

Appendix 2-C: Tribal Consultation Summary

Meeting Summary

The general meeting notes, below, are intended to summarize key comments and questions, decision points and mitigation examples discussed during the *Wisconsin Rail Plan 2030* tribal consultation meeting. In general, the organization of these notes follows the meeting agenda. In some cases, and in response to certain comments, the Wisconsin Department of Transportation (WisDOT) provided clarification and additional information during the discussion. This information is noted as “meeting response” throughout these general meeting notes. WisDOT also reviewed the comments after the meeting. Any additional information in response to the comments is noted as “follow-up response.”

General Meeting Notes

1. Introduction

Aileen Switzer, WisDOT Bureau of Planning and Economic Development, opened the meeting by welcoming attendees and providing a broad overview of the consultation meeting as part of the *Wisconsin Rail Plan 2030* planning process.

2. Purpose of Meeting

Ms. Switzer provided an overview of the purpose and intent of tribal consultation as part of the *Wisconsin Rail Plan 2030* planning process.

- To ensure that the plan accounts for sensitive resources at a statewide and regional level
- To establish a better understanding of the role of the statewide planning process as the basis of future project implementation, particularly the purpose and need of future projects

3. Overview of the planning process

Ms. Switzer provided an overview of the department’s tribal consultation process as it relates to the plan development process and also the purpose and proposed components of *Wisconsin Rail Plan 2030*. A summary of the key points of the discussion are provided below.

A. WisDOT’s tribal consultation process

Tribal consultation is a critical component in the development of statewide, long-range transportation plans. WisDOT staff meets with tribal representatives, WisDOT region staff, the Bureau of Indian Affairs and the Federal Highway Administration to discuss transportation issues and needs, and integrate that information into the state’s long range plans. Follow-up meetings can be scheduled to discuss the draft plan as requested.

Tribal consultation for region-level planning efforts includes annual outreach efforts to review planning goals and WisDOT's Six-Year Highway Program.

Comment: Participants mentioned importance of education and cooperation between state, railroads and tribes.

Comment: WisDOT and railroads need to remember tribes have sovereign rights.

B. Rail plan purpose

Wisconsin Rail Plan 2030 plan will define a vision for rail, articulate policy statements specific to rail and further the state's efforts to plan for and implement a rail system that complements Wisconsin's other modes. Through the plan's defined policies decision-makers will identify priorities and strategies for future investment, while meeting federal and state legislative requirements. Key federal legislation includes the Passenger Rail Investment and Improvement Act of 2008 which requires states to adopt state rail plans to be eligible for federal funding opportunities. Rail plans must address freight, intercity passenger and commuter rail. The act also requires states to update these plans every five years.

C. Benefits of rail

Rail continues to be an integral part of the state's transportation system and offers many important benefits - such as increased economic competitiveness - by providing mobility for people and goods and supporting business, industry and job growth/retention.

Increased rail ridership and rail freight transport can help reduce highway congestion; a single freight train can take the load of 280 or more trucks off our overcrowded highways.

A rail system can help in the state's efforts to reduce energy use and greenhouse gas emissions. For example, a freight train moves a ton of freight an average of 457 miles on a single gallon of fuel. According to the Federal Railroad Administration, railroads are 1.9 to 5.5 times more fuel-efficient than trucks, depending on the commodity carried and length of the haul.

Finally, rail is part of the state's multimodal transportation network and will continue the state's efforts to provide a quality system that can safely move people and goods.

D. Relationship to Wisconsin's Long Range Transportation Plan *Connections 2030*

To understand what we propose to do for the state rail plan, it is important to recognize the state's recently adopted multimodal 20 year plan, *Connections 2030*.

Adopted in 2009, *Connections 2030* defines Wisconsin's vision for transportation through the year 2030. The plan is organized around seven themes. The themes cover a broad range of topics from preservation and to quality of life, to mobility and choice. Within each of these

themes are series of policy and actions statements that will help guide decision-makers as they address future challenges and make transportation investment decisions.

Connections 2030 is a multimodal plan that addresses all modes of transportation. For this reason, the *Wisconsin Rail Plan 2030* builds off of the policies and recommendations in *Connections 2030*.

E. Rail plan components

The state rail plan will contain 10 components to meet the Passenger Rail Investment and Improvement Act and state requirements. The plan will also meet the federal requirement for an environmental justice analysis and the state requirement for a system-plan environmental evaluation. The 10 rail components are:

- System inventory
- Economic development
- Freight rail
- Intercity passenger rail
- Commuter rail
- Livable and sustainable communities
- Safety and security
- Funding
- System-plan environmental evaluation
- Environmental justice review

F. Plan development timeline

The plan development process includes three phases:

Plan scoping – spring/early summer 2010 – This phase includes outreach designed to obtain feedback from the stakeholders and the general public pertaining to the rail related issues and needs. Specific outreach activities include administration of a web-based questionnaire supplemented with a telephone survey; a stakeholder workshop; as well as environmental resource agency and tribal consultation. The results of this outreach will be used to add to the scope of the rail plan and refine the discussion and content.

