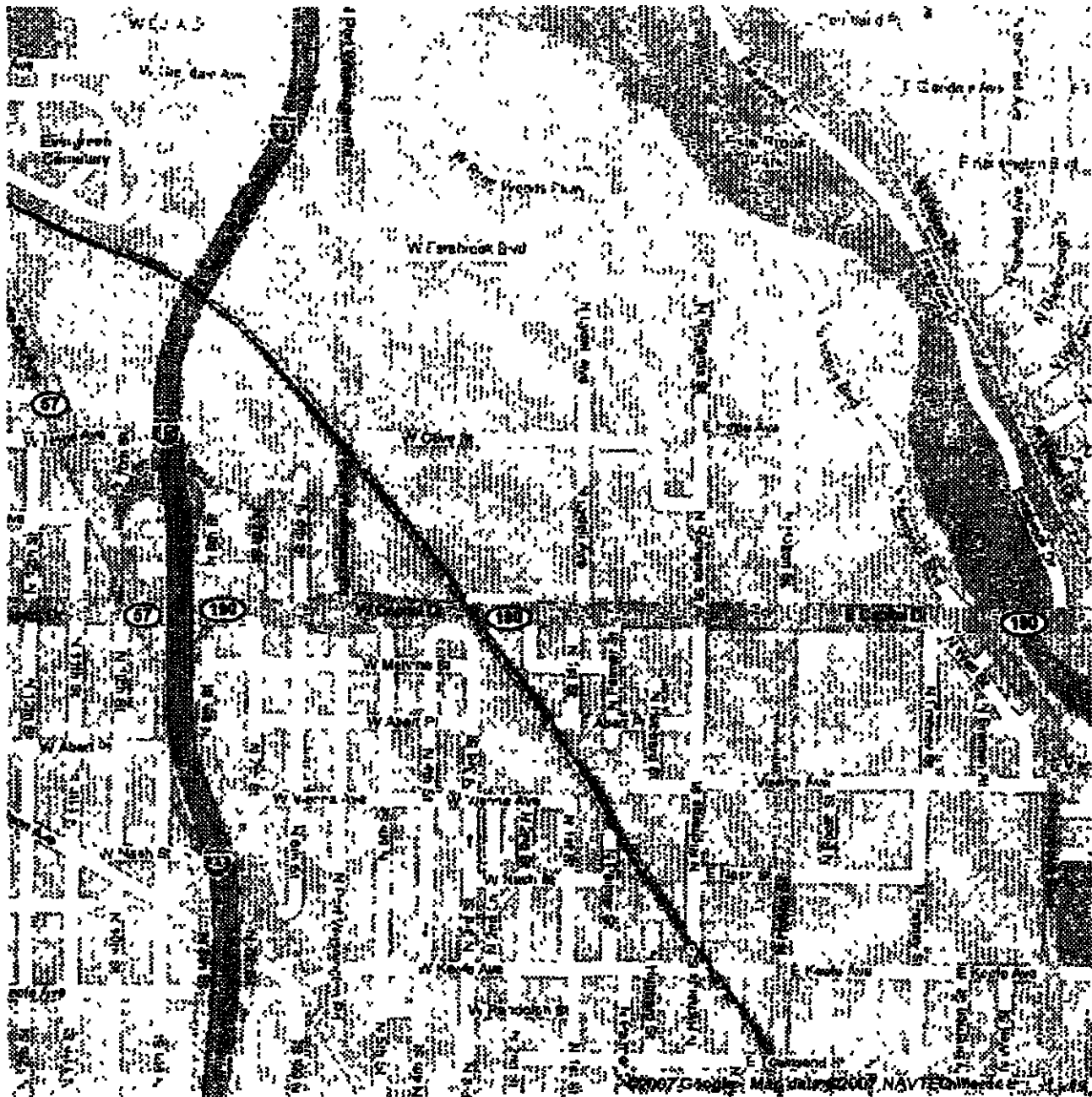


↓ **W Hampton Ave**  
**Milwaukee, WI**



Address **W Hampton Ave**  
**Milwaukee, WI**

Notes WSCR  
AB-393 Sub-No 5X



**W Hampton Ave**  
**Milwaukee, WI**

## **ATTACHMENT 11**

**JOHN D. HEFFNER, PLLC**  
**1920 N STREET, N.W.**  
**SUITE 800**  
**WASHINGTON, D.C. 20036**  
**(202) 263-4180**  
**FAX (202) 296-3939**  
**j.heffner@verizon.net**

March 9, 2007

State Clearinghouse  
Federal State Relations Office, IGA Relations  
101 East Wilson Street  
6<sup>th</sup> Floor  
P O. Box 7868  
Madison, WI 53707-7868

Re. STB Docket No. AB-383 Sub-No 5X  
Wisconsin & Southern Railroad Co.,  
Abandonment Exemption

To Whom It May Concern

This letter is to advise you that Wisconsin & Southern Railroad Co ("Applicant") proposes to abandon a rail line known as the Nut Line between milepost 94.35 just east of N 24<sup>th</sup> Street, and milepost 96.76 just west of N. Richards Street in the cities of Milwaukee and Glendale, Milwaukee County, WI, a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U.S.C. 10502. This line traverses US postal service zip codes 53209 and 53212.

