

**Who Owns That?**  
**Federal Land Grants for Railroads in  
Wisconsin After the Railroad Leaves**

SC Johnson Trust v. Bayfield County  
634 F.Supp.2d 956 (W.D. Wis., June 26, 2009)

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# Introduction & Summary

# *Samuel C. Johnson 1988 Trust, et al v. Bayfield County* – a Big Deal?

**The American Land Title Association** named *Samuel C. Johnson 1988 Trust, et al v. Bayfield County* as one of the six lawsuits in the US with “**significant ramifications** on the title insurance industry” in 2009.

# Who Owns the Land Grant Railroad Right-of-way Today?

- In the 19<sup>th</sup> century Congress granted lands for railroad construction. The grants included rights-of-way for the actual route of the line.
  - Who owns the right-of-way after the railroad has left?
  - What, if anything, did Congress retain?

# Summary

- The US provided two public domain lands to aid in the construction of railroads in two ways.
- From 1850 to 1871, Congress provided grants of land (In Wisconsin, 6-10 square miles of land for each mile of track). These are the *land grant routes*.
- Congress also provided right-of-ways through public lands both before and 1871.
- Congress retained a reversionary interest in **land grant** rights-of-way.
- Federal courts are divided on whether Congress retained an interest in rights-of-way granted after 1871.

# Summary

- This document includes:
  - A brief overview of the historical background of the Congressional land grants in aid of the construction of railroads
  - The legal status of such corridors, including a review of two federal court cases coming out of Wisconsin involving ownership of former federally-provided railroad routes.
  - Discussion of the 1871 legal split regarding ownership of right-of-way lands provided under the 1875 General Railroad Right-of-way Act.
  - Maps of the land grant routes.
  - List of Wisconsin session laws affecting land grant routes.
  - List of pertinent federal statutes and some federal caselaw.
  - List of resources and suggested readings.

# Summary

- One of my goals was to determine where the federally granted routes were, how many were still in operation, and how much land was potentially subject to reversion. I have identified most parts of the land grant lines that are out of service.
- However, there are at least 12 Wisconsin railroads that obtained right-of-way under the 1875 General Railroad Right-of-way Act.
- The locations of these routes has not yet been determined. This research is still very much a work in progress in terms of identifying what land is potentially involved.
- I want to thank the Wisconsin Historical Society for granting me permission to use many of the map images included in my presentation.

# Bottom Line

“If a former right-of-way was not declared abandoned before 1988, it is no longer possible for adjacent landowners to claim a right to the property.”

- *S.C. Johnson 1988 Trust v. Bayfield County*, 634 F.Supp.2d 956, 974 (W.D. Wis., Jun 26, 2009)

# *Samuel C. Johnson 1988 Trust, et al v. Bayfield County*

- Parcel is subject to **reversion** to the United States if the **right-of-way** was:
  - granted *by the US prior to 1871*
  - formerly operated by a **railroad**
  - **not abandoned or forfeited**
    - by **Congress** or a **court of competent jurisdiction**
    - **prior to October 4, 1988.**

# How much land is potentially at stake?

- In *Wisconsin*:
    - 970 total miles of land-grant railroad lines
    - 660 miles are in service
    - 90 miles are **Rails-to-Trails**
    - 220 miles are *out of service* and **potentially subject to reversion**
      - But there are also an **undetermined number of right-of-way miles** granted by the US to 13 Wisconsin railroads under a the **1875 General Railroad Right-of-way Act**.
        - At the end of 1875, there 2566 miles of track in Wisconsin (only 20 miles built in 1875, all by the Wisconsin Central for a section of the land grant line between Stevens Point and Portage).
        - Almost 4000 miles of track were constructed in Wisconsin after 1875. Railroad miles peaked around 1920 at 7500.
- How many of these miles were built on federal right-of-way???

# On Appeal

- *Samuel C. Johnson 1988 Trust v. Bayfield County, Wis.*, 634 F.Supp.2d 956 (W.D. Wis., Jun 26, 2009)
  - The case is currently on appeal to the 7th Circuit (Case no. 09-2876).

# Disclaimer

- My research has identified specific portions of railroad land grant corridors where parcels may be subject to reversion using a variety of sources (e.g., old Wisconsin session laws, scholarly articles, old & new state railroad maps, reports of the Wisconsin & federal agencies).
- I have not examined specific land records and reversion is parcel-by-parcel analysis.
- The views expressed are solely my own and not the official position of the Office of the Commissioner of Railroads or the state of Wisconsin generally.

# Land Grant Background

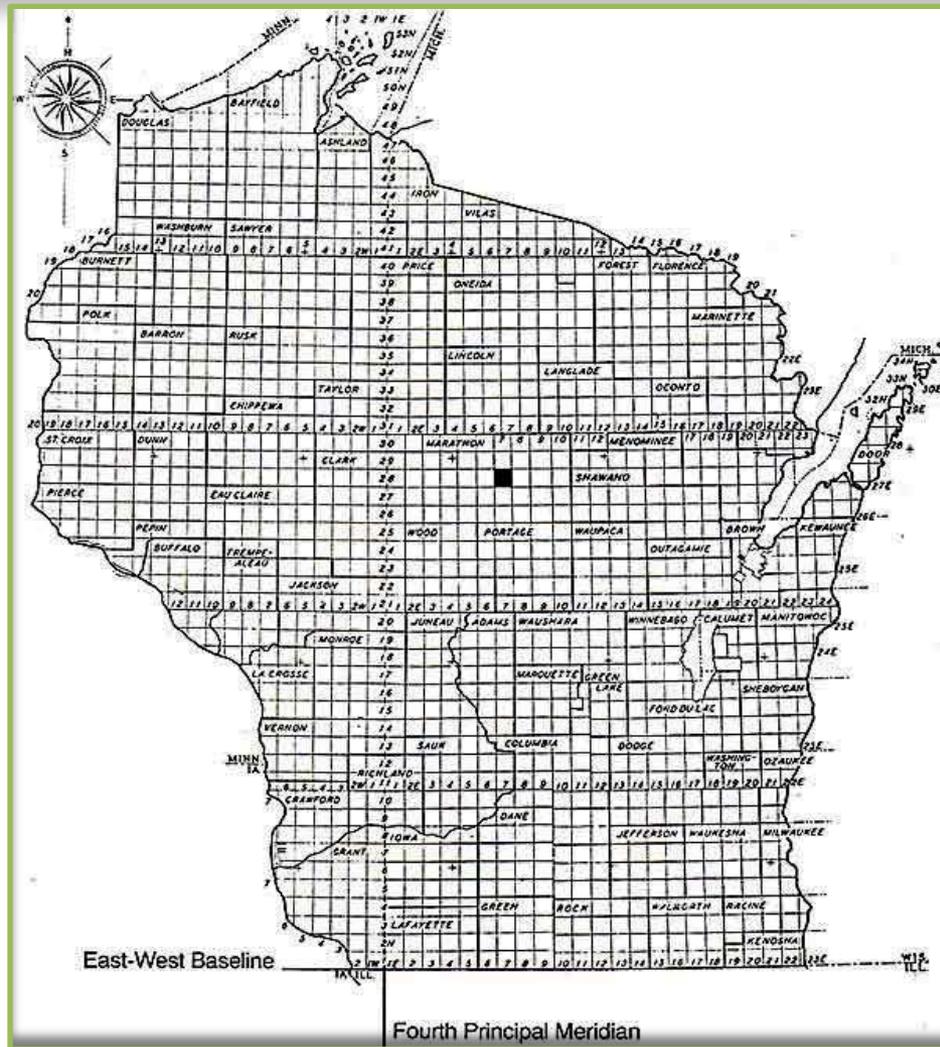
# Putting the Land to Work

- By 1850, the United States had added about 2,425,000 square miles to its territory and owned nearly all of it.
- In the *19<sup>th</sup> century*, the United States provided grants of public lands for a variety of activities:
  - Canals, Education, Homesteads, Wagon roads, Plank roads & Macadamized roads
  - *And Railroads*

# U.S. TERRITORIAL ACQUISITIONS



# Wisconsin Public Land Survey Grid



# Public Land Survey

At the urging of Thomas Jefferson, the US began to survey public lands and that was the beginning of the Public Land Survey System (PLSS).

The PLSS is used to divide public domain lands, which are lands owned by the Federal government for the benefit of the citizens of the United States.

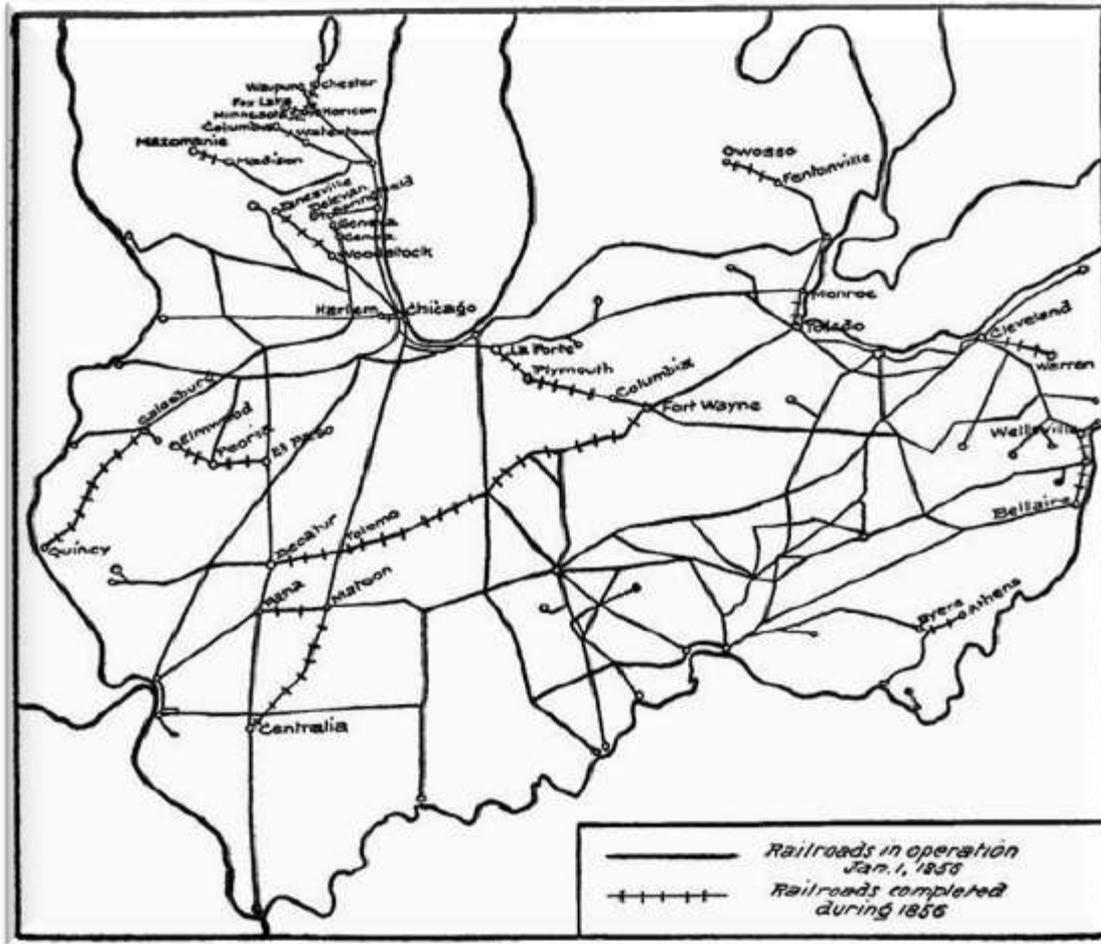
# A Brief History of Land Grants for Railroads

- Congress provided **subsidies** in the form of *land grants* and *rights-of-way* to aid in the construction of rail lines.
  - Grants of land *only* from 1850 to 1871
  - Rights-of-way through public lands *before and after 1871*.

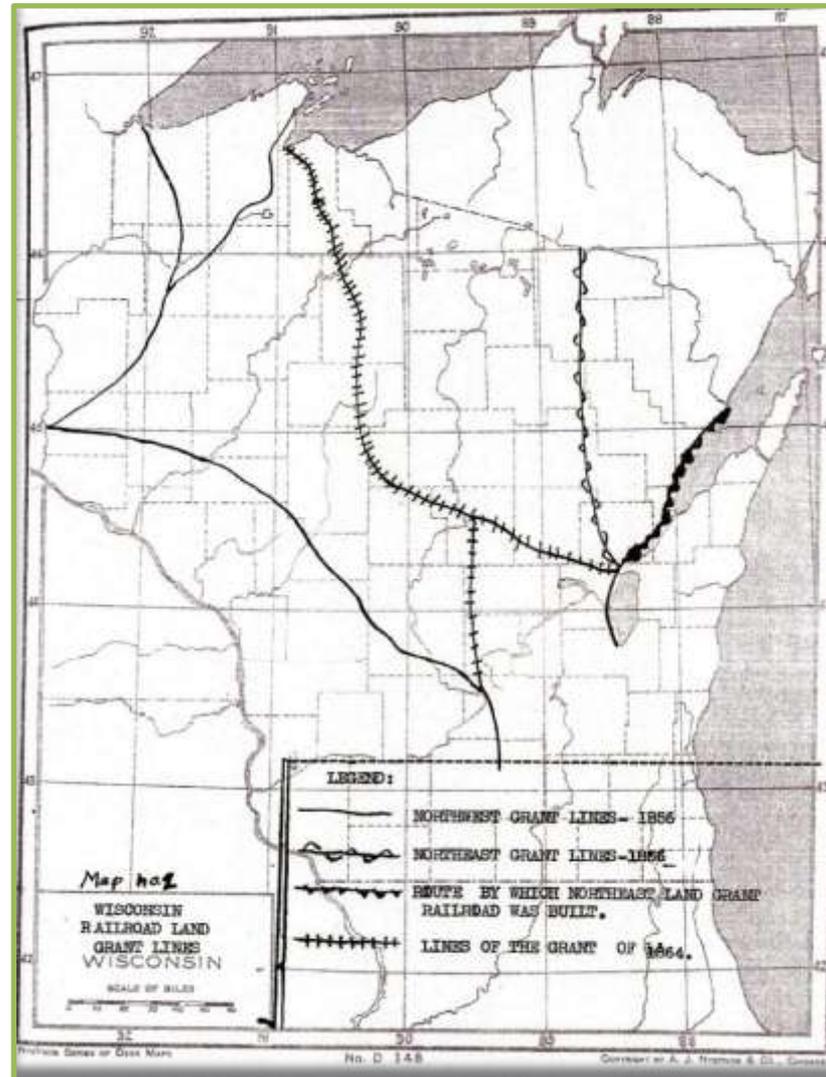
# Using Public Lands for Railroads 1850-1871

- **1850** – Land grant for the **Illinois Central** began the railroad land grant era and set the model for future legislation.
- **1856 & 1864** – Land grants for several states, including *three routes* in **Wisconsin**.
- **1860's** – Congress approved land grants for 4 of 5 transcontinental routes.

# 1856 Railroad Map of the Old Northwest



# Wisconsin Land Grant Lines



# How did it work?

- **Congress** specified the route and made a grant of public lands to a state.
- **State legislature** then selected the railroad.
- Railroad identified specific route and filed '**map of definite location**' with the General Land Office.

# Public Land Subsidies for Railroads 1850-1871

- In Wisconsin, the **1856 & 1864 land grants** gave the railroad **six square miles of land for each mile of track** built (later increased to 10 miles).
- Congress also provided **replacement or *indemnity* lands** for the railroads if insufficient public land was available in the main grant.

# What Did the Railroad Get?

- As *20-mile sections* were completed, the railroad received the **subsidy lands in fee** to use:
  - **Collateral** for bonds
  - **Cash** from selling the land and **stumpage rights**
  - **Timber and quarried rock** to construct the railroad.
- The railroad also received a **limited fee in the 100'-wide right-of-way**.

# Federal Public Lands for Railroads in Wisconsin

- In 1856 & 1864, Congress provided lands for **three routes** in Wisconsin, including a **Northwest** route:
  - Madison-Portage-Hudson-Superior & a branch to Bayfield
- *S.C. Johnson & Mauler* involved lands on the **Northwest** route.
- **1864 act** extended time & split **Northwest** grant

# Congressional Policy toward Disused Rail Corridors

**As rail lines on federally-provided rights-of-way fell into disuse, Congress looked for ways to dispose of these rights-of-way.**

# Congressional Policy toward Disused Rail Corridors

- **A 1922 law** allowed adjacent landowners a way to acquire title to the right-of-way when the railroad ceased operating.
  - Abandoned Railroad Right of Way Act 43 U.S.C. § 912
- **In 1988, Congress changed policy** with regard to the disposition of federal lands.
  - National Trails System Act (Rails-to-Trails) 16 U.S.C. § 1248

# National Trails System Act (Rails-to-Trails)

## 16 U.S.C. § 1248

- The Rails-to-Trails law **preserves the United States' interest in the rights-of-ways** for use as recreational trails **unless** the right-of-way was abandoned or forfeited prior to **October 4, 1988**.
- Treated by 7<sup>th</sup> Circuit as an amendment of the *Abandoned Railroad Right of Way Act*.

