



Wisconsin Department of Transportation

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FILED
208595

July 29, 2003



Mr. Vernon A. Williams, Secretary
Office of the Secretary
Surface Transportation Board, Room 1324
1925 K Street, N.W.
Washington, D.C. 20423-0001

RE: **STB Docket No. AB-57 (Sub-No. 53X)** Soo Line Railroad Company—Notice of Exempt Abandonment of Trackage located in Racine County, WI -- Petition for Notice of Interim Trail Use

Dear Mr. Williams:

Enclosed for filing are the original and ten (10) copies of the State of Wisconsin Department of Natural Resources Petition for Notice of Interim Trail Use.

Please date stamp and return the duplicate copy of this transmittal letter in the prepaid, return mail envelope for verification of receipt. Thank you.

Sincerely,

Allyn Lepeska
Attorney

AJL/dim

Enclosures

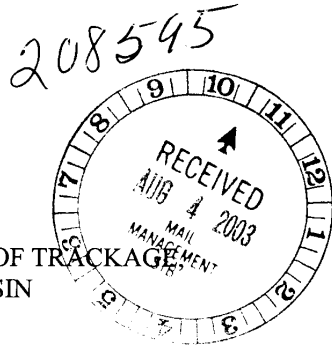
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FILED
RACINE COUNTY, WISCONSIN
AUG 4 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-57 (SUB-NO. 53X)

SOO LINE RAILROAD COMPANY -- ABANDONMENT OF TRACKAGE
LOCATED IN RACINE COUNTY, WISCONSIN



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

BACKGROUND

On July 10, 2003, the Soo Line Railroad Company, Inc. d/b/a Canadian Pacific Railway Company ("Soo") filed with the Surface Transportation Board (Board) a Notice of Exemption pursuant to 49 U.S.C. § 10502 and the Commission's regulations at 49 C.F.R Part 1152.50. That Notice of Exemption is for Soo's abandonment of a 7.5 +/- mile portion of its line of railroad between Milepost 18.43 +/- (near Kansasville) and Mile post 25.93 +/- (in Burlington) in Racine County, Wisconsin, which traverses through United States postal zip codes 53139 and 53105.

On June 23, 2003, the Wisconsin Department of Natural Resources (WisDNR) signed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the segment of Canadian Pacific railroad from Kansasville M.P. 18.43 to Burlington M.P. 25.93 in Racine County, Wisconsin.

PURPOSE

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

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trail), subject to restoration for railroad purposes. WisDOT and WisDNR have agreed to work cooperatively to acquire and use the right of way.

STATE AND CITY RESPONSIBILITIES

WisDNR is the lead state agency for designating, acquiring, developing for public use and maintaining a system of state trails as part of the state park system for use by equestrians, bicyclists, cross county skiers or hikers. Secs. 23.09(2)(d)12, 23.175(2)(a) and 23.30(1), Wis. Stats. It is required to encourage other state agencies to participate in the planning, establishing, developing and maintaining of state trails. Sec. 23.175(2)(b), Wis. Stats. WisDNR is authorized to spend funds with the approval of the Governor for the acquisition of lands. Secs. 20.914 and 23.14, Wis. Stats.

WisDOT is the designated state agency in rail matters in the State of Wisconsin. 49 U.S.C. Appx. § 1654(a) (formerly § 1654(j)), 49 C.F.R. § 266.1 and Ch. 85, Wis. Stats. WisDOT is responsible for all state and federally-aided highway construction and all state and federally-aided airport construction in Wisconsin. Secs. 84.01(2) and 114.32(1) and (5), Wis. Stats. WisDOT has the statutory first right to acquire for present or future transportation, recreational or scenic purposes any property used in operating a railroad that is abandoned in Wisconsin. Sec. 85.09(2), Wis. Stats.

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

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

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

NOTICE OF INTERIM TRAIL USE

WisDOT respectfully requests that the Board provide WisDNR a notice of interim bicycle, pedestrian and other trail use and rail banking condition to accomplish the above public purposes.

WisDOT is interested in having CECW acquire and use the right of way of the rail line being abandoned for interim bicycle, pedestrian or other trail use and rail banking.

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

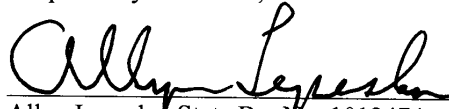
Exhibit 2 is the required Statement of Willingness by the Wisconsin Department of Natural Resources to assume full responsibility for management of the property.

WisDNR acquisition of the corridor for present and future transportation purposes as stated above is consistent with all Congressional purposes and neither abandonment nor discontinuance permitted by the STB conditioned as requested by WisDNR would be inconsistent with or disruptive of potential future rail use. WisDNR does not object to Soo removing rail upon the issuance of the Notice of Interim Trail Use.

