

207049

**UNION PACIFIC RAILROAD COMPANY**

LAW DEPARTMENT  
101 NORTH WACKER DRIVE, SUITE 1920  
CHICAGO, ILLINOIS 60606  
FAX NO. 312-777-2065

RONALD J. CUCHNA  
GENERAL SOLICITOR  
312-777-2040

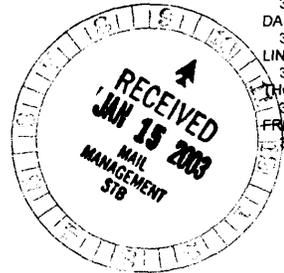


GEORGE H. BRANT  
312-777-2051  
MACK H. SHUMATE, JR.  
312-777-2055  
DANIEL R. LA FAVE  
312-777-2046  
LINDA J. COYLE  
312-777-2056  
THOMAS W. CUSHING  
312-777-2053  
FREDERICK P. JOHNSTON, JR.  
312-777-2047

January 14, 2003

**VIA UPS NEXT DAY AIR**

Mr. Vernon Williams, Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423-0001



**RE: Docket AB-33 (Sub-No. 190X), Union Pacific Railroad Company  
- Abandonment Exemption - In Dunn County, WI - Petition for  
Notice of Interim Trail Use**

Dear Mr. Williams:

The Union Pacific Railroad Company has received a request from the Wisconsin Department of Transportation on behalf of the City of Menomonie, Wisconsin for a Notice of Interim Trail Use pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 regarding that portion of the Union Pacific's right-of-way known as the Menomonie Industrial Lead from M.P. 0.90 near Stout Oak Street to M.P. 2.90 near 12<sup>th</sup> Avenue West, a distance of 2.00 miles in Dunn County, Wisconsin. The Union Pacific is willing to negotiate with the City of Menomonie concerning the acquisition of the subject property for trail use and supports the City of Menomonie's request to negotiate for a period of 180 days. A copy of the City of Menomonie's request is attached hereto as Exhibit "A" and hereby made a part hereof.

Ten (10) additional copies of this letter and exhibit are enclosed for the Board's use and distribution.

Very truly yours,

Mack H. Shumate, Jr.  
Senior General Attorney

Enclosures

**ENTERED  
Office of Proceedings**

**JAN 15 2003**

**Part of  
Public Record**

202 565 9082 FAX

Terry Guy



Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum  
Governor

Thomas E. Carlsen, P.E.  
Acting Secretary

Office of General Counsel  
4802 Sheboygan Ave., Rm. 115B  
P.O. Box 7910  
Madison, WI 53707-7910

RECEIVED

JAN 07 2003

LAW DEPARTMENT  
UNION PACIFIC RR CO.

Telephone: 608-266-8810  
FAX: 608-267-6734  
E-mail: ogc.exec@dot.state.wi.us

January 3, 2003



Mr. Vernon A. Williams, Secretary  
Office of the Secretary  
Surface Transportation Board  
Case Control Unit  
1925 K Street, N.W.  
Washington, D.C. 20423-0001

RE: **STB Docket No. AB-33 (Sub-No. 190X) Union Pacific Railroad Company--Abandonment Exemption--In Dunn County, WI -- Petition for Notice of Interim Trail Use**

Dear Mr. Williams:

Enclosed for filing are the original and ten (10) copies of the City of Menomonie Wisconsin - Notice of Interim Trail Use."

We are making this application on behalf of the general public. The City of Menomonie is a local governmental entity and exempt from the filing fee under 49 C.F.R. 1002.2 (e)(1).

Please date stamp and return the duplicate copy of this transmittal letter in the prepaid, return mail envelope for verification of receipt. Thank you.

By my signature below, I certify service upon the Union Pacific Railroad Company, Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Suite 1920, Chicago, IL 60606.

Sincerely,

Allyn Lepeska  
Attorney

Enclosure

pc: Richard Steffes  
Vicki Schaefer  
Mack H. Shumate  
Lowell Prange  
Bert D. Peterson  
Ronald Schroeder

ENTERED  
Office of Proceedings

JAN 15 2003

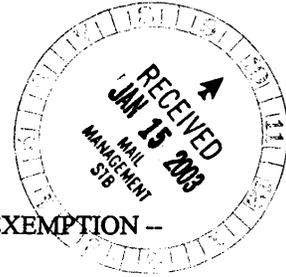
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BEFORE THE  
SURFACE TRANSPORTATION BOARD

AB-33 (SUB-NO. 190X)

UNION PACIFIC RAILROAD COMPANY -- ABANDONMENT EXEMPTION --  
IN DUNN COUNTY, WISCONSIN



CITY OF MENOMONIE WISCONSIN  
PETITION FOR NOTICE OF INTERIM TRAIL USE

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**BACKGROUND**

On December 23, 2002, the Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a petition under 49 C.F.R 1152, Subpart F – Exempt Abandonments and Discontinuances of Service and Trackage Rights, for exempt abandonment of the Menomonie Industrial Lead from milepost 0.90 near Stout Oak Street to milepost 2.90 near 12<sup>th</sup> Avenue West, a distance of 2.00 miles in Dunn County, Wisconsin, (the “Line”). The Line traverses U.S. Postal Service ZIP code 54751.

