

Property management: a railroad viewpoint

by Richard B. Taylor

Our current corporate entity is the successor corporation to 154 predecessor corporations. This alone provides some interesting property management title problems.

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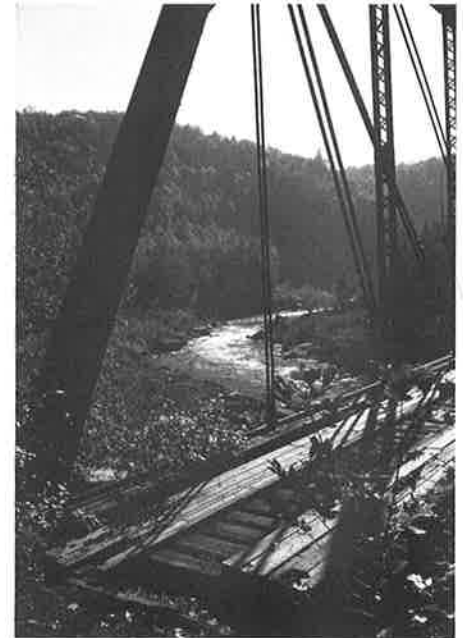
The company I work for, which is the Chicago and North Western Transportation Company, is probably one of the newest Class I or major carriers in the United States. We were founded in 1972 by virtue of a leverage buy-out from our parent corporation, which was Northwest Industries. Our predecessor company was the Chicago and North Western Railway, which has been around since 1848. During the first 10 years of our existence, we were proud to be called an employee-owned railroad because a majority of the stock was held by Company employees. Currently we have some 11,000 employees and operate in 11 states running westerly from Chicago to Wyoming, south to Kansas City and St. Louis and North to the Duluth, Minnesota and Marquette, Michigan Upper Peninsula area. We operate approximately 7,000 miles of main line track and last year did about \$870,000,000 worth of gross business with earnings of approximately \$34,000,000.

As I indicated, we are relatively new but our predecessor built its first line of railroad in 1848 from Chicago westerly

to the Galena, Illinois area, which was the location of some lead mines at that particular point in time. Our corporation or corporate entity is the successor corporation to 154 predecessor corporations, so that alone provides some interesting property management title problems. Basically, we manage our extensive land holdings as an absentee owner.

Figure 1 depicts our particular organization and defines in broad terms the function of each of the major areas. The number shown in each of these functions represents the number of people involved in each of these activities in our department. I'm not suggesting that this is the only functional way a department in the railroad should work, but it does seem to work effectively for us.

Our corporation has combined the functions of real estate and industrial development. Approximately 50% of all railroads have this divisional make-up. The function of industrial development is simply to encourage the location of and the expansion of *profitable* businesses on the Transportation Company system. The function of property management is to manage the real estate assets of the corporation in a manner consistent with overall corporate objectives. With these two definitions, the two functions that we have merged are



neither inclusive nor exclusive.

Our records management system is quite a challenge to maintain. I have indicated that our corporation is the successor corporation to 154 earlier corporations, each of which owned substantial lands, each of which acquired the properties in a different way, operating in 11 different states under 11 different statutes since 1848.

The key to our property ownership records is a valuation map and parcel system. In order to understand this, let's go back into history to see how this record first came about. In 1887 under "The Act to Regulate Commerce" the Interstate Commerce Commission was formed to do exactly what the Act states, that is, to regulate commerce of all sorts between states. At that point in time there were two types of commerce, railroads and barges. Almost from the beginning of the Interstate Commerce Commission, there was pressure placed on the Commission to value railroad properties in order to determine the reasonableness of rates that were charged by the railroads and to allow the Commission some knowledge so that they could evaluate the security issues that were being sold to the public. Finally, in 1913, an act was approved to determine the value of railroad holdings in three areas, that is in real estate, securities,

and track and rolling stock based upon 1914 prices. The original cost to develop this material was estimated by Congress to be about \$2.4 million and by the railroads to be about \$8 million. The best estimates now seem to indicate that the cost of this study to the government was \$48 million and to the railroads \$152 million to obtain and codify this voluminous mass of materials.

