



JOE SANFELIPPO

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February 5, 2014

Chairperson Williams and committee members thank you for holding a hearing today on AB 655.

AB 655 has been introduced to aid in the commencement of a \$160 million development in downtown Milwaukee that is expected to create 4,000 jobs and add an estimated \$12-\$18 million dollars to local tax collections.

This project has been in the works for a number of years. While it has extensive support from the public, labor groups and city and county elected officials, it has been delayed by threatened legal action attempting to resurrect unfounded claims settled long ago by the Wisconsin Supreme Court. Although frivolous in nature, the threat of legal action has halted the project and prevented the badly needed jobs from being created.

AB 655 takes into consideration laws, legal opinions and court rulings dating back to over a century ago and uses these facts to clarify that the shoreline as established in 1913 was done so legally within the confines of the state Constitution. The mere fact that someone may not agree with the law does not make that law any less legal.

Opponents of the proposed development are trying to cloud the issue by claiming their dispute over the project revolves around uncertainty over the public trust doctrine. But what they are really disputing is the Legislature's authority to act within the guidelines of the public trust; an issue that was settled in a 1927 State Supreme Court Decision which cited an 1892 U.S. Supreme Court Case among other cases, to back up its findings.

To paraphrase the somewhat lengthy 1927 Supreme Court ruling, the court established:

- 1) That the Legislature is the trustee of the public trust and has the authority and responsibility to not only protect but to promote the public trust.
- 2) Statutes properly enacted by the Legislature that do not violate the provisions of the federal and state Constitutions are supreme and cannot be interfered with by the courts.
- 3) The legislation created in 1909 and amended in 1923 that ultimately led to the ceding of submerged lands to a private entity for private use was done so legally within the confines of the federal and state Constitutions because it was done so while serving the interests of the public.
- 4) Once the court determines that the transfer is legal vested rights are created and remain in effect until the Legislature either abrogates or modifies them.

The land on which the proposed development will be situated was part of a larger project that was in the public interest. The setting of the boundary in 1913 allowed for the construction of the Milwaukee Harbor, a project that was determined to be in the public interest. Therefore any claim that a private development cannot take place on this land is baseless under the Supreme Court ruling.

This bill will amend and restate an existing law, adopted in June of last year, declaring the boundary of about two miles of the shore of Lake Michigan at Milwaukee to be at a line set by the City of Milwaukee in 1913. It states that that line, which was set by a survey and agreement that was recorded in the real estate records in 1914, both is and was the correct shoreline boundary. The law will also say that the Legislature ratifies this boundary line in this location because the line has been respected by all parties, including the State and its agencies, since it was established in 1913.

The Legislature's authority is further confirmed by the court when it ruled: "The trust reposed in the state is not a passive trust; it is governmental, active and administrative. Representing the state in its legislative capacity, the Legislature is fully vested with the power of control and regulations" ... "the trust being both active and administrative, requires the lawmaking body to act in all cases where action is necessary." "A failure so to act, in our opinion, would have amounted to gross negligence and a misconception of its proper duties and obligations in the premises."

It is irrefutable, based on the 1927 Supreme Court ruling, that the Legislature has the authority to enact legislation affecting the public trust.

Furthermore, the dispute of where the shoreline may or may not have been portrayed on any map in the past is irrelevant because the court ruling also stated that "the shores of Lake Michigan can be changed when it becomes necessary, to realize a vast enterprise purely public in its nature."

The transfer of the land in question was not the sole basis for the 1909 and 1923 legislation that respectively established and affirmed the 1913 shoreline. Rather it was part and parcel of a larger scheme which was to construct the Milwaukee Harbor which was deemed to be of public interest.

This bill does not affect the shore line along Lake Michigan in any other location, including any other areas in the City of Milwaukee. Nor does it alter in any way, the shoreline that has been recognized and relied upon as the legal shoreline in this area for the past 100 years.

Passage of AB 655 does not guarantee that legal action will not be initiated by the opponents of the development. The fact is, under our legal system, anybody can make any claim regardless of merit. What this bill can do however, is to minimize to the greatest extent possible, further delay and stalling through a protracted legal suit.

With large developments of this size around the state and in Milwaukee being nearly non-existent, and unemployment levels remaining high in Milwaukee neighborhoods, this bill helps foster job creation to the benefit of the citizens of Wisconsin. I strongly urge members of this committee to approve AB655 as quickly as possible.

I am happy to address any questions committee members may have.

February 5, 2014

Chairperson Williams and committee members, I am Bush Nielsen of the Reinhart Boerner law firm. We are counsel for Milwaukee County in the proposed sale of a parcel near the shore of Lake Michigan in downtown Milwaukee known as the Milwaukee Country Transit Center that will be assisted by passage of this bill.

On behalf of our client, I also thank you for holding a hearing today on AB 655. This bill will add to a law adopted in June that declared the boundary of Lake Michigan at downtown Milwaukee, and will add some declarations to the law so that the title line is set for perpetuity.

I would like to present some historical information about Milwaukee's park and harbor project that sets the foundation for this bill.

Milwaukee's harbor and park project

Milwaukee is known today as a city of magnificent parks and shoreline on Lake Michigan. That was not always true. At the end of the 19th century, the Chicago, Northwestern Railway owned the entire shoreline at downtown Milwaukee. The privately owned land was on a steep and ugly bluff. See exhibit 1.

The City built Juneau Park on the bluff line, but it was like a goat path. See exhibit 2.

The City developed a bold and expensive plan to make a beautiful shore. It asked the Legislature for grants of lakebed from Wisconsin Avenue north. The Legislature gave a series of lakebed grants, the first made in 1893 as Chapter 197, Laws of 1893.

There is another aspect of Milwaukee that we take for granted today, but that was not always true. Today, Milwaukee is a major port city. However, Milwaukee does not have a natural harbor. The shore line was very shallow. The Milwaukee River was too shallow for large ships to enter, especially in bad weather.

As the City of Milwaukee's website explains, after a series of disasters in which ships sank because there was no safe harbor in a storm, Congress passed an act in 1881 to make a Harbor of Refuge in Milwaukee by the extension of a breakwater from McKinley Beach at the north, and going south.

That breakwater was built, allowing temporary refuge for ships but not a permanent shipping harbor. See the 1911 map drawn by the Department of War at exhibit 3.

The harbor project languished for several decades after the breakwater was built, but the park project began as soon as the legislature granted the lake bed and went at full speed and much expense. The city began making a park next to the railroad's land by filling in the lake bed with horse-drawn carts.

Natural land created by filling in of lake bed

This process created a problem. As land was created by filling, *more* land was created by natural wave action that left sediment piled up next to the filled land.

The railroad said that it owned the land that built up naturally, because it owned the shore. The Legislature had passed a law in 1897 acknowledging that the building of filled land next to the railroad's land did not take away its rights as the shore owner. Chapter 200, Laws of 1897. See exhibit 4.

The land built up quickly. It soon extended 500 feet into the lake. There was a lawsuit to decide who owned the natural land. In 1907, the state Supreme Court ruled that the land built up naturally belonged to the railroad. Exhibit 6 is the map that is included in that 1907 decision, which divided the built-up land between the private owners and the city. The city got very little of the land it had created.

The city realized that it would have to keep buying from the railroad land that was created by the city in its ambitious and expensive project to build a park along the shore.

Agreement between City of Milwaukee and railroad

The city made an agreement with the railroad in 1913. The railroad gave a deed to the city for all land lying East of a line drawn by a surveyor, and gave up all of its rights on the shore, which included the right to build piers. See exhibit 6, which is a map of the proposed division line, exhibit 7, which is the full map in the agreement, and exhibit 8, which is the recorded agreement.

The railroad was not paid any money for this agreement and deed. It gave up the land that the Supreme Court had already said belonged to it, and all claim to other land that would be formed naturally East of the surveyed line.

The 1913 line runs from roughly McKinley Park at the north, which is where the railroad's tracks veered inland, to the new harbor entrance to be built at the south, which is the same harbor entrance in use today.

Before the 1913 agreement was signed, the city had built out into the lake about 600 feet all the way south to Wisconsin Avenue. The south line of the park was a retaining wall of timber cribbing jutting out into the lake. See exhibit 9.

The Army Corps of Engineers also built the harbor entrance on the south before 1913.

Thus, in that area, there were two structures sticking out into the lake hundreds of feet, with less than a mile of shoreline between them.

The building of those large artificial structures that far out into the lake began the same natural filling in of land as happened further north, when the park and breakwater were built, which led to the 1907 Supreme Court decision.

This filling in occurs rapidly. Compare the 1907 map of the park which is exhibit 10 to the 1917 map which is exhibit 11. A close-up of the 1917 map in the vicinity of the land the county intends to sell is also found at exhibit 11. The Milwaukee Country Transit Center parcel is in Block 99 of this map.

