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October 30, 2013

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VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

ENTERED
Office of Proceedings
October 30, 2013
Part of the Public
Record

Re: **Allied Industrial Development Corporation -
Petition for Declaratory Order**
STB Docket No. FD 35477

Dear Ms. Brown:

I am writing to advise the Board of a recent change in facts, and to request that the Board advance the status of this proceeding.

This matter commenced on March 24, 2011, with the filing by Allied Industrial Development Corporation (“Allied”) of a Petition for Declaratory Order based on a referral by the Court of Common Pleas for Mahoning County, Ohio. The Respondents replied on April 13, 2011. The State Court action involved among other questions, whether one of the Respondents (Mahoning Valley Railway Company (“MVRVY”)) had abandoned its rail lines or other railroad facilities located on a property with disputed ownership, and whether Allied’s state law eviction and damage claims which would prevent MVRVY from performing its common carrier service are preempted by federal law.

Although ostensibly a petition that should have asked the Board to decide the issues within its jurisdiction as directed by the State Court, Allied’s petition instead sought to have the matter sent back to State Court contending that there are no issues within the jurisdiction or expertise of the Board. Respondents disagreed and asked the Board to institute the declaratory order proceeding. The Board has not yet established a procedural schedule.

Cynthia T. Brown
October 30, 2013
Page 2

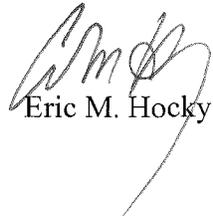
Since the filing of the petition and reply, MVRVY has continued to use its line of railroad across the disputed property without interference by Allied, to move traffic from its interchange with CSX Transportation across the line to its customer, to return empty cars to the CSX Transportation interchange, and to move its locomotive to storage in between service runs. However, last week, Allied, without notice to MVRVY, removed approximately 75 feet of track in order to perform storm sewer repairs. This action has stranded MVRVY's locomotive and caused it to have the traffic rerouted and to incur additional expenses in operation. Further, while Allied has asserted that it will repair the tracks once its work is done, it has not agreed to allow MVRVY to review plans for, supervise or perform the repairs to ensure that they are done in a proper and safe manner for continued railroad operations.

Respondents have requested a status conference with the State Court to advise it of these developments and to seek assurances that Allied will not take similar action in the future. However, it seems it will also be necessary for the Board to act in this proceeding to determine the rights of the parties to the rail line and railroad facilities at issue. Accordingly, Respondents renew their request for the Board to establish a procedural schedule as set forth in the Reply of Respondents.

Additionally, Respondents hereby advise the Board that they would be willing to participate in a Board-sponsored mediation pursuant to the Board's rules at 49 CFR Part 1109.

Respectfully,

CLARK HILL THORP REED



Eric M. Hocky

EMH/cdl

cc: All parties shown on service list

Cynthia T. Brown
October 30, 2013
Page 3

CERTIFICATE OF SERVICE

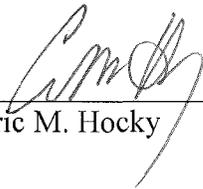
I hereby certify that on October 30, 2013, a copy of the foregoing letter on behalf of the Respondents, was served upon the following persons by US first class mail, postage prepaid, and by email where indicated:

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