Enclosed is a draft Environmental and Historic Report ("EHR"), a document which Applicant must complete and file with the STB as a component of its abandonment filing. The draft EHR explains in greater detail the scope of the proposed rail line abandonment, including a more particular description of the rail line in question. We have also enclosed a map which should assist in your review of the environmental and/or historic impacts (if any) that may arise as a consequence of the abandonment or salvage of the rail structure on this line.

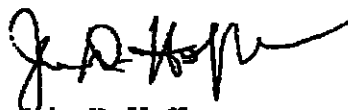
We have contacted you at this time to seek your assistance in completing the EHR. You will note that the EHR addresses issues pertaining to local land use plans,

transportation needs, energy resources, air quality, water quality, and noise – particular issues for which we seek your comment. See, items 2-6, 8 and 9 of the EHR at pages 2-9. We encourage you to review the enclosed draft FHR, and contact me, John D. Heffner, within 30 days of the date of this letter, with any feedback or guidance that you may be able to offer. Your feedback will be incorporated into the final EHR, which, as we have mentioned, will be delivered to the STB.

Applicant has not yet filed its abandonment petition at the STB. However, at such time as Applicant submits its request to abandon service over the line in question, we will serve you with copies of the request and the final EHR. At that time, if not sooner, we will supply you with information sufficient for you to issue comments directly to the STB's Section of Environmental Analysis as well as to us.

We appreciate your cooperation. If you have any questions regarding the enclosed materials, please contact me at the address and phone number at the top of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Heffner", with a stylized flourish at the end.

John D. Heffner

Attorney for

Wisconsin & Southern Railroad Co

## **ATTACHMENT 12**

**JOHN D. HEFFNER, PLLC**  
**1920 N STREET, N.W.**  
**SUITE 800**  
**WASHINGTON, D.C. 20036**  
**(202) 263-4180**  
**FAX (202) 296-3939**  
**j.heffner@verizon.net**

March 9, 2007

National Oceanic and Atmospheric Administration  
National Geodetic Survey  
1315 East-West Highway - Room 8813  
Silver Spring, MD 20910-3282

Re: STB Docket No AB-383 Sub-No.5X  
Wisconsin & Southern Railroad Co.,  
Discontinuance of Service Exemption

To Whom It May Concern

This letter is to advise you that Wisconsin & Southern Railroad Co. ("Applicant") proposes to abandon a rail line known as the Nut Line between milepost 94.35 just east of N. 24<sup>th</sup> Street, and milepost 96.76 just west of N Richards Street in the cities of Milwaukee and Glendale, Milwaukee County, WI, a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U.S.C. 10502. This line traverses US postal service zip codes 53209 and 53212.

Enclosed is a draft Environmental and Historic Report ("EHR"), a document which Applicant must complete and file with the STB as a component of its abandonment filing. The draft EHR explains in greater detail the scope of the proposed rail line abandonment, including a more particular description of the rail line in question. We have also enclosed a map which should assist in your review of the environmental and/or historic impacts (if any) that may arise as a consequence of the abandonment or salvage of the rail structure on this line.

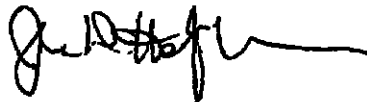
We have contacted you at this time to seek your assistance in completing the EHR. You will note that the EHR addresses issues pertaining to impacts on the National Geodetic Survey activities and projects - particular issues for which we seek your comment. We encourage you to review the enclosed draft EHR, and contact me, John D. Heffner, within 30

days of the date of this letter, with any feedback or guidance that you may be able to offer. Your feedback will be incorporated into the final EHR, which, as we have mentioned, will be delivered to the STB

Applicant has not yet filed its abandonment petition at the STB. However, at such time as Applicant submits its request to abandon service over the line in question, we will serve you with copies of the request and the final EHR. At that time, if not sooner, we will supply you with information sufficient for you to issue comments directly to the STB's Section of Environmental Analysis as well as to us.

We appreciate your cooperation. If you have any questions regarding the enclosed materials, please contact me at the address and phone number at the top of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Heffner", with a long horizontal flourish extending to the right.