# 1871 - End of the Grants

- Public land grants for railroads had always been controversial.
- Congress issued **no new land grants after 1871.**
- Congress **did** continue to provide **public lands for railroad rights-of-way.** For example, in the **General Railroad Right-of-way Act of 1875.**

# *Mauler v. Bayfield County*

# Mauler – Prior 7th Circuit Rails-to-Trails Case

- [Mauler v. Bayfield County, 309 F.3d 997 \(7th Cir.2002\)](#)
  - same railroad line as *S.C. Johnson*
  - *Abandoned Railroad Right of Way Act (43 U.S.C. § 912)* and *National Trails System Improvement Act (16 U.S.C. § 1248(c))* and
  - reversionary interests of the US on a land grant route.
  - Maulers claimed trail use was a taking.

# Factual background

## *Mauler v. Bayfield County*

- Chicago & North Western **stopped using the corridor in 1978.**
- Railroad **sold** the right-of-way to Bayfield County in **1989.**
- Maulers bought land in 1994 and 1996 “**subject to...all easements**, restrictions, reservations, and exceptions as may constitute or otherwise affect the chain of title to said premises” and “less any rights of way of record.”
- **Railroad expressly reserved the railroad right of way** when it originally conveyed the parcel **in 1884** to the Maulers’ predecessors.

# Holding of *Mauler v. Bayfield County*

“We find that [43 U.S.C. § 912](#), as modified by [16 U.S.C. § 1248\(c\)](#), vests a reversionary interest in the strip of land in the United States and not the Maulers, that [§ 913](#) authorizes the Railroad's transfer of the land to Bayfield County and validates the county's use of the land as a public recreational trail, and that the **Maulers' takings claim must fail** because they hold no valid legal interest in the strip of land.”

[Mauler v. Bayfield County, 309 F.3d 997, 1002 \(7th Cir.2002\)](#)

# *SC Johnson v. Bayfield County*

# *Extending Mauler*

*S.C. Johnson 1988 Trust v. Bayfield County, Wis.*,  
634 F.Supp.2d 956, 976 (W.D. Wis., Jun 26, 2009)  
extends the finding of a US reversionary interest to  
new factual circumstances.

# Less Favorable Fact Situation for Bayfield County

**1974** – Railroad ceases operations.

**1978** – ICC approves abandonment.

**1979** – State releases interest in the R-O-W.

**1979** – County declines to buy the R-O-W.

**1980** – Railroad pulls tracks.

**1980** – SC Johnson Trust bought their land.

**1989** – County begins to acquire R-O-W for a public trail.

# *SC Johnson* Case History

- In 2006, claiming that they own the land, plaintiffs sue Bayfield County to ‘quiet title’.
- **US disclaimed interest** in the right-of-way during **first district court proceeding**. Judge Shabaz granted summary judgment on that basis. *Samuel C. Johnson 1988 Trust v. Bayfield County*, 470 F.Supp.2d 958 (W.D. Wis.,2007).

# *SC Johnson* Case History

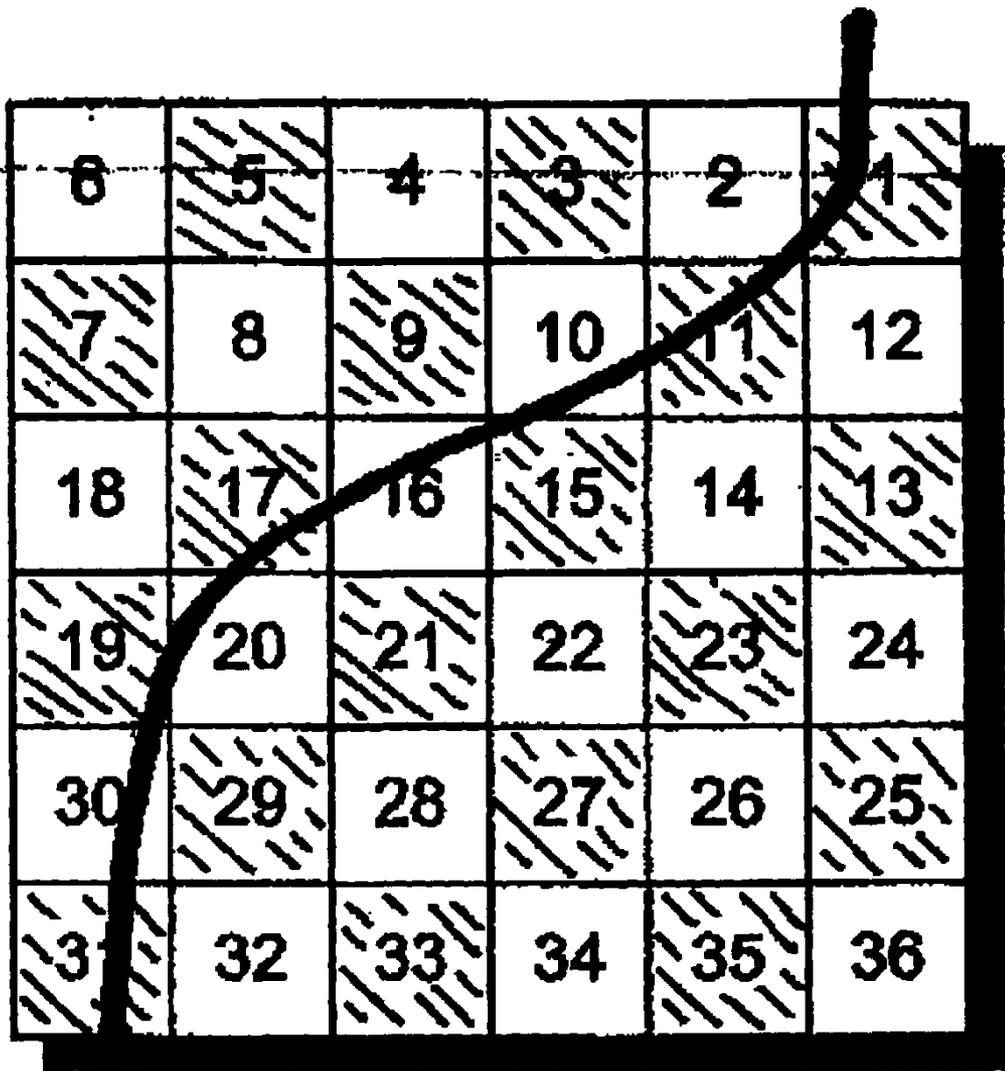
- Disclaimer of interest held not dispositive of US rights. *Samuel C. Johnson 1988 Trust v. Bayfield County*, 520 F.3d 822 (C.A.7 (Wis.),2008).
- In **round two**, US filed “**statement of interest**” under 28 U.S.C. § 517, but was not a named defendant and did not seek to intervene.

# Two Parcels – One Odd, One Even

- SC Johnson Trust bought their land from the C&NW in 1980. Location: Township 44 North, Range 7 West in **Section 21**
- The other plaintiffs traced their title back to the first settler, Amos Jefferson. Location: Township 44 North, Range 7 West in **Section 32**
- Railroad ownership will not show up on title for **even-numbered** section under land grants.

# Checkerboards

- The US land grants were provided in a checkerboard pattern of alternating township sections.
- **Odd-numbered** sections went to the **railroad**.
- **Even-numbered** sections were retained by the US for sale to others.
- Impossible for a railroad right-of-way to cross a township without crossing both odd and even sections.



**Section Numbering**

# Limited Fee

- Judge Crabb concluded that the railroad obtained a **limited fee** from the US either **explicitly under the 1852 Right-of-way Act** or **implicitly under the 1856 & 1864 grants**.
- “Thus, if the Chicago and North Western Railroad did not take its interest in the right-of-way under the Right of Way Act of 1852 through its predecessor, the La Crosse and Milwaukee Railroad, it had an implicit grant of a right-of-way in the 1856 and 1864 Land Grant Acts.” 634 F.Supp.2d at 973.

# Actual Route Deviated from Map of Definite Location

“The...railroad **filed a map** of definite location with the **General Land Office** of the Department of the Interior in July 1858...As filed, the map did not include the lands now owned by plaintiffs; the **actual route departed from the 1858 map** and included the lands at issue. In a decision issued in 1887, the **Department of the Interior held that the map as filed encompassed the line as actually built.**”

- *S.C. Johnson 1988 Trust v. Bayfield County*, 634 F.Supp.2d 956, 964 (W.D. Wis., Jun 26, 2009)

# Deviations from Map of Definite Location

1. Some “deflections” must be expected;
2. Department of Interior determines whether the **actual route substantially conforms** to the “line of definite location”;
3. Provided the actual route stays within the limits of the grant (including indemnity lands), deflections are acceptable to:
  - a. avoid engineering obstacles,
  - b. avoid high costs, or
  - c. remedy defects in the original location.

*Chicago, St. Paul, Minneapolis Omaha Ry. Co. (Bayfield Branch),*  
6 Pub. Lands Dec. 209, 1887 WL 561 (D.O.I.)

## Indefinite Line of Location?

The acceptance of these deviations creates some uncertainty today as to whether property is or is not located within the right-of-way of a land grant railroad.

# SC Johnson v Bayfield County

“Thus, in this case, if the right-of-way is declared to have been abandoned by the Chicago and North Western, it would revert to the United States under the express terms of [16 U.S.C. § 1248\(c\)](#) (right-of-way not declared abandoned before 1988 or abandoned and not used for public highway within one year of abandonment reverts to United States).”

- [Samuel C. Johnson 1988 Trust v. Bayfield County, Wis.](#), 634 F.Supp.2d 956, 976 (W.D. Wis., Jun 26, 2009)

# Whose land is it?

## *SC Johnson v. Bayfield County*

- **On land grant routes**, unless the federally granted right-of-way was abandoned or forfeited prior to October 4, 1988, the US has a reversionary interest in the right-of-way.
- **Forfeiture or abandonment** must have been decreed by a **court of competent jurisdiction or Congress**.

# Court of Competent Jurisdiction?

- **Interstate Commerce Commission** was not a court of competent jurisdiction nor were its decisions acts of Congress.
- **State court** finding of abandonment could be a decree by a ‘court of competent jurisdiction’.
- An **ICC certificate** of abandonment is a **necessary, but not sufficient condition** to establish an “abandonment”.
- Any such order would have to **pre-date October 4, 1988**.

– Note: ICC no longer exists. The Surface Transportation Board has replaced the ICC.

# Points of Emphasis

- Determination of abandonment or forfeiture is made on a **parcel-by-parcel** basis.
- The **reversionary** interests **only applies to the right-of-way**, which is usually 100' wide, but can be 200' depending on terrain, *not* the **subsidy lands**.

# *Bottom Line*

“If a former right-of-way was not declared abandoned before 1988, it is no longer possible for adjacent landowners to claim a right to the property.”

- *S.C. Johnson 1988 Trust v. Bayfield County*, 634 F.Supp.2d 956, 974 (W.D. Wis., Jun 26, 2009)

# The 1871 Divide in Policy

# 1871 Divide

- The “1871 divide” refers to the end of Congressional grants of land in addition to the right-of-way to aid the construction of railroads.
- Two lines of types of cases: Right-of-way-Only Cases & Land Grant Cases.

# 1871 Divide

- ***Townsend*** – a 1903 US Supreme Court decision held that the railroad got a **limited fee over the right-of-way**, not a mere easement, but not an absolute fee either. *Northern Pacific Ry. Co. v. Townsend*, 190 U.S. 267, 23 S.Ct. 671, 47 L.Ed. 1044 (1903).
- ***Great Northern*** – a 1942 case held that **after 1871** the railroad only received an **easement**. [\*Great Northern Railway Co. v. United States\*, 315 U.S. 262, 273, 62 S.Ct. 529, 86 L.Ed. 836 \(1942\)](#).
- The Supreme Court has not addressed how the 1871 policy shift affects [43 U.S.C. § 912](#), as modified by [16 U.S.C. § 1248\(c\)](#).

# 1871 Divide

- The **circuits are split** on whether the US retains a reversionary interest in **post-1871 railroad rights-of-way**.
  - *U.S. v. Marvin M. Brandt Revocable Trust*, Slip Copy, 2008 WL 7185272 (D.Wyo.,2008) describes the split.
- The **Seventh Circuit has not decided** whether the US retains a reversionary interest in right-of-way provided under the **General Railroad Right-of-way Act of 1875** ([43 U.S.C. Sec. 934](#) ). Act of March 3, 1855, ch. 200, 10 Stat. 683, and Act of July 26, 1866, ch. 262, 14 Stat. 253, R.S. 2477.
- *Mauler & SC Johnson* each dealt with **land grant lines**.

# 1871 Divide in Wisconsin?

## *Mauler Distinguishes Pollnow*

- ***Pollnow***: “[I]f the railroad was granted its right of way by the **Railroad Right of Way Act of 1875**, it was granted **only an easement, not a fee**. [Great Northern Railway Co. v. United States, 315 U.S. 262, 271, 62 S.Ct. 529, 86 L.Ed. 836 \(1942\).](#) *Pollnow v. State Dept. of Natural Resources*, 88 Wis.2d 350, 355, 276 N.W.2d 738, 741 (1979).
- ***Mauler***: “...unlike *Pollnow*, the original grants of land in this case were **grants to the Railroad in fee simple** that included an implied right of reverter to the United States under the rationale first espoused in *Townsend*...” *Mauler v. Bayfield County*, 309 F.3d 997, 1002 (7th Cir.2002).

# 1871 Divide in Wisconsin?

## *Mauler* Distinguishes *Pollnow*

- *Mauler* contains language that could support either outcome.
  - Distinguishes *Pollnow* in a way that suggests the US would not retain a reversionary interest in right-of-way obtained under the 1875 act.
  - *Mauler's* finding of a reversionary interest under the Abandoned Right-of-way Act and the National Trails System Act would seem to apply to *any* federally-provided railroad right-of-way, whether as part of a land grant or separately.
- The 1852 Right-of-way Act relied upon in *SC Johnson* contained an express reversion clause. The 1875 General Railroad Right-of-way Act did not.

# Congressional Research Service Report for Congress

“The courts have interpreted the right of way interests conveyed to railroads in various ways, and it has become increasingly difficult to reconcile the sequence of congressional enactments and judicial holdings into a coherent body of law.”

- **CRS Report, *Federal Railroad Rights of Way***  
Updated May 3, 2006

# Congressional Research Service Report for Congress

## Legal Nature of “Rights of Way”

The Constitution gives Congress special powers with regard to the disposition of “Property belonging to the United States.”

Art. IV, § 3, cl. 2

“When Congress grants a property interest, Congress is free to specify terms or elements different from those that otherwise would apply either by virtue of the common law or in other statutes. **This fact seems to have been lost in some of the discussions of congressional railroad grants.** A railroad grant may also be both a grant of a property interest and a contractual agreement between the federal government and the railroad.”

- *Federal Railroad Rights of Way*, Updated May 3, 2006. CRS is part of The Library of Congress

# 1875 Rights-of-Way in Wisconsin

- **At least 12 railroads in Wisconsin** received rights-of-way under the 1875 right-of-way Act. See, [1896 Annual Report of the Commissioner of the General Land Office](#), on pages 223-229.
- Determining which tracks were built on the 1875 right-of-way is difficult. Federal archives may hold the necessary records.

# Railroad Land Grant Routes in Wisconsin



# Railroad Land Grant Routes in Wisconsin

- **Three routes** & all served northern Wisconsin.
- **1856** land grant authorized a **northwest** route and a **northeast** route.
- **1864** land grant authorized a **central** route.
- Routes all **completed by 1884**.



# 1856 Northwest Route

- *SC Johnson* involved the Northwest Route branch to Bayfield.
- **1856 Northwest Route** became the subject of the biggest political scandal in the history of the state.
- Byron Kilbourn's *La Crosse & Milwaukee Railroad* obtained the Northwest Route by wholesale bribery of state officials.

# Land Grant Scandal

- Governor Coles Bashford, a Supreme Court Justice, 13 senators and 59 assemblymen implicated, plus
  - State bank comptroller, the lieutenant governor, the private secretary of the governor, three officers of the assembly, and 23 persons engaged in lobbying.
- Legislature rescinded the grant to the La Crosse & Milwaukee in 1858.

# *Dividing the Northwest Route*

- **Northwest route** was later awarded **piecemeal** to several railroads.
- **Madison to Portage:**
  - *Madison & Portage Railroad* (later the *Chicago, Milwaukee, St. Paul and Pacific Railroad* or “*Milwaukee Road*”)
- **Portage to Tomah:**
  - *Wisconsin Railroad Land Mortgage Co.* received the *La Crosse & Milwaukee* grant lands for this section to recompense farmers for mortgages lost in the *railroad-farm mortgage crisis*.

# Northwest Route Split into Three Separate Routes

- **Tomah to Hudson** conferred on *West Wisconsin Ry.* (former Tomah & Lake St. Croix)
  - later the *Chicago, St. Paul, Minneapolis & Omaha Railway Company* (“*Omaha Road*”) and the *Chicago & North Western Railway* in 1972.
- **Route North of Hudson split**
  - **Superior Jct. (Trego) to Superior** conferred on *Chicago & Northern Pacific Air Line Ry.*
  - **Hudson to Bayfield Branch** conferred on the *Omaha Road.*

# More Bribery

- In 1874, the legislature and transferred the **Trego to Superior branch** from the *Omaha Road* to the *Chicago & Northern Pacific Air Line Ry. (C&NP)*.
- **To regain control** of the entire grant *Omaha Road* bribed the **C&NP's own directors** to *repudiate construction contracts* in 1882, throwing 1600 men out of work and ruining the C&NP's reputation.
- The Omaha Road then rushed to Madison where the state legislature to **repealed the grant to C&NP and transferred it to the Omaha Road.**
- **See *Angle v. Chicago, St. Paul, Minneapolis & Omaha Railway Company***, 151 US 1, 14 S.Ct. 240 (1894) for more details.

