BEFORE THE
SURFACE TRANSPORTATION BOARD

WISCONSIN CENTRAL LTD. – DISCONTINUANCE OF SERVICE EXEMPTION – IN ONEIDA AND MARINETTE COUNTIES, WIS.

STB Docket No. AB 303 Sub No. 49X

PETITION FOR CLARIFICATION AND/OR RECONSIDERATION

ON BEHALF OF

NORTHWOODS RAIL TRANSIT COMMISSION
(a governmental entity operating
under an interstate cooperation agreement)

and

WISCONSIN CENTRAL GROUP
(an *ad hoc* rail freight shippers coalition)

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PETITION FOR CLARIFICATION AND/OR RECONSIDERATION ON BEHALF OF NORTHWOODS RAIL TRANSIT COMMISSION AND WISCONSIN CENTRAL GROUP

IN SUMMARY

Our stakeholders are the forest products and paper industry and communities of the Great Lakes Forests Region ("GLFR"), the core of the CN/Wisconsin Central Ltd. ("CN/WC").

IDENTIFICATION OF PETITIONERS

Northwoods Rail Transit Commission.

The Northwoods Rail Transit Commission ("NRTC") is a public body operating under an interstate cooperation agreement authorized by Michigan and Wisconsin statutes. NRTC's mission is: "To sustain and enhance safe, reliable and efficient rail service critical to the businesses, communities and economies in northern Wisconsin and the Upper Peninsula of Michigan." NRTC membership includes 13 counties in northern Wisconsin and 9 counties in the Upper Peninsula of Michigan. See NRTC Map.

Wisconsin Central Group.

Wisconsin Central Group (www.centralcorridors.com/wcg) is an *ad hoc* rail freight shippers coalition operating under the auspices of:

- Wisconsin Paper Council (http://wipapercouncil.org);
- Wisconsin Manufacturers & Commerce (www.wmc.org); and
- Michigan Forest Products Council (www.michiganforest.com).

The goal of Wisconsin Central Group ("WCG") since 2010, and its predecessors since 2001, has been to persuade the Canadian National Railway Company ("CN") or otherwise assure restoration of Wisconsin Central System level service and competition for market share for traffic that originates and/or terminates on lines of the former WC System, since 2001, Wisconsin Central Limited ("WCL") under control of CN ("CN/WCL"). Achieving our goal remains a work in progress.

WCGroup actively supports railroad competition for non-captive, truck-competitive freight, abundant in the CN/WCL Great Lakes Forests Region. We believe the available freight is sufficient to increase freight density on lighter density CN/WCL lines to sustainable levels. WCGroup submitted comments and testimony in STB Docket EP 704 and submitted comments and testimony in EP 705. In both dockets, we urged the Board to consider obstacles to railroad competition for non-captive, truck-competitive freight.

Beginning in mid-2011, shortly following WCGroup submissions and testimony in Dockets EP 704/705, CN and WCGroup stakeholders met and identified a series of joint projects aimed at increasing freight volume and density

on CN/WCL lighter density lines. In 2012 and 2013, WCGroup assisted in creation of the Northwoods Rail Transit Commission; and in 2014 and 2015, CN and WCGroup assisted NRTC with submitting TIGER VI and TIGER VII grant applications for funding to begin replacing the aging railroad-owned fleet of over 1,000 log cars serving the GLFR with a new publicly-owned log car fleet.[1] CN funded NRTC's engagement of consultants who provided benefit cost analyses pursuant to USDOT standards.[2] Though recommended, neither application was awarded a grant. Debriefing with USDOT following the 2015 application suggested a pathway for potential future TIGER and/or FAST grant applications include requests for funding for fixed facilities such as the line segment which CN's Notice, herein, seeks to discontinue service but not abandon the line.

A chronological summary of our five (5) years of collaborative efforts, since 2011, can be found at Highlights – WCGroup Activities.

Although these collaborative efforts have resulted in better understanding the challenges facing CN/WCL GLFR rail carriers and stakeholders, together we have yet to achieve notable breakthroughs in increasing freight volume and density on lighter density CN/WCL GLFR lines. Concluding a year-long review of our collaborative efforts, in consultation with CN, shortline operators in the

[1] Most of the railroad-owned log cars were put in service prior to 1980 and, though most rail logs move single line, are reaching AAR's 40- and 50-year mandated retirement for cars in interchange service. Use of private log cars is limited. Neither CN nor WCGroup stakeholders have, as yet, been able to make a business case for investment in new railroad or privately-owned log car replacements. This issue will be a target of our educational and legislative efforts in 2018.

