

BEFORE THE SURFACE TRANSPORTATION BOARD

STB Docket No. FD 35952

Great Lakes Basin Transportation, Inc.

**WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE, and CONSUMER
PROTECTION**

Comments on Draft Scope of Study

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The Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) is the state agency responsible for the support and promotion of agriculture in Wisconsin. Wisconsin has placed a priority on protecting farmland through a wide range of state programs. One such program is the Agricultural Impact Statements Program authorized under *Wisconsin Statute* 32.035. With this responsibility in mind, DATCP has reviewed all available documents detailing the specifics of this project on the Surface Transportation Board and the Great Lakes Basin Transportation (GLBT) webpages, as well as data for the region collected by DATCP, the USDA, and other state and federal agencies. Based on this review and an assessment of the draft Scope of Study, we respectfully submit the following comments regarding the draft Environmental Impact Statement (EIS) outline.

I. EIS ORGANIZATION

The GLBT project may provide benefits for agriculture as a whole, but it could also produce potentially significant negative impacts on individual farm operations and the local farming community. The proposed project is an entirely new right-of-way (ROW) that would affect some of Wisconsin's most productive and valuable soils for farming. The draft Scope of Study for the EIS does not attempt to address a number of agricultural areas of concern and those it does include are subdivided into various sections. The agricultural impacts from this project cannot be fully analyzed, much less the appropriate mitigation of these impacts identified if the EIS's agricultural content is split apart as they are in this draft outline.

DATCP recommends that the draft Scope of Study include a category specifically addressing agriculture that includes all relevant agricultural impact aspects, which are further described in our comments below.

II. AGRICULTURAL PROGRAMS and PLANS

The State of Wisconsin has made a commitment to protecting farmland for future generations mainly through two pieces of relevant legislation: the Agricultural Impact Statement (AIS)

program (Wis. Stat. § 32.035) and the Farmland Preservation Program (Wis. Stat. ch. 91). In 1978, the Wisconsin legislature created the AIS program to document farmland impacted or lost due to public projects such as roads, utilities, airports, schools, etc. At about that same time, the Farmland Preservation Program was created to provide tax credits to incentivize farmland owners to keep their property as productive agricultural land.

DATCP intends to prepare an AIS, as required by Wisconsin law, which will include a complete description of the project, the existing agricultural setting, issues brought forward by farmland operators, and other potential impacts to the agriculture community. The AIS will include DATCP's recommendations to avoid, minimize, and mitigate the identified agricultural impacts. DATCP anticipates that the AIS will be used by affected farmers to better understand their rights as they relate to the Surface Transportation Board's (STB) review process of the GLBT project. The AIS will also serve as a means for both the STB and GLBT to better understanding farmers' concerns so that they can be addressed. The AIS will be distributed to the affected farmland owners, state and local governments, GLBT representatives, local news media, and any other interested person or group.

All four townships crossed by the proposed GLBT project in Wisconsin have published Farmland Preservation Plans that include Exclusive Agricultural Zoning ordinances. These Exclusive Agricultural Zoning ordinances encourage landowners to maintain their property in agricultural production. Areas of land crossed by this project may need to be rezoned for transportation use. Less land zoned for Exclusive Agricultural use will mean the loss of tax credits on the land that was rezoned.

There are a variety of other federal and state programs that many farmers participate in to increase their farm's profitability and/or to improve the local environment. These include the Conservation Reserve Program (CRP), the Conservation Reserve Enhancement Program (CREP), the Managed Forest Law Program (MFL), and various commodity production programs. Losing land enrolled in some government programs may make the remainder of that land ineligible for that program.

DATCP recommends that the following issues be fully evaluated for all applicable state and federal programs:

- Describe the government programs that specific farmland property owners or communities are enrolled in.
- Identify the financial losses and penalties farmland owners would experience if their lands are removed from the program or altered by the proposed project.
- Identify potential mitigation strategies or compensation that would be paid to affected farmland owners.

DATCP also recommends that the EIS evaluate whether this project is consistent with existing town and county zoning and land use plans.