<http://supreme.justia.com/us/151/1/case.html>

# Details of the Wisconsin Land Grant Routes

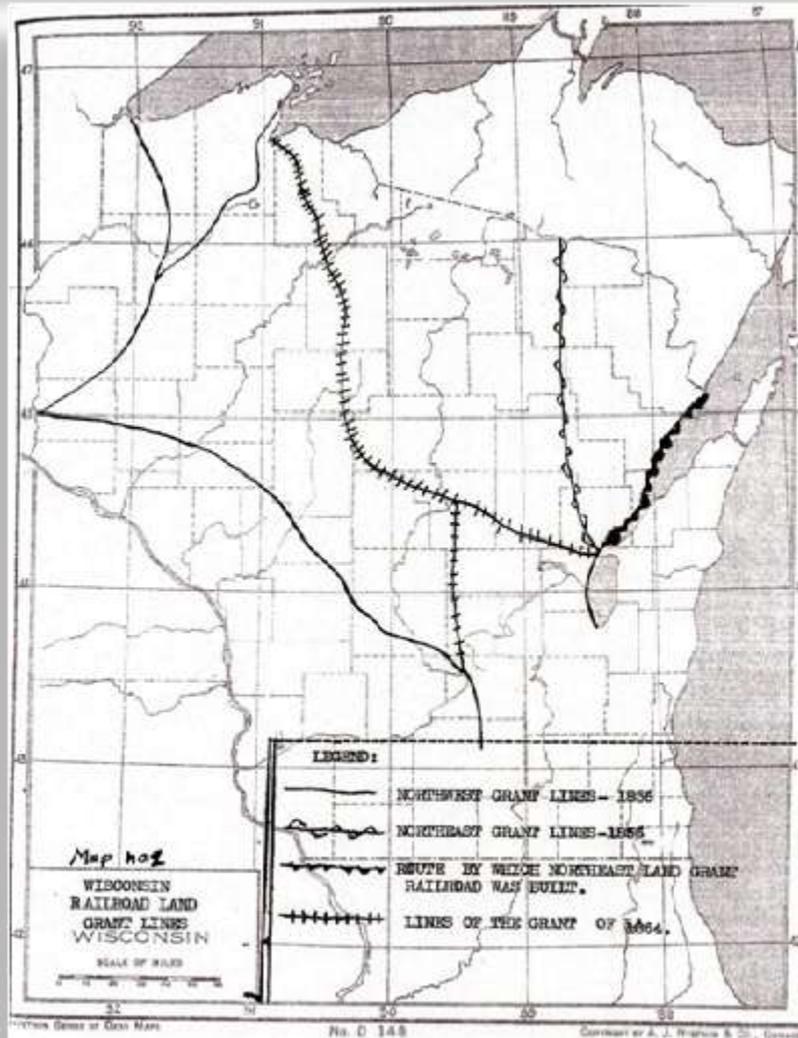
# Wisconsin Dates of Completion

- **Northwest** route completed:
  - 1872 to Hudson
  - 1883 to Bayfield
  - 1884 to Superior
- **Northeast** route completed
  - 1871 to Marinette
- **Central** route completed
  - 1877 to Ashland

# Tracks Removed & Rails-to-Trails

- Northwest grant **Superior Branch**:
  - Northline to Gordon, except Spooner to Trego
  - Trego to Gordon is Rails-to-Trails
- Northwest grant **Bayfield Branch**:
  - Northline to Bayfield, except Trego to Hayward
- Northwest grant – Tomah- Hudson
  - Elroy to Warren (Rails-to-Trails)
- Central grant:
  - Medford to Prentice (Rails-to-Trails)
  - Portage to Stevens Point

# Wisconsin Land Grant Lines



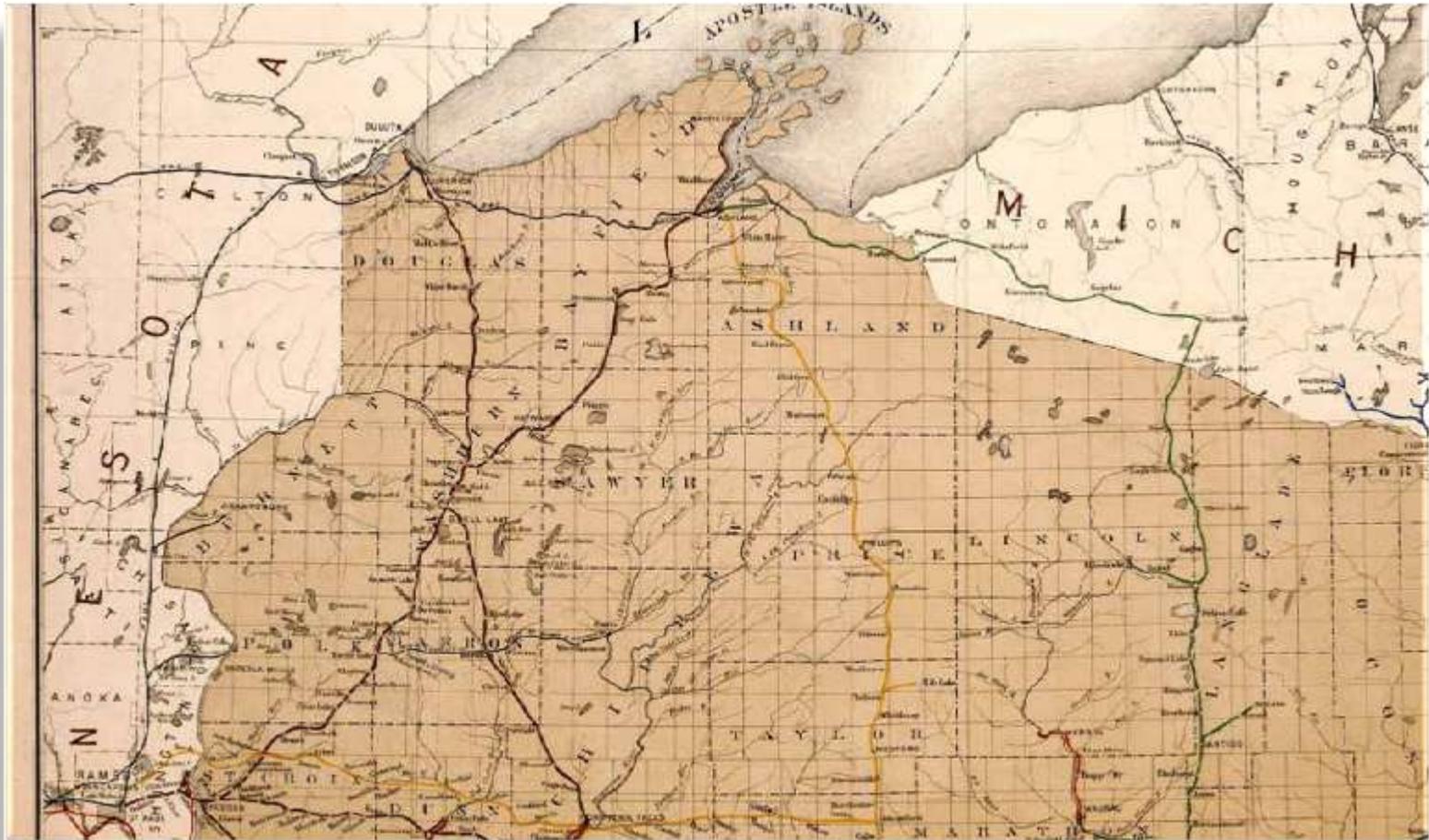
# Public Land Grants of 1856

- **1856 Northwest Route:** “from **Madison**, or **Columbus**, by the way of **Portage City** to the **St. Croix River** or **Lake** between townships twenty-five and thirty-one and from thence to the west end of **Lake Superior**; and to **Bayfield**”;
- 1872 – Completed to Hudson
- 1883 – Bayfield
- 1884 – Superior

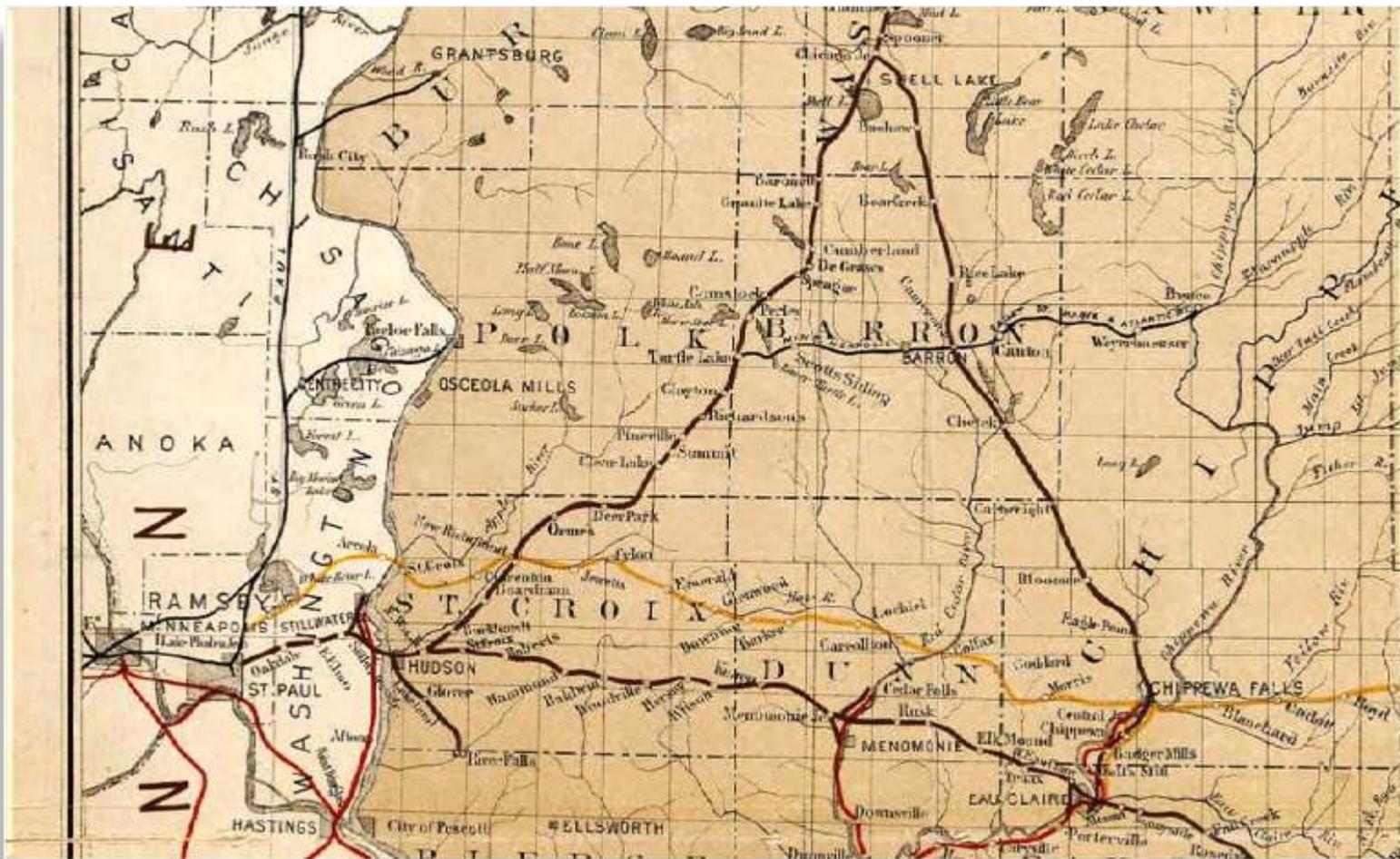
# Tracks Out – Northwest Route

- **Superior Branch:**
  - Northline to Gordon, except Spooner to Trego
  - Trego to Gordon is Rails-to-Trails
- **Bayfield Branch:**
  - Northline to Bayfield, except Trego to Hayward
- **Tomah- Hudson**
  - Elroy to Warren (Rails-to-Trails)
  - Camp Douglas – Wyeville (recently out of service)