The line set in 1913 was further East by up to 100 feet from the old breakwater built by the railroad, between Mason Street and Chicago Street. See exhibit 12, which is a close-up of the 1913 survey around Block 99.

I believe that the line set in 1913 corresponded to the natural filling in that had occurred by that date, either exactly or very closely. If the city had never placed any more artificial fill, that area would quickly have filled in naturally to the 600-foot mark. See the 1926 map which is exhibit 13, showing the fill by that time, and the 1930 aerial photo at exhibit 14, which shows that the entire area had filled up out to the timber cribbing line.

The city needed the deed from the railroad in 1913 so that it could never claim the right to be paid for that natural filled-in land later. The city got that deed and recorded it.

Parks and harbor completed after railroad agreement made

The lakeshore blossomed after the agreement was made. The photo at exhibit 15 shows the shoreline in the 1930's. Exhibit 16 is a 1966 Army Corps of Engineers

map of the entire lakeshore, showing how the natural harbor has now been fully enclosed.

Exhibit 17 is a current aerial map showing how the shore and harbor have changed by further acts of this legislature over the decades since then.

The 1913 line is approximately the center line of Lincoln Memorial Parkway. The Milwaukee County Transit Center abuts Lincoln Memorial.

Purpose of this bill

This bill will amend and restate an existing law, adopted in June of last year, that declared the boundary along this portion of the shore of Lake Michigan at Milwaukee to be at the line set by the City of Milwaukee in 1913.

Some have advocated in newspaper articles that the shore line in this area should be set by a judge, and that the line should be based on where it was at some date long before the 1913 agreement was made, perhaps as early as 1845.

For example, a drawing of the shoreline from 1884 has been shown to the press. That drawing was not made by the Chicago, Northwestern or the City of Milwaukee, and is not good evidence of the shore.

More importantly, this shoreline changed dramatically by the City's efforts. As the shore changed, land was created, and the railroad owned some of it. The 1884 map was drawn about 10 years before the City began its park and harbor project, which this Legislature authorized by the first lake bed grant in 1893.

After 1913, however, the railroad had no rights East of the line that the City drew. The City took the shore away from the railroad by filling the lake bed to make 200 acres of new shoreline land.

The maps I have shown you demonstrate why earlier maps do not matter. To use a line that might have existed before the harbor and park project was carried out by the city would ignore the legal principle of the 1907 Supreme Court ruling that natural land added to filled land belonged to the railroad.

Perhaps more importantly, the use of any other line, in a location to be set by use of ancient maps, would completely disregard the boundary that has been used and respected for the past 100 years. Courts have recognized that the public trust doctrine may not be used as a gotcha to unsettle boundaries on the shore that have been used without disagreement for decades.

Therefore, to settle any dispute over the facts, this bill also states that, if any part of the land on the West side of this line was at any time lake bed, the law adopted in 1909 by the Legislature that ceded lake bed in this vicinity to the City of Milwaukee is now amended to grant the City the right to convey that small portion of lakebed in exchange for the dry land the railroad owned according to the Supreme Court decision of 1907.

Further, this bill ratifies the grant to the railroad of any lake bed West of the line, if any lake bed was included. The Legislature did not specifically ratify the 1913 line by a separate law when the line was set. However, the Legislature's use of the 1913 line as the shore boundary in later lake bed grants to the City is evidence that it ratified the line. The June, 2013 law also did not explicitly say that the Legislature authorized or ratified any lake bed grant.

The bill also says that the Legislature ratifies this boundary line in this location because the line has been respected by all parties, including the State and its agencies, since it was established in 1913.

Since 1913, the Legislature, state agencies, the City of Milwaukee, and Milwaukee County have all used the 1913 line as the shore boundary in this vicinity. Private parties now own land south of Wisconsin Avenue that is along this line. This bill confirms the ownership of their parcels also. Since 1913, the land West of that line has been conveyed by deeds, not grants of the legislature, another indication that the land has not been considered lake bed.

The Milwaukee harbor and park project was an enormous undertaking. On behalf of our client Milwaukee County, I ask that you vote in favor of AB 655, which will confirm for all time a vital part of what the City of Milwaukee did over 100 years ago to accomplish its large and very worthy projects in the public interest.

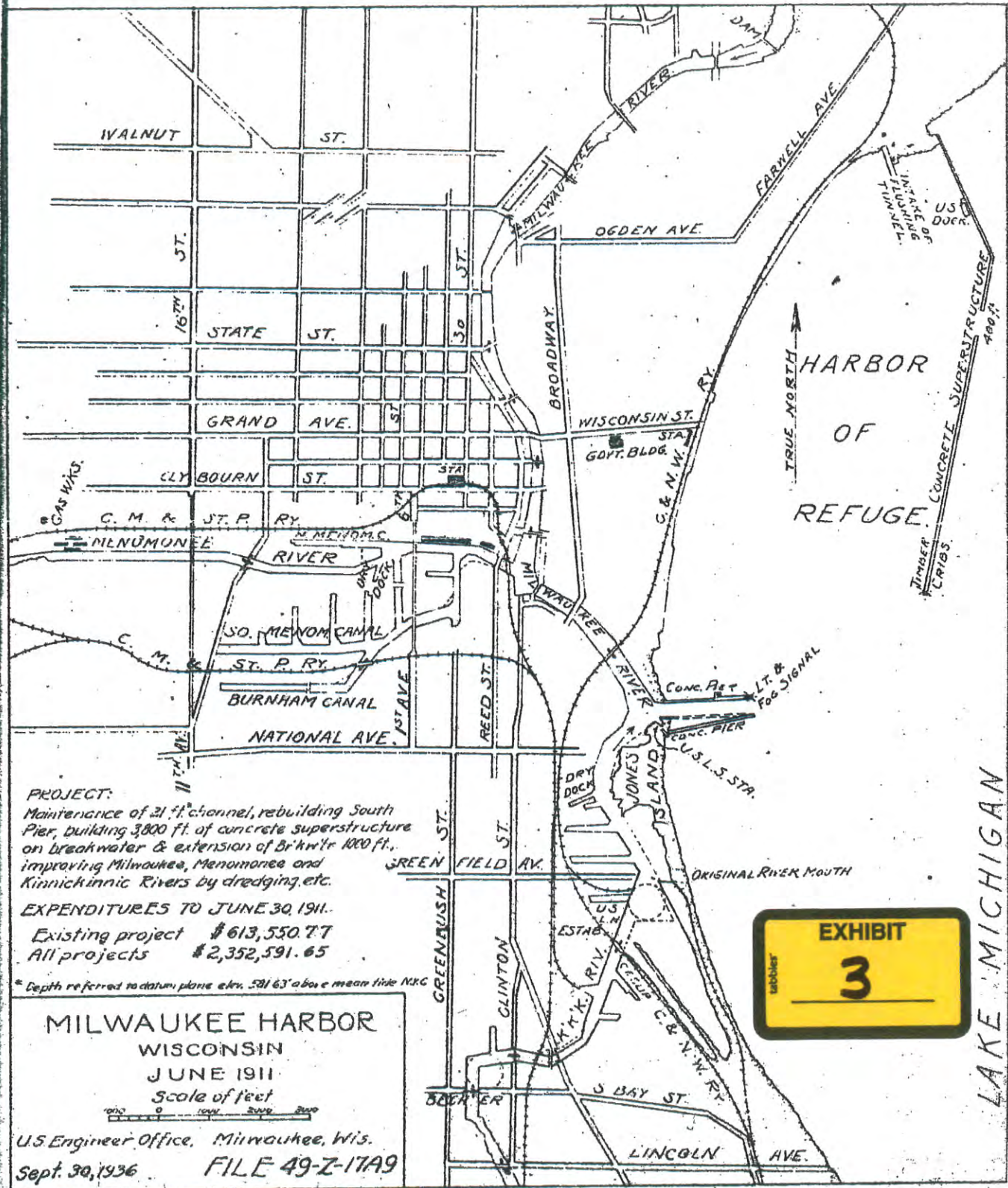


EXHIBIT
1

LEIF ERICK SON MONUMENT, JUNEAU PARK, MILWAUKEE, WIS.

2301



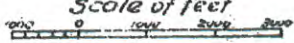


PROJECT:
 Maintenance of 21 ft. channel, rebuilding South Pier, building 3,000 ft. of concrete superstructure on breakwater & extension of Breakwater 1,000 ft., improving Milwaukee, Menomonee and Kinnickinnic Rivers by dredging, etc.

EXPENDITURES TO JUNE 30, 1911.
 Existing project \$ 613,550.77
 All projects \$ 2,352,591.65

* Depth referred to datum plane elev. 581.63' above mean tide M.K.C.

