

206517



Before the
SURFACE TRANSPORTATION BOARD

Finance Docket #34271

**MOTION FOR STAY OF EMERGENCY PETITION OF MAUMEE AND WESTERN RAILROAD
CORPORATION AND RMW VENTURES, L.L.C. FOR DECLARATORY
ORDER-CONDEMNATION OF MAIN LINE RAILROAD PROPERTY BY THE CITY OF
NAPOLEON, OHIO**

Filed on behalf of City of Napoleon, Ohio
a Municipal Corporation

By: David M. Grahn, Esq.
City Law Director
255 W. Riverview
Napoleon, Ohio 43545
(419) 592-3503
Oh. ID #0043925

ENTERED
Office of Proceedings

OCT 30 2002

Part of
Public Record

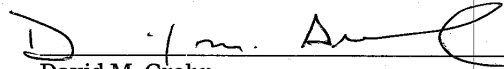
Before the
SURFACE TRANSPORTATION BOARD

MOTION

COMES NOW, Respondent in this matter and moves this Board to Stay any action as requested by the Petitioner. For Cause, Respondent asserts that the parties have reached an Understanding that no further action of any kind will be taken in regard to this matter until after November 15, 2002 (See Attached Exhibit "A"). In the event this matter can not be worked out between the parties as anticipated, Respondent requests extended time to Respond to the Petition that has been filed.

Respectfully submitted,

DAVID M. GRAHN, ESQ.


David M. Grahn
Attorney for the City of Napoleon, Ohio

CERTIFICATION

I, the undersigned hereby certify that a copy of this motion was served by regular US mail on Richard R. Wilson, Esq. Attorney for Petitioner, this 25th day of October, 2002, at the address of 127 Lexington Avenue, Suite 100, Altoona, PA 16601.


David M. Grahn, Attorney

Exhibit "A"



City of NAPOLEON, OHIO

255 West Riverview Avenue, P.O. Box 151
Napoleon, Ohio 43545
419/592-4010
Fax: 419/599-8393
www.napoleonohio.com

LETTER OF UNDERSTANDING

October 16, 2002

Mayor
J. Andrew Small

Members of Council
Michael J. DeWit, President
Terri A. Williams
John A. Helberg
James Hershberger
Glenn A. Miller
Travis B. Sheaffer
Steven C. Small

City Manager
Dr. Jon A. Bisher

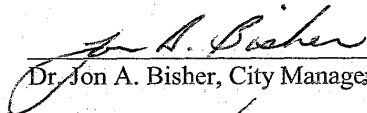
Finance Director
Gregory J. Heath

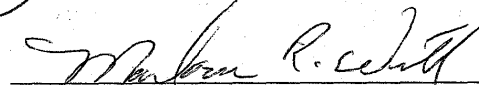
Law Director
David M. Grahn

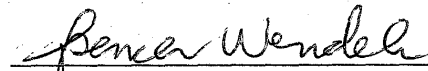
City Engineer
Joseph R. Kleiner, P.E.

To the extent such persons may acknowledge on behalf of their respective corporations, in an effort to resolve differences between the parties in regards to the acquiring of a right-of-way from Maumee and Western Railroad by the City and alleged trespass issues, all parties understand that they will not pursue legal action of any kind against the other for a period of 30 days from the date of this Letter of Understanding.

Each party to this Letter of Understanding understands that they will not unlawfully enter upon the property of Maumee and Western Railroad.


Dr. Jon A. Bisher, City Manager of Napoleon, Ohio


Marlowe R. Witt, President of Henry County CIC


Spencer Wendelin, CEC of Maumee and Western Railroad
and Manager of RMW Ventures, LLC

JAB:skr
L:\Lawshare\letter of understanding MWRR



City Law Director's Office

City of Napoleon
255 West Riverview Avenue
PO Box 151
Napoleon, Ohio 43545
Phone: 419-592-3503
Fax: 419-592-4723

LETTER OF TRANSMITTAL**To:** Surface Transportation Board1925 K St., NWWashington, DC 20423-0001

DATE

10-25-2002

CC:

WE ARE SENDING YOU X Attached _____ Under separate cover via _____ the following items:

- ☐ Agreement(s) ☐ Contract(s) ☐ Copy of Letter ☐ Policy(ies) ☐ Easement(s)
- ☐ FYI ☒ Other Motion

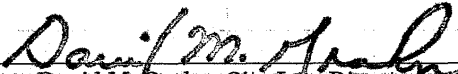
COPIES	ORIGINALS	DATE	NO.	DESCRIPTION
<u>1</u>	<u>1</u>	<u>10-25-2002</u>		<u>Motion</u>

THESE ARE TRANSMITTED (as checked below):

- ☐ For Approval ☐ Approved as submitted ☐ Approved as noted ☐ Return for corrections
- ☐ For review and comment ☐ For your use ☐ As requested ☒ Original(s) for your records
- ☐ For signature and return one (1) original to City Law Director ☐ For signature and return all originals to City Law Director

REMARKS: Please return the copy with a file stamp with the date you received it.Thank you.

SIGNED:


David M. Grahn, City Law Director

DATE: 10-25-2002*If enclosures are not as noted, kindly notify us at once.*