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May 17, 2024

Mr. Joseph Graham
State of Wisconsin
Department of Natural Resources
810 W. Maple Street
Spooner, WI 54801

Re: Response to Request for Information & Introduction to the Great Lakes Legacy Act
Tower Avenue Slip, Superior, Wisconsin
WDNR BRRTS # 11-16-591466
Tax Parcel ID#'s: 04-804-00968-00 and 04-804-00970-00

Dear Mr. Graham:

Attached as Exhibit A is Union Pacific Railroad Company's ("Union Pacific") response to The Wisconsin Department of Natural Resources ("DNR") Request for Information for the Tower Avenue Slip, Superior, Wisconsin; WDNR BRRTS# 11-16-591466, timely submitted pursuant to an agreed-upon extension until May 5, 2024.

GENERAL OBJECTIONS

As an initial matter, Union Pacific makes the following general objections to the Request for Information, whether separately set forth in response to each question presented in the Request:

1. Privilege. Union Pacific objects to the Request, and to each paragraph therein, to the extent DNR seeks information or documents protected under the attorney-client privilege, the work product immunity or other privilege or immunity.
2. Scope. Union Pacific objects to the information requested and to each paragraph therein, to the extent that the DNR seeks information or documents outside the scope of DNR's authority.
3. Union Pacific objects to the Request to the extent it seeks information that is not in the possession, custody or control of Union Pacific.
4. Union Pacific has provided responsive information relevant to the Site as that area has been defined by DNR as being Tower Avenue Slip, Superior, Wisconsin; WDNR BRRTS # 11-16-591466.



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5. Union Pacific is responding to the Request to the best of its current knowledge, information and belief and based on its current investigation to date. Union Pacific's investigation is continuing. Union Pacific reserves the right to produce additional information and to make further objections if additional responsive information and documents are identified or located.

Please do not hesitate to contact me if you have any questions. Please address any future correspondence regarding the request or site to my attention.

Sincerely,

Nicholas J. Bryan
Senior General Attorney – Environmental
Union Pacific Railroad
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njbryan@up.com

**UNION PACIFIC RAILROAD COMPANY RESPONSE TO WISCONSIN
DEPARTMENT OF NATURAL RESOURCES (“DNR”) REQUEST FOR
INFORMATION FOR THE TOWER AVENUE SLIP, SUPERIOR, WISCONSIN**

1. Identify the current owner and operator of the Site. State the dates during which the current owner and operator owned, operated, leased, or occupied any portion of the Site and provide copies of all documents evidencing such ownership, operation, lease, or occupation, including but not limited to purchase and sale agreements, deeds, leases, etc.

UNION PACIFIC’S RESPONSE TO NO 1:

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific acquired the site through a series of transference of deeds and mergers.

Ownership History

1885 - Land & River Improvement Company conveyance to Superior Shortline Railway Company (BATES 000001 - 000005)

1895 - Superior Shortline Railway Company merged into Chicago St. Paul, Minneapolis and Omaha Railway

1972 - Chicago St. Paul, Minneapolis and Omaha Railway merged into Chicago and Northwestern Transportation Company (BATES 000006 - 000012)

1994 - Certificate of Amendment of Restated Certificate of Incorporation whereby Chicago and North Western Transportation Company changed its name to Chicago and North Western Railway Company (BATES 000013 - 000015)

1995 - Chicago and North Western Railway Company merged with and into Union Pacific Railroad Company (BATES 000016 - 000024)

1998 - Union Pacific Railroad Company merged with and into the Southern Pacific Transportation Company (BATES 000025 - 000048)

Lease of Property

1956-1999 – Superior Iron and Metal (BATES 000049 - 000062)

Lease of Track

2004 - Simko – Superior LTD (BATES 000080 - 000094)

2011 - 2013 - Simko Acquisition LLC (BATES 000063 - 000077)

Sale of Track

2005 - Simko Superior LTD (BATES 000078 - 000079)

Sale of Property

2005- Simko Superior LTD (BATES 000095 - 000101)

Joint Track Agreement

1948 - Burlington Northern Railroad Company (BATES 000102 - 000121)

2. Identify any persons who in addition to the owner/operator exercises actual control over the Site or who holds significant authority to control activities at the Site.

UNION PACIFIC'S RESPONSE TO NO 2:

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific is the controlling owner/operator for the parcels owned by Union Pacific.

3. Identify any legal or equitable interest that you now have, or previously had, in the Site and describe the nature of any such interest, including when, how, and from whom such interest was obtained as well as when, how, and to whom such interest was conveyed. Provide documentation evidencing the acquisition or conveyance of any identified interest.