John D. Heffner  
Attorney for  
Wisconsin & Southern Railroad Co

## **ATTACHMENT 13**

**JOHN D. HEFFNER, PLLC**  
**1920 N STREET, N.W.**  
**SUITE 800**  
**WASHINGTON, D.C. 20036**  
**(202) 263-4180**  
**FAX (202) 266-3939**  
**j.heffner@verizon.net**

March 9, 2007

Division of Historic Preservation  
Wisconsin Historical Society  
816 State Street  
Madison, WI 53706

Re STB Docket No. AB-383 Sub-No 5X  
Wisconsin & Southern Railroad Co.,  
Abandonment Exemption

To Whom It May Concern

This letter is to advise you that Wisconsin & Southern Railroad Co. ("Applicant") proposes to abandon a rail line known as the Nut Line between milepost 94.35 just east of N 24<sup>th</sup> Street, and milepost 96.76 just west of N. Richards Street in the cities of Milwaukee and Glendale, Milwaukee County, WI, a distance of 2.41 miles. On or about April 1, 2007, Applicant will seek Surface Transportation Board ("STB") authorization to accomplish the proposed abandonment by filing an individual petition for exemption under 49 U.S.C. 10502. This line traverses US postal service zip codes 53209 and 53212.

Enclosed is a draft Environmental and Historic Report ("FHR"), a document which Applicant must complete and file with the STB as a component of its abandonment filing. The draft FHR explains in greater detail the scope of the proposed rail line abandonment, including a more particular description of the rail line in question. We have also enclosed a map which should assist in your review of the environmental and/or historic impacts (if any) that may arise as a consequence of the abandonment or salvage of the rail structure on this line.

In connection with this abandonment, Applicant is required by the STB's regulations (at 49 C.F.R. 1105) to prepare as part of its Application an Environmental and Historic Report addressing the following issues:

- (I) Are sites or structures listed in the National Register of Historic Places affected? If so, describe the effects.

To the best of Applicant's knowledge, no site or structures listed in the National Register of Historic Places will be affected

- (ii) Will sites or structures 50 years old or older be affected? If so, and such sites or structures are not listed in the National Register of Historic Places, Applicant would submit, at the earliest possible juncture, a description of the line, including a map, as well as photographs and descriptions of such structures to the appropriate State Historic Preservation Office for review and include a copy of the cover letter in the Environmental and Historic Report.

Applicant is compiling a list of all structures on the line that are 50 years old or older and will supplement this report and forward a map of the line depicting the location of the structures and color pictures of said structures as soon as they are available.

- (iii) Will culturally significant locations, archaeological sites, or unique land forms be affected? If so, applicant should consult with the involved State Historic Preservation Office

To the best of Applicant's knowledge, no culturally significant locations, archaeological sites, or unique land forms will be affected.

A copy of the draft report is enclosed for your review

We appreciate your cooperation. If you have any questions regarding the enclosed materials, please contact me at the address and phone number at the top of this letter

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Heffner", with a long horizontal flourish extending to the right.

John D. Heffner

## EXHIBIT B

### COMBINED ENVIRONMENTAL AND HISTORIC REPORT

#### Environmental Issues

The following information is provided in accordance with 49 C.F.R. § 1105.7:

(1) Proposed Action and Alternatives

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

Wisconsin & Southern Railroad Co. (WSOR, hereafter "the Applicant"), proposes to discontinue service over and abandon a line of railroad called the Nut Line (the subject line or the Line). The subject line extends from milepost 94.35 just east of N. 24<sup>th</sup> Street to milepost 96.76 just west of N. Richards Street, a distance of 2.41 miles, in the Cities of Milwaukee and Glendale, Milwaukee County, WI. WSOR seeks to abandon the Line because the amount of freight handled is very small and has been declining for some years and WSOR has received an offer from a third party to purchase the right of way for a nonrail use. During the past seven years that WSOR has owned and operated the Line, the Line has served just two customers, Bliffert Northside Lumber and Longview Fibre. Of these, Longview Fibre has stopped using rail for shipments. While Bliffert Northside Lumber has

continued to use rail, the number of carloads handled over the Line has been modest (34 carloads in 2005 and 68 in 2006). WSOR has made arrangements to handle its traffic by offering to construct a transload dock or, if the customer prefers, it may use the service of another nearby company, Complete Warehouse. The only alternative to this action would be to forego abandoning the subject line and to pass the costs of retaining the subject line to its customers located on other parts of WSOR's system. This would not be a prudent utilization of carrier resources.

(2) Transportation System

Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

Applicant anticipates that the proposed action will have no effect on regional or local transportation systems or patterns and will result in only a modest diversion of traffic to other transportation modes or systems.

(3) Land Use

(i) Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

Applicant believes that the proposed action will not be inconsistent with local land use plans. On March 9, 2007, WSOR's counsel contacted officials in Milwaukee County, the City of Milwaukee, and the City of Glencale, seeking information as to the current land use plans for each jurisdiction.