[2] The benefit-cost analyses demonstrated direct public benefits (road and bridge wear and highway safety) of $4 for each $1 invested in new log cars (based on a 20-year life rather than the 50-year actual experience for GLFR log cars).

region and a broad group of WCGroup shipper stakeholders, beginning in 2017 WCGroup stakeholders have moved their efforts in new directions.

On March 16, 2017 a group of some 30 stakeholders met at Escanaba Michigan. The meeting included representatives of WCGroup and its supporting organizations, NRTC, the Wisconsin and Michigan Departments of Transportation, and economic development officials of various NRTC counties and regional areas and forest products shippers. Following the Escanaba meeting, the participants shaped a "Consensus Outline" of their conclusions and potential next steps, circulated in final form April 11, 2017. Their Consensus Outline was forged into an Action Agenda, circulated in final form May 24, 2017.

Pursuant to the Action Agenda, the principal forest products shippers met at Traverse City, Michigan on July 19, 2017. They determined to proceed under the banner of the Lake States Shippers Association ("LSSA") and formed the LSSA Data Co-op Committee to undertake determining an answer to the following "Feasibility Question":

> To what extent will co-operative coordination of multi-shipper freight lanes provide sufficient volume, consistency and balance that will yield transportation efficiencies and increasingly competitive and sustainable rates and services from railroads and truckers serving the forest products and other industries of the Great Lakes Forests Region?

The Data Co-op Committee met at Green Bay, Wisconsin on September 21, 2017. For the purpose of answering the Feasibility Question, the Committee has entered into a partnership with Michigan Technology University ("Michigan Tech") (supported by public funding) to aggregate and analyze GLFR shipper supplied proprietary shipping data for logs and all other freight moving to, from and within the region by rail and over-the-road truckload. Michigan Tech's work will

include a deep analysis of log movements and the rail lines and ancillary facilities used and need for rail log traffic in the GLFR. Initial results on non-log freight are expected by year end 2017. Answers to the Feasibility Question will be a major component in setting LSSA's and WCGroup's tasks during 2018.

STATEMENT OF PETITION FOR CLARIFICATION AND/OR RECONSIDERATION

WCL's Exemption Notice is not clear about retention in place of track and other rail infrastructure following the effective date of the exemption.

WCL's notice seeking exemption to discontinue service ("Exemption Notice") is specific to a 49-mile line segment ("Subject Line") between Rhinelander and Goodman, Wisconsin, from milepost 220.0 to milepost 269.0. In regard to "environmental and historic preservation data" (49 CFR § 1105), WCL states:

> A notice of exemption to discontinue service over (rather than to abandon) a line of railroad that has been out of service for more than two years does not require the preparation or submission of an Environmental/Historic Report.

Notice, p. 4 [footnote and citations omitted].

Petitioners believe the reason for not requiring such information is because, in the case of discontinuance of rail service on a line, the track and other rail facilities ("Rail Infrastructure") is not to be removed and salvaged but is to remain in place (except as may be reasonably necessary for protection and maintenance of the property and with minimum impact on the potential for returning the line to active service). WCL Notice filing contains no clear statement that the Rail Infrastructure of the Subject Line will remain in place during the period of the discontinuance of service.

A number of Petitioners participants and stakeholders have expressed concern about this lack of clarity, which has prompted this Petition for Reconsideration for Purposes of Clarification.[3]

The Subject Line is a segment of a rail line in Wisconsin extending from a point near Ladysmith to a point near Pembine on Wisconsin's eastern border with the Upper Peninsula of Michigan (the "Through Line"). The Through Line is the only direct east-west connection in the Great Lakes Forests Region ("GLFR"). For context see the Great Lakes Forests Region Map.