UNION PACIFIC'S RESPONSE TO NO 3:

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific has provided all acquisition and conveyance documentation in response to request NO 1. (BATES 000001 - 000048)

4. Identify all hazardous substance discharges that have occurred at or from the Site and other actual or potential environmental pollution that has been found at the Site, including any hazardous substance discharge into, or environmental pollution found in, a subsurface disposal system or floor drain inside or under any building at the Site. Provide all documentation including reports and data related to hazardous substance discharges and actual or potential environmental pollution of soil, sediment, water (ground or surface) or air quality at or around the Site.

UNION PACIFIC'S RESPONSE TO NO 4:

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific conducted an extensive search, and no such documentation has been found regarding generating, transporting, storing, treating, or disposing hazardous substance or solid hazardous waste (including coal) at or adjacent to the Site. Union Pacific has no historic knowledge or information responsive to this request. Union Pacific responded to a release of 1500 gallons of diesel fuel from a UP locomotive caused by Simko Recycling at the Simko Recycling Facility on March 2023. Simko Recycling incurred the cost of remediation.

5. If you are the current owner and/or current operator of the Site, did you acquire or operate the Site or any portion of the Site after the discharge of any hazardous substance on or at the Site? Did you know or have reason to know of any discharge of any hazardous substance on or at the Site before acquiring or operating the Site? Describe all environmental investigations of the Site you undertook before acquiring or operating the Site and provide all documentation of investigations performed.

UNION PACIFIC'S RESPONSE TO NO 5:

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific conducted an extensive search, and no such documentation has been found regarding a discharge or environmental investigations at or adjacent to the Site. Union Pacific has no current knowledge or information responsive to this request.

6. Identify all prior owners of the Site. For each prior owner, further identify:
 - a. The dates of ownership. (BATES 000001 - 000048)
 - b. All evidence showing that each identified owner controlled the Site; and (BATES 000001 - 000048)
 - c. All evidence of any hazardous substance discharge or environmental pollution (including coal) at or from the Site and/or its solid waste units during the period that each identified owner owned the Site.

UNION PACIFIC RESPONSE TO NO 6: Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific conducted an extensive search, and no such documentation has been found regarding prior operators generating, transporting, storing, treating, or disposing hazardous substance or solid hazardous waste (including coal) at or adjacent to the Site. Union Pacific conducted an extensive search, and no such documentation has been found regarding hazardous substance discharge or environmental pollution (including coal) at or adjacent to the Site during the relevant time frame.

7. Identify all prior operators of the Site, including lessors. For each prior operator, further identify:
 - a. The dates of operation, (BATES 000001 - 000048)
 - b. The nature of prior operations at the Site.

- c. All evidence that each identified operator controlled the Site; and (BATES 000001 - 000048)
- d. All evidence of any hazardous substance discharge or environmental pollution (including coal) at or from the Site and/or its solid waste units during the period that each identified operator operated the Site.

UNION PACIFIC'S RESPONSE TO NO 7:

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific conducted an extensive search, and no such documentation has been found regarding operations of prior owners at the site or any evidence of hazardous substance discharge or environmental pollution (including coal) at or from the Site and/or its solid waste.

8. Describe the nature of your activities, business, or operations at the Site with respect to generating, transporting, storing, treating, or disposing hazardous substances or solid or hazardous waste (including coal) at the Site.

UNION PACIFIC'S RESPONSE TO NO 8:

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific conducted an extensive search, and no such documentation has been found regarding generating, transporting, storing, treating, or disposing hazardous substance or solid hazardous waste (including coal) at or adjacent to the Site.

9. If any hazardous substances or solid or hazardous waste (including coal) was ever generated, transported, stored, treated, or disposed of at the Site, identify and provide all documentation which relates to: (a) the type, quantity, chemical composition, characteristics and physical state (e.g., solid, liquid) of hazardous substances or solid or hazardous waste generated, transported, stored, treated or disposed of at the Site and the dates that such activities occurred; (b) the identity of all persons who generated, transported, treated, stored, or disposed of such substances or waste at the Site; and (3) the identity of all subsidiary or parent corporations of identified persons.

UNION PACIFIC'S RESPONSE TO NO 9:

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific conducted an extensive search, and no such documentation has been found regarding generating, transporting, storing, treating, or

disposing hazardous substance or solid hazardous waste (including coal) at or adjacent to the Site. Union Pacific has no current knowledge or information responsive to this request.