(Attachments 1A-1C). As yet, Applicant has not received any responses. Applicant will provide SEA with copies of replies by local land use officials as soon as they are received.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

On March 9, 2007, WSOR contacted the appropriate National Resource Conservation Services Office,<sup>1</sup> and is currently awaiting its response. (Attachment 2) As yet, Applicant has not received any response. Applicant will advise SEA as soon as it receives a response.

(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9.

On March 9, 2007, WSOR contacted the Wisconsin Department of Administration, Wisconsin Coastal Management Program seeking its comment on the impact of the abandonment, if any, on the State's coastal zone program. (Attachment 3). Because the subject line lies inland, Applicant believes that there will be

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Formerly the U.S. Soil Conservation Service

no coastal zone impacts. As yet, Applicant has not received any response to its letter.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.

Applicant does not believe that the subject line's right-of-way is suitable for alternative public use. However, Applicant will discuss alternate public uses of the right-of-way with affected local interests as well as with Wisconsin transportation agencies. On April 10, 2007, the Wisconsin Department of Transportation advised that the Wisconsin Department of Environmental Resources (WisDNR) is not interested in the corridor for trail use. See, letter appended as Attachment 4-A.

#### (4) Energy

(i) Describe the effect of the proposed action on transportation of energy resources. (ii) Describe the effect of the proposed action on recyclable commodities. (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why. (iv) If the proposed action will cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the date and methodology used to arrive at the figure given.

The proposed abandonment will have little effect on the transportation of energy resources because only a limited amount

of traffic has moved over the subject line during the past two years (109 carloads in 2005 and 69 carloads in 2006). There will be no effect on the transportation of recyclables because no recyclables move over the subject line. The proposed action will increase overall energy efficiency by saving the energy that would otherwise be needed to maintain the unused subject line. The proposed action will cause only limited diversion from rail to motor carriage.

(5) Air

Will the proposed action result in (A) a minimum increase in rail traffic of 100 percent (measured in gross tons annually) or eight trains per day on an affected rail line, (B) an increase in rail yard activity of 100 percent as measured in carload activity or (C) an increase in motor carrier traffic of either 50 vehicles per day or an increase in truck traffic exceeding 10 percent of the average daily traffic on a given highway segment? If any of the enumerated thresholds is exceeded, quantify the anticipated increase in air emissions. If a Class I or nonattainment area is affected, are increased emissions within parameters of the affected State Implementation Plan?

The above thresholds will not be exceeded. See (2) above.

(6) Noise

If any of the thresholds identified in item (3) is surpassed, state whether the proposed action will cause an increase in noise levels exceeding either (i) a three decibel Ldn incremental increase or (ii) 65 decibels?

The above thresholds will not be exceeded.

(7) Safety

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

Applicant believes that the proposed action will result in improvement to public safety by removing 4 public road crossings on the Line.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

The proposed action is a discontinuance and abandonment, therefore, no hazardous materials are expected to be transported over the subject line.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

There are no known hazardous waste sites on the subject line, and Applicant is not aware of any hazardous materials spills that may have occurred along the right-of-way.

(8) Biological Resources

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to

adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

On March 9, 2007, WSOR's counsel contacted the U.S. Fish and Wildlife Service about the proposed action. (Attachment 4) Applicant does not believe that the abandonment will affect any endangered or threatened species or critical habitats. On March 20, 2007, the Fish and Wildlife Service replied stating that it does not own any land or interests in land in the vicinity of the proposed abandonment and that it does not have any concerns regarding real estate matters in the abandonment. A copy of its letter is submitted as Attachment 4-A.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected and describe any effects.

Applicant does not anticipate that the abandonment will affect any wildlife sanctuaries or refuges, or National or State parks or forests. Nevertheless, WSOR contacted the National Park Service to obtain its views and will furnish SEA with any comments received. (Attachment 5). As yet, WSOR has not received any response.

(9) Water

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistency.

No in-stream salvage operations will be required. No action known to be inconsistent with federal, state, and/or local water quality standards is contemplated. If any permits or applications are found to be necessary, they will be obtained and any conditions or procedures required by regulatory agencies will be complied with. WSOR contacted state and federal agencies in Wisconsin responsible for environmental matters. (Attachments 6A and 6B). As yet, WSOR has not received any responses to its letters.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the affects.

On March 9, 2007, WSOR contacted the U.S. Army Corps of Engineers. (Attachment 7) While Applicant does not anticipate that any permits under Section 404 will be required or that any designated wetlands or 100-year flood plains will be affected, Applicant will provide SEA with the Corps of Engineers' response. As yet, WSOR has not received any response to its letter.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.

On March 9, 2007, WSOR contacted both the U.S. Environmental Protection Agency and the environmental agency in Wisconsin regarding this question and will provide their

comments once received. (Attachments 6A and 6B) Applicant does not anticipate that any permits will be required. As yet, WSOR has not received any responses to its letters.