# 1884 Map - Northwest Route Hudson to Superior & Bayfield

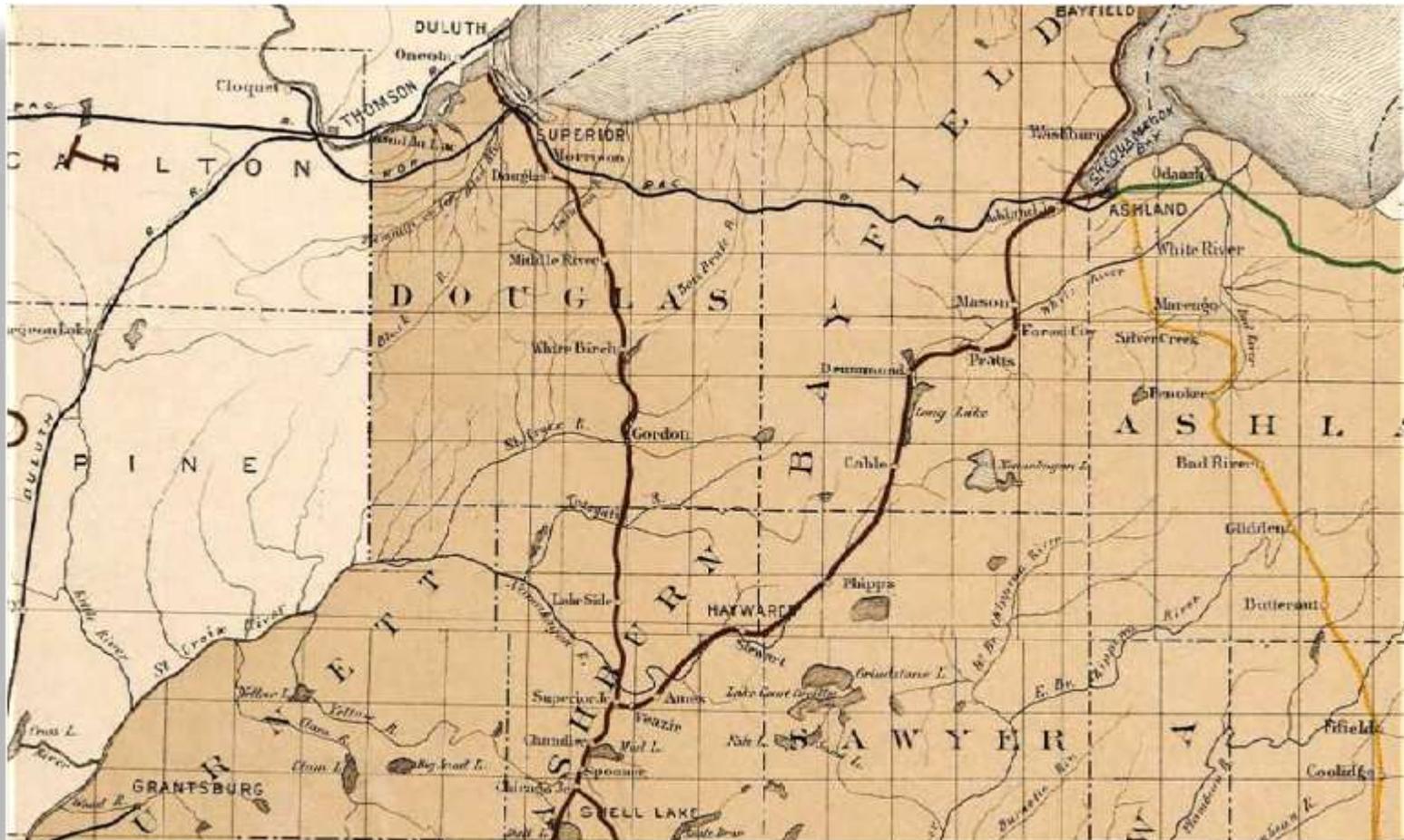


# 1884 Map - Northwest Route Hudson to Shell Lake

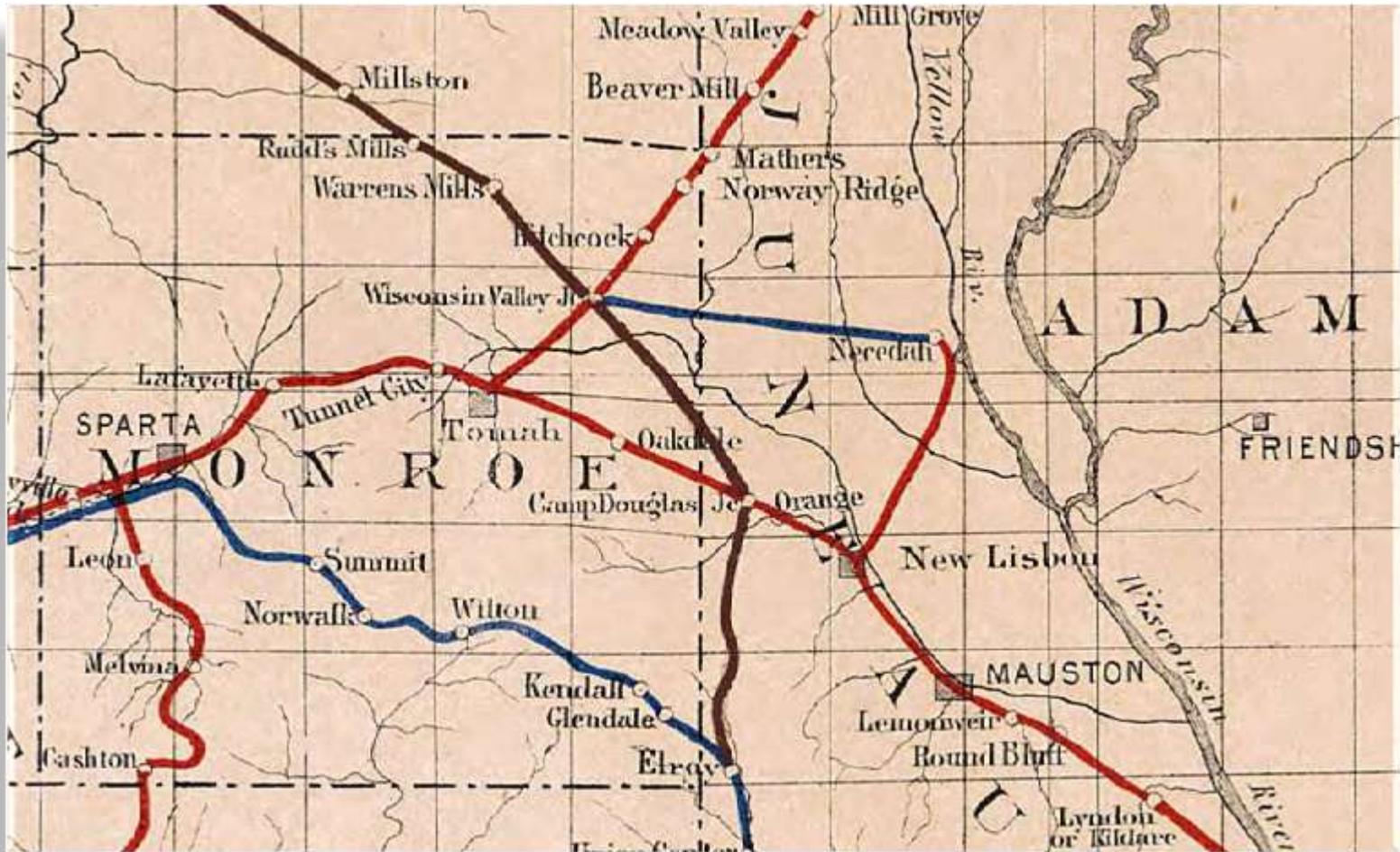


# 1884 Map - Northwest Route Shell Lake to Superior & Bayfield

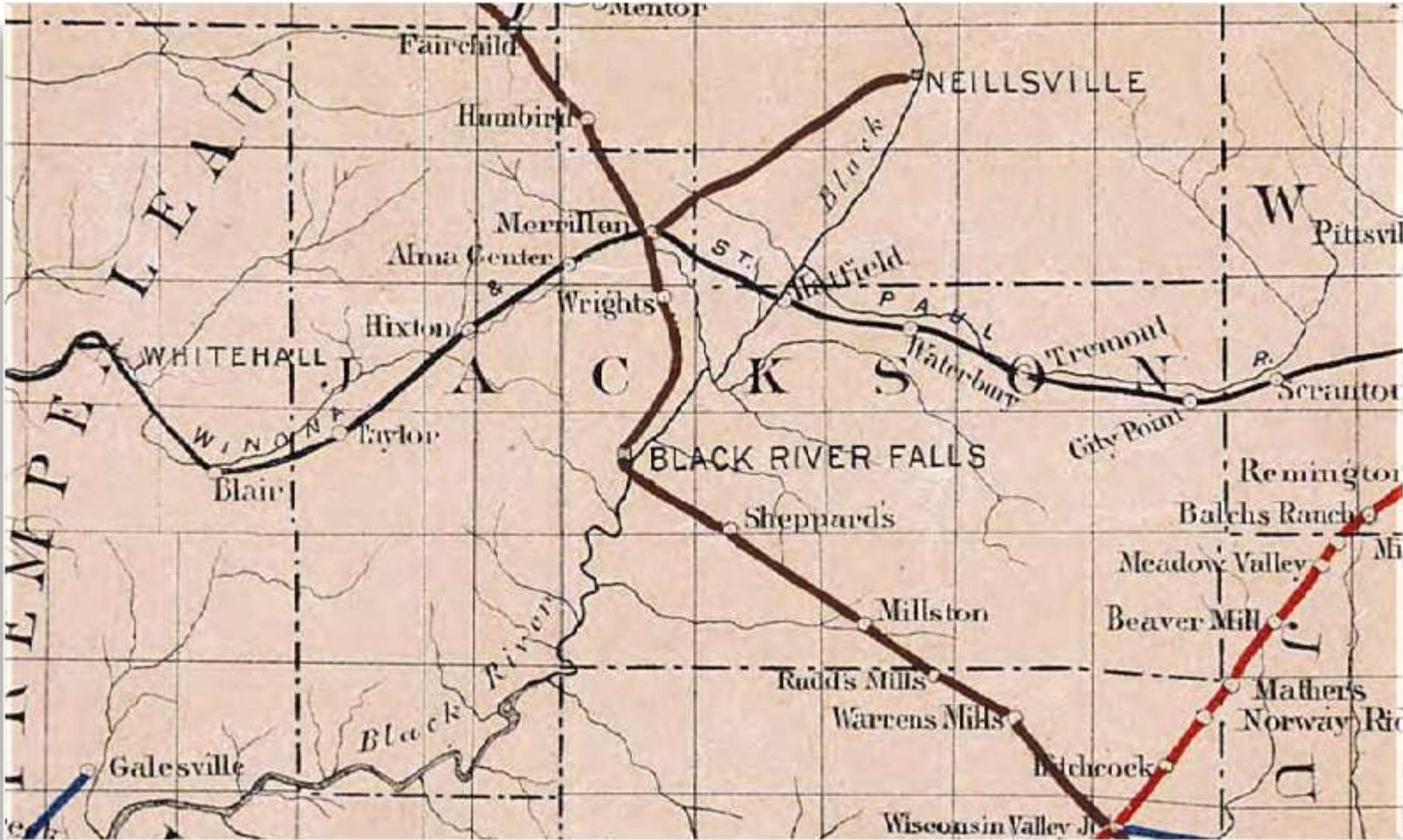
(Note: Trego is located at Superior Jct.)



# 1884 Map – Northwest Route Tomah – Camp Douglas – Elroy



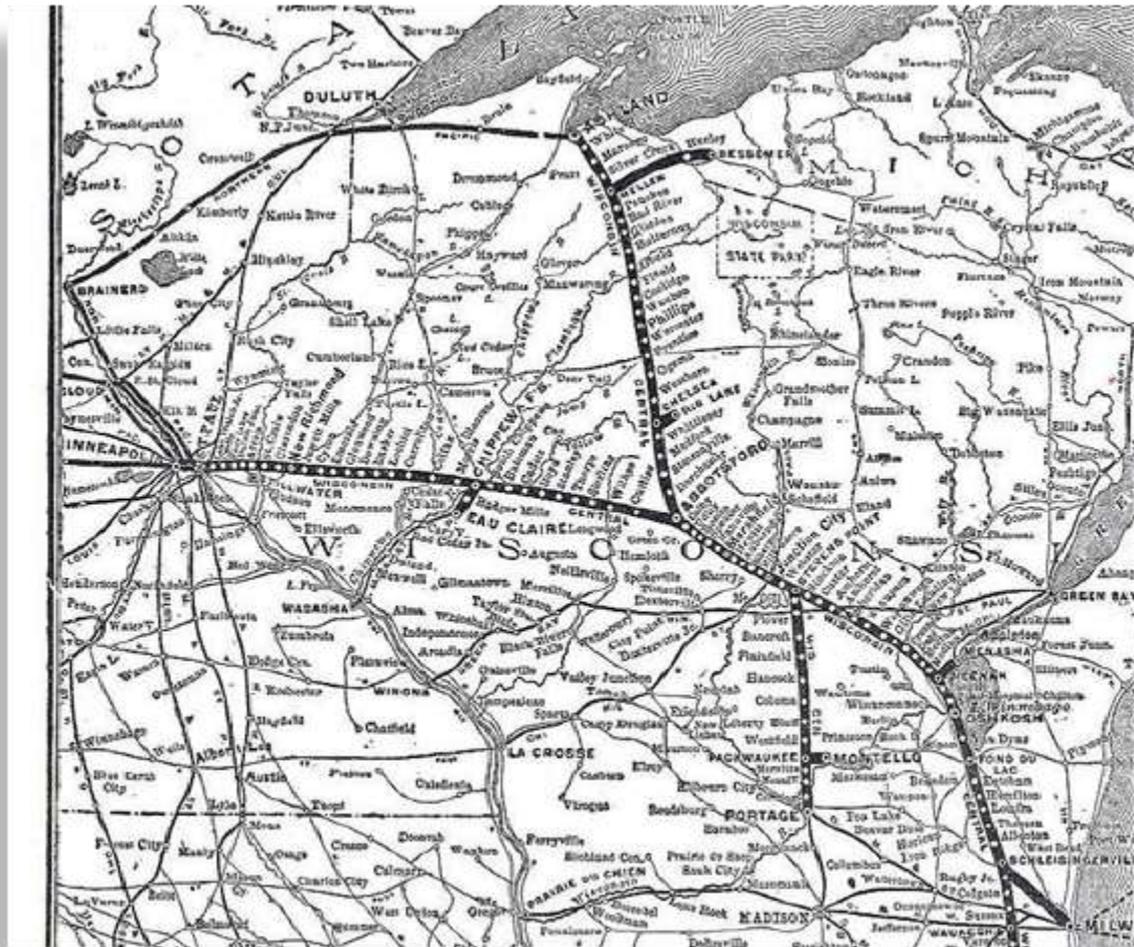
# 1884 Map – Northwest Route Black River Falls



# Public Land Grant of 1864

- Authorized a **third central route**.
- “From **Portage City**, Berlin, Doty's Island or **Fon [sic] du Lac**, as said state may determine, in a northwestern direction **to Bayfield**, and thence to Superior, on Lake Superior.”
- 1877 – Completed to Ashland.
- 1890 – Congress declared forfeit Ashland to Superior portion.
- Also amended and extended 1856 northwest grant.

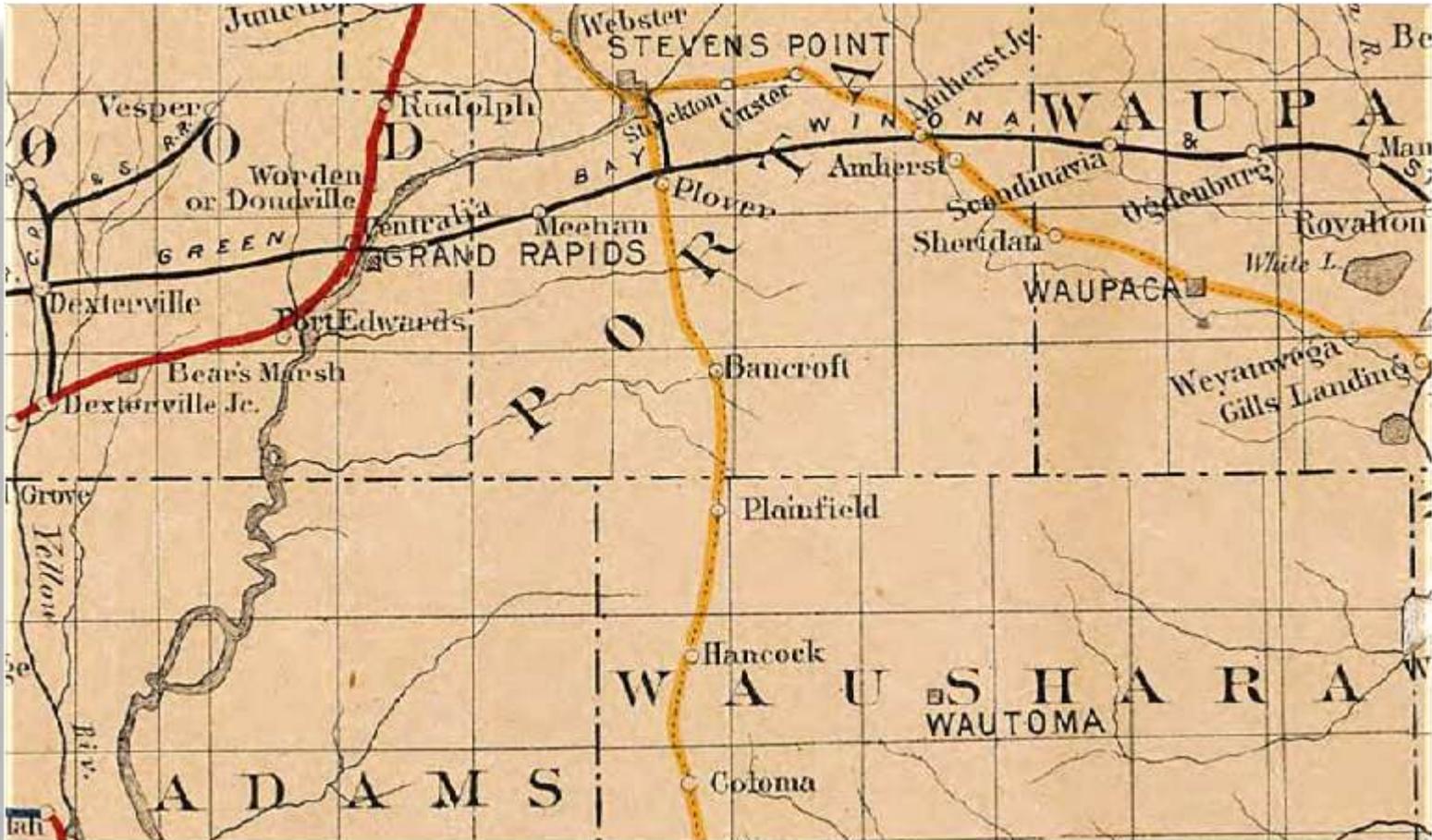
# 1891 Wisconsin Central Railway - Central Route -



## Tracks Out – Central Land Grant Route

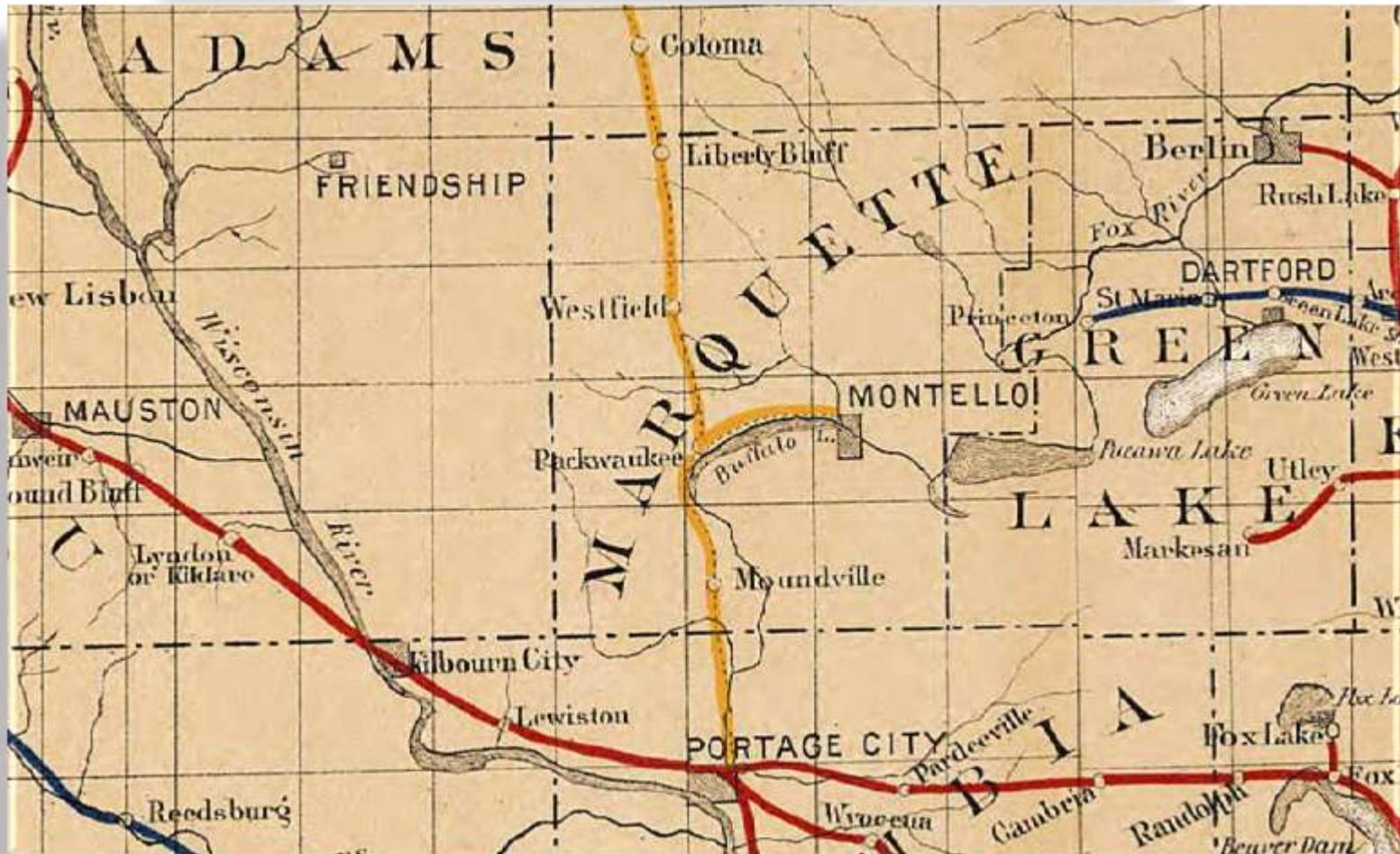
- **Parts of Central route no longer in service:**
  - Medford to Prentice (Rails-to-Trails)
  - Portage to Stevens Point – Still in service in 1929 and gone by 1964.

