



## Wisconsin Department of Transportation

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Scott McCallum  
Governor

Thomas E. Carlsen, P.E.  
Acting Secretary

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

May 22, 2002

Vernon Williams  
Office of the Secretary  
Surface Transportation Board  
1925 "K" Street, N.W.  
Washington, D.C. 20423-001

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Office of the Secretary

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Public Record

Telephone: 608-266-8810  
FAX: 608-267-6734  
E-mail: ogc.exec@dot.state.wi.us

Re: Petition For Declaratory Order  
Fee Payment and Explanation of Petition  
Docket No. 34181



Dear Mr. Williams:

205 469

Thank you again for calling my office on April 25, 2002. This State's Department of Administration has, by separate letter, mailed the fee your requested for consideration of this agency's petition for declaratory order and exemption from fee.

In our conversation, you asked whether the State of Wisconsin could, at any time, operate a railroad on the corridor in question. The answer to that question is an unqualified, "no."

As set forth in the quit claim deed from Wisconsin and Southern Railroad Co. to the WisDOT (State of Wisconsin, Dept. of Transportation), the railroad reserves to itself and its successors, a freight rail easement in the corridor together with all railroad common carrier obligations in the corridor. The easement and common carrier obligation pass to Wisconsin Southern's successors in interest, and not to WisDOT. Finally, WisDOT is not obligated to accept the deed from Wisconsin Southern unless and until the STB determines that WisDOT does not assume any common carrier responsibilities as a result of the transaction.

Wisconsin and Southern's easement interest is perpetual in recognition of Wisconsin and Southern's continuing common carrier freight rail obligations on the corridor.

Wisconsin and Southern's easement interest only terminates if two things happen: (1) Wisconsin Southern, or its successors in interest, abandon the rail line, and their common carrier freight service obligation on the corridor is terminated by order of the Surface Transportation Board, and (2) the Surface Transportation Board's termination order and a notice of the abandonment of the line and termination of freight rail service obligations over it are recorded in the office of the local register of deeds by WisDOT.

Only after all common carrier obligations for the line have been extinguished by order of the Surface Transportation Board, and the department acts to claim the abandoned easement interest, is the railroad's carrier easement extinguished. This transaction was structured specifically to assure that WisDOT's acquiring title to the property does not vest any common carrier responsibilities in the State of Wisconsin.

Maintenance and operation expenses, as would be expected, remain the obligation of the carrier, WSOR or its successors, under the easement.

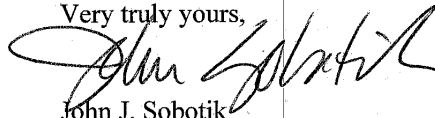
As our original filing with the STB included 10 copies of the petition for declaratory order, I am including 10 copies of the letter of explanation herein, so that this letter may be appended to WisDOT's application.

In our original filing, WisDOT requested waiver of the filing fees pursuant to 49 C.F.R. 1002.2(e)(1). The State of Wisconsin, Department of Transportation, an executive agency of the State of Wisconsin, is entitled to waiver of the fee under that section. Pursuant to your request of April 25, we have had our Department of Administration forward a check in the amount of \$1400 payable to the STB mailed to you under separate cover. We understand that this fee will be returned upon a finding that the State of Wisconsin is entitled to waiver of the fee.

As is clear from the filing itself, the State of Wisconsin does not own and is not acting as a carrier or transportation entity. The State does not intend to and will not operate a railroad. Rather, as we discussed by phone, the State acquired an option to purchase the underlying fee to this strategic connecting rail corridor in order to insure its continued availability to other entities conducting freight and passenger rail operations.

Thank you again for the personal attention you have given this matter. Please contact me if you require additional information or have any further questions about the department's submission.

Very truly yours,



John J. Sobotik  
Assistant General Counsel

CC: Ron Adams  
Allyn Lepeska  
Vicki Schaefer  
Frank Huntington