Nevertheless, out of all of this work came the valuation map which forms the basis of our day-to-day land activities. These maps are 24"x56" and done on good linen covering a maximum of four miles of railroad on a 1 to 400 scale or one mile on a 1 to 100 scale. Inside the communities, or station grounds as they're called, there is either a 1 to 50' or 1 to 100' map depending upon the detail required, and either a 1 to 200 or 1 to 400 scale for right-of-way maps between towns. All of these were drawn in the period between 1913 and 1934, but primarily between 1914 and 1920. At the time that maps were drawn from field notes, existing buildings and other monuments were located on these maps and the ownership of the Transportation Company as of the date of the drawing of the map was depicted.

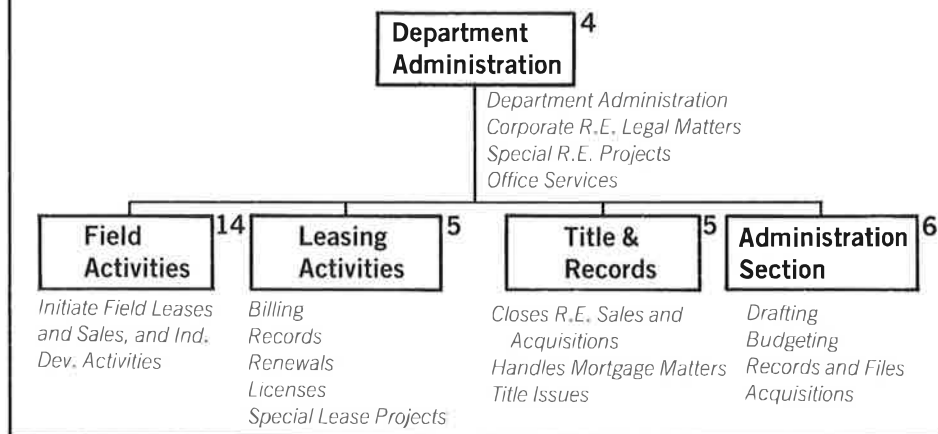
Valuation maps depicting railroad ownership are universally shown by the two dots and then the two short dashes and then the longer dash between. Likewise, all structures are shown on the railroad property and all track is identified as to length and ownership, except for main line tracks. Likewise, all major items such as switches, crossings (and later pipeline and utility crossing) and licenses are identified by a chaining dimension.

Accompanying a valuation map is the grantor/grantee index, which generally appears in the upper right-hand corner and covers all of the property owned by the Transportation Company as of the drawing of the map. Subsequent to that date, any additional transactions made by the Transportation Company are shown and identified with a letter such as 3A, 3B, and 3C. These depict partial sales.

The railroads retain three sets of these valuation maps. We have probably close to 2,000 of these valuation maps ourselves for 7,000 miles of railroad. One set is retained in the property manage-

Figure 1. Real Estate and Industrial Development Department

The organizational chart for the railroad, with the number of employees in each department circled.



ment department, one set by our Engineering Department, and one set is divided up among our operating divisions — each of them with their particular segment of trackage they operate. On our particular railroad, the Real Estate Department has the responsibil-

ity to maintain the real estate records and the Chief Engineer's office maintains current track information. In addition to these sets of maps, the Interstate Commerce Commission in Washington, D.C. has a set of maps and any change subsequent to the original drawings of

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CHECK ONE	
PURCHASE	<input type="checkbox"/>
SALE	<input type="checkbox"/>
RETIREMENT	<input type="checkbox"/>
TRANSFER	<input type="checkbox"/>
CARRIER TO NONCARRIER	<input type="checkbox"/>
NONCARRIER TO CARRIER	<input type="checkbox"/>

CPJ

Figure 2. LAND COMPLETION REPORT

Division Iowa Location Rutland
 Owner C&NW Ry. Co. State Iowa County Humboldt Auth: 6/15/67
 From Eagle Grove To Sioux Rapids A.F.E. No. 93070 Est. No. P-4552
 Date dedicated to or retired from public use _____ Deed No. 74403 Deed Kind Q.C.D. Deed Date Dec. 27, 1967
 Grantor Chicago and North Western Railway Company Grantee Sinclair Patrechemicals
 C&NW sale under Article VIII, Section 1 _____ Date Cash Deposited _____ Land Sales File Number 22442
 2 _____
 3 XXX Subject to local assessment _____