On December 19, 2002, the City of Menomonie, Wisconsin (CMW) signed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the segment of UP railroad known as the Menomonie Industrial Lead from M.P. 0.90 near Oak Street to M.P. 2.90 near 12<sup>th</sup> Avenue West, a distance of 2.00 miles located in the City of Menomonie, Dunn County, Wisconsin.

**PURPOSE**

Wisconsin Department of Transportation (WisDOT) petitions to obtain a notice of interim trail use for interim highway, bicycle, pedestrian and other trail purposes and railbanking pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 for CMW for specified segments of the right of way

involved in this proceeding. CMW will use or preserve the land corridor and related real property for interim public transportation and recreational purposes (including highway, pedestrian and other trail), subject to restoration for railroad purposes. WisDOT and CMW have agreed to work cooperatively to acquire and use the right of way.

#### STATE AND CITY RESPONSIBILITIES

CMW is a municipal corporation located within the state of Wisconsin. CMW may acquire property within or outside the city for parks, recreation or any other public purpose. Section 66.22(1), Wis. Stats.

WisDOT is the designated state agency in rail matters in the State of Wisconsin. 49 U.S.C. Appx. § 1654(a) (formerly § 1654(j)), 49 C.F.R. § 266.1 and Ch. 85, Wis. Stats. WisDOT is responsible for all state and federally-aided highway construction and all state and federally-aided airport construction in Wisconsin. Secs. 84.01(2) and 114.32(1) and (5), Wis. Stats. WisDOT has the statutory first right to acquire for present or future transportation, recreational or scenic purposes any property used in operating a railroad that is abandoned in Wisconsin. Sec. 85.09(2), Wis. Stats.

WisDOT has state statutory authority to incorporate trails into the highway right-of-way in sec. 84.06(11), Wis. Stats.:

**"(11) State Trails. As a part of any highway improvement or as a separate project under this section, a portion of a hiking trail, cross-country ski trail, bridle trail or bicycle trail under the management of a state agency, municipality or nonprofit may be incorporated into the highway right-of-way, and facilities for safe crossing of the highway may be provided."**

CMW and WisDOT need the interim trail use designation to fulfill federal and state transportation and environmental responsibilities.

#### NOTICE OF INTERIM TRAIL USE

WisDOT respectfully requests that the Board provide CECW a notice of interim bicycle, pedestrian and other trail use and rail banking condition to accomplish the above public purposes.

WisDOT is interested in having CMW acquire and use the right of way of the rail line being abandoned for interim bicycle, pedestrian or other trail use and rail banking.

**Exhibit 1** consists of a map showing the location of all the needed property in Dunn County, Wisconsin.

**Exhibit 2** is the required Statement of Willingness by the City of Menomonie, Wisconsin to assume full responsibility for management of the property.

CMW acquisition of the corridor for present and future transportation purposes as stated above is consistent with all Congressional purposes and neither abandonment nor discontinuance permitted by the STB conditioned as requested by CMW would be inconsistent with or disruptive of potential future rail use.

### CONCLUSION

WisDOT respectfully requests the Board to issue a Notice of Interim Trail Use for the land corridor and related real property, including bridge structure, for a line of railroad known as the Menomonie Industrial Lead from M.P. 0.90 near Stout Oak Street to M.P. 2.90 near 12<sup>th</sup> Avenue, a distance of 2.00 miles in Dunn County, Wisconsin for interim trail use and rail banking, pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 to the CMW. This will allow all forms of transportation to be provided in a unified, interconnected, economically-efficient, and environmentally sound manner.