# 1884 Map - Central Route Stevens Pt. to Coloma (Out of Service)

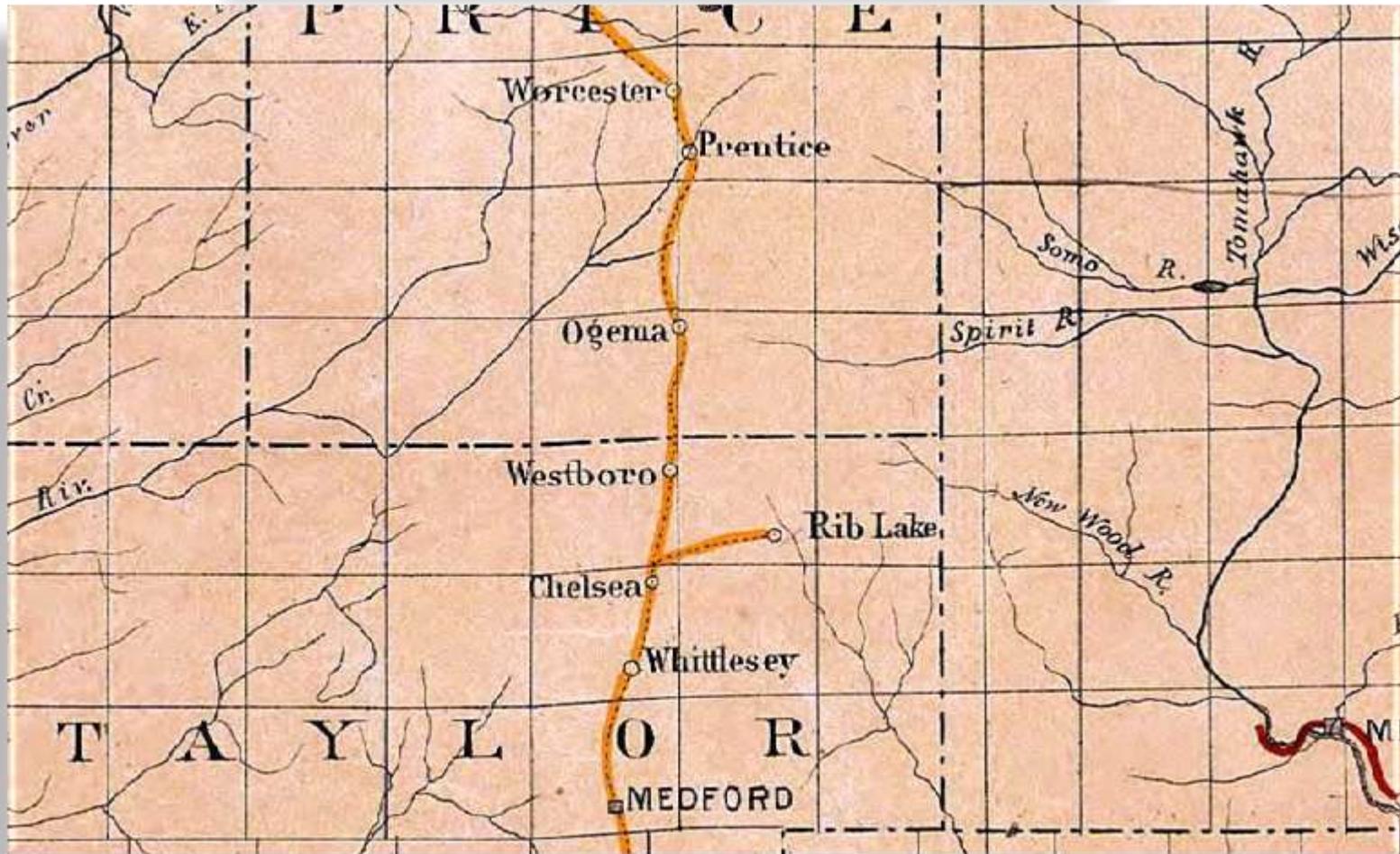


# 1884 Map - Central Route Coloma to Portage

(Out of service)



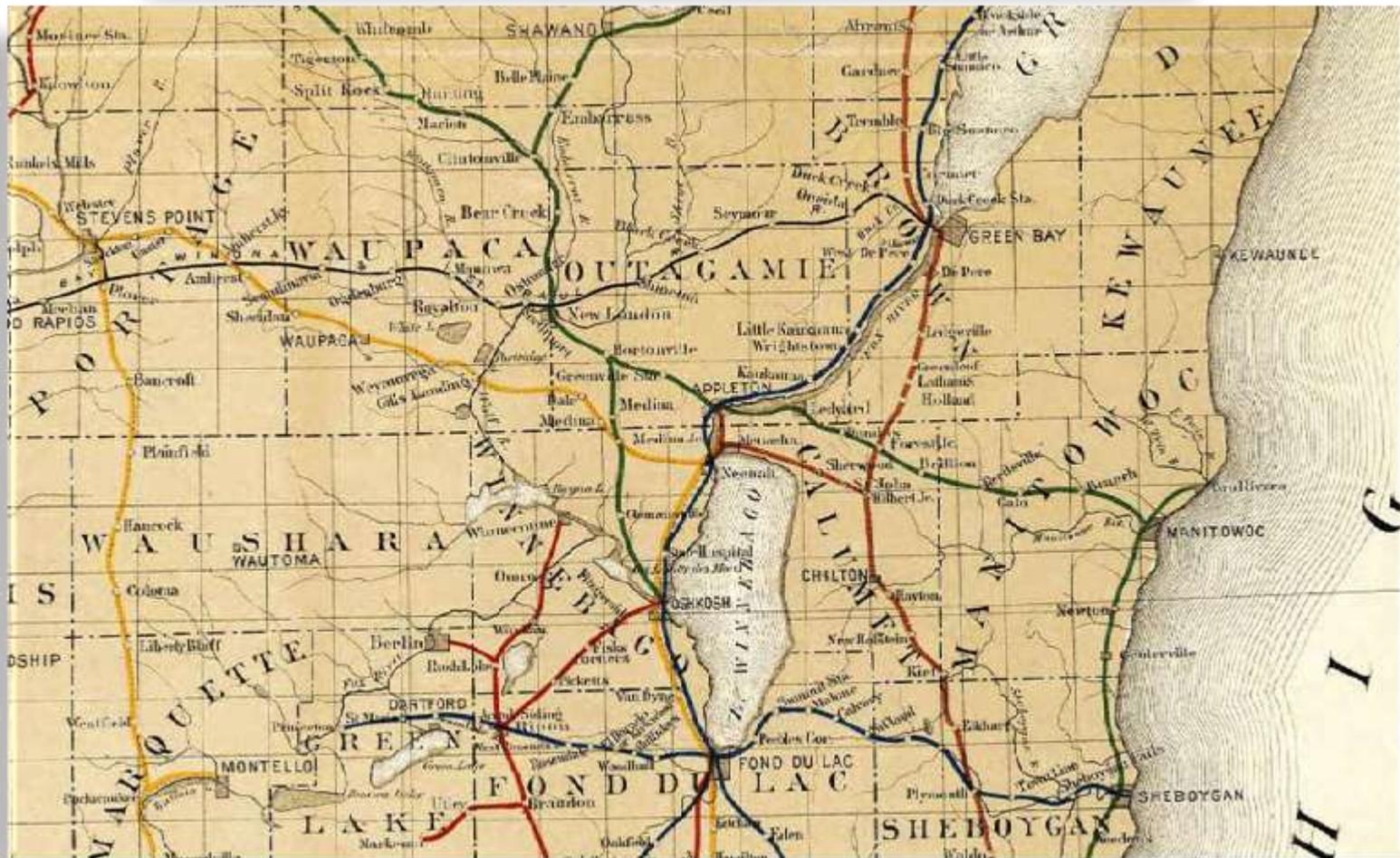
# 1884 Map - Central Route Medford to Prentice (Rails-to-Trails)



# Public Land Grants of 1856

- Lands granted to aid the construction of railroads on **two routes** in Wisconsin.
- **Northeast Route:** “from **Fond du Lac** on Lake Winnebago, **northerly to the State line...**” at Marinette.
- Completed by 1871 and is still in service in its entirety.

# 1884 Map – Northeast Route Fond du Lac to Green Bay (dark blue line)



# 1884 Map – Northeast Route Green Bay to Marinette



# Wisconsin 1884 Railroad Map Data

1884 Railroad Map of Wisconsin	
Short Title	Railroad map of Wisconsin, 1884
Full Title	Railroad map of Wisconsin / prepared for the railroad commissioner by Allan D. Conover C.E.
Date Original	1884
Description	Railroads wielded immense economic and political power in the 19th century. The 1874 creation of the Wisconsin Railroad Commissioners' Department marked the beginning of state regulation and supervision of the railroads. This official commission-produced map depicts the spread of rail in Wisconsin and shows how the railroads were penetrating into the growing north.
Buy a Copy	<a href="http://www.wisconsinhistory.org/whi/fullRecord.asp?id=68270">http://www.wisconsinhistory.org/whi/fullRecord.asp?id=68270</a>
State/Province	WI
Entire State	Wisconsin
Dimensions	86 x 67 cm.
Scale on Map	Scale [ca. 1:760,320]. 1 in. = 12 miles (W 93b 000--W 86b 045J9/N 47b 030J9--N 41b 045J9).
Physical Description	1 map : col. ;
Place of publication	[Milwaukee, Wis.] :
Source Publisher	Milwaukee Litho. & Engr. Co.,
Electronic Publisher	Wisconsin Historical Society
Electronic Publication Date	2010
Type	Railroad map
Genre	Maps
Owner	Wisconsin Historical Society
Owner Collection	Maps
Owner Object ID	GX902 R14 1921884
WHI Image ID	68270
OCLC number	(OCoLC)ocm46596303
File Format	jpeg2000
Permissions Information	Any map may be printed or downloaded at no cost for nonprofit educational use by teachers and students, or for private use by individual researchers. Nothing may be reproduced in any format for commercial purposes without prior permission from the Wisconsin Historical Society.
Date Digital	2009

# State Law History of the Federal Land Grants

# *Early Railroads in Wisconsin*

- Prior to 1872 railroads in Wisconsin were created by **legislative charters** with specific powers and routes.
- First railroad chartered in 1836 by territorial legislature was the LaFontaine Railroad with James Duane Doty was a director.
- First tracks and laid and operated in 1850 from Milwaukee to Elm Grove by the Milwaukee & Mississippi Railroad.

# *About Old Wisconsin Statutes*

- Prior to 1911, the statutes were published at irregular intervals. State statutes were compiled and published in 1849, 1858, 1871, 1878, 1889, and 1898. The statutes have been published annually since 1911.
- Prior to a constitutional amendment in 1871, the legislature adopted *General Acts* and also *Private and Local Laws*. The private laws were often much longer than the general laws.
- Railroads were granted charters as private laws. A law providing for the incorporation of railroads was adopted in 1872.
- <http://legis.wisconsin.gov/lrb/pubs/wb/06wb10.pdf>

# *More about Old Wisconsin Statutes*

- These old statutes are available through Google Books. Be aware that the title displayed in search results is not always accurate. Searching through an academic library like MadCat is more reliable.

- **Digest of laws 1858-1868 Wisconsin**

<http://books.google.com/books?id=9ELTAAAAMAAJ&dq=private%20and%20local%20laws%20of%20wisconsin%201864&pg=PA65#v=onepage&q&f=false>

- **Synoptical Index of Wisconsin laws up through 1873**

<http://books.google.com/books?id=7HgZAAAAYAAJ&ots=poTgiCzfuG&dq=synoptical%20index%20wisconsin%201873&pg=PA83#v=onepage&q=railroad&f=false>

# Northwest Grant

Madison to Portage Segment				
Year	State Law	Page #	Railroad	Comments
1856	Ch. 118	137	None	State accepts 1856 grant from US
1856	Ch. 122 General	217	La Crosse & Milwaukee (L&M)	For entire NW route; Later revoked
1861	Ch. 233 P&L	333	Sugar River Valley Railroad	Partially revokes grant to L&M & confers partial NW grant – Madison to Portage City
1866	Ch. 542, P&L (Part Two)	1345	Sugar River Valley Railroad	Extends time to 1869 and don't have to build Columbus-Portage
1870	Ch. 117 P&L	284	Madison & Portage Railroad	Confers all rights of Sugar River Valley Railroad to Madison & Portage

# Northwest Grant

Portage - Tomah – Hudson – Superior & Bayfield				
Year	State Law	Page #	Railroad	Comments
1856	Ch. 118	137	None	State accepts 1856 grant from US
1856	Ch. 122 General (Gen'l) 1856	217	La Crosse & Milwaukee (L&M)	For entire NW route; Later revoked
1857	Ch. 230 Private & Local (P&L) 1857	529	St. Croix & Lake Superior	Partially revokes grant to L&M & confers partial NW grant – Lake St. Croix to Bayfield & Superior
1863	Ch. 243 SUPP. TO P&L	47 (Online version has pages missing)	Tomah & Lake St. Croix	Partially revokes L&M grant and confers partial NW grant – Tomah to Black River Falls to Lake St. Croix
1865	Ch. 232 Gen'l.	265	Tomah & Lake St. Croix	Confirms Tomah to Black River Falls to Lake St. Croix grant after Congress Act of 1864 amended the 1856 grant.
1865	Ch. 174 Gen'l.	153	St. Croix & Lake Superior Railroad	Confirmed Partial NW grant – Lake St. Croix to Bayfield & Superior under grants of 1856
1865	Ch. 175 Gen'l.	154	St. Croix & Lake Superior Railroad	Conferred Partial NW grant – Lake St. Croix to Bayfield & Superior under grants of 1856 & 1864.

# Northwest Grant

Portage - Tomah – Hudson – Superior & Bayfield				
1871	Ch. 113 P&L	168	Tomah & Lake St. Croix (West Wisconsin)	Repeals grant of Tomah-Lake St. Croix portion of route.
1872	Ch. 46 P&L	138	Tomah & Lake St. Croix (West Wisconsin)	Reinstates land grant that was repealed in ch. 113, P&L 1871.
1872	Ch. 83 P&L	176	St. Croix & Lake Superior Railroad	Repeals charter in ch. 74 of 1854 for this railroad.
1872	Ch. 89 P&L	181	St. Croix & Lake Superior Railroad	Revokes land grant in ch. 175 of 1865 above
1872	Ch. 98 P&L	192	Wisconsin Railroad Land Mortgage Co.	Named successor to lands granted to L&M Railroad.
1873	Ch. 31 Gen'l.	33	West Wisconsin Ry. (former Tomah & Lake St. Croix)	Relay the tracks Warrens Mill to Tomah or lose grant from ch. 243 of P&L laws of 1863; references earlier construction from Warren's Mill to Camp Douglas to Elroy.
1873	Ch. 176 Gen'l.	406	Milwaukee & St. Paul Railroad	Conferred NW grant – Lake St. Croix to Bayfield & Superior under grants of 1856 & 1864. Forfeited by failure to meet conditions.

# Northwest Grant

Portage - Tomah – Hudson – Superior & Bayfield				
1874	Ch. 126 Gen'l.	186	No. Wisc. Ry (later Chicago, St. Paul, Minneapolis & Omaha Railway Company or "Omaha Road")	Conferred NW grant – Lake St. Croix to Bayfield under grants of 1856 & 1864.
1874	Ch. 126 Gen'l.	186	No. Wisconsin Ry. (Omaha Road) & Chicago & Northern Pacific Air Line Ry.	Conferred NW grant – Lake St. Croix to Superior under grants of 1856 & 1864.
1877	Ch. 218, Session laws	474	No. Wisconsin Ry. (Omaha Road)	Extend time to meet 20-mile construction requirement by 1 year.
1878	Ch. 213, Session laws	425	No. Wisconsin Ry. (Omaha Road)	Extend time to meet 20-mile construction requirement by 1 year.
1878	Ch. 229, Session laws	442	Chicago & Northern Pacific Air Line Ry.	Extend time to construct by 3 years.
1882	Ch. 10, Session laws	11	Chicago & Northern Pacific Air Line Ry. (later the Chicago, Portage, & Superior)	Revokes 1874 grant and confers grant to Omaha Road
1883	Ch. 29, Session laws	19	Omaha Road	Confirms 1882 grant to Omaha Road and revocation of Air Line grant

# Central Route Grant

## Central Route under 1864 Grant

Year	State Law	Page #	Railroad	Comments
1866	Ch. 314 P&L	730	Winnebago & Lake Superior	Charters railroad & confers 1864 grant. Route: Doty's Island-Waupaca-Stevens Pt.-Bayfield-Superior.
1866	Ch. 362 P&L	869	Portage & Superior	Charters railroad & confers 1864 grant. Calls for route through Ripon if Congress assents to change in terms of grant. Portage-Ripon-Berlin-Stevens Pt.-Bayfield-Superior. Congress agrees in Res. 53, 14 Stat. 360 (June 21, 1866)].
1869	Ch. 257 P&L	578	Portage, Winnebago & Superior	Consolidates Winnebago & Lake Superior and Portage & Superior.
1871	Ch. 27 P&L	42	Wisconsin Central	Changes name from Portage, Winnebago & Superior to WC.
1875	Ch. 6, General	12	Wisconsin Central	Changes route to drop Ripon and Berlin. Congress assents [Ch. 176, 18 Stat. 511 (Mar. 3, 1875)].