CARRIER OR NON CARRIER	VALUATION SECTION	MAP NO.	PARCEL NO.	AREA		COST	1913 VALUE				SPECIAL ASSESSMENT	SALES PRICE	NET PROFIT OR (LOSS)	
				ACRE	SQUARE FEET		ZONE	UNIT VALUE	UNIT	AMOUNT			PER BOOKS	PER FEDERAL INCOME TAX
C	8A	S6	1B	.840	36,590	24.00	16	.0413	Sq.Ft.	1,511.17		3,405.00		
C	8A	S6	3B	1.250	54,450	0.00	16	.0413	Sq.Ft.	2,248.79				
			TOTALS:	2.090	91,040	24.00				3,759.96		3,405.00		

REMARKS: Parcels 1 and 3 acquired 1881

Prepared by _____ Date _____ Approved by _____ Date _____ Approved by _____ Date _____
 Real Estate Department Director of Taxation Auditor Capital Expenditures

This report provides the information needed to make corrections on company maps. The corrections reflect property ownership changes, status of sales, etc.

the map are reflected and passed on to the Commission by the various railroads to adjust their valuation maps. When the valuation process was completed, railroads had their valuation maps and also a property ledger. The property ledger provides the same information that appears in the Grantor/Grantee Index with one additional piece of information — the original cost to acquire the individual parcels.

Obviously, property does not remain static. It is sold, it is retired, it is acquired and all of this we have now put on IBM sheets which are, in effect, the property ledger sheets updated on a quarterly basis. The ownership of the property appears on the sheets and the original Grantor/Grantee Index in the various parcels along with the retirements made by the sales of the various properties in question. All of these changes are affected by one final document which is

reproduced entitled the "Land Completion Report" (Figure 2). This report forms the basis for making the corrections on the maps coming in the Property Ledger Reports and in all of our accounting records throughout this system and in Washington, D.C. The particular sample shows a sale of Parcels 1B and 3B to the Sinclair Petro Chemical Company back in 1967. These retirements again are shown on the IBM sheets as well. Every real estate transaction has its own completion report which triggers the changes in the original property ledger and in the IBM sheets.

That, in a nutshell, comprises our basic title source information and, to summarize, consists of the actual deeds, the original property valuation information, the valuation maps and those changes which appear in the completion report.

Last, but certainly not least, in our records management scheme are the deeds and the original documentation which many railroads have put on microfiche or some other form of documentation. Unfortunately, many of our documents were destroyed in the 1871 fire in the City of Chicago. We do have a special vault, fire proofed, in the Real Estate Department in which our records are retained and these are used on a daily basis. The deeds acquired by the Chicago and North Western Transportation Company, or their predecessors, are filed by valuation section, map and parcel number. So, in order to find a title document, it is necessary to know the state, the county, the valuation section of the map and the parcel number and you can locate that document. The other roads that we have acquired over the period of time and, most recently, the Great Western, the Rock Island and the

M&StL Railroad, use a numbering system starting with 1 and working on, which has no relationship to location, but are equally as easy to use.

All of our sales, acquisition and other property matters are filed by station numbers. Also shown are the state, the county, and valuation section. (See **Figure 3.**) This is cross-referenced alphabetically and numerically. We retain files in our vault for approximately five years after the last correspondence pertaining to that particular transaction. Then we transfer these to an outside warehouse approximately 12 miles away where they are stored on an almost indefinite basis at this point in time. We anticipate that the Commission will allow us to destroy these documents after a period of time just from a cost standpoint. Copies of the deeds are retained in a deed record and a copy of the deed and the formal authority authorizing the release or acquisition of a particular parcel of land are retained in the Corporate Secretary's office and become part of the corporate records.

We have, likewise, approximately 6,000 leases that are active on our system and these are filed alphabetically by station and the numbers that we are using at this point in time are an 80,000 series number for our leases and a 90,000 series number for the license documents.