CONCLUSION

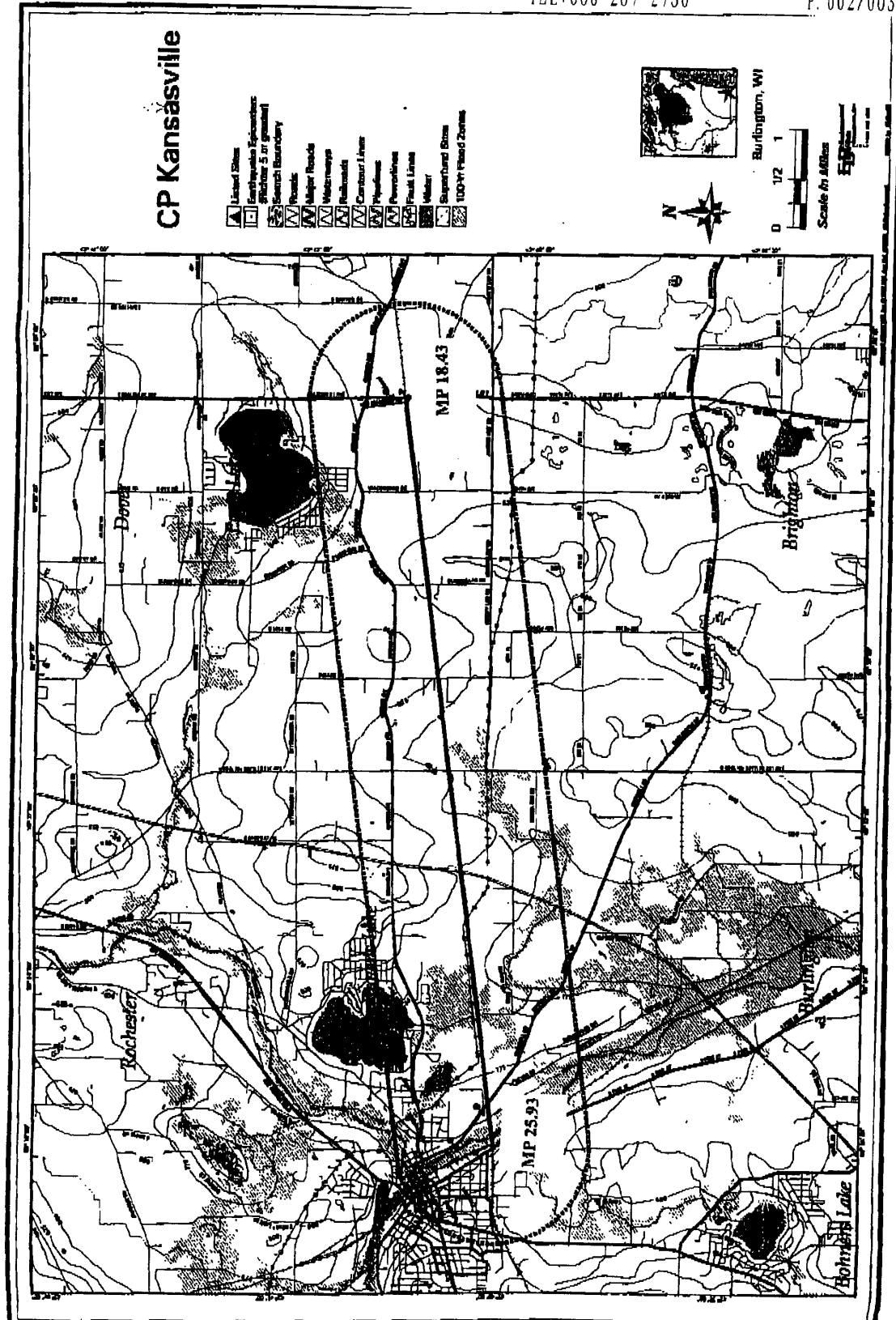
WisDOT respectfully requests the Board to issue a Notice of Interim Trail Use for the land corridor and related real property, including bridge structures, for the segment of Canadian Pacific railroad from Kansasville M.P. 18.43 to Burlington M.P. 25.93 in Racine County, Wisconsin for interim trail use and rail banking, pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 to the Wisconsin Department of Natural Resources. This will allow all forms of transportation to be provided in a unified, interconnected, economically-efficient, and environmentally sound manner.

Respectfully submitted,



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EXHIBIT "1"



EXHIBIT

BEFORE THE
SURFACE TRANSPORTATION BOARD

CANADIAN PACIFIC RAILROAD COMPANY
ABANDONMENT EXEMPTION IN
RACINE COUNTY

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

In order to establish interim trail use and rail banking under 16 USC 1247(d) and 49 CFR 1152.29, the State of Wisconsin Department of Natural Resources (WDNR) is willing to assume full responsibility for management of the property it acquires from the present owner and operator. Upon acquisition WDNR is willing to assume full responsibility for its operations on the property and for the payment of any taxes or assessments that thereafter may be lawfully levied against it. The segment for which WDNR is making this Statement of Willingness is the following portion of the Kansasville to Burlington Line:

Kansasville Milepost 18.43 to Burlington Milepost 25.93, a distance of approximately 7.5 miles in Racine County, Wisconsin.

A map depicting the property that is to be acquired by WDNR is attached to this pleading as Exhibit "1".

WDNR acknowledges that use of property is subject to the WDNR continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the property for rail service. A copy of this statement is being served on the railroad on the same date it is being served on the Surface Transportation Board.

Scott Hassett
State of Wisconsin, Department of Natural Resources
Scott Hassett, Secretary

6-23-03
Date

EXHIBIT 2