Draft plan outreach – late summer 2010 – This phase of outreach is structured to present the draft plan for review and comment. Public hearings and targeted outreach meetings will be held across the state to obtain feedback and further refine the discussion of needs and issues included in the plan.

Plan adoption – late fall 2010 – During this final phase, the comments received during the draft plan outreach will be used to amend the plan as needed. The final plan will be submitted to the Secretary for consideration and approval. Once the plan is officially adopted, a copy will be sent to the Federal Railroad Administration.

4. Chapter review

System Inventory

The system overview includes a review of all rail lines primarily focused on the state's freight network. The recommended passenger and commuter rail systems statewide are proposed to run on existing freight corridors.

Comment: Mileage of rail lines in tribal lands – Right of way differences between what the deed says and land lease remains an issue for the Menominee Tribe. In the 1980s the rail line was improved and later abandoned. Because this rail line went straight through Menominee and Stockbridge lands, and provided a direct connection to the Crandon Mine, many had concerns about the potential for hazardous spills. In addition, the Department of Energy (DOE) was transporting spoils from nuclear sites through tribal lands. Because each rail line is chartered individually, abandonment procedures require the railroads to go through resorted easement or release. When the process is complete, the rail road no longer has rights to the rail line. In the case of the Menominee line, parts of it have not been deeded to Menominee. Instead, the railroad is indicating that the tribe must purchase it.

Economic Development

This section will investigate the important role rail has in Wisconsin's economy. It will include a discussion of the economic significance of the railroad industry including a review of industry sectors dependent upon rail. It will also review the volume, value and types of commodities transported by rail in, out and through the state. This plan element will also analyze the economic benefits of passenger and commuter rail such as increased property values, job creation and increased tourism opportunities.

Comment: The conversion of trails back to rails was raised as a concern for a few of the tribal representatives. For some tribes, they would like to see freight rail lines revitalized for economic development; other tribes noted that they would rather maintain the lines as trails. From their perspective, trails provide greater economic development opportunities. Participants indicated support for analyses that assessed the economic impact rail service would have for their areas. One participant asked if rail lines go back to use, and they pass through tribal lands, would the tribes weigh in and be part of the process?

Freight Rail

An analysis of the freight rail system will also be included as part of the rail plan. This will include a review of the system's current network including commodity flows through, into and out of the state. The discussion will also include a review of the state's rail infrastructure, system condition and rail line abandonments statewide. WisDOT will work with freight railroad owners and operators and related stakeholder interests to identify issues and needs.

Comment: Revitalization of rails in Wisconsin was identified as a concern for some participants. Participants asked whether some rail lines would be revitalized to accommodate passenger and freight

service needs. Participants asked if rail lines are revitalized, what types of control would the tribes have with what passes through tribal lands?

Comment: Some participants asked what happens to the state funds if a rail line goes out of service, and whether those dollars become available for highway needs. In northern Wisconsin around WIS 8, there is no other way to transport goods or people except by highways. As a result, with the construction work underway along WIS 8, tourism revenues are going down.

Comment: Do Rail Transit Commissions have responsibility for rail freight?

Meeting Response: Rail Transit Commissions (RTCs) were formed as a mechanism to purchase rail lines and manage rail service. They generally provide matching funds for the purchase and rehabilitation of rail corridors. RTCs continue to be valuable partners in efforts to preserve freight rail service even though they were created before a change to the Wisconsin Constitution allowed the state to make direct investments in rail infrastructure.

Comment: A participant raised concerns about the Crandon Mine, asking what happens if the mine is reopened? Would mine materials be transported by rail?

Intercity Passenger Rail

In addition to discussing freight rail, the rail plan will also assess the state's passenger rail system. The plans and decisions made as part of the nine states Midwest Regional Rail Initiative will be adopted as part of the rail plan. In addition, the passenger rail discussion includes an inventory of the existing services and infrastructure. This discussion will also document the ownership and operation of the passenger rail service and discuss the performance within the state.

The chapter will also identify the various studies that are underway to implement passenger rail statewide. Similar to the freight element, WisDOT will conduct outreach to the various passenger rail stakeholder interests to identify needs and issues that might be included in the rail plan.

Comment: A participant asked about the likely cost of a passenger rail ticket between Madison and Milwaukee. The person indicated that they had heard that the cost was \$55 one-way between Madison and Milwaukee. The concern about whether this price or something similar was affordable for low-income individuals

Comment: Another participant indicated that getting people to northern Wisconsin is a concern. With highway projects making travel by highway less convenient, tourism is down in the area.