MILWAUKEE HARBOR
 WISCONSIN
 JUNE 1911
 Scale of feet



U.S. Engineer Office, Milwaukee, Wis.
 Sept. 30, 1936 FILE 49-Z-17A9



LAKE MICHIGAN

Chapter 197, Laws of 1893, was amended by Chapter 200, Laws of 1897, which increased the depth of the granted submerged land from 300 feet to 600 feet. Chapter 200 also added a new provision that said that the law did not "divest or otherwise affect the riparian rights and privileges" of the private owners next to the submerged land, "but all such riparian rights shall remain vested in such abutting or upland owners," subject to the City's park and boulevard use. The land between the railroad's right-of-way and the easterly face of the railroad breakwater "shall not be used by said railroad company for any purpose whatsoever, except that of a slope or embankment to protect the roadbed or tracks on said right of way." However, if the City abandoned its park purposes, the title to the filled land "shall be thereupon vested in and apportioned among" the abutters "to the same extent as if such land were a natural accretion outward from the shore of said lake..."



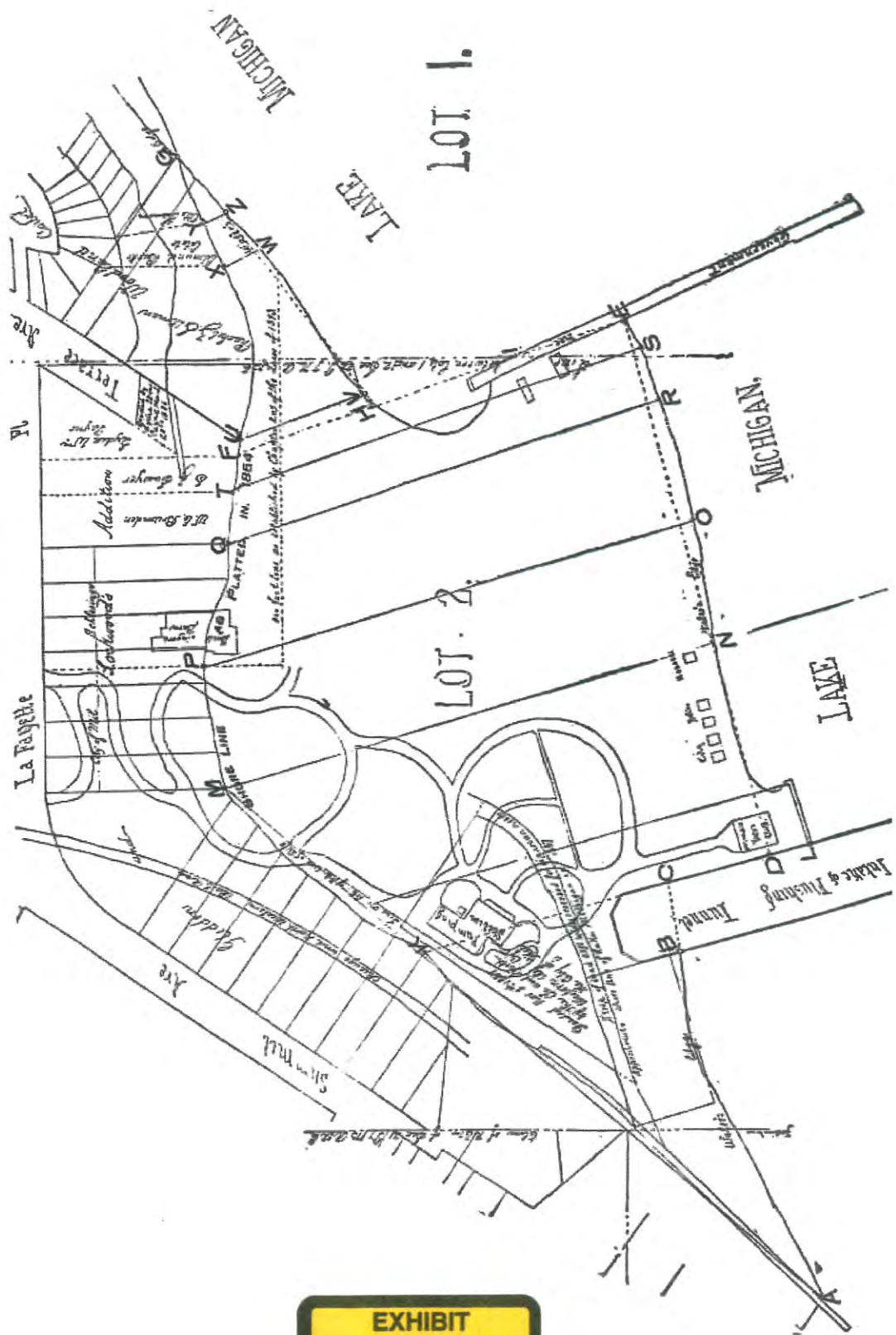
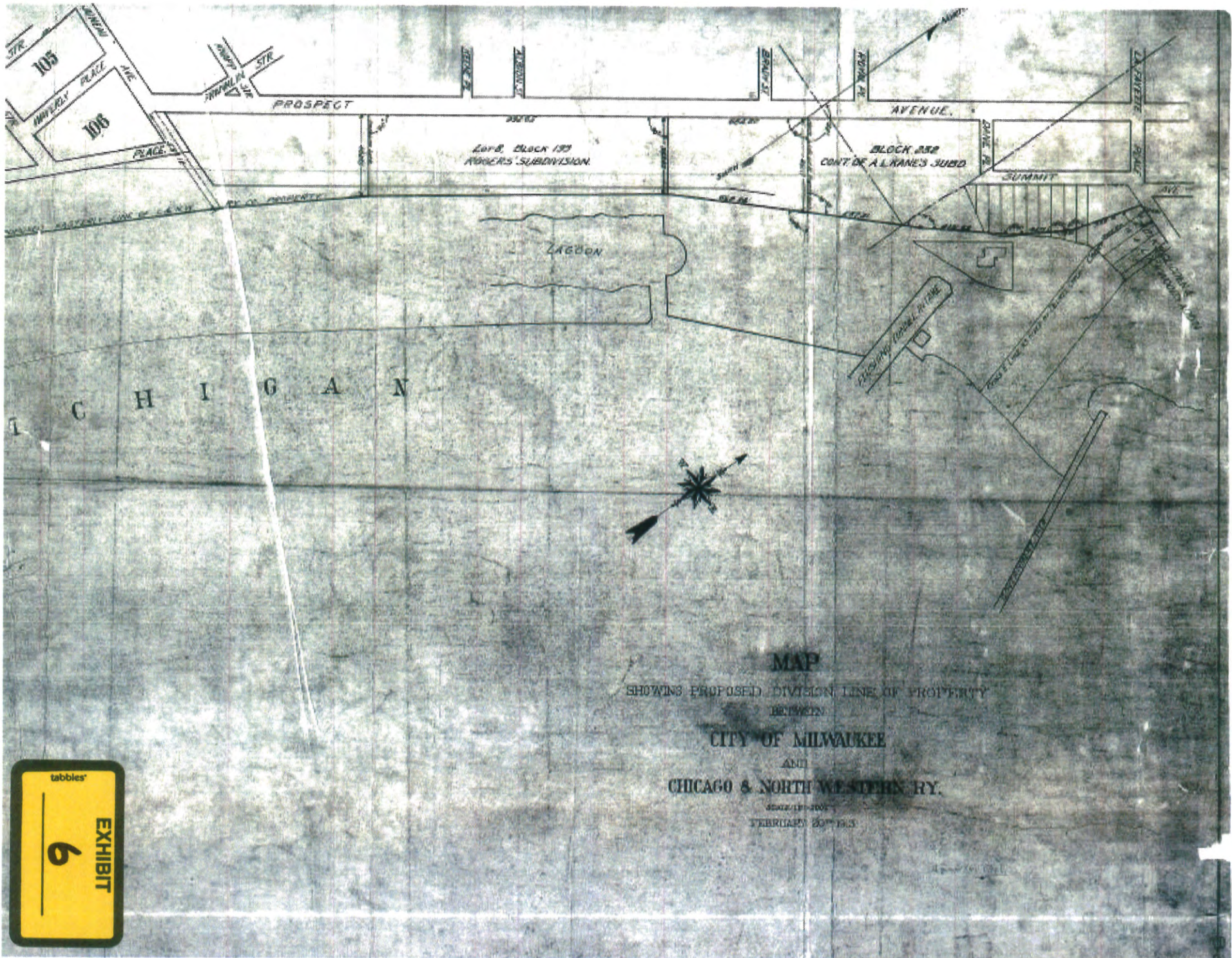


EXHIBIT
5



tabbles'
EXHIBIT
6

its corporate seal to be hereunto affixed, this 21st day of April, 1913

Signed, sealed and returned

in Presence of

Arthur H. Jauschild
Herman H. Karrow

(dgt
not
Seal)

Borgley Manufacturing Company,
Cyril Bolnik President
Anton D. Jauschler Secretary

State of Wisconsin } Personally came before me this 21st day of April A.D. 1913, Cyril
Milwaukee County } Bolnik President and Anton D. Jauschler Secretary of the above named
corporation & me known to be the persons who executed the foregoing instrument,
and to me known to be such President and Secretary of said corporation, and
acknowledged that they executed the foregoing instrument as such officers as the
Head of said corporation.