The sale and lease program

When the railroads first went into a community, they acquired not only their right-of-way but also extra-width properties with the idea of leasing these properties at a reasonable rate of return to shippers who would provide economic gain to the railroad by shipping on the railroad. These properties could include grain elevators, lumber yards, coal yards, etc. Over the course of years, substantial improvements were placed on these properties. With these improvements, there was almost always a 30-day cancellable lease. There are stories of railroads exerting pressure on shippers because of these 30-day cancellable leases to increase shipping or to retain their loyalty when the truck competitive situations developed.

The intent was industrial development, that is, to attract rail users to ship on the North Western. Starting in the early 60's, our Company, among others,

Figure 3. Records Management

STATION NUMBER	TOWN	STATE	COUNTY	VALUATION SECTION	MAP
4410	Rowena	Minn.	Redwood	5C	5, S-5
6163	Roxby	Neb.	Cherry	9A	25
1633	Roxby	Wis.	Bayfield	410	11
6561	Ruby Basin	So. Dak.	Lawrence	3D	3
1292	Rudolph	So. Dak.	Brown	9	S-18
3694	Rufus	Wis.	Ashland	63	4
3719	Rummeles	Wis.	Vilas	54	24
2002	Rushmore	Minn.	Nobles	413	3
6188	Rushville	Neb.	Sheridan	9B	S-6

decided that it was not wise to retain as much land as we did and we embarked upon a program to offer these properties for sale to our lessees on a highest and best, free and clear basis. Only the railroads which had great tax loss carry forward and could bring 100% of the sale proceeds down to the bottom line were selling properties rather than leasing on a long-term basis or developing either by themselves or under joint venture.

A second factor came into play during the late 60's which also facilitated the sale of much railroad property. In 1968, we conducted a study which indicated that 96% of our revenue came from 60% of our rail system and we embarked upon a program of abandoning those lines which did not show economic viability. When we started this program in 1968, we had approximately 11,500 miles of track and we are now down to approximately 7,000. These 4,500 miles of abandoned right-of-way and the associated station grounds in the communities afforded another opportunity to generate income by sale of land.

We established field offices in the early 60's to facilitate the sale of these surplus properties. Currently, our field offices are responsible for all sales, leasing and industrial development activities in their territory. We use snap-out Offer to Purchase and Offer to Lease forms which make writing a contract easy, even in the buyer's or lessee's office. The salesman negotiates the lease and sales agreements and work on all aspects of industrial development activities.

It's been our experience that the ideal area office consists of four people — one steno and three field officers — and,

traditionally, these officers are on the road approximately 50% of their time. Depending upon the area and inventory, each office covers three or four states and, in addition to the sale and lease and industrial development work, they do some minor acquisition work. The majority of acquisition work is done by our Chicago staff. We are just completing the longest acquisition made by a railroad in the last 50 years, about 60 miles of new right of way in Nebraska and Wyoming to serve the Powder River Coal Basin. Unit coal trains will be running over this new line late this year. These field people actively participate in organizations such as IRWA and state and regional industrial development organizations as well. We presently have nine people who are members of IRWA.

I think we are all very pleased with the work of our area offices and I cannot emphasize the advantages of having local or, at least regional, representation in real estate matters.

As we all know, real estate is governed almost exclusively by state statutes, except in some very unique situations. We happen to have working in the Real Estate Department and reporting to me, the Corporate Real Estate Counsel for the Company. That's a very unusual situation and it is only because the individual involved started in our Title and Records Section and is an excellent attorney who has stayed in our department, rather than making the switch to the Law Department. In most railroads, the chief real estate attorney for a railroad is a member of the corporate Law Department staff.

Additionally, we have state counsels on retainer in every state in which we

The sales and lease property programs have generated \$260,000,000 over the last 25 years.

operate and they are actively consulted by both the staff in Chicago and our field offices as problems arise on real estate matters. They are our registered agents in each of the states and I would guess that approximately 5% of their total railroad work is devoted to real estate and real estate problems.

Another important ex officio member of our staff and not shown on the organization chart are the railroad lobbyists. The railroads have formed associations in every state and the lobbyists perform many functions. Number one is to keep us all abreast of pending legislation as it relates to our particular fields in the railroad business and to allow us entrees to the various legislative officials if we feel strong enough that a direct lobbying intervention is worth our while. Many of us in Chicago end up both testifying before various committees of the legislature and attending private luncheons, dinners and breakfasts lobbying for or against individual bills as they may affect our interests.

