



## 3.11 SPECIAL PROPERTY OWNERS

### 3.11.1 Railroads

#### **Background & Role of Regional Railroad Coordinator**

There are 11 railroads in Wisconsin covering 3,300 miles. All but five of our 72 counties have identifiable railroad corridors, either active lines or property held in federal or state rail-banked status.

If a railroad is 1000' or closer to the project limits, it is "on the project" and must be addressed. When you receive notification of a highway project, or a preliminary Transportation Project Plat (TPP), your Regional Railroad Coordinator should be aware of the parcel and the likely effect it may have on your project.

A railroad may be shown on the TPP as information only, or it may be listed in the "Schedule of Lands & Interests Required" as an acquisition; contact your Regional Railroad Coordinator to confirm your understanding. The property interests will be acquired by Railroads and Harbors Section (RHS) at Central Office with support from the Regional Railroad Coordinator. Railroads utilize their engineering, legal, administrative, and real estate departments to approve the proposed roadway changes and the conveyance documents that grant those changes.

#### **Schedule & Budget**

Railroad parcels are cleared separately from highway acquisitions by RHS. A railroad parcel should always be shown on the TPP if needed for the project. Acquisition of property rights across railroad parcels can be a lengthy process, so early coordination between the Regional Lead Worker and Real Estate Specialist and the Regional Railroad Coordinator is essential.

Several railroads require a processing or administrative fee. Most have minimum fees for Highway Easements and Temporary Limited Easements that far exceed the typical highway minimums. When estimating real estate acquisition costs and completing the Project Cost Allocation (PCA) for encumbrance of funds, take into consideration the processing fee and the extra compensation to meet either a railroad's minimum charge or the cost of the easement. While RHS will acquire the railroad interests, the compensation, title report expense, recording of documents, etc. are charged to the project budget. Speak with the Regional Railroad Coordinator to figure out the amount to encumber.

#### **Title**

Railroad title can be vague or difficult to understand. Chain of title may be broken due to the many railroad mergers, name changes, and bankruptcies. There can be a question of whether the project roadway or railroad first occupied the area, known as prior rights. There may be an existing highway easement for the roadway. A search going back 100

years, to when railroad land was established, could be required to determine ownership and who has prior rights. RHS and the Regional Railroad Coordinator can research old railroad maps to aid in understanding property issues and ownership.

### **Valuations**

Regardless of the indicated unit value in a Project Data Book or Sales Study, most railroad parcels will be appraised due to their unique usage. Appraisals are conducted by WisDOT appraisers or consultants and reviewed by WisDOT statewide reviewers. Like a standard parcel acquisition, railroads are entitled to an owner's appraisals.

### **Type of Conveyance**

Railroads acquired a majority of their property through federal land grants. Railroads must maintain contiguous ownership to operate their service. Therefore, WisDOT acquires Highway Easements, not fee ownership, across railroad parcels. In addition, WisDOT may purchase Permanent Limited Easements for drainage facilities or slope maintenance, and Temporary Limited Easements for construction purposes.

Some railroads will accept our READS-generated Highway Easement along with our legal description and the TPP. Other railroads draft their own easements and WisDOT signs as a grantee.

Before acquisition begins, the Regional Railroad Coordinator or RHS should confirm with the designer or project manager that the type of conveyance is correct and allows for what needs to be done on the parcel.

### **Acquisition Process**

The Regional Railroad Coordinator attends project meetings, gathers data, meets with Project Managers and provides documents to RHS, such as: Design Study Report, TPP, Legal Description, Title Report, and *Railroad Real Estate Submittal Package*. RHS contacts the railroad, conducts the negotiation, makes the offer, and acquires the parcel. If it is a WisDOT project, RHS will obtain the funds and see that the conveyance is recorded. On LPA projects, RHS obtains payment from the local jurisdiction or directs them to send payment to the railroad.

### **Condemnation**

Both case law and state statutes give WisDOT the right to condemn railroad property when the public good is at stake. The process for condemnation of railroad parcels is no different than any other property owner. RHS will initiate the Jurisdictional Offer, record the Lis Pendens, ensure the grantor is paid, and record the Award of Damages.

### **Summary of Regional Real Estate Specialist's Role**

The Real Estate Specialist is responsible for the following:

- contacting the Regional Railroad Coordinator when a railroad parcel is on the TPP
- ordering title search going back 100 years
- including railroad compensation when completing the PCA
- inviting the Regional Railroad Coordinator to the project Start-Up Meeting, also known as a Kick-Off Meeting