(10) Proposed Mitigation

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Applicant does not expect any adverse impacts, therefore it is not proposing any mitigation measures.

Historic Issues

The following information is provided in accordance with 49 CFR 1105.8(a).

(1) Map

A copy of a map of the subject line is attached to this report as Attachment 9.

(2) Description of the subject line

The subject line is a portion of a line called the Nut Line. It is a segment of track that comes off a wye at the northend of WSOR's Glendale Yard. The Line then extends in a southeasterly direction from milepost 94.35 just east of N. 24<sup>th</sup> Street to milepost 96.76 just West of N. Richards Street, a distance of 2.41 miles, in the Cities of Milwaukee and Glendale,

Milwaukee County, WI. The width of the right of way varies but is generally 99-100 feet wide and level.

(3) Photographs of structures at least 50 years old

Photographs of the Line are attached as Attachments 8. There is only one bridge on the Line (over a city street, West Capitol Drive) and no buildings or structures of any sort.

(4) Dates of construction/alteration of structures

Applicant has little information about the dates of construction of the line and structures. WSOR purchased the Line from CP Rail (formerly the Soc Line Railroad) which had previously acquired substantially all of the railroad properties of the former Chicago, Milwaukee, St. Paul & Pacific Railroad (more commonly known as "the Milwaukee Road") in the early 1980's.

(5) History of carrier operations

The subject line was built in the later 1900's and formerly owned and operated by the CP Rail's predecessor, the Milwaukee Road. In 2000, WSOR purchased the subject line from CP Rail as part of a "package" of lines known as the "Gibson Lines." As noted above, WSOR has had one active customer on the subject line, Bliffert Northside Lumber.

(6) Documents in carrier's possession

Applicant is unaware of any significant structures on the subject line that merit historical comment. No bridges or

buildings that are of significant architectural design are on the subject line.

(7) Eligibility for National Register; archeological resources

Applicant is unaware of any structures on the right-of-way that are eligible for listing in the National Register. On March 9, 2007, Applicant contacted the State Historic Preservation Officer and is awaiting his or her reply.

(Attachment 13). Applicant will forward to SEA any comments received. As yet, WSOR has not received any response to its letter. Any potential archeological sites within the right of way would have previously been disturbed during the construction of the subject line.

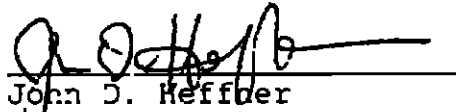
(8) Description of ground disturbance or fill

The Line was built in the traditional construction manner for the time. There are no additional deep cuts or fill.

Certification

In accordance with the requirement at 49 CFR 1105.7(c), WSOR certifies that it has sent a copy of the Environmental and Historic Report to all agencies listed at 1105.7(b) and to the State Historic Preservation Officer and that it has consulted with these agencies in preparing this report.