Recorded Apr 23-1913

at 4th vol 377

Edw H. Mueller Register

762991

(dgt
not
Seal)

C. F. B. Wittmore Notary Public,
Milwaukee County, Wis

My Commission Expires April 21, 1915

C. F. A. By. Co

with

City of Milw.
Agreement

Resolution Adopted By The Board Of Directors Of The Chicago And North
Western Railway Company April 9th, 1913

Whereas, the legislature of the State of Wisconsin has granted to the City of Milwaukee
a portion of the bed of Lake Michigan easterly of and abutting upon property of this
Company in Milwaukee, Wisconsin, and Whereas, said City of Milwaukee in the execution
of the purpose of said grant is about to fill in such portion of the bed of Lake
Michigan for park and boulevard purposes, and Whereas, such fill will extend
to present shore of Lake Michigan easterly and thereby cut off such riparian
rights as this Company has appurtenant to its shore property, and Whereas,
said City of Milwaukee desires to acquire from this Company, by purchase or
condemnation, the right to so fill in the bed of said Lake adjoining the
property of this Company, and Whereas, this Company owns by right of accretion a
parcel of land abutting upon Lake Michigan, which adjoins Park property upon
the North and South owned by the City of Milwaukee and used as a public park,
which parcel of land so owned by this Company is now occupied by the City
for Park purposes (which parcel of land is shown on the maps submitted herewith),
and Whereas, said City of Milwaukee desires to acquire the legal title
to said parcel of land owned by this Company, and Whereas, it is desirable
to come to an agreement with said City of Milwaukee with respect to these matters
and thereby acquire certain privileges in said City of Milwaukee which will advantage
this Company, and Whereas, an agreement relating thereto has been tentatively submitted
by the officers of this Company to said City of Milwaukee and agreed to by the
Common Council of said City by proper vote on the 25th day of March, 1913, a copy
of which agreement is now submitted to the Board, therefore Resolved, that
said agreement be, and the same is hereby adopted and affirmed and that
the President and Secretary of this Company be, and they are hereby directed



to execute and deliver this agreement on the part of this company, when the same shall be properly executed and delivered by said City of Milwaukee.

I, John H. Baldwin, Secretary of the Chicago and North Western Railway Company, do hereby certify that the above and foregoing is a full and true copy of a resolution adopted by the Board of Directors of the Chicago and North Western Railway Company at a meeting held in New York on April 9th, 1913, as the same appears in the record of the proceedings of said Board of Directors now in my custody as Secretary, and that I am the keeper of the same. Witness my signature and the seal of said Chicago and North Western Railway Company this 17th day of April, 1913.

John H. Baldwin

Secretary, Chicago and North Western Railway Company

This Agreement, made and entered in to this 10th day of April, 1913, by and between Chicago and North Western Railway Company, of the first part and the City of Milwaukee and the Board of Park Commissioners of the City of Milwaukee, of the second part; Witnesseth, that whereas, the State of Wisconsin has granted to the City of Milwaukee a certain strip of submerged land, six hundred feet in width, along and adjacent to the shore of Lake Michigan, constituting the bed of said lake, bounded on the south by the extended harbor entrance to the said City of Milwaukee, and on the north by the extension of the East and West Section line running through Section Twenty-one of Town Seven North, Range Twenty-two East, for Park and Boulevard purposes, and whereas, the said City of Milwaukee desires to fill in and improve said strip of land, and whereas, Chicago and North Western Railway Company is a public railroad corporation, organized and existing under and by virtue of the laws of the State of Wisconsin, and has an interest in certain lands hereinafter mentioned, and whereas, said City of Milwaukee desires to acquire from said Chicago and North Western Railway Company, its interest in the land hereinafter conveyed, and whereas, the parties hereto desire to fix and establish a division line indicating the right of public use for park and boulevard purposes on the east, and for public use by Chicago and North Western Railway Company on the west. Now therefore, it is hereby agreed by and between the parties hereto, that said division line so fixed and established hereby is described as follows: Commencing at a point on the south line of Block Two hundred and thirty-two of the continuation of A. L. Kone's Subdivision in the First and Eighteenth Wards of the City of Milwaukee extended easterly, and distant from Hundred sixty-one and seventeen one-hundredths (461.17) feet easterly of the easterly line of Prospect Avenue; running thence north forty-one degrees and forty-three minutes ($41^{\circ} 43'$) east five hundred thirty-seven and thirty one one-hundredths (537.31) feet to a point, thence north thirty-nine degrees and fifty-two minutes ($39^{\circ} 52'$) east four hundred fifteen and sixty-eight one hundredths (415.68) feet to a point, thence north thirty degrees and sixteen minutes ($30^{\circ} 16'$) east one hundred ninety-four and seventy-eight one hundredths (194.78) feet to a point, thence north twenty-seven degrees and eleven minutes ($27^{\circ} 11'$) east one hundred fourteen and sixty one one-hundredths (114.61) feet to a point, thence north fifteen degrees and forty-two minutes ($15^{\circ} 42'$) east three hundred thirty-three and ten one-hundredths (333.10) feet to a point, which is on the west line of Lafayette Place, which is hereby

west of the northwest corner of Lot Twelve (12), of Block Nine (9) of Shedd
& Lockwood's Addition in the Eighteenth Ward of the City of Milwaukee Also,
commencing at a point on the extended southwesterly line of Block Two
hundred and thirty-two of the continuation of A. S. Kane's Subdivision afore-
said, four hundred sixty-one and seventeen one-hundredths (461.17) feet
southeasterly at right angles from the southeasterly line of Prospect Avenue,
running thence southwesterly in a straight line six hundred sixty-eight
and eighty-four one-hundredths (668.84) feet to a point three hundred eighty-
three and four-tenths (383.4) feet southeasterly at right angles from the south-
easterly line of Prospect Avenue, thence southwesterly in a straight line to a
point in the extended southwesterly line of Lot Eight (8), in Block One
Hundred and Ninety-nine (199) of Rogers Addition in the First and Eight-
eenth Wards of the City of Milwaukee, Four hundred two and forty-five one-
hundredths (402.45) feet southeasterly of the southeasterly line of Prospect
Avenue, measured along said lot line, thence southwesterly in a straight
line to a point in the extended center line of Juneau Avenue, five hundred
thirty-seven and eighteen one-hundredths (537.18) feet easterly, measured
along said center line of Juneau Avenue from its intersection with the southeasterly
line of Prospect Avenue extended southerly; thence southwesterly in a straight
line to a point in the extended center line of Biddle Street, five hundred-
fifty-eight and fifty-eight one-hundredths (558.58) feet easterly, measured
along said center line of Biddle Street, from the intersection of said center line
of Biddle Street with the east line of Astor Street extended south; thence
southwesterly in a straight line to a point in the extended north line of Mason Street,
Five Hundred thirty-five and two-tenths (535.2) feet easterly, measured along said
north line of Mason Street from the east line of Marshall Street, running thence
southerly in a straight line to a point Four Hundred and Ninety-two (492) feet
easterly from the east line of Marshall Street, measured along the center line
of Wisconsin Street extended easterly; thence southerly in a straight line to a
point in the easterly line of the break-water on the shore of Lake Michigan, six
hundred sixty-one and five-tenths (661.5) feet easterly from the east line of Jackson
Street, measured along the north line of Chicago Street extended easterly, running
thence southerly in a straight line to a point three hundred thirty-one and
three-tenths (331.3) feet easterly from the east line of Jackson Street, measured
along the center line of Polk Street extended easterly, thence southerly on a
straight line to a point in the extended south line of Lot Three (3) Block One
Hundred and Seventy-four (174), in the Third Ward of the City of Milwaukee, Two
Hundred and Seventy-one (271) feet easterly from the easterly line of Erie Street
vacated, and in consideration, of the dollar (\$1.00) to it in hand paid,
and of other good and valuable considerations, receipt of which is hereby
acknowledged, said Chicago and North Western Railway Company hereby quit-
claims to said City of Milwaukee, all right, title and interest which it has in
and to all lands lying easterly of said fixed and established line and
abutting thereon. For the consideration aforesaid, the City of Milwaukee and its Board
of Park Commissioners hereby agree that said Railway Company may locate, construct,
maintain and operate across the park or public ground, formerly known as 7th Ward

Park, one additional railway track, to be located to the east of and immediately adjacent to the three tracks now laid across said park, to be used exclusively for the running of trains and not for making up trains, storing or keeping rolling stock or any other purpose of a railroad yard or depot grounds, or any other purposes whatever than that of its business of carrying passengers and freight to and from the said city. The Railway Company may also construct, maintain and operate such additional railway tracks west of the line above described, east of its west property line and north and south of said park property as it may consider necessary or desirable. The execution of this agreement is authorized by Resolution of the Board of Park Commissioners, by Resolution of the Common Council of the City of Milwaukee, and by Resolution of the Board of Directors of Chicago and North Western Railway Company. All other agreements made between the city and Chicago and North Western Railway Company are in full force and effect except where they expressly contradict the provisions herein contained. In witness whereof, the City of Milwaukee has caused its corporate seal to be affixed hereto and these presents to be signed by its Mayor and countersigned by its City Clerk, the Board of Park Commissioners of the City of Milwaukee have severally hereunto signed their names, and Chicago and North Western Railway Company has caused to be affixed hereto its corporate seal, and these presents to be signed by its President and attested by its Secretary the day the year first above written.

