



To: rcpa@stb.dot.gov, RutsonV@stb.dot.gov, NaveckyD@stb.dot.gov, Johnson-BallP@stb.dot.gov,
Cc: "Arthur LeDoux" <arthurledoux@yahoo.com>, "Richard Allen" <richard@midstatesscrew.com>,
Bcc:
Subject: Attn: Stephanie - Finance Docket No. 35573, WATCO/WSOR
From: webmaster@clubtnt.org - Thursday 05/26/2016 11:08 AM

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ADD THESE COMMENTS TO Great Lakes Basin Transportation Docket No. FD 35952

As you can see, action was taken back in 2012 to force STB to correct the record and reconsider the approval of WATCO's takeover of WSOR as the fast track approval process used to prevent any and all comments was based on material misrepresentations (omissions).

In fact, not only was the seller Bill Gardener now a convicted felon because of the way he abused WSOR, but the leases being sold in the deal appear to have been materially breached as each operating agreement with the State of Wisconsin specifically contains covenants that precluded the operator from using the property to commit crimes.

This information is material to STB current review of Great Lakes Basin Transportation, Docket No. FD 35952

No further proceedings to approve railroad construction to benefit WATCO & WSOR can move forward until STB corrects the errors of previous WSOR/WATCO decisions.

If need be, another Petition to Revoke will be filed -- however, this should not be necessary as Kenatta Clay and the Office of Proceedings had all information to take action in 2014 until the facts and legal documentations of this case were improperly and likely illegally struck from the record at STB.

October 5, 2012

Cynthia Brown, Chief; Section of Administration
Office of Proceedings, Surface Transportation Board
395 E Street S.W.
Washington. DC 20024

RE: Finance Docket No. 35573, WATCO/WSOR

Dear Honorable Chief Brown:

Sadly, in 2010 Wisconsin's shortline railroad, WSOR, fully met this definition. The May 5, 2011 edition of the Milwaukee Journal-Sentinel reported:

Madison - A Wisconsin railroad magnate pleaded guilty Thursday to making illegal political contributions.

Prosecutors charged Wisconsin & Southern Railroad Company chief executive William Gardner last month with one count of excessive political contributions and one count of unlawful political contribution, both felonies.

They accused him of asking his employees to make tens of thousands of dollars in political contributions, including donations to Gov. Scott Walker, and then reimbursing his workers.

Gardner struck a plea deal calling for him to plead guilty to both counts in exchange for prosecutors' recommendation that he serve two years on probation. His sentencing has been set for July 7 in Washington County.

On July 7, 2012, the Journal Sentinel followed up with the following information:

William Gardner, president and chief executive officer of Wisconsin & Southern Railroad Co. and a major donor to Gov. Scott Walker, was sentenced Thursday to two years of probation for violating state campaign finance laws.

While it is fully-understandable why your decision to approve the fast-tracked purchase of Wisconsin and Southern Railroad by WATCO Transportation based on the extremely limited and misleading information provided to you, it is an unjust and unfair decision that harms the public and exactly contradicts the purpose of federal oversight of these types of proceedings. I greatly regret having to be the messenger here – your agency was entirely misled by what actually was going on. I pray you take this request seriously and act to right a wrong for which you are not responsible for, but only you can correct.

It is with even more regrets that I have to write this letter – I should not have to. While a group of legislators filed a letter to stay any decision by STB for 60 days, because the entire procedure fasttracked, “flew under the radar” and was under-reported by the media (which still will not tell the truth about the situation) your decision was already in-effect and you had no choice but to deny the request for a stay.

This greatly harmed the citizens of Wisconsin and adversely affected the nation's transportation network – both passenger and freight – in very substantial and material ways. Public subsidies to railroads, while appropriate, are unjustified when they are part of criminal activities.

For whatever reason, those same legislators now consider the “case closed” and will not entertain filing a petition to revoke or even help citizens in their district do so – a disgraceful situation.

I respectfully request you to waive the Petition to Revoke filing fee so that I can file what public servants have refused to do – a petition to revoke is just, necessary, and within the letter and intentions of the rules, regulations and laws you are assigned to uphold.

When citizens cannot get their own elected leaders and district representatives to support the rule of law and the responsible transfer of public assets, we have no choice but to petition directly to agencies like Surface Transportation Board. I pray you do not abandon your duties here. I pray you acknowledge the right to seek redress of grave wrongs.

All citizens have a constitutional right to petition their government with grievances. Once you look at this request and the record, there is no real choice – this waiver needs to be granted because it is the only way that a serious wrong can be redressed. I pray that you will carefully and fairly consider the compelling case I will present.