The last freight to traverse the entire length of the Through Line from Ladysmith east to Pembine, circa 2001, was a full trainload of iron ore moving from northern Minnesota to one of the ore docks at Escanaba, Michigan for furtherance via Lake Michigan to destination. As a matter of interest, until recently, the segment of the Through Line between Ladysmith and Prentice, Wisconsin has, as a practical matter (*i.e.*, not subject to a "discontinuance of service" exemption) has not been in service for a longer period than the Subject Line. CN/WCL has or is about to resume service on the Through Line from a log landing[4] located on the Through Line at or near Tony, Wisconsin, approximately five (5) miles east of Ladysmith. It is unlikely that resumption of service on this 5-mile segment of the Through Line would have been economically feasible had

[3] Petitioners' requested but WCL's counsel declined to make such a clarification. Our purpose in seeking such clarification is not for those schooled in transportation law and Board precedent but for the public and policy makers serving the GLFR, such as those in attendance at NRTC's meeting on October 16, 2017 who raised the very question about the notices published by WCL in *the Northwoods River News*, August 29, 2017 and the *Peshtigo Times*, August 30, 2017. *See* WCL's "Verified Notice of Exemption" at Ex. C, pp. 6-7. WCL's Exemption Notice sheds no further light regarding retention of the Subject Line's Rail Infrastructure.

[4] A "log landing" is a yard facility set up to receive logs by truck directly from the forest, thence, to be loaded on rail or over-the-road trucks for transportation to the destination mill. The landing at Tony, Wisconsin was established with public funds.

the Rail Infrastructure been removed during the extended period the line segment had been out-of-service.

Significant potential public needs warrant retaining the line's Rail Infrastructure in place for future use.

As described above in the identification of Petitioners Northwoods Rail Transit Commission and Wisconsin Central Group, many public and private stakeholders have been actively working to assist CN/WCL achieve increased and sustainable freight densities on WCL lighter density lines. Prior to control by CN (1988-2001), WCL was notably successful, and WCL's outstanding "characteristic" was its effectiveness, in competing for non-captive, truck competitive freight.[5] In 2017, the principal forest product manufacturers, through the Lake States Shippers Association, are embarked on co-operative enterprise to provide, in 2018 and beyond, a new means to make GLFR over-the-road truckload freight accessible to competition by WCL and other GLFR rail carriers. We are convinced that the ultimate success of this effort will depend on restoration of the east/west rail route across northern Wisconsin, the Through Line (including the Subject Line) paralleling the U.S. Highway 8 corridor for truckload freight.

Equally or more significant for the future is that as many as twenty (20) metallic metal ore bodies lie along or in proximity to the Through Line, Highway 8, corridor. Exhibit B provides a non-exhaustive list (those locations of current interest at the time of publication) of northern Wisconsin mineral deposits.

[5] See summary "What CN Promised – Representation and Accountability".

The Through Line, Highway 8, corridor has been suggested as the possible location of a processing facility should such deposits be developed.

The Copperwood and Back Forty deposits on the Michigan side (see Ex. B, p. 1) are near completion of their permitting processes. Wisconsin has had a so-called "mining moratorium" in place since 1998. The Wisconsin Legislature currently considering bills, 2017 Senate Bill 395 and 2017 Assembly Bill 499, which would lift the "moratorium". Legislative hearings have been completed in the last several weeks. Passage of such legislation, also favored by Governor Walker, appears likely.

Retaining the Rail Infrastructure in place on the Subject Line will permit its more rapid return to service to meet the public needs arising from shipper and other stakeholder efforts, including the LSSA project described above, and likely lifting of the Wisconsin metallic mining "moratorium".

National security is an element of the potential public need for retaining the line's Rail Infrastructure in place.

Exhibit A is a recent article co-author by Congressman Jack Bergman (MI-1, upper and northern Lower Peninsula) and John Moolenaar (MI-4, northern and central Lower Peninsula). The article, entitled, "Congress must fund new Soo Lock now to prevent U.S. economic disaster," explains how a mishap at the Lock would cut off the Nations steel producers from iron ore moving from northern Minnesota, potential for both a National economic and security disaster. The Soo Locks Modernization Act, introduced June 7, 2017, if it becomes law, would authorize construction of a second lock at Sault Sainte Marie, Michigan.

As noted, above, the Through Line, of which the Subject Segment is a part, provides the shortest rail mileage route for northern Minnesota iron ore to move via the ore docks at Escanaba on Lake Michigan and, thence, to the Nation's steel industry. It's been done. The last freight moving across the entire Through Line, including the Subject Line, was just such a full train of iron ore moving from northern Minnesota to the docks at Escanaba – not only an alternative route in the event a mishap at the Soo Lock but also one historically providing a longer shipping season than the route across Lake Superior.

Retaining the Rail Infrastructure in place on the Subject Line will permit its more rapid return to service to help deal with such a potential economic and security event. Redundancy in the national rail system is an important element of protecting the Nation's security by minimizing the risks and damage from local and regional natural and man-made disasters.

Pending public rail transportation policy issues before this Board support retaining the line's Rail Infrastructure in place.