In presence of
 Chas. L. Howe
 William Z. Blunham

In presence of
 Cornelius Corcoran
 William Z. Fulbrant
 In presence of

Frank P. Schumacher
 Charles Hauserman

State of Illinois } ss Personally appeared before me this 19th day of April 1913, the above named
 County of Cook } William A. Gardner, President, and John H. Caldwell, Secretary, of Chicago
 and North Western Railway Company, to me known to be the persons who executed the
 foregoing instrument and acknowledged the same.

State of Wisconsin }
 Milwaukee County } ss Personally appeared before me this 19th day of April 1913, the
 above named J. A. Bading, Mayor, and Peter F. Leuch, City Clerk, of the City of Milwaukee,
 to me known to be the persons who executed the foregoing instrument and acknowledged
 the same.

State of Wisconsin }
 Milwaukee County } ss Personally came before me this 19th day of April 1913, the

(City Seal)
 Chicago and North Western Railway Company
 By H. A. Gardner President
 Attest John H. Caldwell Secretary

(City Seal)
 City of Milwaukee
 By G. L. Bading Mayor
 Attest Peter F. Leuch City Clerk
 Henry Weber
 Alfred C. Blas
 A. F. Kowalade
 James Currie
 Benjamin Poes
 Board of Park Commissioners

(Notary Seal)
 Edith E. Olson Notary Public

(Notary Seal)
 Clarence E. Allen Notary Public

named Henry Heber, Alfred C. Lee, A. F. Kowalski, James Currie and Benjamin Cox, constituting the Board of Park Commissioners of the City of Milwaukee, and to me known to be the persons who executed the foregoing instrument as such, and acknowledged the same.

(Seal)

Charles Hauserman Notary Public,
Commission Expires Aug. 20th 1916

April 14th, 1913.

I hereby certify that the following is a correct copy of a resolution adopted by the Board of Park Commissioners of the City of Milwaukee on the 14th day of April, 1913

Frank O. Schumacher, Secretary.

Whereas, The City of Milwaukee by its duly authorized officers has pursuant to a resolution adopted by the Common Council on the 31st day of March, 1913, entered into an agreement with the Chicago & North Western Railway Company, dated April 10th, 1913, wherein said Chicago & North Western Railway Company quit-claims to said City of Milwaukee all right, title and interest which it has in and to all certain lands which are particularly described in said agreement; and Whereas, said agreement it is provided that the Board of Park Commissioners shall by resolution authorize the execution of said agreement on its behalf; and, Whereas, The Common Council of the City of Milwaukee has deemed it for the welfare and interest of the city to make and enter into said agreement. Now Therefore, Be it Resolved, By the Board of Park Commissioners of the City of Milwaukee that it shall execute said agreement on behalf of said Board

Recorded Apr 23-1913
at 2⁵⁵ o'clock P.M. } 762755
Edw. H. Mueller Registrar

of Joseph Schiesler & H.

to

M. Gos.
H. Reed

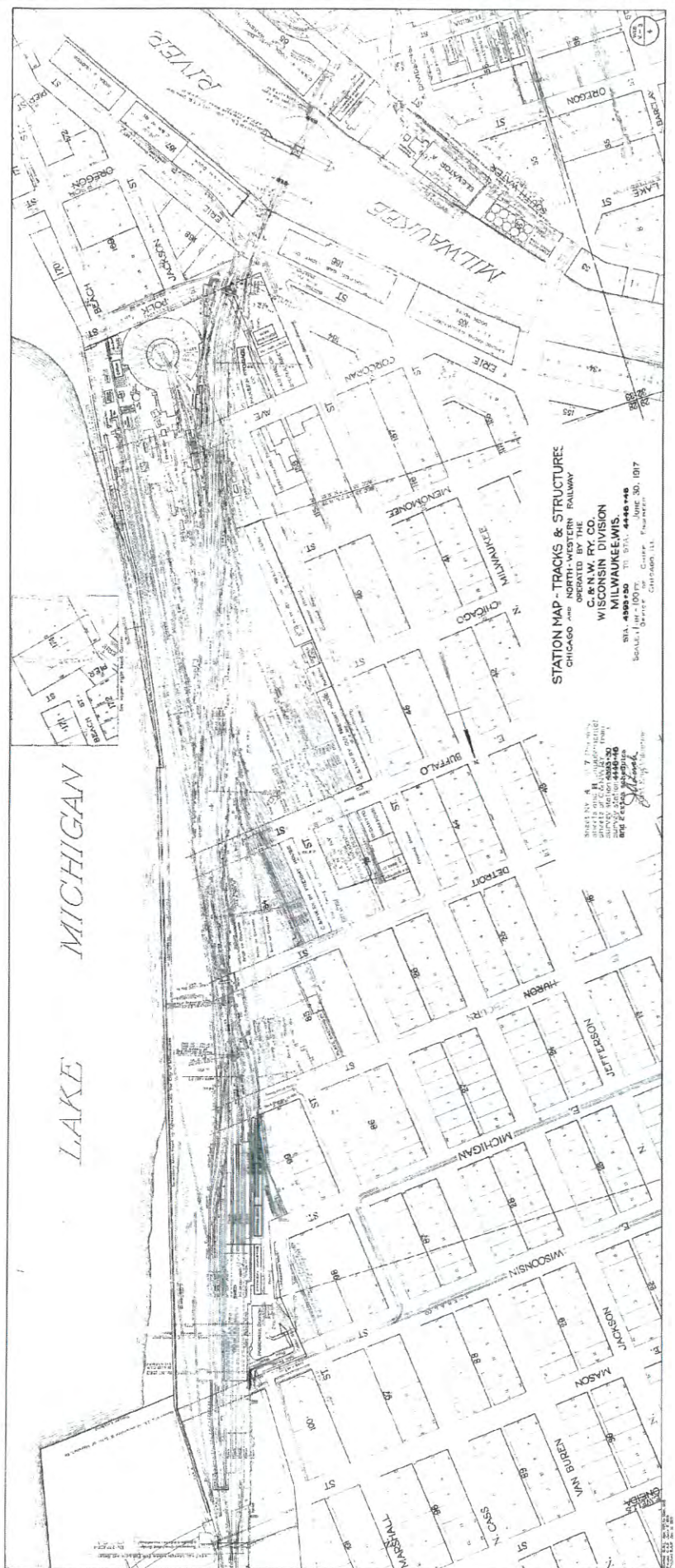
of Joseph Schiesler and Evelyn Schiesler his wife grantors of Milwaukee County, Wisconsin, hereby convey and warrant to Michael Gos grantee of Milwaukee County, Wisconsin, for the sum of One dollar and other valuable considerations the following tract of land in Milwaukee County, State of Wisconsin, to-wit: Lot numbered Thirteen (13) and the North Ten feet (10 ft) of lot numbered Fourteen (14) in Block numbered Nine (9), on the Public Park Land Association Subdivision, in the North East Quarter (N. E. 1/4) of Section numbered Twenty-three (23), in Township numbered Seven (7) North of Range numbered Twenty-one (21) East, in the Twenty-second (22nd) Ward of the City of Milwaukee also a part of the North East Quarter (N. E. 1/4) of said Section Twenty-three (23) bounded as described as follows, to-wit: - Commencing at a point in the North-West Corn. of said Lot Thirteen (13) in said Block Nine (9), running thence West on a line: parallel to the North line of said Quarter (14) Section Seventy-two and Twenty-two hundredths (72.22) feet to a point;



105

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EXHIBIT
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Extension of Juneau Park, showing
runway built for dump wagons.
August 6-1917



STATION MAP - TRACKS & STRUCTURES
 CHICAGO and MILWAUKEE RAILWAY
 C. & N.W. RY. CO.
 WISCONSIN DIVISION
 MILWAUKEE, WIS.
 STA. 4888+00 TO STA. 4446+48
 SCALE: 1" = 100' (Horizontal) 1" = 30' (Vertical)