III. DESCRIPTION OF AGRICULTURAL LAND USE in the PROJECT AREA

Rock County has some of the best farmland in Wisconsin. This is borne out by a simple comparison of prime farmland soils within the proposed GLBT ROW, Rock County, and the state as a whole (see table below). Prime farmland is defined as land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops. DATCP estimates that 81 percent of the soils in the GLBT ROW are classified as prime farmland and prime farmland if drained.

	Acres of Farmland			
	Total Acres	Prime Farmland	Prime Farmland if Drained	Percentage of Prime Farmland
GLBT Right-of-Way	570	363	97	81 %
Rock County	454,247	248,281	56,400	67 %
Wisconsin	41,918,720	7,704,152	4,795,370	30 %

Rock County is also one of the leading agricultural-producing counties in this state. It has been the number one producer of soybeans since 2006 (with the exception of 2012). It is also a leading producer of corn for grain (USDA, Wisconsin Agricultural Statistics Service).

	Average Yield of Corn for Grain per Acre (bushels)				
	2011	2012	2013	2014	2015
Rock County	162	103	168	184	177
Wisconsin	156	121	145	156	164

	Average Yield of Soybeans per Acre (bushels)				
	2011	2012	2013	2014	2015
Rock County	54	38	47	53	53
Wisconsin	47	42	39	44	50

The proposed GLBT ROW would take agricultural soils out of production that produce some of the highest yields in the state. Four high-yielding soils (Plano, Elburn, Mahalasville, and Ogle) represent more than 42 percent of the proposed ROW (approximately 245 acres). The table below shows some conservative estimates of the average corn and soybean yields from these soils (NRCS, 2002). DATCP staff have noted that the Plano soil series may yield 200 or more bushels per acre of corn and 65 to 70 bushels per acre of soybeans.

Soil	GLBT ROW (acres)	Percent of GLBR ROW	Farmland Classification	Average Yields (Bushels/Acre)	
				Corn for Grain	Soybeans
Elburn silt loam 0 to 3 percent slopes	48.2	8.4	Prime if Drained	160	53
Mahalasville silt loam	47.9	8.4	Prime if Drained	135	45
Ogle silt loam, 2 to 6 percent slopes	48.1	8.4	Prime	140	46
Plano silt loam, gravelly substratum 0 to 2 percent slopes	100.7	17.6	Prime	165	55

Source: Extrapolated from Natural Resource Conservation Service (NRCS) data

DATCP recommends the EIS include an agricultural analysis of all of the affected soils and their value to crop production.

IV. AGRICULTURAL PROPERTY OWNERS

The proposed route of the project crosses through a significant number of farmland parcels and will cause direct impacts to the affected property owners as well as indirect impacts to adjacent fields and farm properties.

Impacts related to the division of existing farmland parcels

The EIS should assess how the location of the ROW would impact each type of farming operation along the route. The carving up of larger blocks of farmland into smaller farmland parcels can affect the productive capacity and profitability of a farm operation or in some cases, the farm's viability.

The following are examples of situations where farms could experience significant impacts:

- Uneconomic remnant parcels that would become too small or irregularly-shaped to farm based on the type of farming conducted on the remnant and the farm machinery used by the farm operator;
- Farm parcels that would become land-locked or have no convenient access from the remaining farm property;
- The severance of farm operations that were previously contiguous and easily accessible, including separating equipment storage and maintenance buildings from cropland or disrupting the movement of livestock;
- The increased use of local roads by farmers whose operations are divided and need to create new access points on previously contiguous land to retain access to their fields;
- The potential removal, relocation, or reconfiguration of farm buildings, fencing, and other structures;
- Livestock farms left with insufficient cropland to spread manure as prescribed by the farm's nutrient management plan;
- Livestock farms with insufficient cropland to grow feed crops causing additional costs to purchase feed or require the farm operator to cull livestock;

- Disruption of irrigation systems and drainage systems;
- Changes to the natural topography and landscape hydrology creating erosion issues, drainage system requirements, or irrigation;
- Removal of windbreaks and fence rows that help reduce erosion; and
- Potential impacts to organic farms or farms undergoing the three-year certification process.

Where reduction in farm acreage would impact the farm's income, the EIS should evaluate the potential for a farm to acquire replacement acreage and the added cost in terms of land purchase and additional time and fuel necessary to operate a potentially non-contiguous parcel. DATCP recommends that uneconomical farmland remnants should be identified in the EIS with the recommendation that these parcels be purchased, if the property owner agrees.