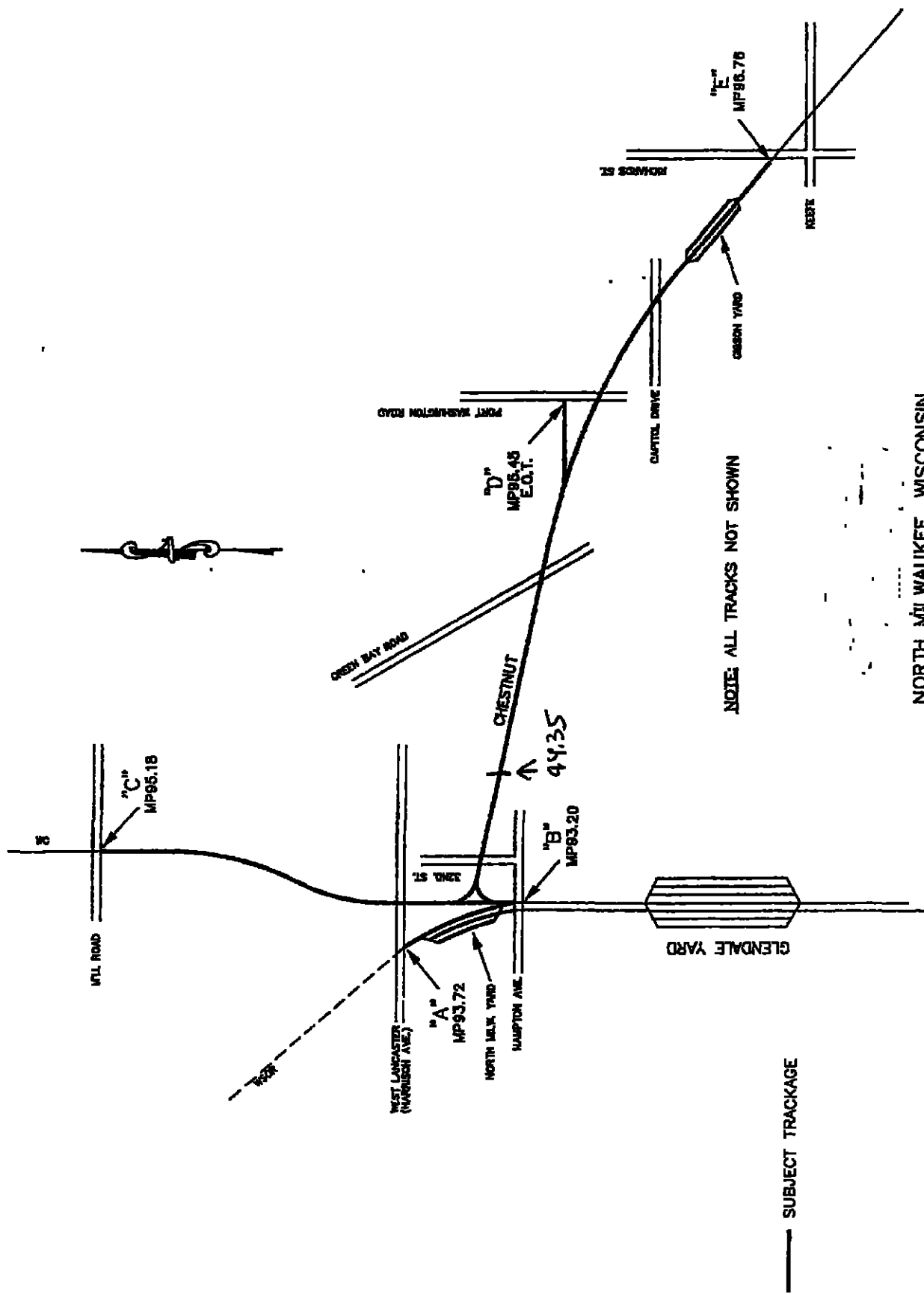
Respectfully submitted,

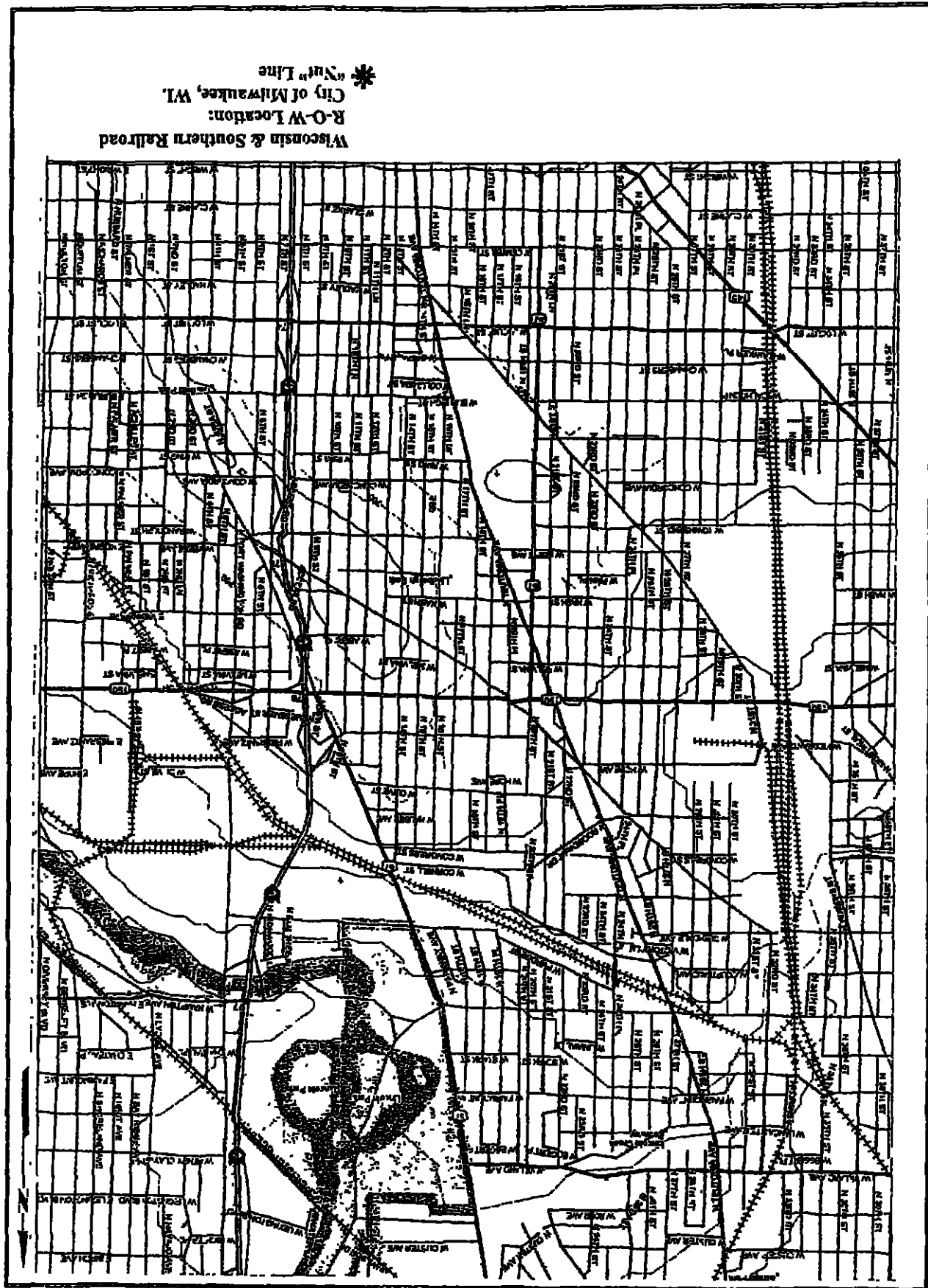
A handwritten signature in black ink, appearing to read "John D. Heffner", is written over a horizontal line.