10. Describe with specificity all occurrences where a Site owner, operator, or person in control over the Site was determined by a federal, state, or local authority to have violated any environmental law or where any environmental violation or deficiency was discovered at the Site, including any violation or deficiency that resulted in the issuance of a citation or the commencement of any enforcement or legal action. Identify the federal, state, and local authorities involved in each identified occurrence. Provide all documentation related to each identified occurrence.

UNION PACIFIC'S RESPONSE TO NO 10:

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific conducted an extensive search, and no such documentation has been found regarding federal, state, or local authority environmental law violations or deficiencies at the at or adjacent to the Site. Union Pacific has no current knowledge or information responsive to this request.

11. Provide a list of all local, state, and federal environmental permits ever granted for the Site or any part thereof (e.g., Resource Conservation and Recovery Act (RCRA) permits, National Pollutant Discharge Elimination System (NPDES) permits, etc.).

UNION PACIFIC'S RESPONSE TO NO 11:

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific conducted an extensive search, and no such documentation has been found regarding local, state, or federal environmental permits granted at the Site or any part thereof. Union Pacific has no current knowledge or information responsive to this request.

12. Did the Site ever file a Hazardous Waste Activity Notification under the Resource Conservation and Recovery Act (RCRA)? If so, provide documentation of such notification.

UNION PACIFIC'S RESPONSE TO NO 12:

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific conducted an extensive search, and no such documentation has been found regarding a Hazardous Waste Activity Notification under Resource Conservation and Recovery Act at or adjacent to the Site. Union Pacific has no current knowledge or information responsive to this request.

13. Did the Site ever have “interim status” under the Resource Conservation or Recovery Act (RCRA)? If so, and the Site does not currently have interim status, describe the circumstances under which the Site lost interim status.

UNION PACIFIC’S RESPONSE TO NO 13:

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific has no information responsive to this request.

14. Provide the following information about the Site, if applicable:

- a. Property boundaries, including a written legal description. (BATES 000001 - 000048)
- b. Location of underground utilities (telephone, electrical, sewer, water main, etc. (1939 Sewer Agreement with City of Superior BATES 000122- 000124)
- c. Surface structures (e.g., buildings, tanks, etc.),
- d. Groundwater wells, including drilling logs.
- e. Storm water drainage systems, and sanitary sewer systems, past and present, including septic tank(s), subsurface disposal field(s), and other underground structures; and where, when and how such systems are emptied,
- f. All additions, demolitions or changes of any kind on, under or about the Site, its physical structures or to the property itself (e.g., prior removal or excavation of contaminated soil or sediment); and any planned additions, demolitions or other changes to the site,
- g. Geology and hydrogeology at and around the Site,
- h. Maps and drawings of the Site depicting the property boundaries and property features identified above; and (BATES 000125 - 000126)
- i. Photographs of the Site, past and present, including aerial photographs.

UNION PACIFIC’S RESPONSE 14:

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific conducted an extensive search, and no such documentation has been found other than documents noted above. Union Pacific will continue to search and supplement, as necessary.

15. Describe the conditions of any physical plant facility at the Site during the years each operator operated at the Site, including the status of equipment (operating or dormant), general condition of the facility (e.g., leaking pipes, corroded drain or new piping installed), quality of maintenance (e.g., equipment in disrepair or inspected monthly), adherence to procedures (improper handling of chemicals, incomplete/absent policies,

quality of supervision), and management of the plant.

UNION PACIFIC'S RESPONSE TO NO. 15

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific conducted an extensive search, and no such documentation has been found regarding conditions of any physical plant facility or status of equipment at the at or adjacent to the Site during the relevant time frame. Union Pacific has no current knowledge or information responsive to this request.

16. Are you or your consultants planning to perform any investigations of the soil, sediment, water (ground or surface), geology, hydrology or air quality on or about the Site? Provide all documentation concerning any investigation you have conducted or plan to conduct at or around the Site.

UNION PACIFIC'S RESPONSE TO NO. 16

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific does not plan to perform any investigation of soil, sediment, water (ground or surface) geology, hydrology or air quality at the at or adjacent to the Site. Union Pacific has no current knowledge or information responsive to this request.

17. Describe all potential pathways for migration of contamination, including airborne deposition, drainage improvements, utility corridors, sediments, bedrock and permeable material or soil along which dust/particulate, vapors, and free product may flow as well as potential pathways contaminated water may flow.

UNION PACIFIC'S RESPONSE TO NO. 17

Union Pacific objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and seeks information which incorrectly implies or otherwise assumes Union Pacific and/or its activities at the site are of the source of contamination. Subject to the foregoing objection, Union Pacific has no current knowledge or information responsive to this request.