Congress extends time to end of 1876 for Wisconsin Central to complete third route. Ch. 82, 18 Stat. 28 (Mar. 3, 1875). All but 10 miles between Butternut Creek & Chippewa Crossing were completed by that date.

# Northeast Grant

Northeast Route				
Year	State Law	Page #	Railroad	Comments
1856	Ch. 137 General	239	Wisconsin & Superior	Charters Wisconsin & Superior & confers northeast grant.
1857	Ch. 17 P&L	25	Chicago, St. Paul & Fond du Lac Railroad	Consolidates with Wisconsin & Superior & transfers grant
1862	Ch. 34 P&L	36	Chicago & Northwestern (CNW)	Chicago, St. Paul & Fond du Lac Railroad & Consolidates with Wisconsin & Superior & implicitly transfers grant.

A 1862 Joint Resolution authorizes shift in the 1856 Northeast route between ranges 16-23 east of the 4th principal meridian. [Res. 80, 12 Stat. 618 (April 25, 1862)].

# *Cases & Statutes*

# Cases

1. [\*Samuel C. Johnson 1988 Trust v. Bayfield County, Wis.\*, 634 F.Supp.2d 956 \(W.D. Wis., Jun 26, 2009\) \(NO. 06-CV-348-BBC\).](#)
2. [\*Samuel C. Johnson 1988 Trust v. Bayfield County\*, 520 F.3d 822, 833 \(7th Cir.2008\).](#)
3. [\*Mauler v. Bayfield County\*, 204 F.Supp.2d 1168 \(W.D.Wis.2001\)](#), affirmed by the Court of Appeals for the Seventh Circuit. [\*Mauler v. Bayfield County\*, 309 F.3d 997 \(7th Cir.2002\)](#). Right-of-way was subject to reversion despite claim that the grant to the railroad did not state explicitly that it a “right-of-way.” The land grant was made for the limited purpose of constructing and operating a railroad, and recognized the long-term interest of the United States in the transportation corridor.
4. [\*Northern Pacific Ry. Co. v. Townsend\*, 190 U.S. 267, 271, 23 S.Ct. 671, 47 L.Ed. 1044 \(1903\)](#). Held that US gave railroads a limited fee for right-of-way. Right-of-way is subject to reversion to US.
5. [\*Great Northern Railway Co. v. United States\*, 315 U.S. 262, 273, 62 S.Ct. 529, 86 L.Ed. 836 \(1942\)](#). Held that after 1871, the US only gave railroads an easement for the right-of-way. No reversion to US.

# Cases

6. [Hash v. U.S., C.A.Fed. \(Idaho\) 2005, 403 F.3d 1308](#). Controversial decision by the Federal Circuit held the United States retained no interest in rights-of-way granted after 1871. Successors to original land patentees who took fee title “subject to” pre-existing railroad right-of-way suffered taking when, after their fee title was disencumbered by railroad abandonment of right-of-way, government converted land under former easements to public trail. Concern that the ruling will greatly increase cost for Rails-to-Trails in states that only received post-1871 right-of-way for railroad and no land grant subsidy.
7. [Phillips Co. v. Denver and Rio Grande Western R. Co., C.A.10 \(Colo.\) 1996, 97 F.3d 1375](#). Authorization from Interstate Commerce Commission (ICC) to abandon railroad line is prerequisite to court's determination that determination that railroad has abandoned right-of-way under 43 USC s. 912.
8. [U.S. v. Marvin M. Brandt Revocable Trust](#), Slip Copy, 2008 WL 7185272 (D.Wyo.,2008) describes split of the federal circuits on whether the US retains a reversionary interest in post-1871 railroad rights-of-way.

# Cases

9. [\*Beres v. United States\*, 64 Fed.Cl. 403 \(2005\)](#), concludes that the US retained no reversionary interest in rights-of-way granted under 1875 Right-of-way Act.
10. [\*Vieux v. East Bay Regional Park District\*, 906 F.2d 1330, 1335 \(9th Cir.1990\)](#) US retains a reversionary interest in ROW grants under the 1875 act.
11. [\*Marshall v. Chi. & Nw. Transp. Co.\*, 31 F.3d 1028 \(10th Cir.1994\)](#), US retains a reversionary interest in ROW grants under the 1875 act.
12. *Pollnow v. State Dept. of Natural Resources*, 88 Wis.2d 350, 355, 276 N.W.2d 738, 741 (1979).
13. [\*State v. Holmgren\*, 111 Wis.2d 700, 332 N.W.2d 311 \(Ct.App.1983\)](#) (unpublished disposition). State court ruling of abandonment.

# *Federal Statutes – 1852 Right-of-way Act & 1856 Grant & Amendments*

1. **Right of Way Act of 1852**, Ch. 80, 10 Stat. 28 (Aug. 4, 1852), amended by Ch. 179, 12 Stat. 577 (July 15, 1862). Provides 100' right-of-way; 200' where terrain requires it. In 1855, Congress extends Right-of-way Act of 1852 to “all of the public lands of the United States, in the Territories of the United States.” Ch. 200, 10 Stat. 686 (Mar. 3, 1855).
2. **1856 Land grant** – *An Act granting Public Lands to the State of Wisconsin to aid in the Construction of Railroads in said State, Statutes at Large, XI, 20* [Ch. 43, 11 Stat. 20 (June 3, 1856)]. Grants the Northeast and Northwest routes.
3. **1862 Joint Resolution** authorizes shift in the 1856 Northeast route between ranges 16-23 east of the 4th principal meridian. [Res. 80, 12 Stat. 618 (April 25, 1862)].
4. **1864 Land grant** – *An Act granting Lands to aid in the Construction of Certain Railroads in the State of Wisconsin, Statutes at Large, XIII, 66*. [Ch. 80, 13 Stat. 66 (May 5, 1864)]. Grants a 3rd route & breaks Northwest route in to: 1. St. Croix Lake or river-Bayfield & Superior; 2. Tomah-St. Croix river.
5. **1865** – Extends time for Northeast route completion to June 3, 1871. [Ch. 53, 13 Stat. 520 (Mar. 3, 1865)].

# Federal Statutes

## 1864 Grant & Amendments

6. **1864 Land Grant Act** – *An Act granting Lands to aid in the Construction of Certain Railroads in the State of Wisconsin, Statutes at Large, XIII, 66.* [Ch. 80, 13 Stat. 66 (May 5, 1864)], amended by Ch. 82, 18 Stat. 28 (Mar. 3, 1875). Extends to end of 1876 time for Wisconsin Central to complete third route.
7. **1865** – Extends time for Northeast route completion to June 3, 1871. [Ch. 53, 13 Stat. 520 (Mar. 3, 1865)].
8. **1866** – Allows adjustment in WC route to include Ripon & Berlin as requested by state legislature. Res. 53, 14 Stat. 360 (June 21, 1866)].
9. **1875** – Authorizes WC to straighten route by dropping Ripon & Berlin as requested by state. [Ch. 176, 18 Stat. 511 (Mar. 3, 1875)].
10. **1875** – *General Railroad Right of Way Act of 1875*, 43 U.S.C. § 934, provided right-of-way (easements) across public lands. Act of March 3, 1855, ch. 200, 10 Stat. 683, and Act of July 26, 1866, ch. 262, 14 Stat. 253, R.S. 2477.
11. **1922** – *Abandoned Railroad Right of Way Act*, 43 U.S.C. § 912
12. **1982** – *National Trails System Act (Rails-to-Trails)*, 16 U.S.C. § 1248

# Railroad conveyances

## Section 190.11 Wis. Stats.

**190.11 Railroad conveyances, how executed and filed.** (1) Every conveyance or lease, deed of trust, mortgage or satisfaction thereof made by any railroad corporation shall be executed and acknowledged in the manner in which conveyances of real estate by corporations are required to be to entitle the same to be recorded, and shall be filed with the department of financial institutions, which shall endorse thereon “filed” and the date of filing.

(2) A record of filing under sub. (1) shall from the time of reception of the instrument have the same effect as to any property in this state described therein as the record of any similar instrument in the office of a register of deeds has as to property in his or her county, and shall be notice of the rights and interest of the grantee, lessee or mortgagee by such instrument to the same extent as if it were recorded in all of the counties in which any property therein described may be situated.

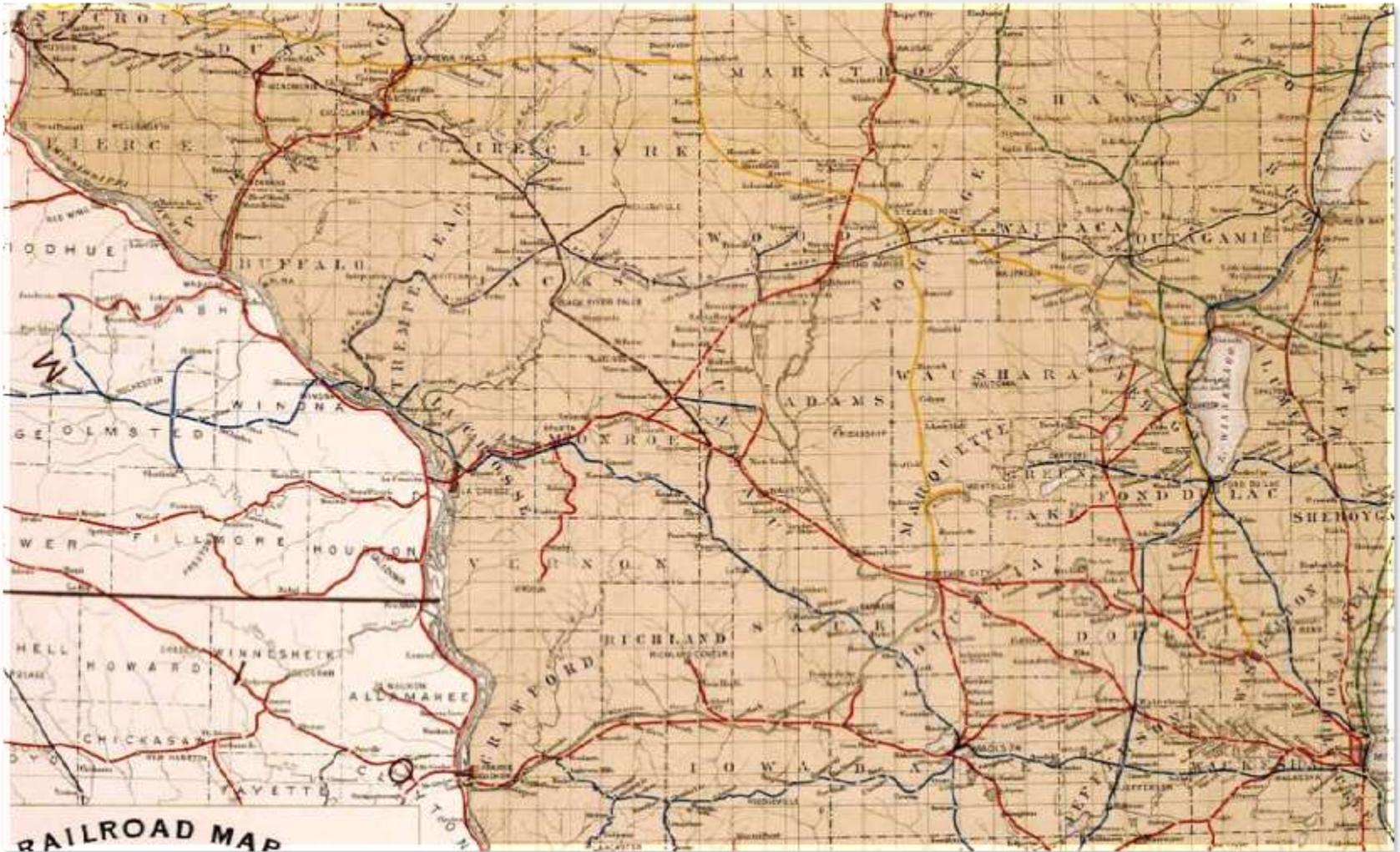
(3) The department of financial institutions shall collect a fee of \$1 per page filed under sub. (1).

(4) The department of financial institutions shall collect a fee at the rate under s. 77.22 and, on or before the 15th day of the month after the fee is collected, shall remit that fee to the department of administration for deposit in the general fund. Sections 77.21, 77.22 and 77.25 to 77.27 apply to the fee under this subsection.

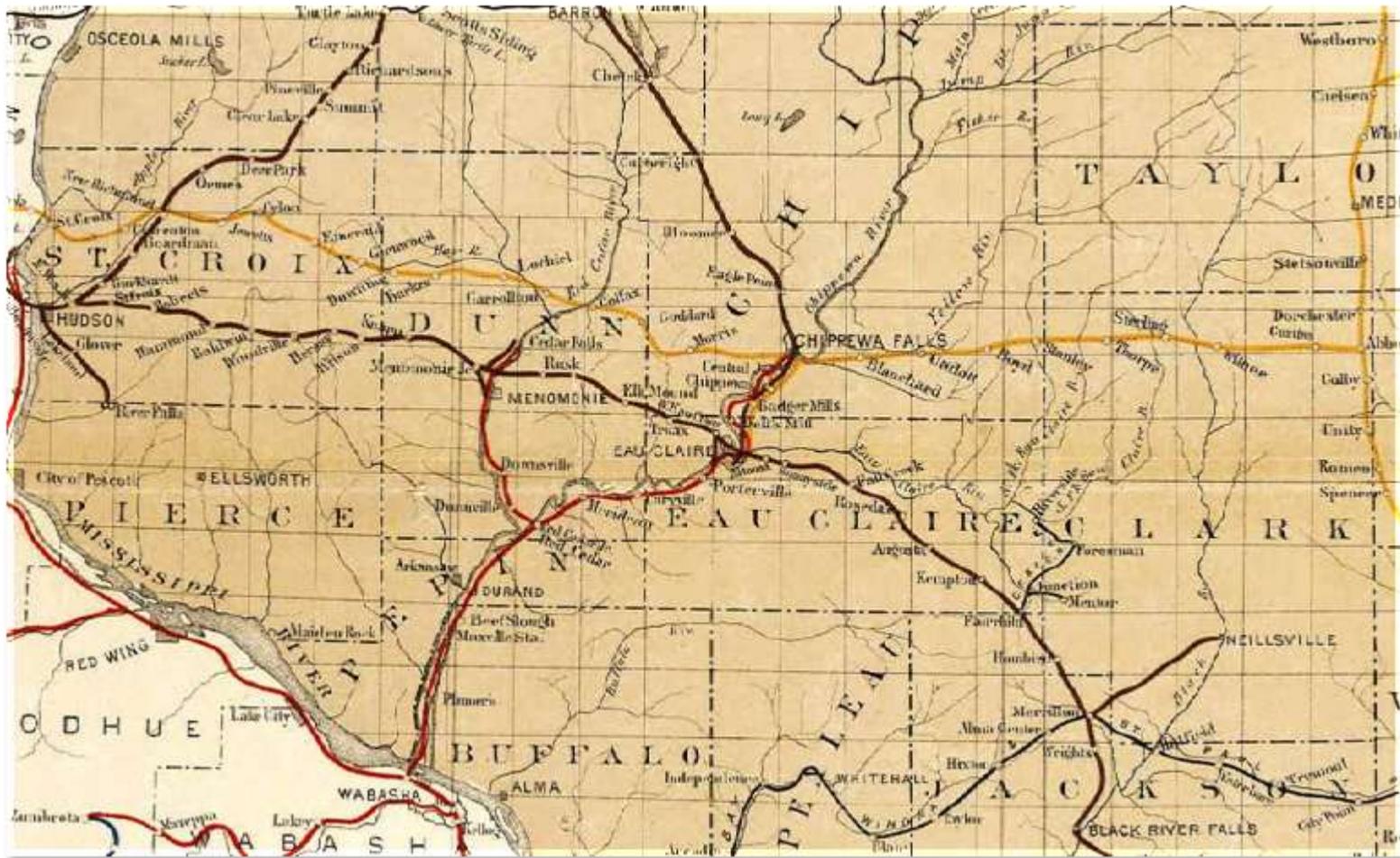
**History:** 1981 c. 20; 1985 a. 29; 1991 a. 39; 1993 a. 412; 1995 a. 27.