John D. Heffner  
John D. Heffner, PLLC  
1920 N Street, N.W.  
Suite 800  
Washington, D.C. 20036  
Telephone: (202)263-4180

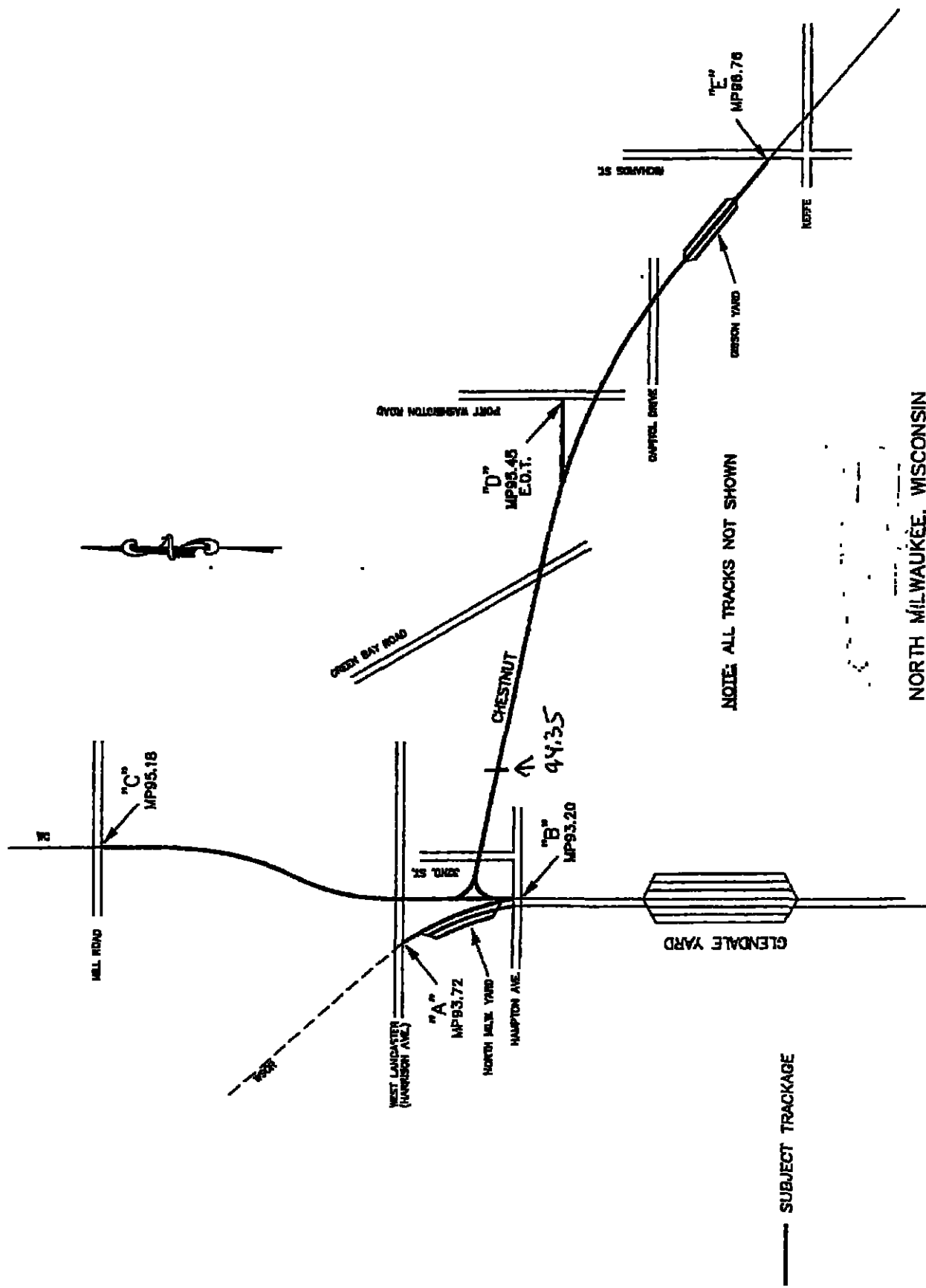
Counsel for Wisconsin &  
Southern Railroad Company