DESIGNED BY
 DRAWN BY
 CHECKED BY
 APPROVED BY



LAKE



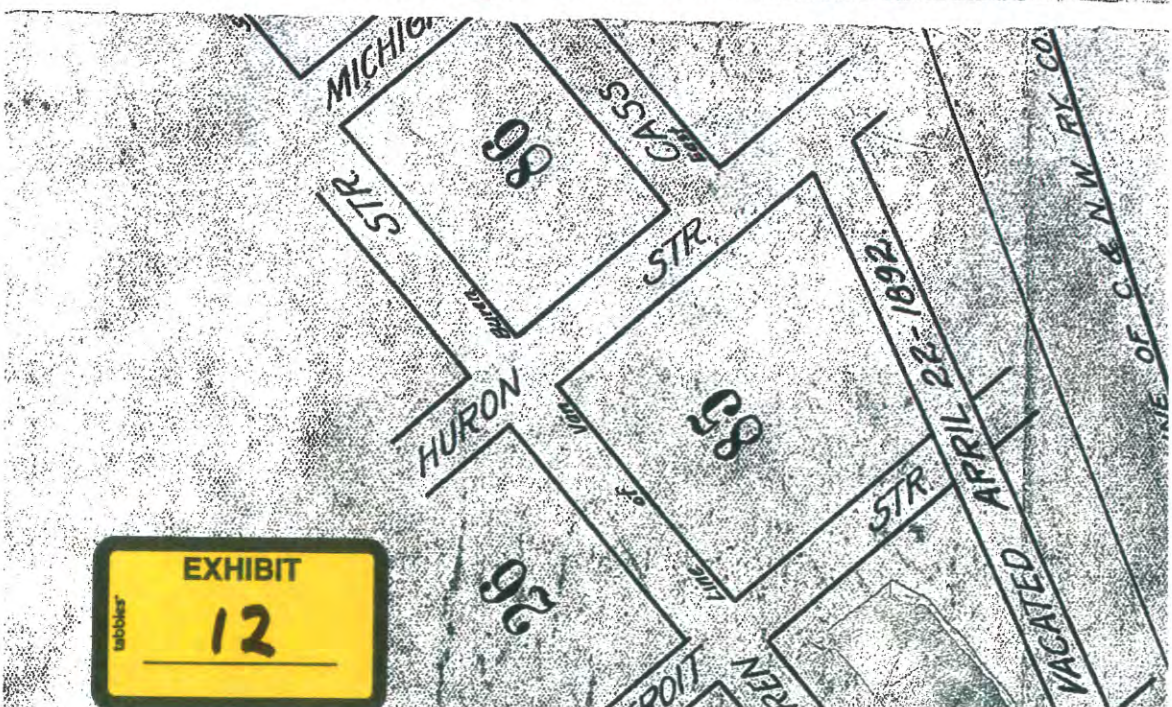
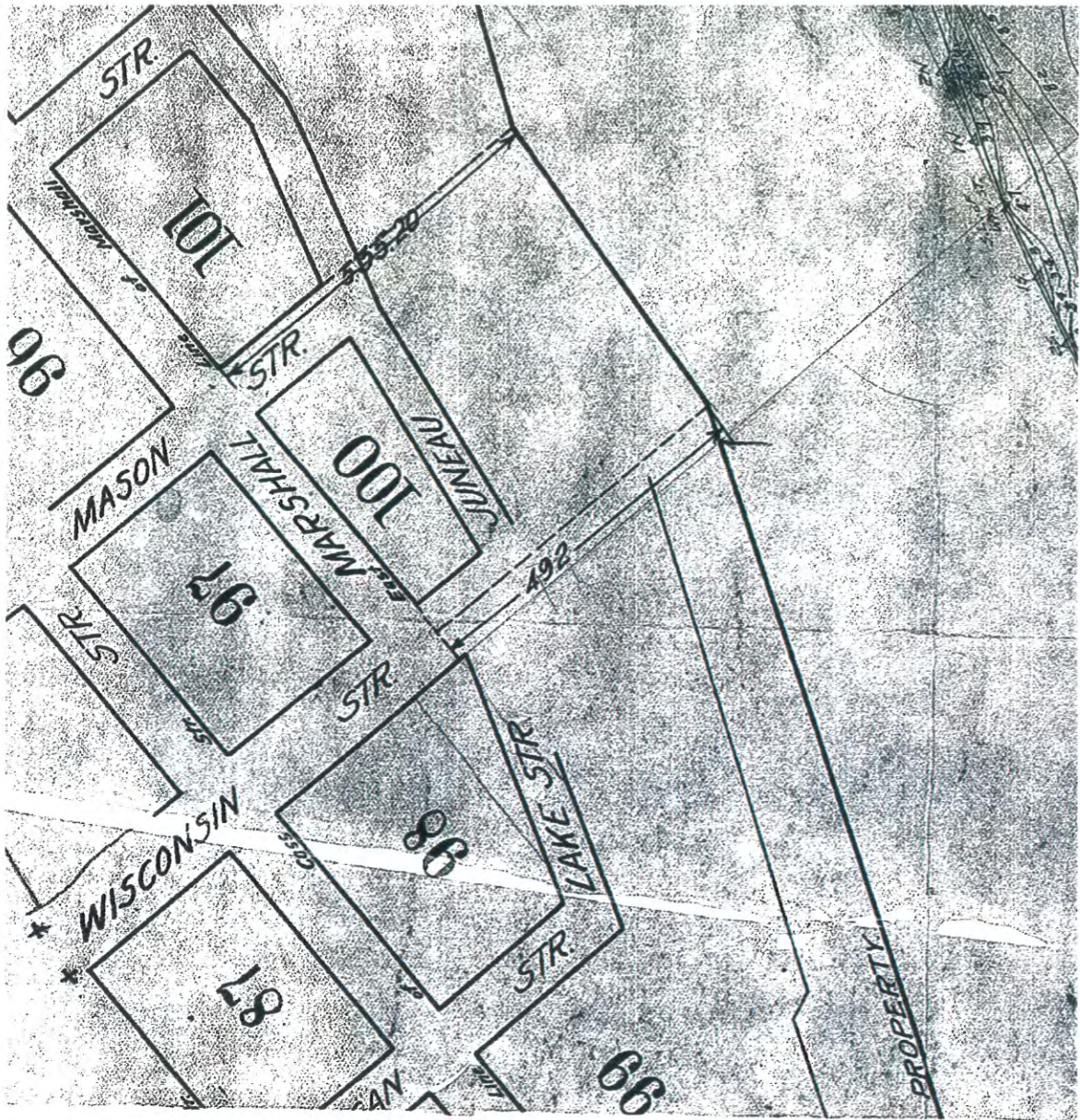
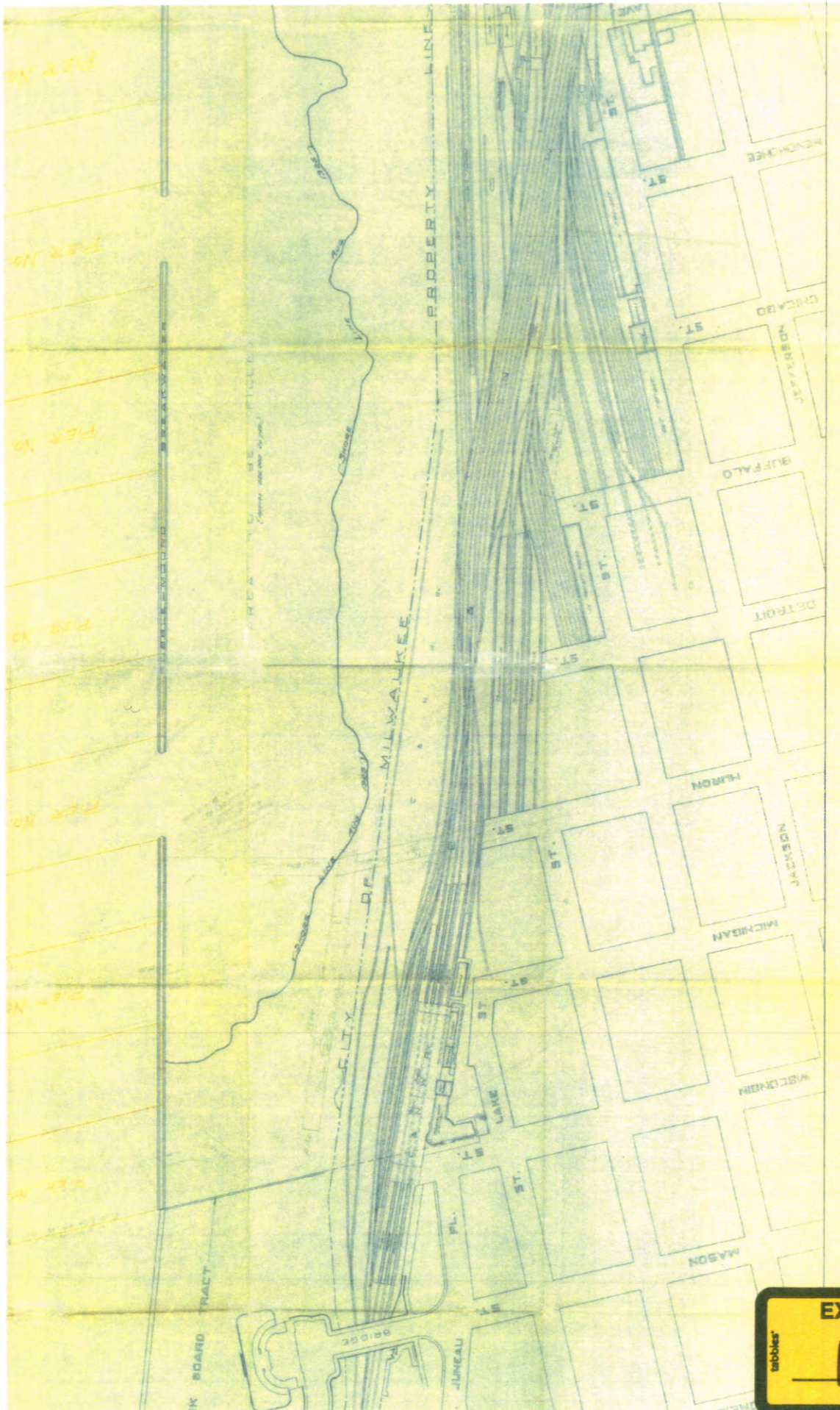