I need the waiver approved before I incur the other costs of putting together an extensive set of documentation that will prove to you, beyond any reasonable doubt, that material information was withheld from you and STB and misleading information was provided. I will likely incur costs exceed your filing fee putting together proper documentation. I will not blame you nor STB for a failure to protect the public when approval was granted to allow WATCO’s purchase of WSOR, but your decision, based on misleading information and material omissions, cannot stand:

1. The sale is a crime itself. Convicted felon Bill Gardner (former CEO) has no rights to reap untold millions from a secret sale with undisclosed terms. Common criminals are not allowed to reap millions directly or indirectly from their crimes. Mr. Gardner does not either. The rule-of-law demands intervention.
2. The record will clearly show that Mr. Gardner broke critical conditions of leases he held for state-owned railroad tracks. Gardner bundled large amounts of campaign funds to the anti-high-speed rail, County Executive Scott Walker – essentially every employee of the railroad participated in this crime. WSOR literally met the Federal Bureau of Investigation’s definition of a criminal enterprise -- serious crimes, entirely withheld from you and STB. The crime actually occurred across WSOR -- Bill Gardner, CEO, and its co-conspiring employees freely participated. They knew that massive donations to support the anti-high-speed rail candidate were illegal – this is why the monies were bundled to hide its source. Ignorance of the law is never an excuse to break the law – but WSOR, Gardner, and his co-conspirators cannot credibly claim they were unaware their actions represented serious crimes. In the end, it does not matter. They ALL participated in these crimes, felonies.
3. WSOR is prohibited by contract from committing these types of crimes – any and all leases has been broken and Bill Gardner has made untold millions breaking and then selling them! Anyone involved with this sale that represents the lease as being in good standing is hiding material facts – this is precisely what Scott Walker’s DOT (the prime beneficiary of Gardner’s crimes) did. WSOR and the railroad community need to know that there are consequences for failing to leases. Common tenants are not allowed to commit crimes against their landlords and maintain leases – why can Bill Gardner and his employees?
4. WATCO, who’s actual ownership is an open question because it admits that more than 70 percent of its business is directly with Koch Industries knew or should have known that there were issues regarding the validity of all leases after Bill Gardner was convicted of

felonies that directly resulted from rail revenues and illegally were funneling operating revenues to the anti-high-speed rail candidate Scott Walker.

5. Nothing in this request is partisan – this is about the rule of law. Only a revocation can resolve a gross injustice and abuse of taxpayer subsidize. My complaint is not about Scott Walker – its about crimes that underlie his ascent to power – crimes that were committed with taxpayer subsidies. There was a time in America where both Democrats and Republicans agreed that laws applied to BOTH sides of the political spectrum. My request is entirely NON-partisan – the partisans are the folks that proclaim it is somehow “unfair” to hold powerful politicians, their staff & servants, and their financial backers responsible for crimes.
6. When Gov. Scott Walker’s Department of Transportation attorney, Kathleen Chung wrote a letter recommending an approval she committed lies of commission and lies of omission. In fact, Chung refused to cooperate with open-records requests to obtain copies of WSOR’s leases and even lied to me about them. It was not until I filed a complaint with the Wisconsin Supreme Court that I was provided critical information that she withheld from you. It is clear in lease agreements that WSOR is not allowed to commit crimes against the state. Bundling campaign contributions to the candidate that specifically ran on killing high-speed rail is a serious crime against citizens in the Badger State and our Great Nation.
7. Since you approved this sale, specifying terms to file petitions to revoke, convicted felon Bill Gardner has now reportedly sold ALL shares in WSOR. This is also a secret non-disclosed sale. While citizens across the nation should be grateful that a criminal like Gardner is no longer operating a highly-subsidized monopoly on certain rail transportation lines, the fact that there are questions about WATCO and the dubious (if not criminal) manner this was rushed through the STB approval process clearly demonstrates that WATCO has not been on the up-and-up with STB nor the actual owners of the rail leases it has acquired – Badger State residents.
8. The State of Wisconsin, which Gov. Scott Walker proclaims is in a serous fiscal predicament, should not have assets like rail lines stripped and subsidized in secret sales to multinational private corporations. If WATCO is a responsible operator of these state-owned lines, WATCO should not be allowed to purchase broken leases in secret sales that deceive STB and the public. If WATCO wants to run trains on rail lines owned by the State of Wisconsin, they cannot be allowed to fraudulently purchase them. WATCO can afford to pay the going market price for leases which WSOR broke. The State of Wisconsin should have the right to open this process to the public and to other bidders. The fraudulent sale of WSOR to WATCO which was fast-tracked through STB. It is not just Bill Gardner that is reaping windfall profits from this fraudulent sale – WATCO is directly and indirectly benefiting from Gardner’s felonies as well. There is reason to believe some other high-profile politicians have benefited as well.
9. Negotiations are underway for the State of Wisconsin to purchase a rail line between Reedsburg (WI) and Madison (WI). In anticipation of this, Gov. Scott Walker has awarded a company \$1.8 million dollars in federal railroad grants to build a temperature controlled warehouse. The Reedsburg-Madison line is plagued with multiple 10 mph slow orders. Walker cannot justify this grant unless he plans to follow through with plans to purchase that line. This will compound a gross injustice and most-likely so fully intertwine state investments into this property that it will not be feasible to file a petition to revoke. Revoking the WATCO purchase is critical to removing impediments to future rail subsidies/expansion. Surface Transportation Board cannot approve any more purchases of rail in Wisconsin until this sale is revoked and a legally binding deal is made in the public’s eye.