Dated: April 18, 2007

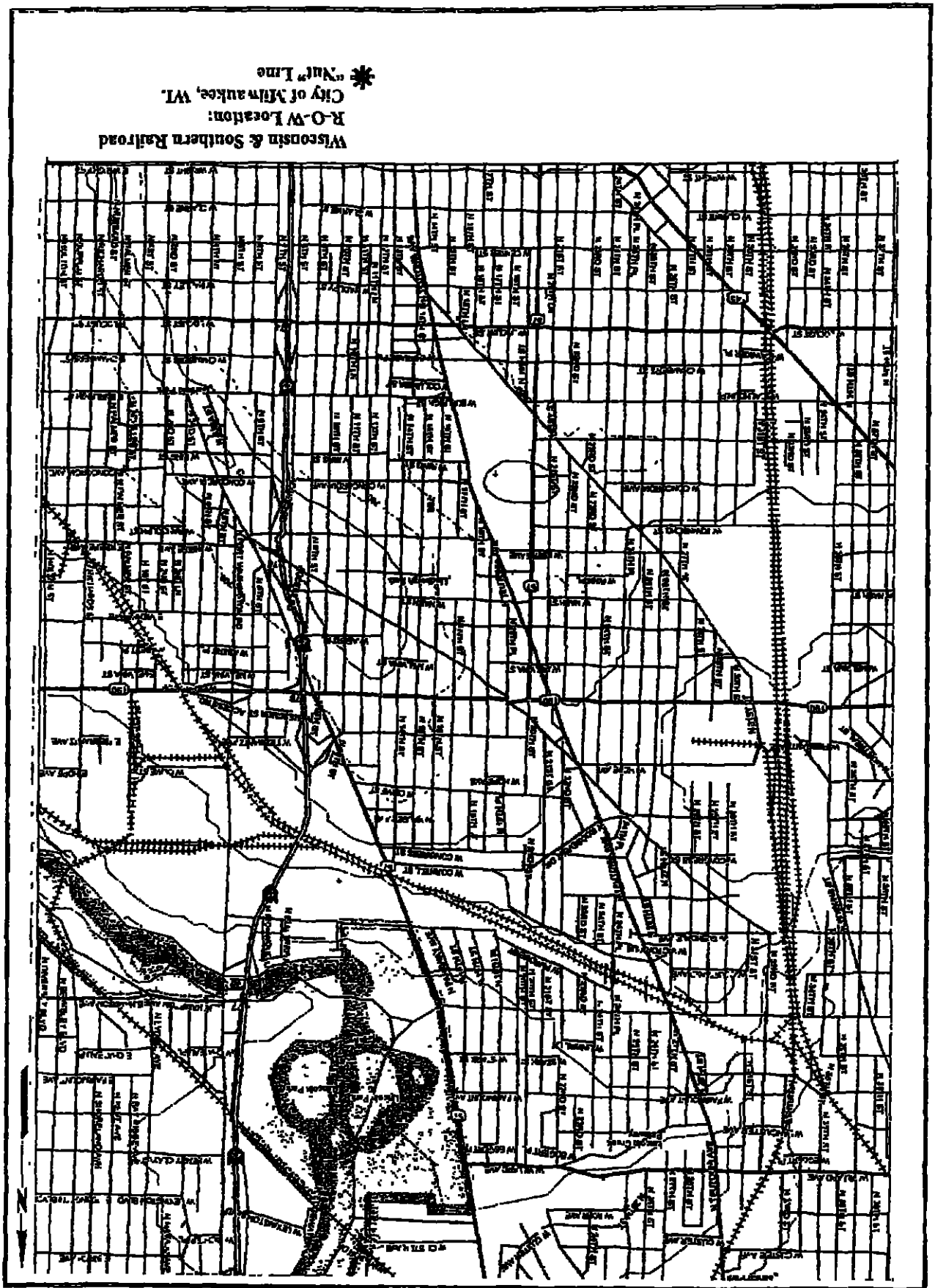




Wisconsin & Southern Railroad  
R-O-W Location:  
City of Milwaukee, WI.  
\* "Sun" Line



NORTH MILWAUKEE, WISCONSIN



Wisconsin & Southern Railroad  
R-O-W Location:  
City of Milwaukee, WI.  
\* "Nut" Line