# More Maps

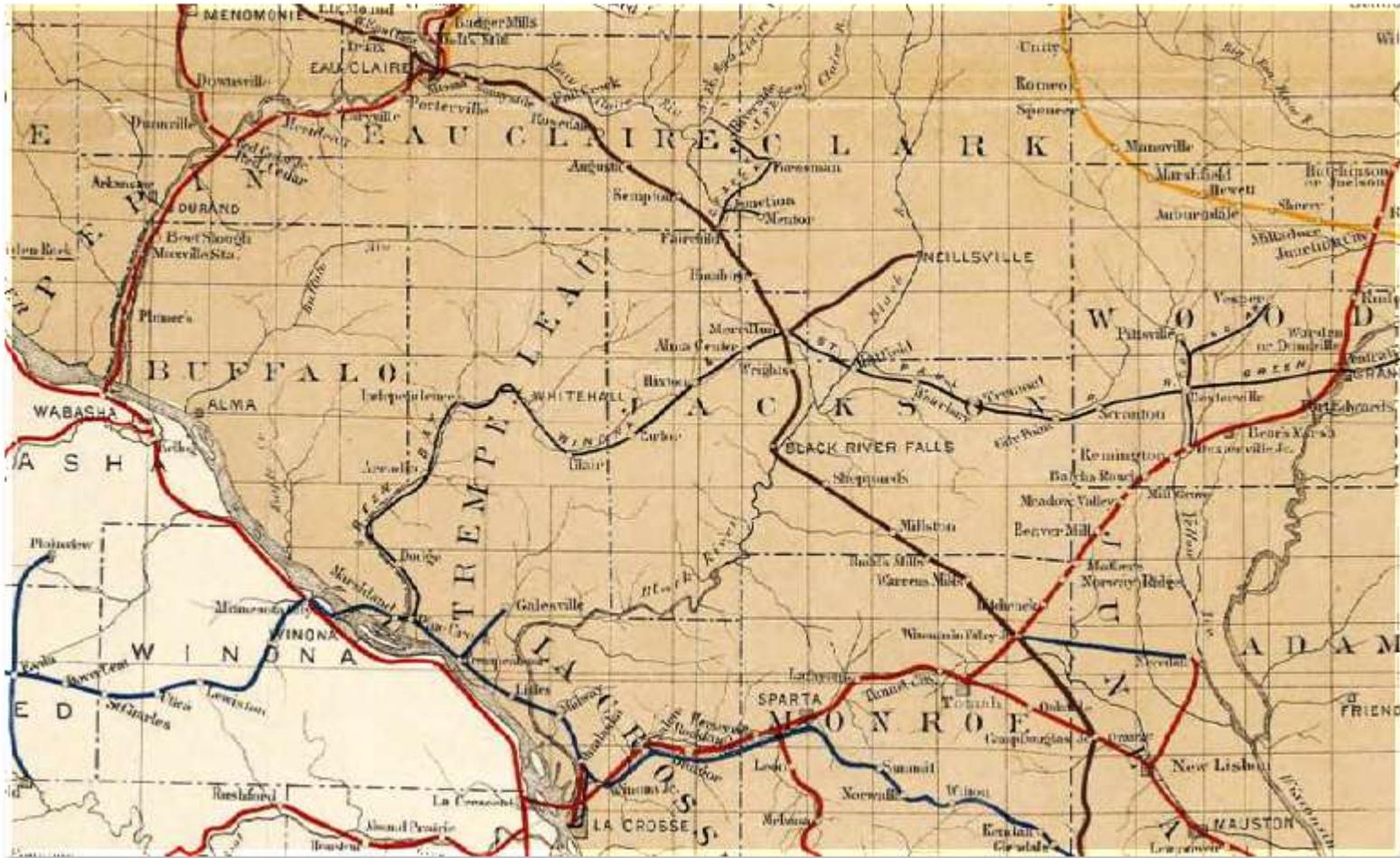
# 1884 Map - Northwest Route Madison to Hudson



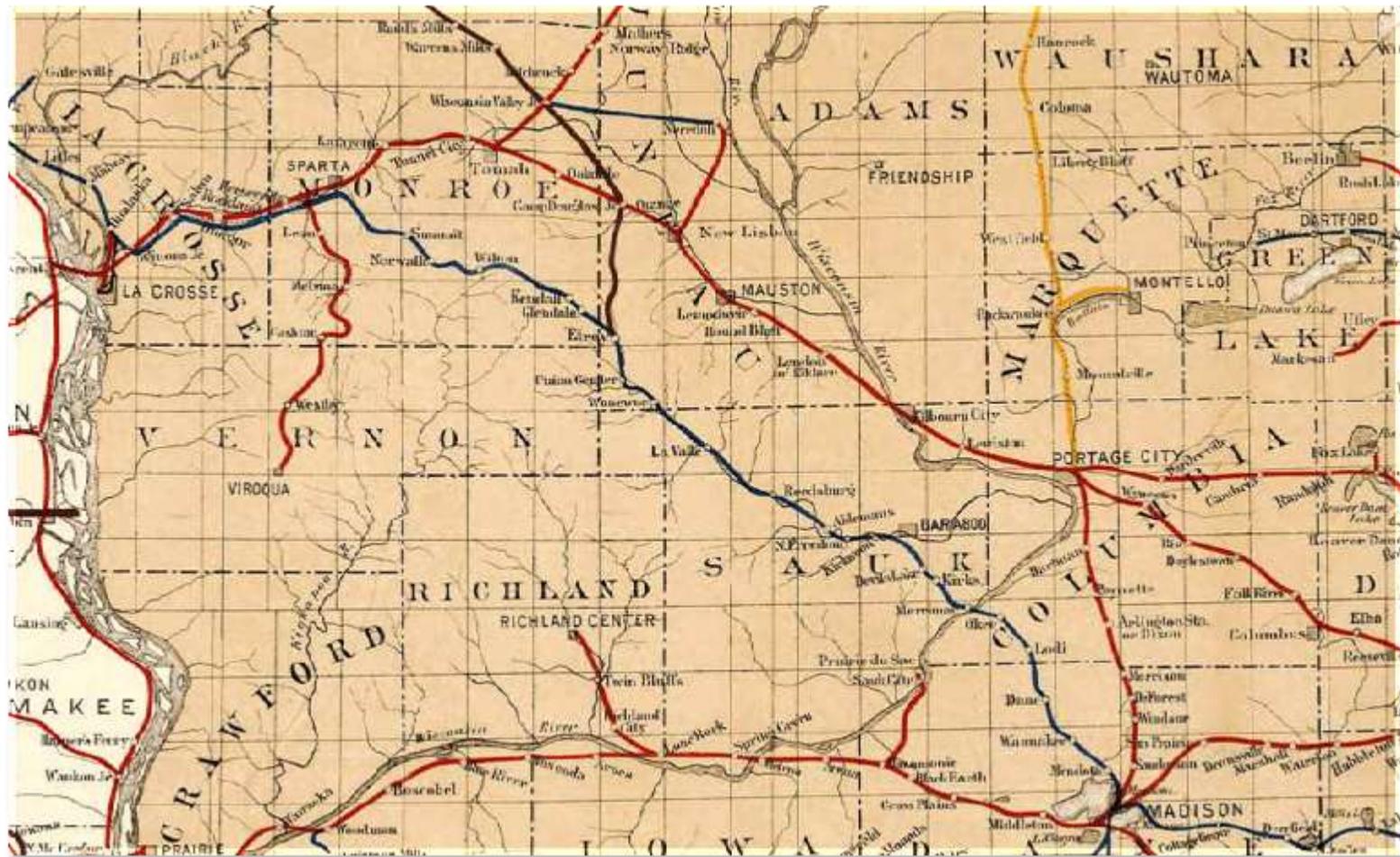
# 1884 Map – Northwest Route Black River Falls to Hudson



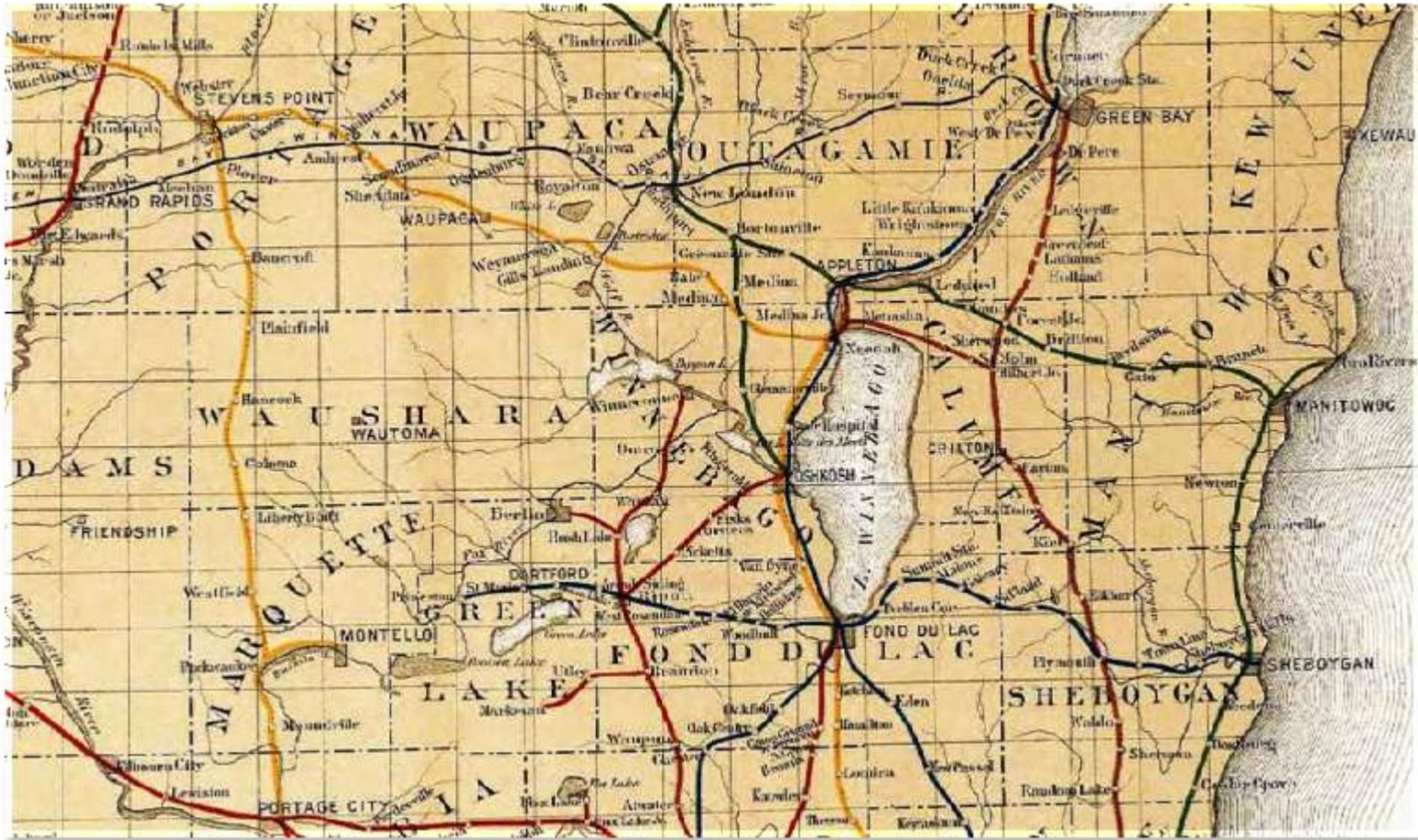
# 1884 Map – Northwest Route Mauston to Eau Claire



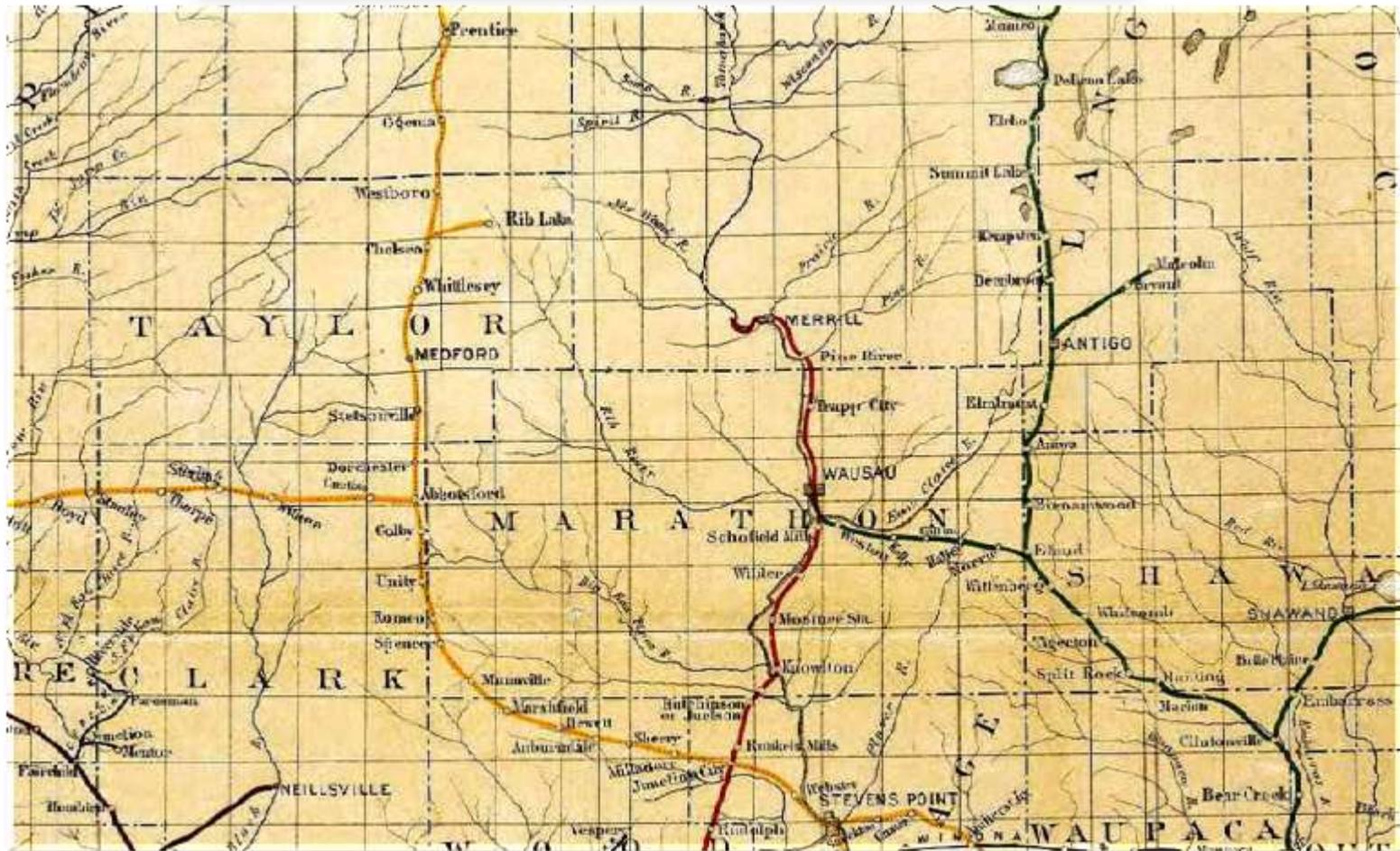
# 1884 Map – Northwest Route Madison to Portage City to New Lisbon



# 1884 Map - Central Route Portage to Stevens Pt. & Menasha to Stevens Pt. (in yellow)



# 1884 Map - Central Route Stevens Pt. to Prentice (in yellow)





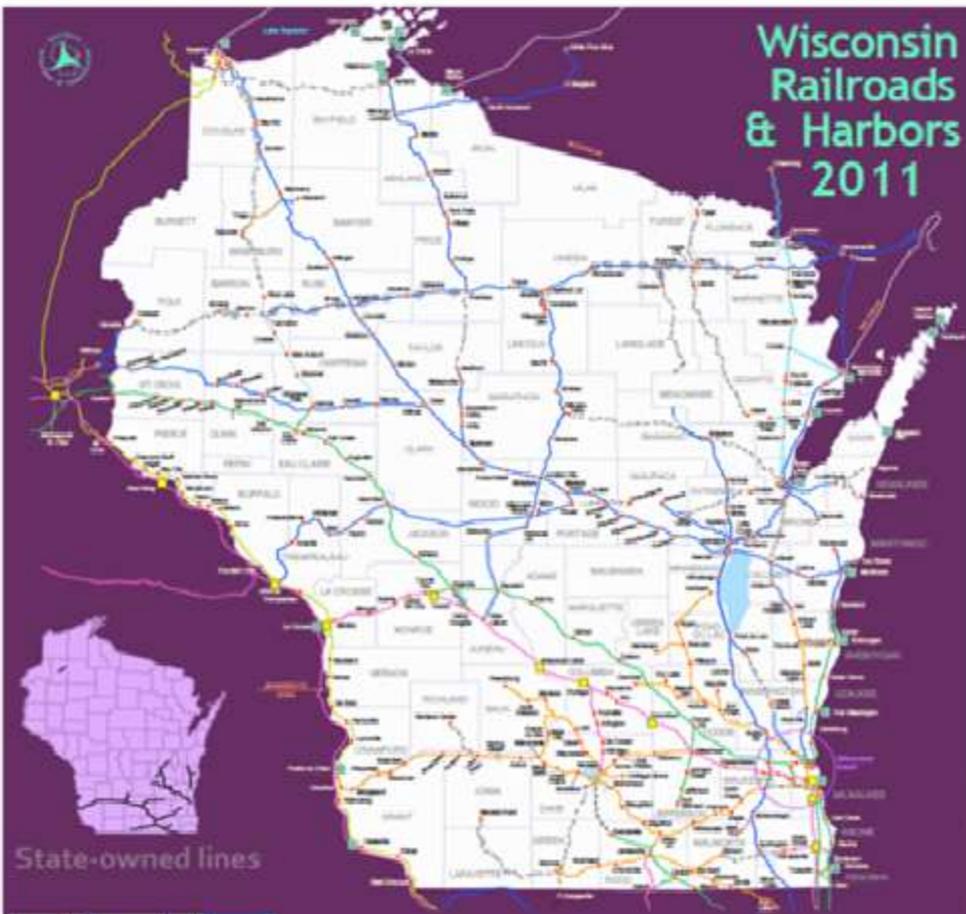
# Wisconsin Railroad Map -1865



# Wisconsin Railroad Map - 1873



# Wisconsin Railroads & Harbors 2011



State-owned lines



Milwaukee detail

## Symbols

- RAILWAY STATION**
- Public and Harbor**
- Rail line, not in service**
- Local rail line**
- Rails to trails**
- As laid, no track, irregularities, & not in service**