EXHIBIT
12



PER No.
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EXHIBIT
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EXHIBIT
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1930

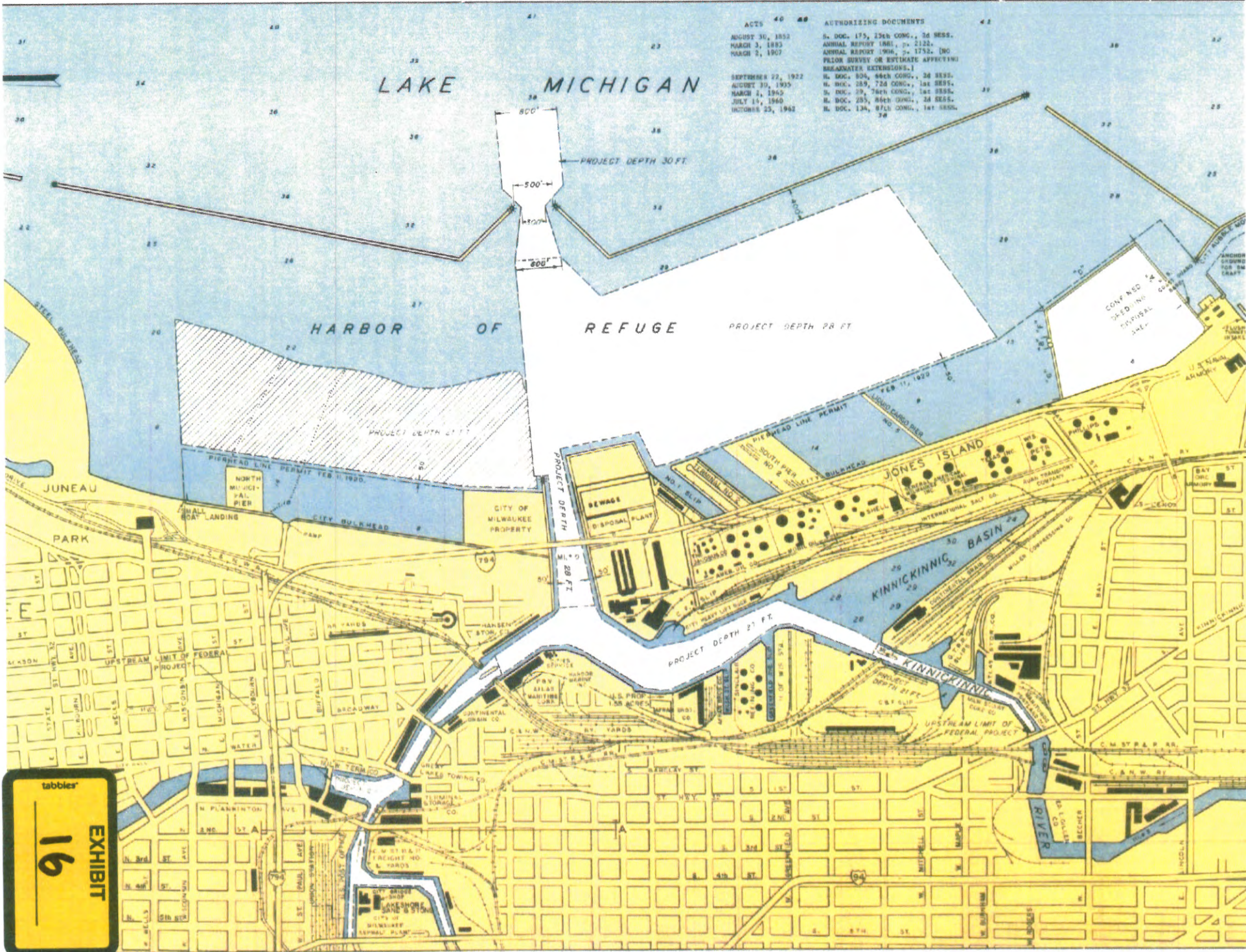


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EXHIBIT
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1938
L.W.

LAKE MICHIGAN

ACTS 40 40 AUTHORIZING DOCUMENTS
 AUGUST 30, 1892 S. DOC. 175, 23rd CONG., 2d SESS.
 MARCH 3, 1893 ANNUAL REPORT 1891, p. 2122.
 MARCH 2, 1907 ANNUAL REPORT 1906, p. 1752. [NO
 PRIOR SURVEY OR ESTIMATE AFFECTING
 REAGNATE EXTENSIONS.]
 SEPTEMBER 22, 1922 H. DOC. 829, 68th CONG., 2d SESS.
 AUGUST 30, 1935 H. DOC. 289, 72d CONG., 1st SESS.
 MARCH 4, 1965 S. DOC. 29, 86th CONG., 1st SESS.
 JULY 15, 1960 H. DOC. 285, 86th CONG., 2d SESS.
 OCTOBER 23, 1962 H. DOC. 134, 87th CONG., 1st SESS.
 30