In July 2016, in comments in STB Docket EP 704, Sub No. 1,[6] WCGroup joined with the request in comments of the American Forest and Paper Association that the Board revoke existing forest products exemptions and the box car exemption to the extent it applies to forest products. The issue remains pending before the Board. One of WCGroup's highest priorities is work collaboratively with rail carriers and do the utmost to avoid the need for regulatory intervention. Thus, WCGroup's request for revocation of the exemptions was made reluctantly and in search of better tools to help address

[6] STB Docket No. EP 704, Sub No. 1, *Review of Commodity, Boxcar and TOFC/COFC Exemptions.*

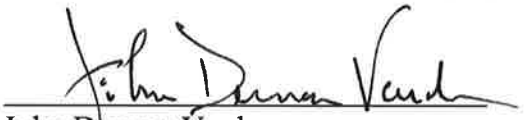
what we view rail competitiveness problems that afflict the Great Lakes Forests Region.

If the Board see fit to grant the relief we have sought in EP 704, Sub No. 1 and if such relief proves helpful to addressing rail competitiveness in the GLFR, retaining the Rail Infrastructure in place on the Subject Line will help assure that the Subject Line and the Through Line are available for future rail service.

CONCLUSION AND REQUESTED ACTION

Petitioners request that the Board's order issued in response to WCL's Exemption Notice, or a further order upon reconsideration, expressly confirm that the exemption does not permit WCL to remove the Rail Infrastructure of the Subject Line, except as may be reasonably necessary for protection and maintenance of the property and with minimum impact on the potential for returning the Subject Line to active service.

Dated this 24th day of October, 2017.



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[See the next page, following, for verification.]

Verification

I, John Duncan Varda, counsel to Wisconsin Central Group, have, since 1970, represented Wisconsin Manufacturers & Commerce and other Wisconsin and Upper Michigan transportation shipper groups and various of their constituent members before the Interstate Commerce Commission and, after its termination, before the Surface Transportation, and do hereby affirm and verify that I have read the foregoing Petition on behalf of NRTC and Wisconsin Central Group and know the facts stated therein to be true and correct to my own knowledge and, as to those stated upon information and belief, I reasonably believe them to be true and correct.

John Duncan Varda

STATE OF WISCONSIN)
) ss
DANE COUNTY)

Personally came before me this 24th day October, 2017, the above named John Duncan Varda, personally known to me to be the person who executed the foregoing verification and acknowledged the same.

Martha S. Olson, Notary Public,
State of Wisconsin.

My commission expires 7/23/2019.

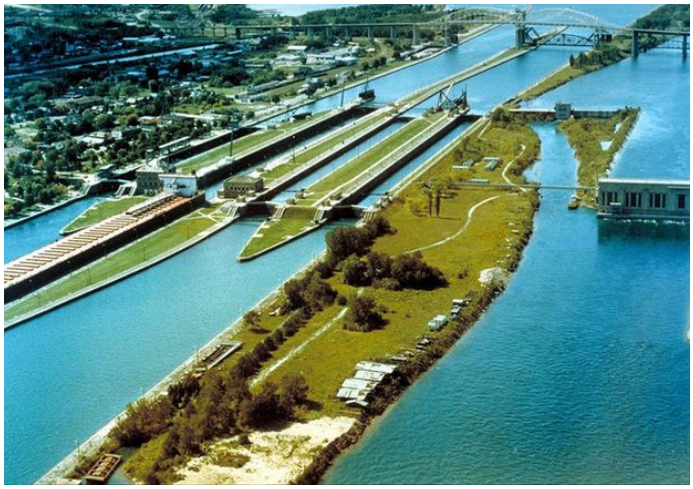
Certificate of Service

I, Martha S. Olson, certify that on this 24th day of October, 2017, I cause a copy of the foregoing document to be served by first-class mail, postage prepaid, om all parties of record in STB Docket No. AB 303 Sub No. 49X.

Martha S. Olson, Legal Assistant
DeWitt Ross & Stevens s.c.

Congress must fund new Soo Lock now to prevent U.S. economic disaster

Posted on June 13, 2017 at 9:32 AM



SOO LOCKS

The Soo Locks at Sault Ste. Marie, seen here from the northeast, have been neglected, and only extraordinary maintenance has prevented an operating disruption that would be devastating for the American economy, the authors argue. (U.S. Army Corps of Engineers)

By Guest Writer

Jack Bergman, R-Watersmeet, represents Michigan's 1st Congressional District, covering the Upper and northern Lower Peninsula. John Moolenaar, R. Midland, represents the 4th District in north and central Michigan. If you have a guest column to share, email Opinion Curator Dan Hawkins. And be sure to check out our guidelines for submission.