10. Unless STB intervenes, plans will be implemented to further this gross injustice – actions that harm citizens. Gov. Walker’s Railroad Commissioner is now forcing the city of Madison to close some important streets that connect major thoroughfares across Madison’s Isthmus. A beautiful city nestled between and around three lakes, this is going to create traffic problems and actually create more dangerous public rights of ways. The City of Madison has filed suit against the Railroad Commissioner’s decrees. The crossings in question are within yard limits. There are only a handful of trains a day. The bikes in this vibrant residential and retail neighborhood travel faster than the WSOR trains. It is a travesty to proclaim any road crossing in the Willy Street neighborhood “dangerous” and the record will show there has only been 1 crossing accident in over 60 years! Walker’s Railroad Commissioner can only be ordering crossings closed because WI DOT, DOA, and Gov. Scott Walker have already decided to purchase the rail line from Reedsburg to Madison – it will feed into the East Washington yard. It is imperative that this waiver be granted, your original approval be revoked, and the State of Wisconsin openly negotiate new rail leases that protect the public interest. The Reedsburg-Madison line will become an extremely valuable asset as fracking sand mining is expanded. The rule of law demands that a responsible owner be found and all the criminality that underlies the original WATCO/WSOR purchase be undone. I pray you don’t set a precedence that the rule-of-law no longer applies to rail barons and multinational holding companies.
11. While I have confirmed that purchases of tracks from UP RR cannot be fast-tracked the way the fraudulent WSOR/WATCO transaction was, that request should never even reach your desk. Until there is some justice in the acquisition of leases to operate monopolistic rail service in certain rail corridors, it will not be possible for STB to approve purchase of lines with a Class One carrier. If the initial sale was improperly consummated, no additional sales to benefit WATCO can be justified under any circumstances. This waiver and the petition to revoke which follows must be approved.
12. The rule-of-law, indeed the very mission of Surface Transportation Board demands that each and every issue I have raised above be heard by you and your commission. The current administration in Wisconsin has tried to ensure none of this be heard.
13. Gov. Scott Walker had a right to refuse high-speed rail funds and undermine years of state and federal planning, but he did not have the right to obtain his governorship via crimes like Bill Gardner’s illegal and excessive campaign contributions – all made possible directly from rail operations. These types of crimes are specifically prohibited by WSOR leases. The public, both in-state and across our Great Nation, have been seriously harmed. Failure to approve this waiver will most-likely permanently engrain these injustices – the nation will pay and pay again, taking us back to the robber-baron era. STB and the critical role you play in approving rail acquisitions cannot allow this to happen. I pray that you have the courage, strength, and integrity to do the right thing – revoke your initial approval and force all parties to negotiate a fair and reasonable sale to the highest bidder so that Wisconsin’s rail network can grow. As you well know, America’s rail network is a unified system – the nation’s rail network is harmed by illegal deals that smack of crony capitalism and pay-for-play politics.
14. Gov. Scott Walker himself is the target of ongoing criminal investigations – both state (John Doe) and federal. While Bill Gardner is identified as the first convicted criminal in “Walkergate” it appears more will follow. More than one-dozen people have been granted immunity in Wisconsin’s John Doe investigation. Trials of those indicted so far are going to begin soon. Gov. Scott Walker has a criminal defense fund and we now know that he is on the list of potential witnesses against Kelly Rindfleisch – an aide he alone was responsible for hiring and promoting – a serious anomaly in county hiring practices. He is on the list of

prosecution witnesses against long-time friend Tim Russell, a man tied directly and/or indirectly in each and every other indictment to-date. If Walker is actually put on a witness stand under oath, it is reasonable to assume the real purpose is to get him on record now for indictments that will come later. WSOR is at the center of these crimes – the secret sale of WATCO to WSOR is a result of the criminality.