Commuter Rail

To date, WisDOT has provided support for commuter rail studies on a case-by-case basis.

The rail plan will include four policies to support commuter rail activities. The policies range from continuing funding for fixed-guideway transit¹ studies, to developing a program to support capital and operating needs of commuter rail in major metro areas. Given that commuter rail is considered a local initiative, WisDOT's role continues to be one of providing technical and funding support for elements of the proposed study. It will also document the studies currently underway, as well as those proposed by communities statewide. The chapter will also include an inventory of services offered, and the system's condition. Similar to the other chapters, the department will conduct outreach with commuter rail interests to identify issues and needs for possible inclusion in the plan.

Livable and Sustainable Communities

The rail plan will document WisDOT's continued emphasis on connectivity and mobility. This chapter encompasses the recent national discussions and federal emphasis on livable and sustainable communities. In addition, the chapter will discuss how freight moves between modes – such as rail to port, and rail to truck. The chapter includes a broad definition both livability and sustainability to include land use planning, air quality, energy consumption, and the natural and built environment.

Safety and Security

Safety and security continue to be the department's top priority. This element will provide an analysis of the current data; as well as discuss current and anticipated initiatives both in Wisconsin and nationally. The chapter will also identify potential issues to be addressed in the future.

Comment: Concerns were raised regarding hazardous waste material transport and the possibility of hazardous spills. Other participants raised concerns about possible impacts to historical sites resulting from spills.

Funding

A requirement identified in the federal Passenger Rail Investment and Improvement Act is the development of a funding plan and a long-range rail investment program as part of the state rail plan. This section will review current funding sources available for rail-related activities. It will also include a list of any rail capital projects that the state anticipates participating in over the 20 year life of the plan.

Comment: For the Chippewa; they have fought 30-40 years to build and maintain their quality of life. The Wolf River State Trail is very important to the tribe. The Chippewa do not want rail service in their area and do not want the Department of Energy to convert the trail back to rail.

¹ Fixed-guideway operates on a permanent, separate right of way for the exclusive use of transit vehicles, existing freight railroad tracks, or on-street-rail. Examples include commuter rail (diesel or electric trains) light rail (electric vehicles, including street cars), and bus rapid transit (buses on exclusive right of way).

System-Plan Environmental Evaluation and Environmental Justice Analysis

Both the system-plan environmental evaluation and the environmental justice analysis will provide a qualitative look at the potential impacts which may occur from implementing the policies and actions identified in the plan. The system-plan environmental analysis is a state requirement under Trans 400². The system-plan environmental evaluation focuses on the potential impacts to the natural and built environments if the rail plan recommendations are implemented. The environmental justice analysis is required by Presidential Executive Order 12898 and focuses on potential impacts to minority and low-income populations resulting from implementation of the rail plan's recommendations. Both analyses are at a statewide level. As a result, they do not replace the more detailed project level analysis.

Comment: Any transportation work must ensure that historic sites and burial grounds along the railroads are protected.

² Trans 400 establishes rules for analyzing the environmental effects of transportation plans under the Wisconsin Environmental Policy Act. The SEE is required during the preparation of a statewide, system level transportation plan when WisDOT determines that the plan contains "major and significant new proposals" likely to affect the quality of the human and natural environment.

Meeting Participants

Name	Organization
Chad Waukechon	College of Menominee Nation
Craig Anderson	American Indian Chamber of Commerce-WI
Angela Jacobson	Forest County Potawatomi
Jill Tiegs	Stockbridge-Munsee Community
Bill Stark	FHWA – WI Division Office
Joe Miller	Stockbridge-Munsee Council
Matt Kunstman	Oneida Total Integrated Enterprises
Joe Miller	Stockbridge-Munsee Council
Rick Warrington	Menominee Nation, Community Development
Cheryl Cloud Westlund	Bad River
David Grignon	Tribal Historic Preservation Officer Menominee Tribe
Pete McGesheck	Mole Lake
Jennifer Queram	WisDOT – SW Region
Roger Larson	WisDOT – SW Region
Ruth Alfaro	WisDOT – SW Region
Sandy Stankevich	WisDOT – NC Region
Brent Pickard	WisDOT – NW Region
Don Berghammer	WisDOT – SE Region
Mark Higley	WisDOT – NE Region
Jim Becker	WisDOT - Bureau of Equity and Environmental Svcs
Alyssa Macy	WisDOT - Bureau of Equity and Environmental Svcs
Jennifer Murray	WisDOT – Bureau of Planning
Aileen Switzer	WisDOT – Bureau of Planning
Bobbi Retzlaff	WisDOT – Bureau of Planning