By U.S. Reps. Jack Bergman and John Moolenaar

American iron ore powers our nation's economy.

The ore starts in mines in the Upper Midwest and travels across Lake Superior on 1,000-foot freighters.

Along the way, the ore travels through the Soo Locks in Sault Ste. Marie, where the ships are lowered into Lake Huron.

The ore then heads south, where it is used in industries – including agriculture, appliances, automobiles, construction and infrastructure – that provide millions of good-paying jobs and make products enjoyed by all Americans.

All these uses for iron ore means that the Soo Locks are critical to the economy and national security. Unfortunately, the Locks have been neglected, and only extraordinary

maintenance has prevented an operating disruption that would be devastating for the American economy.

A 2015 report from the Department of Homeland Security clearly lays out what would happen if such a disruption were to occur. Iron ore would be stranded in the Upper Midwest, with no realistic and viable alternative to make it to steel mills and factories.

The consequences would cascade across the country. The national unemployment rate would rise to over 11 percent, which would be even higher than it was during the last recession. States with steel mills and auto suppliers would be acutely hurt, and even outside of the Midwest, there would be massive job losses, with both California and Texas losing more than 500,000 jobs.

To prevent this terrible scenario from occurring, the United States needs to ensure the Locks will continue to function for decades to come and the time to act is now. The cost of a new lock has significantly increased in the more than 30 years since it was first proposed. What was then a $227 million estimate is now expected to start at $800 million and possibly rise to over $1 billion.

To prevent the cost from rising again, funding for construction of a new lock should come from this Congress, as it considers the Soo Locks Modernization Act, sponsored in the House by Rep. Jack Bergman and in the Senate by Michigan's Debbie Stabenow and Gary Peters, with support from the state's entire delegation.

In Congress, there is bipartisan support for new investment in our country's infrastructure, but all of those projects will need the iron ore that goes through the Soo Locks and the American steel that comes from it. Funding a new Soo lock is a necessary down payment to ensure these projects happen.

The Soo Locks are a critical passage for the American economy and a new lock is directly tied to the future prosperity of our nation. The materials needed to build your next car, refrigerator and local infrastructure project will come through the Locks. We hope our colleagues in Congress will protect the American jobs and industries that depend on the Soo Locks and join us in supporting construction of a new lock at the Soo.