The fourth part of our legal group is actually our Title and Closing Section and this is a staff group in Chicago that handles the closing of real estate transactions submitted by our field sales staff. They obtain the internal approvals, draft deeds, collect monies, obtain mortgage releases, and ensure the records are correct. Each of our closing officers handles approximately 200 transactions every year, dictating that our procedures are standardized to the greatest extent as possible.

It has been my experience that we are better off if we do not use lawyers for closing officers. Most of the work done by our Closing Section is of a routine nature. We have found that those people who have gone through the paralegal program specializing in real estate end up being very productive workers for us. Likewise, people with title, banking or

savings and loan mortgage experience fit well in our operations. Interestingly, our Title and Closing group does not report through our Corporate Real Estate Attorney, but through the administrative end of our operation.

Appraisals

When the decision was made to sell those properties not required for operating purposes, we hired Real Estate Research Corporation, located in Chicago, Illinois, to appraise all of the surplus properties on the system and to conduct lease audits, and in general, advise the corporation as to the marketing potential for these properties. It reached the point where, in 1963, the billings from RERC were in excess of \$1,000,000, whose major work was done in Chicago but who also had branch offices in St. Paul, Minnesota and Omaha, Nebraska. At this point in time, were the same situation to develop, we would not hire an appraisal corporation to direct our activities since we have now developed approximately 25 years of experience, but all of this was brand new in the 1960's and we did not have the staff that we have now. Our experienced salesmen are probably in a better position to value railroad right-of-way than most outsiders, although it is important to periodically retain outside appraisers for certain assignments if nothing else than for control purposes.

From the start of our sales program in 1958, through 1983, we have generated income from gross sales of real estate in the amount of approximately \$190,000,000 and about 80% was gain, which dropped to the bottom line as net income (**See Figure 4**). Adding approximately \$70,000,000 in lease income, results in total income of about \$260,000,000. Our total departmental expense was about 8% which is a pretty good return on your money. These figures, of course, do not include revenue from new and expanded industries generated from the efforts of Industrial Development staff since 1978. This revenue averages about \$20,000,000 per year.

We do use outside appraisers on an "as-needed" basis and generally hire local MAI's in the area. We use them for certain administrative Interstate Commerce Commission hearings, to obtain

certification of sales for mortgage purposes, condemnations and other court actions and, also, if we really don't have a good feel of the area and have a rather large real estate project, we would hire a local appraiser to develop and furnish comps and give his opinion of value.

I am aware that many other railroads do have staff appraisers and have specific requirements whereby no sale can be made without an outside MAI appraisal, but we are currently making approximately 600 sales a year, and it would be both impractical and uneconomical to have outside appraisals made on each and every parcel.

What I call the "nuts and bolts" of property management obviously is a real problem for any corporation operating in eleven states, even with area offices and division officers who are constantly on or about the railroad property. The biggest problem we have is policing the right-of-way, but do get assistance from our own special agents, our 11,000 employees, our train crews and other Engineering and Operating personnel who are on the property all of the time. Because of a consolidated agency programs and other streamlining operations, many of our former depot buildings are now vacant or only used for engineering storage purposes, and there are not resident agents at every building. Vandalism in certain areas is a serious problem for us.

Taxation upon railroad properties is affected by the actions of the Real Estate and Industrial Development department. Railroads are generally taxed by the state directly. But much of our surplus properties such as station grounds are locally assessed, particularly if they are under lease. Likewise, at the time we abandon a line, the property reverts from a state jurisdiction to the local county assessor jurisdiction and is placed on the local tax rolls. This prompts our people to negotiate and educate local assessors on the value of railroad properties.

Our involvement with special assessments is limited primarily to testifying as to our opinion of value of railroad properties. Most of the battling over special assessments is handled by our state counsel and our Engineering Department (who prepare the necessary plats) and local appraisers, hired either by our

Department or by our state counsel, to testify on before and after benefits.