Respectfully submitted,



Allyn Lepeska, State Bar No. 1013474  
Wisconsin Department of Transportation  
4802 Sheboygan Avenue, Room 115-B  
P. O. Box 7910  
Madison, WI 53707-7910  
(608) 266-0253  
Attorney for Wisconsin Department of  
Transportation

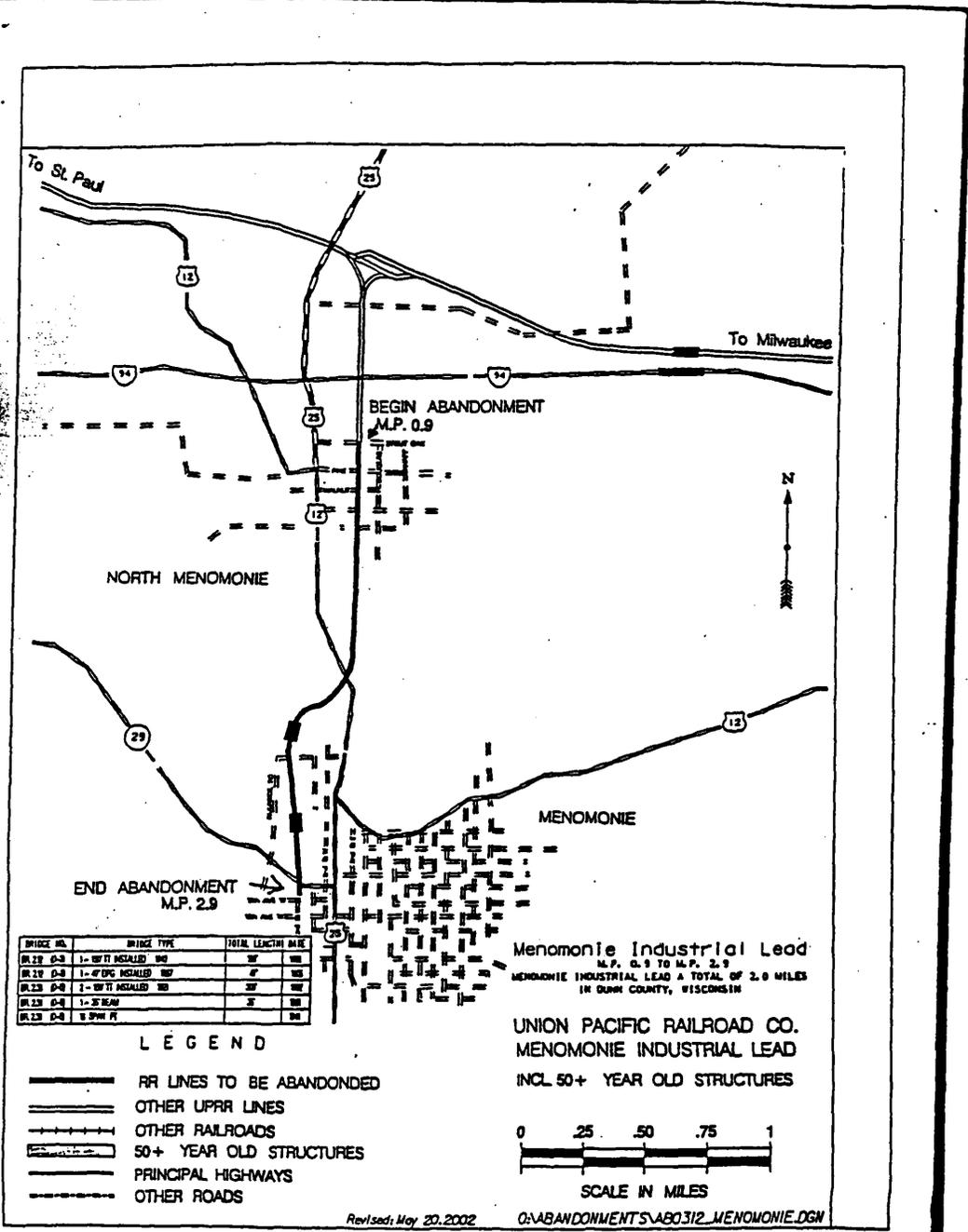


EXHIBIT 1

BEFORE THE  
SURFACE TRANSPORTATION BOARD

UNION PACIFIC RAILROAD COMPANY  
ABANDONMENT EXEMPTION  
IN DUNN COUNTY, WISCONSIN

**COPY**

STATEMENT OF WILLINGNESS TO ACCEPT RESPONSIBILITY BY  
THE CITY OF MENOMONIE PURSUANT TO 49 CFR 1152.29

In order to establish interim trail use and rail banking under 16 USC 1247 (d) and 49 CFR 1152.29, the City of Menomonie is willing to assume full responsibility for management of the property it acquires from the present owner and operator, Union Pacific Railroad Company. Upon acquisition the City of Menomonie is willing to assume full responsibility for its operations on the property and for the payment of any taxes and assessments that thereafter may be lawfully levied against it. The segment for which the City of Menomonie is making this Statement of Willingness is the following portion of the Menomonie Industrial Lead:

From milepost 0.90 near Oak Street to milepost 2.90 near 12<sup>th</sup> Avenue West, a distance of 2.0 miles, located in the City of Menomonie, Dunn County, Wisconsin.