15. While “Walkergate” and potential crimes committed by himself, his staff & aides, and perhaps others may not, at first glance, appear to be related to the unjust, unfair, and fraudulent sale of WSOR to WATCO, there is ample evidence to lead some to conclude that what we have actually seen is massive pay-for-play. Ongoing investigations are, appropriately, secret; but it does appear that any number of pay-for-play schemes are at the heart of ongoing state and federal investigation. Until these investigations are completed and responsible parties are held accountable, it is wholly unjustifiable to approve any additional track purchases. It is unjustifiable for STB’s previous approval to stand. The rule of law demands it be immediately revoked. Anything less represents great and permanent damage to Wisconsin taxpayers, rail users (passenger and freight), and our nation as a whole.

I need to ask for this waiver based on financial hardship – I have been unemployed for more than one-year now, a victim of massive layoffs and defunding of public schools in Wisconsin. As you can tell from this letter – I have advanced post-secondary degrees. I have a Masters of Business Education on top of a Bachelors of Business Administration – in each program, I have been trained to teach basic elements of business law. I am certified to teach high school business law classes. I am not a lawyer, but I know enough about contract law to understand and be concerned about the issues present.

Wisconsin has cut back education funding more than any other state in our Great Nation. My prospects for employment are currently slim-to-none. While \$250 is chump change to millionaires like Bill Gardner and multinational privately-held corporations, this amount of money represents a substantial and grave sacrifice on my part. I have to eat. I have to pay rent. I should not have to be the watchdog for Wisconsin legislators and public agencies. I have been attacked and endured hardship for even publicly talking and writing about these issues.

I should not have to forgo meals and/or other necessities so that I can set aside this filing fee which represents a token payment to others and in no way represents the actual cost of processing the paperwork I will file to demand STB overturn a decision based on fraud, material misrepresentations, and material omissions.

It is bad-enough to be an unemployed educator, highly qualified to teach, yet entirely overqualified for most of the jobs available within 60 or more miles of Madison. I have already paid a heavy price for the actions of this administration – I should not be forced to pay for a waiver. I am EXACTLY why there are provisions to grant this waiver. My Constitutional Rights, granted by both the Wisconsin and U.S. Constitution cannot be denied.

If this waiver is not approved despite the grave harm this transaction has done to citizens of Wisconsin and this Great Nation and the undue financial burdens it places on me, then there is no justice in America. Denying this waiver would deny Constitutional rights to seek redress from my government. Clearly, the filing fee is not intended stifle brave citizens that are willing to bring facts to the attention of the Surface Transportation Board.

I pray you will carefully reflect on the information provided here – there is only one just outcome – to grant me a waiver of any and all applicable fees so that I can help get accurate and complete information on the public record and allow you to correct the decision you were forced to make based on misleading and deficient information during a fast-tracked procedures over the 2011 Holiday Season.

I respectfully ask that you promptly approve this waiver so that I can spend time and resources I to assemble and forward to STB the true facts of this situation which will clearly demonstrate:

1. Bill Gardner is a convicted criminal that has no right to benefit from his crimes.
2. The sale is based on fraud – Mr. Gardner broke leases to have monopoly access and control on rail lines owned by the public.
3. Agents and agencies with fiduciary duties are complicit with this fraudulent sale and refused to assess the consequences of WSOR's crimes in terms of the validity of leases of state assets. They had an opportunity to put this on the record and ensure that the sale passed legal scrutiny and approval – they chose to mislead you and STB.
4. WATCO should have and likely DID know that the sale was fraudulent – WATCO has directly benefited from Gardner's crimes. While I may not be able to prove collusion beyond a reasonable doubt, it is entirely possible that ongoing federal or state investigations will. This alone demands STB approval be revoked and any sale be conducted in the open with a fair bid process to ensure the State of Wisconsin is properly compensated for rail assets that have sharply risen in value since Gardner purchased operation leases and WSOR many years ago. These lines are much more valuable today and will be much more valuable in the future. Gardener has no right to be involved with WSOR in any way (NOTE: reportedly, he has now fully sold-out). The new operator of these lines needs to start by renegotiating valid leases that properly compensate taxpayers.
5. Any future approval for rail purchases from any and all carriers serving Wisconsin cannot be justified until ownership issues of WSOR are resolved. Action is needed now because your agency will soon be asked to approve a purchase of trackage from Union Pacific RR for the exclusive benefit of WATCO.

Please let me close by stating: I support rail transportation and responsible public subsidies to keep it economically viable.

While revoking approval of WSOR to WATCO will not make those harmed by this unfair and unjust purchase whole, it is necessary and critical first-step to protect the public from future damage – according to highly-placed sources in Wisconsin government and per Gov. Scott Walker himself – the state is going to invest public monies to acquire more railroad tracks to lease to WATCO – this cannot be allowed to happen.

The decision to approve the sale of WSOR to WATCO cannot be allowed to stand.

Respectfully,

William P. Breitsprecher

William P. Breitsprecher
1459 E. Main Street, Apartment 319
Madison, WI 53703