DATCP recommends that the anticipated types and costs of mitigating of impacts to agricultural operations be fully evaluated in the EIS. Divided farm fields can be mitigated by private road crossings as described in the GLBT Route Narrative. The EIS should identify the criteria for determining the location of private road crossings and whether at these locations, a private road crossing would allow the safe crossing of farm equipment and also not interfere with railroad facilities such as staging track areas. Furthermore, insurance issues should be described in the EIS as they pertain to the private property owner and these private road crossings.

The EIS should identify any farm buildings that would need to be removed, relocated, or reconfigured. The EIS should also identify where irrigation systems and drainage systems would be severed and need to be reconstructed. The EIS should identify fence rows that would be removed and the appropriate mitigation of these impacts.

Additional post-construction considerations for farmland parcels

DATCP recommends that for a period of years following construction of the project, the affected agricultural parcels should be periodically visited and evaluated to determine if subsequent erosion and/or surface and subsurface drainage problems develop.

Regardless of the type of mitigation used to alleviate impacts to these farm operations, this project may cause significant changes to individual farm operations. DATCP recommends that GLBT offer the services of independent farm management consultants to farm owners that may face multiple impacts from this project so that the farms maintain economic viability.

Following completion of the project's construction, issues may arise from the type of vegetation that would be established in the ROW that is not occupied by rail facilities. DATCP recommends that the EIS contain a description of the type of vegetation that would be established in the post-construction GLBT ROW and how it would be managed. The vegetation of the ROW should be evaluated to determine if it would interfere with existing farming operations and not promote the spread of invasive plants or noxious weeds.

Alternatives that would minimize impacts to farmland

The mitigation hierarchy for new construction projects is to first avoid impacts as much as possible, followed by minimizing the impacts, and finally mitigating the impacts. DATCP recommends that all impacts to individual agricultural properties, described in this section, be fully investigated, described, and quantified in the EIS.

Additionally, DATCP recommends that the EIS evaluate the following methods to avoid or minimize direct farmland impacts:

- Additional route alternatives recommended by other interested parties;
- Limited route modifications that reduce the number of uneconomic remnants and the number of agricultural properties divided;
- Reduction in the width of the proposed ROW; and
- Upgrading the existing rail lines in the state instead of building a new rail line.

V. LOCAL IMPACTS

The GLBT project would have impacts to property owners not directly crossed or adjacent to the proposed ROW. Where there are fewer road crossings or where local roads may be more often blocked by train traffic, there may be an increase in travel time and costs. Dairy operations, for example, require frequent road access for milk haulers and forage production and therefore may more keenly feel the increase in travel time and costs.

In Wisconsin, there are eleven overpasses proposed to carry roads, highways, and a trail over the new train corridor. These overpasses should be built to accommodate the wide agricultural equipment that routinely uses these roads. These overpasses would have additional potential impacts to property owners adjacent to the GLBT ROW including the disruption of surface water movement and the need for significant retaining walls. DATCP recommends that the EIS include diagrams and measurements of the overpasses and determine if they would accommodate all modes of travel that routinely use these roads. The EIS should also look at how they would affect the individual properties adjacent to the ROW.

Aesthetics and view sheds would be altered by this project for those property owners closest to the railroad as well as others that pass through the community. Increased noise, dust, and fumes in the area would have a direct effect on the local landscape. The movement and noise of the proposed trains can affect livestock. While most animals can adjust to changes over time, productivity may be temporarily affected by changes to animals' feed and water intake. The EIS should evaluate compensation for loss of productivity in livestock operations.

The agricultural community may experience the following negative impacts from the proposed project:

- Pressure on agriculture to convert to non-agricultural uses if ag becomes less profitable
- Disruption of local agricultural communities due to the barrier created by the railroad
- Disruption of cooperative work done by multiple farm operations

DATCP recommends that the EIS include an analysis of the agricultural business community in eastern Rock County and potentially western Walworth County to see if GLBT would act as a barrier to goods and services in the region. This analysis should include a list of agriculture-related businesses such as milk haulers who would have to cross the GLBT tracks on their routes between farms and between farms and the destination point for the collected milk. Other businesses may include veterinarians, crop consultants, feed and seed dealers, truckers, and implement dealers whose territory may be disrupted by the GLBT footprint.