Several other matters give us some concern, one of which is zoning and rezoning of properties. Railroad properties are zoned anywhere from single-family residential to railroad zoning. We are frequently requested to have railroad rights-of-way annexed to allow a parcel, not contiguous to a municipality, to be annexed by virtue of a corridor concept. For those of you familiar with O'Hare Field and its location to the City of Chicago, the annexation of that property to the City of Chicago was accomplished by annexing right down the right-of-way of the John F. Kennedy Expressway and is entirely surrounded by other municipalities.

Last in the general area of property management are those constantly re-occurring items that I call "all other legal matters." Our Drafting Section is where the majority of these issues are channeled and they include surveying problems, legal description matters on both Transportation Company deeds and private deeds, and concerns where surveyors have used the railroad center line as a monument and we have thereafter abandoned the line, adverse possession problems and overlapping deeds, and street right-of-ways, etc. None of these matters impact significantly upon the Railroad's ability to run a railroad, but could impact if we are desirous of converting the right-of-way to an alternate use. Therefore, it is incumbent upon any property management group to pay attention and react to those things that would be detrimental to their long-term interest.

The final item that our Real Estate Property Management Department is involved with is one of testimony and, basically, we testify at a number of different legislative or administrative hearings. All Interstate Commerce Committee abandonment hearings require the presence of a Real Estate Department representative to testify as to title, value and re-use conditions. I mentioned earlier that we lobby in the state legislature on real estate matters and appear in court on various condemnation, zoning and appraisal problems. Likewise, we testify at administrative hearings on behalf of Industrial Development projects which require some type of govern-

Figure 4			
Chicago and North Western Transportation Company			
Comparative analysis — Real Estate operations			
1958 - 1983			
Year	Gross real estate sales	Annual lease income	Total costs
1958	\$ 855,000	\$ 795,200	\$ 254,020 *
1959	6,348,000	1,220,400	329,097 *
1960	5,488,000	1,750,000	456,002 *
1961	6,994,000	2,023,000	632,833 *
1962	7,521,000	2,416,200	1,027,960 *
1963	6,065,000	2,139,658	775,497 *
1964	13,601,926	2,371,202	649,921 *
1965	6,232,415	2,062,718	629,812 *
1966	6,706,773	2,316,172	684,560
1967	7,332,133	2,469,381	635,934
1968	10,146,040	2,515,543	657,716
1969	8,931,014	2,865,531	688,519
1970	6,118,298	2,869,972	696,307
1971	5,439,371	2,731,804	687,590
1972	6,617,817	2,749,149	702,185
1973	5,992,200	2,836,424	732,694
1974	5,741,451	2,923,652	784,374
1975	5,770,540	3,001,336	743,458
1976	6,682,037	2,967,321	761,018
1977	4,190,731	3,244,639	752,705
1978	5,621,409	3,455,234	1,089,686 **
1979	5,807,944	3,592,804	1,082,667
1980	7,997,986	3,922,145	1,151,283
1981	10,363,055	3,869,959	1,301,050
1982	10,095,740	3,591,220	1,395,821
1983	16,714,966	3,370,521	1,172,758
	<u>\$189,374,576</u>	<u>\$70,071,185</u>	<u>\$20,475,467</u>
Total Departmental Cost		\$ 20,475,467	
Total Departmental Income		\$259,445,761	= 7.89%

* Includes Real Estate Research Corporation Appraisal Costs

** Hereinafter Includes Real Estate and Industrial Development

mental approval. Another area where we are called on frequently are PI and PL cases. We testify as to the title of railroad property as it relates to the specific personal injury or personal property liability matter in dispute.

What type of person fits our corporate environment? We have an extensive process to recruit any employee for our Company these days. We are an MBO or "management by objectives" company and that incorporates all of the things such as job descriptions, job profiles, testing and, of course, several personal

interviews. I can tell you that, generally, it has been our experience that established real estate brokers are not comfortable in a large corporate environment. Our field people need a modified sales profile. We would prefer to teach them about real estate ourselves. Paralegals are ideal for our situations. Many railroads have a land agent or real estate representative who handles both the sales activity in the field and the closing activity in the office. We have separated those functions and found that they work well for our purposes.