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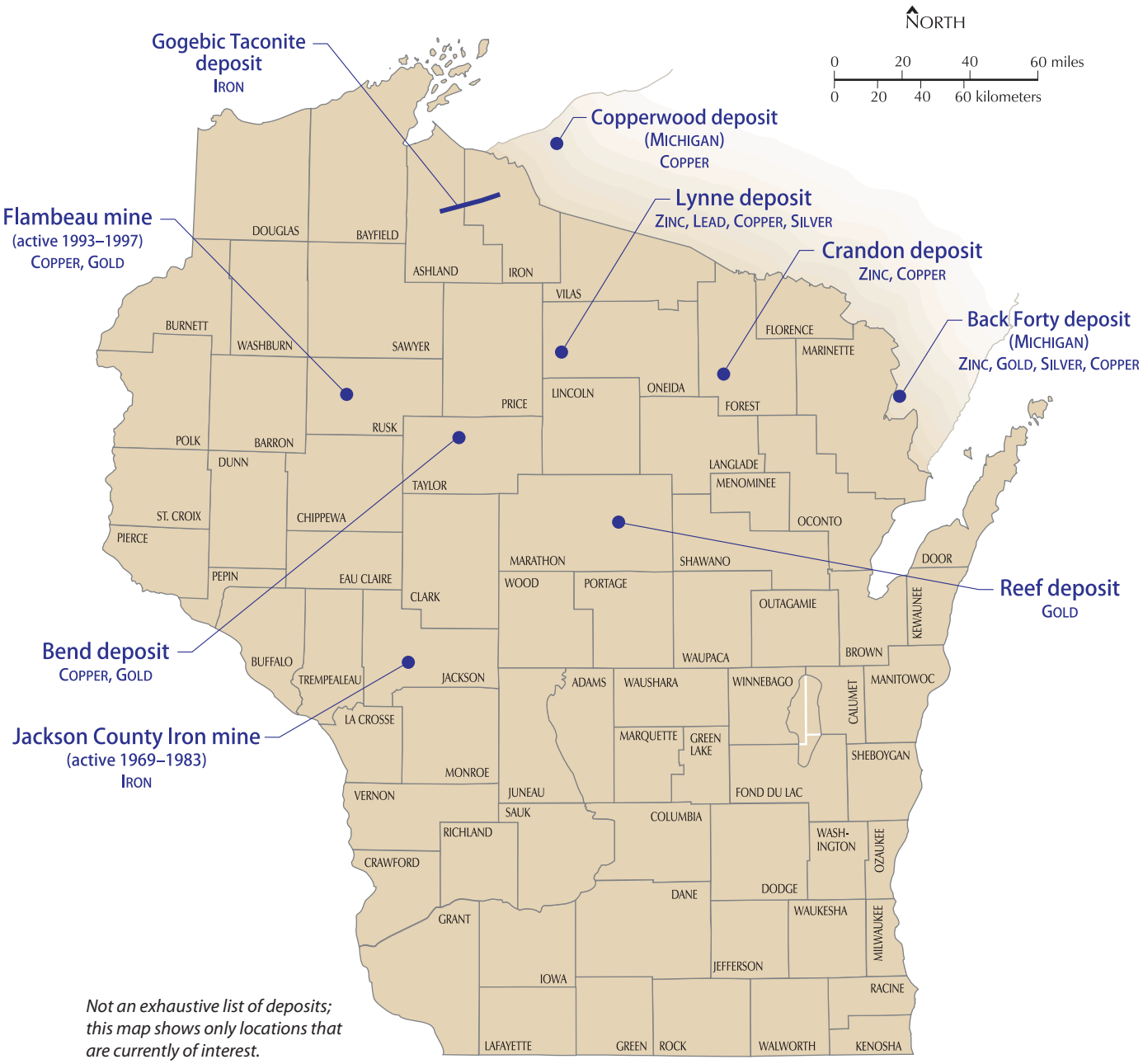
http://www.mlive.com/opinion/index.ssf/2017/06/congress_must_fund_new_soo_loc.html

Metallic mineral deposits

Wisconsin Geological and Natural History Survey 2011



Not an exhaustive list of deposits; this map shows only locations that are currently of interest.

UW Extension Cooperative Extension

Wisconsin Geological and Natural History Survey 3817 Mineral Point Road • Madison, Wisconsin 53705-5100
Tel 608.263.7389 • Fax 608.262.8086 • www.WisconsinGeologicalSurvey.org

Director and State Geologist: James M. Robertson

Metallic mineral deposits

Wisconsin Geological and Natural History Survey 2011

Metallic mineral deposits are defined as naturally occurring, local concentrations of metal-bearing minerals. Where iron is the dominant metal, the deposit may be characterized as *ferrous.* Deposits containing concentrations of all other metals are termed *nonferrous.* Depending on the particular metal-bearing mineral, the metal may be chemically combined with a variety of compounds including oxides, sulfides, carbonates, and silicates. This is true for both ferrous and nonferrous deposits.

Metallic mineral deposits become "economic" only when they can be mined at a profit. The locations shown on the attached map are divided into *deposits*—known concentrations of metal-bearing minerals that have not yet proven to be economic, and *mines*—deposits that were economically viable, permitted, mined, and subsequently reclaimed.

Over the past 50 years, exploration in Wisconsin has identified approximately 20 nonferrous metallic mineral deposits scattered across the northern half of the state. (The map on the opposite side shows only deposits that are currently of interest.) The Crandon deposit, containing approximately 55 million tons of zinc and copper ore, is the "giant" in the region. The Bend and Lynne deposits are the largest of the rest, each containing 4 to 6 million tons of proven metal reserves.

Two Michigan deposits (Copperwood and the Back Forty) are included on the map. Both are relatively large tonnage, nonferrous sulfide deposits. Copperwood has just begun the formal state permitting process; the Back Forty is scheduled to apply for a mining permit early in 2012. If these deposits are permitted and become mines, they will likely include ore processing infrastructure (such as a mill) whose proximity to northern Wisconsin sulfide deposits may well make those deposits more economically viable.

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▲ **Flambeau mine, 1996:** *Production at the Flambeau mine began in 1993. The mine produced 1.9 million tons of high-grade copper ore—yielding 181,000 tons of copper, 3.3 million ounces of silver, and 334,000 ounces of gold—before it was closed in 1997.*

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