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16
 EXHIBIT



EXHIBIT
17

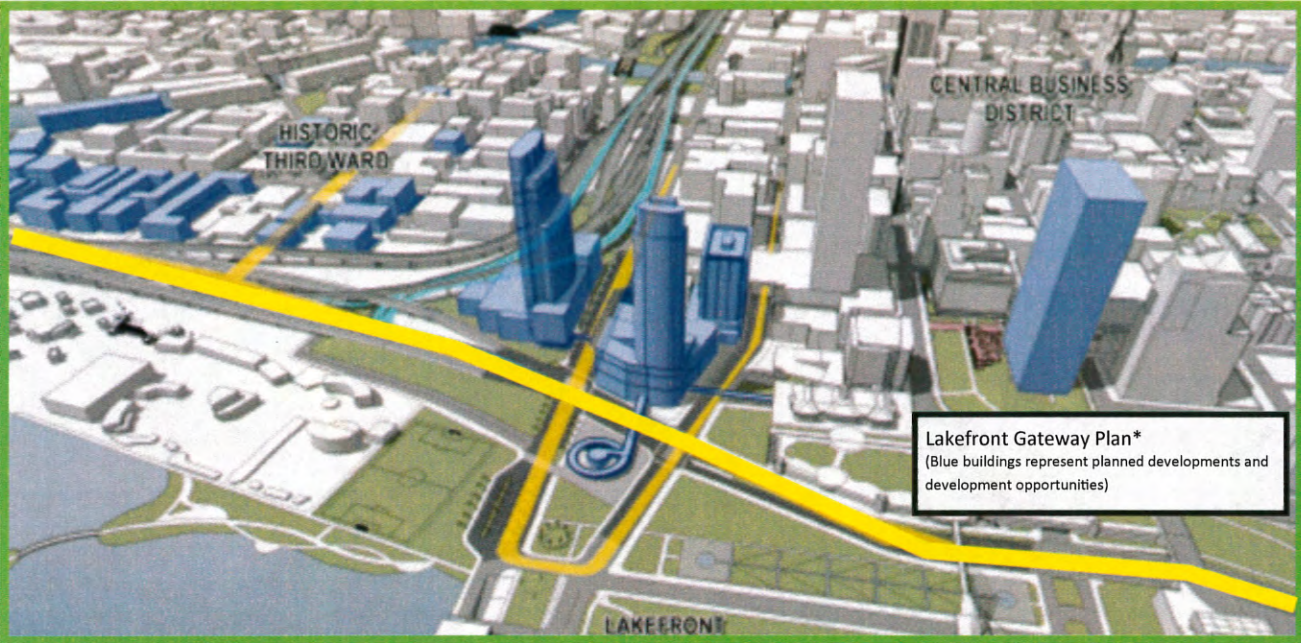


Figure 1



Figure 2

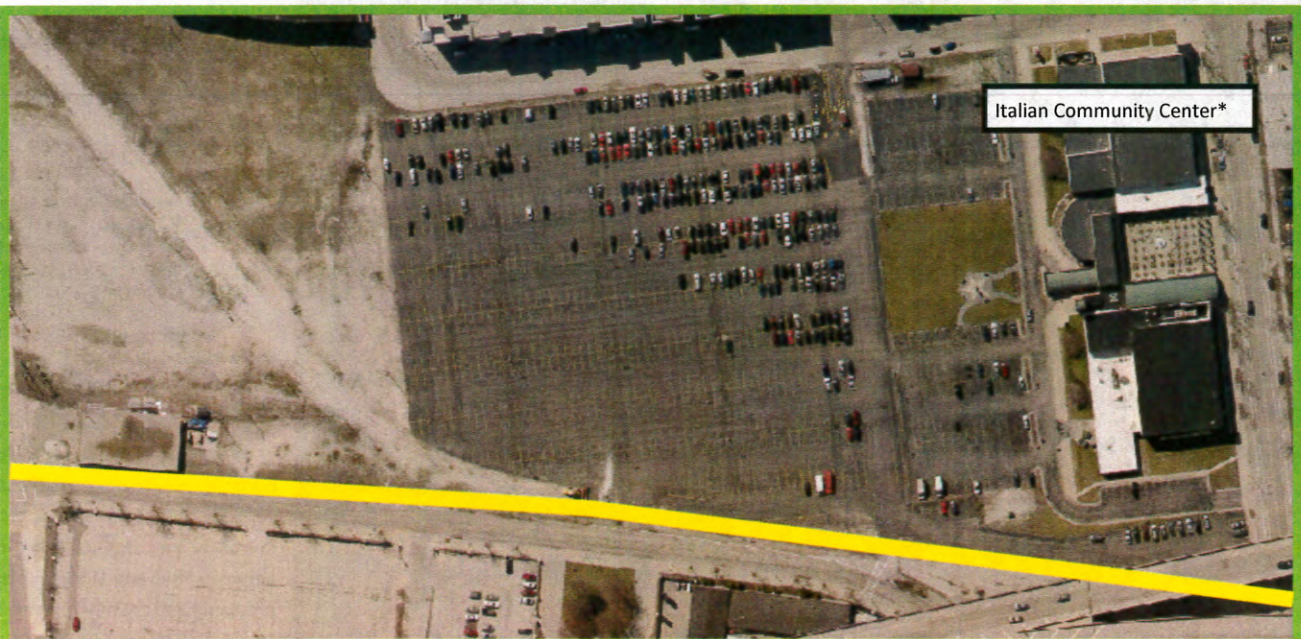


Figure 3



Variance in Boundary Maps*
Milwaukee, Wisconsin

1913 Line
As approved by current Wisconsin Statutes 30.2038 and recognized by historical legislative acts: CH 280 Laws of 1915, CH 151 Laws of 1929, and CH 175 Laws of 1963.

1835 Map

* This map and attached figures are not official maps, nor are they exact or to scale. This map is for illustrative purposes only to illustrate the great variance between 1835 and 1913 boundary lines. Several other maps between 1835 and 1913 have been produced and are not depicted.



Tom Barrett
Mayor, City of Milwaukee

February 4, 2014

Members, Assembly Committee on Jobs, Economy and Mining
Members, Senate Committee on Economic Development and Local Government
Wisconsin State Capitol
Madison, WI 53707

RE: Support for Senate Bill 522 and Assembly Bill 655, relating to establishing the shoreline of Lake Michigan in the City of Milwaukee.

Honorable Senators and Representatives:

I am writing in support of Senate Bill 522 and Assembly Bill 655, which confirm the boundary of the Lake Michigan lake bed in the City of Milwaukee. Although I believe that the boundary of the lake bed has been clearly established by prior legislation, it was unfortunately done in a piecemeal fashion through various legislative acts dating back to 1915. The uncertainty regarding the exact location of the lake bed boundary is now poised to delay economic development projects being pursued by both the City of Milwaukee and Milwaukee County. This legislation provides clear statutory confirmation of the line established by past legislative acts, legal documents and court cases – a line that the City has relied upon for 100 years.

The 1915 legislation confirmed what is often referred to as the 1913 Line. In an agreement and deed between the City and the Canadian & Northwestern Railroad in 1913, a boundary line was established between dry land and lake bed lands granted to the City to be filled (the “1913 Line”). The City, County and State have used the 1913 Line to establish that, west of the 1913 Line, private development can occur. East of the 1913 Line, the City or County holds title as granted by the State and the filled land is subject to public navigation and recreation use restrictions. Senate Bill 522 and Assembly Bill 655 will simply reaffirm this century-long precedent and remove current and future barriers to development of land located outside of the 1913 Line, subject to any legal challenge on Constitutional grounds.

Passage of this bill will help minimize the potential lake bed boundary questions that threaten to delay the collaborative Lakefront Gateway Project being pursued by the City, the County, the Wisconsin Department of Transportation, businesses and other

stakeholders. Combined, we are investing over \$30 million in public infrastructure improvements in the area where Interstate 794 meets Milwaukee's lakefront. In addition to providing better public and transportation access to lakefront amenities, this project is clearing the way for an additional developable commercial parcel by relocating the freeway ramps.

The Lakefront Gateway Project is a critical component of my economic development and job creation plans in downtown Milwaukee. When completed, the project will increase the City's tax base by hundreds of millions of dollars by opening new land for private development and providing better access to existing parcels. The project is expected to create thousands of construction jobs, and hundreds of permanent jobs.

Consistent with the 1913 Line, major developments have occurred in Milwaukee up and down the lakefront for 100 years. Many of these could be in jeopardy if the 1913 Line is not reaffirmed. I urge you to support this bill so that both existing and new investments can continue in the City of Milwaukee and we can further our shared goal of job creation.

Sincerely,

A handwritten signature in cursive script that reads "Tom Barrett". The signature is written in dark ink and is positioned above the printed name.

Tom Barrett
Mayor



OFFICE OF THE COUNTY EXECUTIVE

Milwaukee County

CHRIS ABELE • COUNTY EXECUTIVE

**Testimony of Eric Peterson, on behalf of Milwaukee County Executive Chris Abele
In Support of AB 655 – Establishing the Shoreline in the City of Milwaukee
Assembly Committee on Jobs, Economy, and Mining**

Honorable Chairwoman Williams and members,

Thank you for holding this hearing today on AB 655 establishing the shoreline in the City of Milwaukee. The Milwaukee County Executive, Chris Abele, appreciates your support of this bill and the bipartisan support for this bill to enable job creation and provide clarity regarding the shoreline of Milwaukee for the continuation of economic development in the state's economic engine. The Executive also expresses his thanks to the co-authors, Rep. Sanfelippo and Sen. Vukmir, for their willingness to engage on this matter for the taxpayers and citizens of Milwaukee County.

In this bill, the Legislature is clarifying and codifying the 1913 shoreline created by an agreement between the City of Milwaukee and the Chicago and Northwestern Railroad and the property therein conveyed. The boundaries established in 1913 have long been recognized by the DNR, the state legislature and others as the lake bed boundaries, and as a result, have been used for a century of real estate development in Milwaukee. This bill is also a critical step in the development of the parcel of land owned by Milwaukee County, commonly referred to as the Downtown Transit Center.

As you are all well aware, the Couture development is projected to be built on this property. ***This development will be a \$180 million investment in Milwaukee, add over \$10 million to the local tax base, and create 2,600 direct and indirect construction jobs.***

Since before World War I, the State of Wisconsin has respected and repeatedly used the 1913 line created by this agreement to delineate the historic shoreline. If the 1913 line is not respected, the shoreline is undefined and unknown, and the resulting muddle could threaten numerous other parcels in Milwaukee currently in private or public hands, including state land opening for development near the I-794 ramps currently under construction and in the area surrounding the Italian Community Center. This bill protects and clarifies the boundary for the most valuable two miles of shoreline in the city, and some of the most valuable land in the state.

This bill is the crucial clarity needed from the Legislature that will serve to grow the tax base and create jobs through the redevelopment of the underutilized transit center parcel and future development projects near the lakeshore and additionally, to protect the property rights of landowners in that area.

On behalf of the County Executive, I encourage your support of this job creation legislation.

Thank you.