A map depicting the property that is to be acquired by the City of Menomonie is attached to this pleading as Exhibit 1.

The City of Menomonie acknowledges that use of the property is subject to the City of Menomonie continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the property for rail service. A copy of this statement is being served on the railroad, Union Pacific Railroad Company, on the same date it is being served on the Surface Transportation Board.

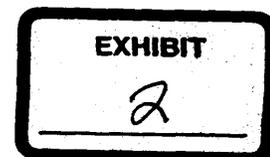
CITY OF MENOMONIE

By: *Dennis Kropp*  
Dennis Kropp, Mayor

Attest: *JoAnn Kadinger*  
JoAnn Kadinger, City Clerk

Date: *12/19/02*

Date: *12-19-02*



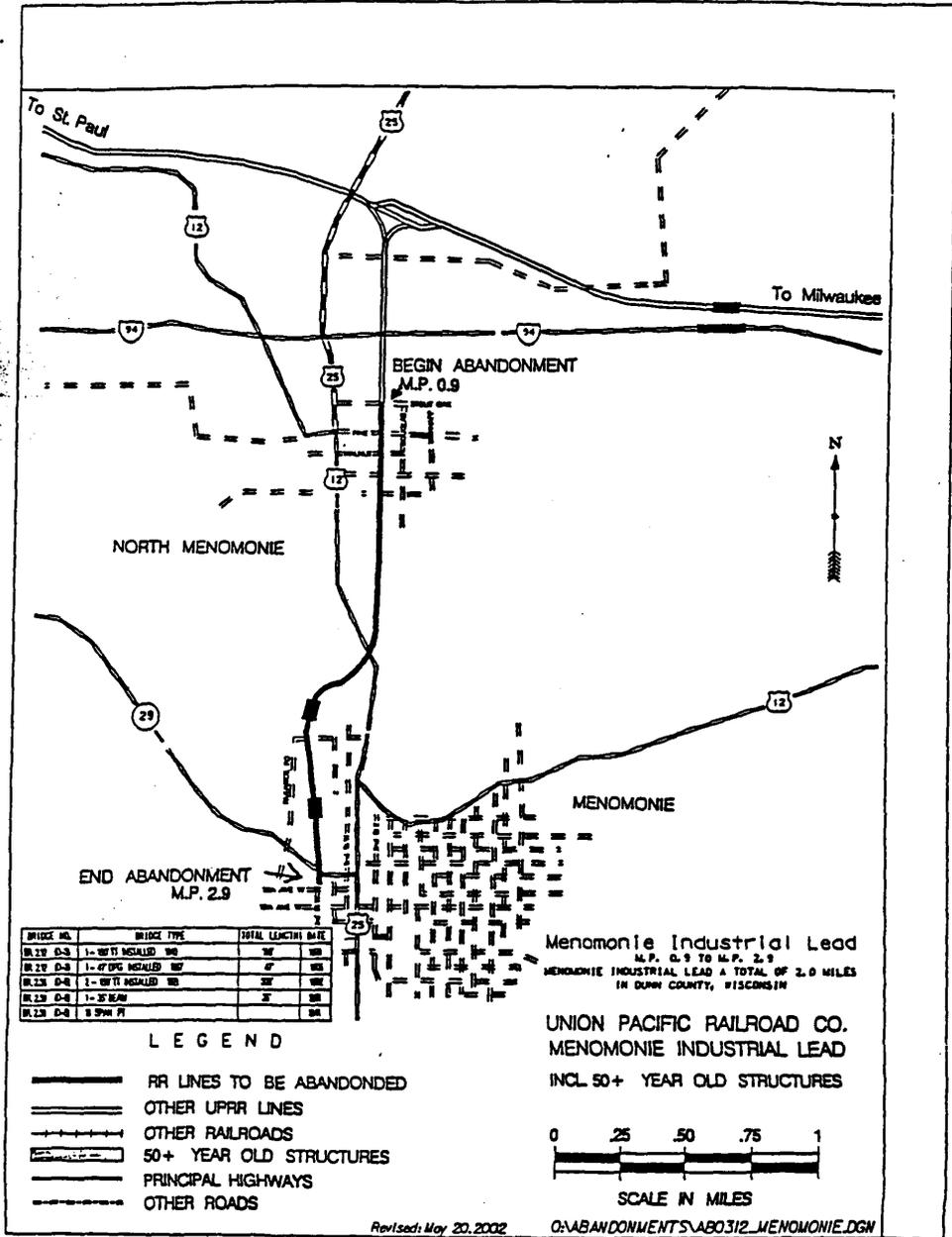


EXHIBIT 1