VI. REGIONAL TRANSPORT of AGRICULTURAL COMMODITIES

A significant amount of the corn grown in the region is transported by rail to ethanol plants or to Chicago for processing. Critical to the profitability of the region's farms is the timely service provided by the existing rail companies. There are concerns that the new GLBT rail line would increase or cause freight congestion in the Milton to Waukesha subdivisions. DATCP recommends an economic analysis of the existing costs and scheduling for commodity transports from southern Wisconsin and how the GLBT would affect this existing system. If upgrades to the existing rail system are required to accommodate the additional traffic on connecting rail lines, the EIS should identify and discuss the range of improvements required, the costs of these improvements, who would pay for the improvements, and the additional private property impacts that would result from these new construction projects.

VII. FUTURE PLANS for the GLBT ROW

The GLBT documents identify multiple tracks for the project in other states, suggesting that there is sufficient freight traffic in these locations to warrant additional tracks. However in Wisconsin, only a single track is proposed for a ROW width that could well accommodate more. DATCP recommends that the EIS discuss the potential facilities that GLBT or other utilities might construct within the ROW. Furthermore, the EIS should discuss how these additional tracks and train traffic might foreseeably impact the adjacent property owners and the region.

VIII. SUMMARY

The Wisconsin DATCP appreciates the opportunity to submit comments to the STB on the draft Scope of Study for the proposed GLBT project. Our interest in commenting is focused on identifying all the likely impacts that would result from this project to individual farms and to the agricultural community within Rock and Walworth Counties.

The Wisconsin land that GLBT is proposing to cross is highly valued agriculture land, perhaps more so than the agricultural land that would be crossed by the project in any other state. To this end, we request that the EIS include a separate section for agriculture so that the interrelated issues specific to this sector can be fully evaluated. Alternatives that would lessen these impacts should be fully described and considered in the EIS, include:

- Additional route alternatives recommended by other interested parties;
- Limited route modifications that reduce the number of uneconomic remnants and the number of agricultural properties divided/impacted;
- Reduction in the width of the proposed ROW; and
- Upgrading the existing rail lines in the state instead of building a new rail line.

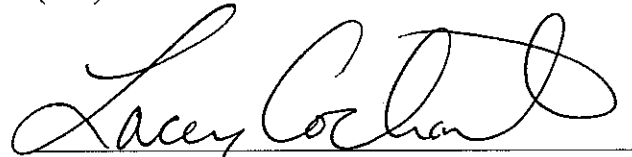
A review of agricultural impacts should not be limited to the land that would be taken out of production, but should also assess the lasting impact of severing existing farmland parcels and the removal of safe and efficient access to farm fields that is vital to the success of any farm operation. The purpose of our comments is to insure that farms in Wisconsin remain economically viable and impacts from this project are minimized and mitigated, to the extent practicable.

Furthermore, we are concerned about protecting and preserving affordable and timely connectivity to rail service for regional agricultural growers, businesses, and markets in Wisconsin. The opportunity exists for this new rail service to relieve the congestion currently experienced by freight traffic not destined for or originating in Chicago. However, these opportunities should not overshadow the potential for decreased services to Wisconsin businesses relying on rail transport or a diminishing opportunity for short-line connections because of heavily concentrated mainline long-distance traffic.

Respectfully Submitted on this 9th day of June,
2016,



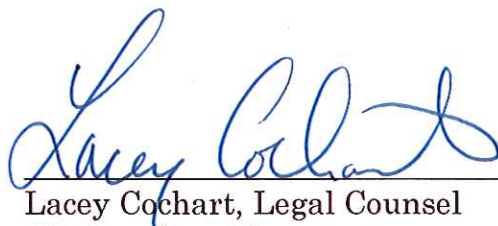
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CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION - COMMENTS ON DRAFT SCOPE OF STUDY in regards to FD No. 35952, by first class mail, pursuant to 49 C.F.R. § 1104.12, this 9th day of June, 2016, on all parties of record on the service list.



Lacey Cochart, Legal Counsel
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Wisconsin Department of
Agriculture, Trade and
Consumer Protection