## Railroads

- BNRP** Burlington Northern Santa Fe
- CSX** Canadian National
- CP** Canadian Pacific
- SLB** Wisconsin & Lake Superior
- MTWV** Metropolitan of Great Troy Wisconsin Railroad Co.
- PRR** Progressive Rail, Inc.
- TR** Tannockville Railroad
- UP** Union Pacific Railroad
- WSP** Wisconsin Small Harbors
- WVOR** Wisconsin & Southern Railroad

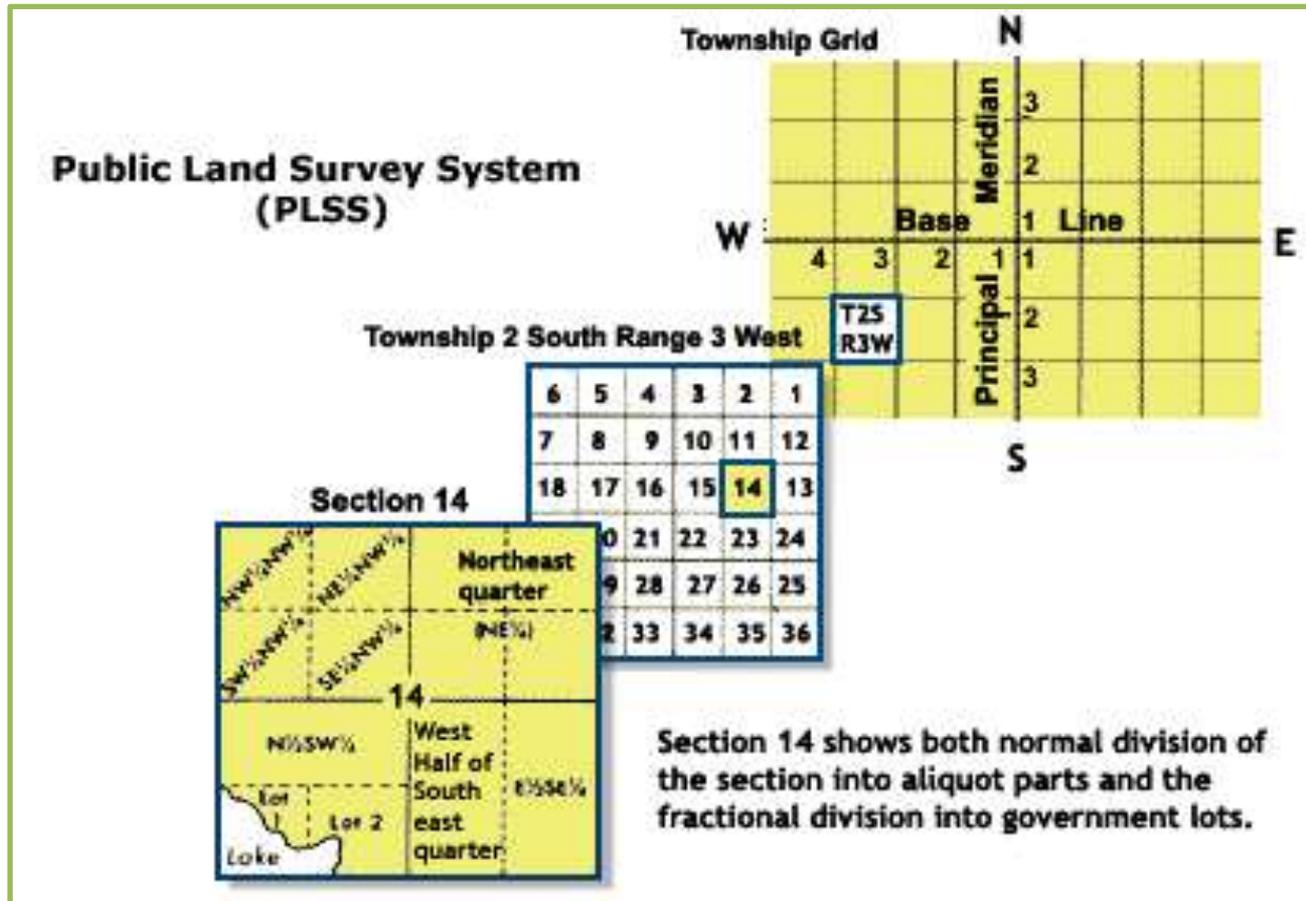
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# Tracing the Tracks – Methods & Sources

# Tracing the Tracks

- Sources and Methods used to trace rail line history:
- Old Wisconsin session laws
- Treatises
- Scholarly articles
- Old & new state railroad maps
- Reports of the Wisconsin Commissioner of Railroads
- Reports of the US government
- MadCat UW-Madison Library Catalogue (get a UW library card)  
<http://madcat.library.wisc.edu/>
- Google books
- Internet searches
- National Archives

# Public Land Survey System



# Public Land Survey System

The [Land Ordinance of 1785](#) which provided for the systematic survey and monumentation of public domain lands, and the [Northwest Ordinance of 1787](#) which established a rectangular survey system designed to facilitate the transfer of Federal lands to private citizens, were the beginning of the Public Land Survey System (PLSS).

Under Congressional mandate, cadastral surveys (surveys of the boundaries of land parcels) of public lands were undertaken to create parcels suitable for disposal by the Government. The extension of the rectangular system of surveys over the public domain has been in progress since 1785, and, where it applies, the PLSS forms the basis for most land transfers and ownership today.

The PLSS is used to divide public domain lands, which are lands owned by the Federal government for the benefit of the citizens of the United States. The original public domain included the land ceded to the Federal Government by the thirteen original States, supplemented with acquisitions from native Indians and foreign powers. It encompasses major portions of the land area of 30 southern and western States...PLSS rules of division are explained below. For areas that were once part of the public domain, legal land descriptions are usually written in terms of PLSS descriptions.

[http://www.nationalatlas.gov/articles/boundaries/a\\_plss.html](http://www.nationalatlas.gov/articles/boundaries/a_plss.html)

# Public Land Survey System

## Principal Meridians

The PLSS typically divides land into 6-mile-square townships, which is the level of information included in the National Atlas. Townships are subdivided into 36 one-mile-square sections. Sections can be further subdivided into quarter sections, quarter-quarter sections, or irregular government lots. Normally, a permanent monument, or marker, is placed at each section corner. Monuments are also placed at quarter-section corners and at other important points, such as the corners of government lots. Today permanent monuments are usually inscribed tablets set on iron rods or in concrete. The original PLSS surveys were often marked by wooden stakes or posts, marked trees, pits, or piles of rock, or other less-permanent markers.

The PLSS actually consists of a series of separate surveys. Most PLSS surveys begin at an initial point, and townships are surveyed north, south, east, and west from that point. The north-south line that runs through the initial point is a true meridian and is called the Principal Meridian. There are 37 Principal Meridians, each is named, and these names are used to distinguish the various surveys. The east-west line that runs through the initial point is called a base line. This line is perpendicular to the Principal Meridian.

Each township is identified with a township and range designation. Township designations indicate the location north or south of the baseline, and range designations indicate the location east or west of the Principal Meridian. For example, a township might be identified as Township 7 North, Range 2 West, which would mean that it was in the 7th tier of townships north of a baseline, and in the 2nd column of townships west of a baseline. A legal land description of a section includes the State, Principal Meridian name, Township and Range designations with directions, and the section number: Nebraska, Sixth Principal Meridian T7N, R2W, sec5.

# 1875 Right-of-Way Act Railroads

1. Chicago, St. Paul, Minneapolis & Omaha Railway
2. Chicago, Milwaukee & St. Paul Ry.
3. Duluth, South Shore & Atlantic Ry. (successor to Detroit, Mackinac, & Marquette Railroad and Duluth, Superior, & Michigan Ry.)
4. Duluth, Superior, & Michigan Ry. (later Duluth, South Shore & Atlantic Ry.)
5. Eastern Ry. of Minnesota.
6. Minneapolis, Sault Ste. Marie & Atlantic Ry.
7. Princeton & Western Railway
8. Menominee River Railroad
9. Milwaukee, Lake Shore and Western Railway
10. Winona, Alma, & Northern Ry.
11. Wisconsin and Michigan Railroad
12. Wisconsin Central Railway

# Federal right-of-way records archived

<http://rlhs.org/narip2.htm>

## National Archives Reference Information Paper 91 -- Railroad-related Records

### Part II

#### Frequently Asked Questions

**II.5** The early corporate history of land-grant railroads is included in the **railroad rights-of-way files under the act of March 3, 1875, 1878-1931**, in the **Records of Division F, Records of the Bureau of Land Management (Record Group 49)**. Arranged by name of railroad, these records document the granting of rights-of-way to individual railroads across public lands of the United States. The files include articles of incorporation, proof of organization, by-laws, and other records concerning the corporate history of land grant railroads. Additional records are located in the **correspondence and reports file of land grant railroad companies, 1892-1935**. The Bureau of Land Management records include other series that may be of interest.

# Federal Right-of-way records archived

<http://rlhs.org/narip6.htm>

## **Record Group 49 Records of the Bureau of Land Management**

**VI.17** Division F: Railroad, Rights-Of-Way, and Reclamation Division was charged with the adjustment of grants, by congressional legislation, of lands for railroad-purpose military wagon roads and of laws relating to the right of way through the public lands...Established in 1872, the duties of the Division were largely the examination of settlers' claims in conflict with those of railroad companies...More specifically, the functions of this division were...registering and examining all articles of incorporation and maps filed by railroad companies claiming rights-of-way over U.S. public lands under the act of March 3, 1875; listing and patenting railroad right-of-way lands, and adjusting railroad and wagon road grants. Numerous series in Division F's records are of interest:

- 1. indexes to withdrawals of lands for railroads, canals, and other rights-of-way, 1856-83 (0.5 ft.)(MLR Entry 533, UD);**
- 2. letters sent relating to railroad grants and rights-of-way, miscellaneous series, 1856-90 (17 ft.)(MLR Entry 534, UD),** arranged chronologically. These 78 volumes (volumes 66-133) contain record copies of letters sent to the Secretary of the Interior, Congress, registers and receivers, officials of railroads, contestants, and private persons relating to railroad grants and rights-of-way.

# Federal Right-of-way records archived

<http://rlhs.org/narip6.htm>

## **Record Group 49 Records of the Bureau of Land Management (Continued)**

**VI.17** Division F: Railroad, Rights-Of-Way, and Reclamation Division. Numerous series in Division F's records are of interest:

**15. railroad rights-of-way files under the act of March 3, 1875, 1878-1931** (40 ft.)(MLR Entry 571, UD), arranged by name of railroad and thereunder in rough chronological order. These records originated under the act of March 3, 1875, which granted rights-of-way through public lands of the United States to any railroad company duly incorporated in the state or territory to the extent of 100 feet on each side of the central line of track, as well as adjacent areas for stations and yard structures. A typical file contains applications for right-of-way; letters transmitting and acknowledging receipt of maps, plats, and field notes; articles of incorporation; proof of organization; by-laws; affidavits; proof of construction; and miscellaneous correspondence concerning the disposition of the land.

**16. records concerning railroad rights-of-way across Indian reservations, 1908-38** (6 ft.)(MLR Entry 573, UD), arranged numerically by number of letter. The records include folders, numbered consecutively, of Division F miscellaneous letters sent to the Bureau of Indian Affairs or the district land office. The cover of the folder lists the letter number, act of Congress under which right-of-way was granted, date and purpose of grant, date filed, date approved, state and land district, land description, name of applicant, and contents of the file.

**17. records concerning rights-of-way across forest reserves, 1908-39** (16 ft.)(MLR Entry 575, UD), arranged numerically by letter number. This series is similar to **records concerning railroad rights-of-way across Indian reservations**, except that the letters were directed to the U.S. Forest Service and concerned railroad rights-of-way through forest reserves.

**18. index to railroad maps, 1856-75** (0.2 ft)(MLR Entry 576, UD), arranged by railroad and thereunder chronologically. The maps themselves are among the cartographic materials (See **VI.20-VI.22**).

# Department of Financial Institutions

## Railroad Land Records

1. Railroad Mortgages & Trust Deeds
2. Railroad Patents
3. Railroad Incorporations & Resolutions
4. Index to Vols. 9 & 10 of Railroad Incorporations & Resolutions
5. Railroad Index
6. Corporation Document Files
7. Railroad Stockholders
8. UCC Filings

# Resources & Suggested Reading

## Key Resources & Suggested Reading

1. Sanborn, John Bell. *Congressional grants of land in aid of railways*, Bulletin of the University of Wisconsin, (Economies, Political Science, and History Series, vol. 2, no. 3, pp. 263-392.) August 1899.
2. Greiner, Gordon Oswald., *Wisconsin national railroad land grants*, Thesis (M.S.)--University of Wisconsin--Madison, 1935.
3. Railroad maps at State Historical Society:  
<http://www.wisconsinhistory.org/libraryarchives/maps/search.asp> (Click on “Type of Map”, choose “railroad map”).
4. *Wisconsin Railroad Timeline* at <http://riptrack.net/wisconsin> created by Sean Lamb, a Wisconsin-based railroad fan.

## Key Resources & Suggested Reading

4. Kaysen, James P. *The Railroads of Wisconsin, 1827-1937*. (Boston: The Railway and Locomotive Historical Society, 1937). Online facsimile at <http://www.wisconsinhistory.org/turningpoints/search.asp?id=63>
5. *First Annual Report of the Railroad Commissioners of Wisconsin, 1874*, Madison, Wisconsin  
<http://books.google.com/books?id=AGgaAQAAIAAJ&pg=PP4#v=onepage&q&f=false>
6. Haney, Lewis Henry, [\*A Congressional History of Railways in the United States, 1850-1887\*](#), Bulletin of the University of Wisconsin, , (Economies, Political Science, and History Series, vol. 6, no. 1, pp. 1-336.) January 1910.
7. Hunt, Robert S., [\*Law and Locomotives: The Impact of the Railroad in Wisconsin Law in the Nineteenth Century\*](#) (June 1958)

## Key Resources & Suggested Reading

8. Gates, Paul W. *History of Public Land Law Development*, United States. Public Land Law Review Commission (1968).
9. Donaldson, Thomas. *The public domain: its history, with statistics*, United States. Public Lands Commission (1903-1905). Excellent statistical compilation, but be careful to note which edition.
10. Ranney, Joseph A., *Imperia in Imperiis: Law and Railroads in Wisconsin, 1847-1910*, Wisconsin Lawyer Magazine.
11. Merk, Frederick *Economic history of Wisconsin during the Civil War decade*, Madison, The Society, 1916. Publications of the State Historical Society of Wisconsin.

## Key Resources & Suggested Reading

12. Bernd, John Muth, *The La Crosse and Milwaukee railroad land grant, 1856*, Wisconsin Magazine Of History. Volume: 30 /Issue: 2 (1946-1947)
13. [Cronon, William, \*Nature's Metropolis: Chicago and the Great West\*](#), W. W. Norton & Company (1992)
14. Railroad maps at Library of Congress:  
<http://memory.loc.gov/ammem/gmdhtml/rrhtml/rrhome.html>

# Contemporary Commentary

1. *Top Lawsuits Impacting the Title Industry*, by ALTA Title Counsel Committee, TitleNews, [May 2010 - Volume 89, Number 5](#) at page 10.
2. Roberts, Darwin P. *The legal history of federally granted railroad rights-of-way and the myth of congress's "1871 shift"*, University of Colorado Law Review, Winter 2011
3. Wright, Danaya C. *The [Shifting Sands of Property Rights, Federal Railroad Grants, and Economic History](#)*, 38 *Envtl. L.* 711, 716

## Resources & Suggested Reading

- **Google Books** at <http://books.google.com/>
  - Google Books provides free access to **millions of original documents**, including many old Wisconsin statutes, old Railroad Commission reports, old US government reports, and just about anything in the public domain. You may use it online or download. Text is searchable online.

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