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March 15, 2007

VIA ELECTRONIC FILING

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Re: STB Docket No. AB-878
City Of Peoria and the Village of Peoria Heights, IL — Adverse
Discontinuance—Pioneer Industrial Railway Company

Dear Secretary Williams:

Enclosed on behalf of Pioneer Industrial Railway Co. ("PIRY"), is PIRY's Reply to the statements, evidence and comments filed by the City of Peoria, IL, and the Central Illinois Railroad Company on February 22, 2007, in accordance with the Board's decision in the above-captioned proceeding served on January 12, 2007, as modified procedurally on January 31, 2007. As can be seen from the attached certificate of service, copies of this Reply are being served today on all parties of record.

Please acknowledge filing of this Reply by return electronic receipt. If there are any questions concerning this filing, please contact me by telephone at (202) 663-7823 or by e-mail at wmullins@bakerandmilller.com.

Sincerely,



William A. Mullins

Enclosures

cc: Daniel A. LaKemper, Esq.
All Parties of Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-878

**CITY OF PEORIA AND THE VILLAGE OF PEORIA HEIGHTS, IL—ADVERSE
DISCONTINUANCE—PIONEER INDUSTRIAL RAILWAY COMPANY**

REPLY

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Attorneys for Pioneer Industrial Railway Co.

March 15, 2007

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-878

**CITY OF PEORIA AND THE VILLAGE OF PEORIA HEIGHTS, IL—ADVERSE
DISCONTINUANCE—PIONEER INDUSTRIAL RAILWAY COMPANY**

REPLY

In a decision served in this proceeding on January 12, 2007 (the “January 2007 Decision”), the Board reopened its decision served on August 10, 2005 (the “August 2005 Decision”), in which it had granted an adverse discontinuance application to permit Pioneer Industrial Railway Co. (“PIRY”) to be removed from certain rail lines in and around Peoria, IL. In reopening this proceeding, the Board invited additional evidence and argument concerning the public convenience and necessity (“PC&N”) balancing test that is employed in all adverse discontinuance cases. As PIRY will demonstrate, the City of Peoria, IL (“Peoria” or “City”) – as supported by Central Illinois Railroad Company (“CIRY”) – has not proven that the PC&N weighs in favor of terminating PIRY’s operations.¹

SUMMARY OF ARGUMENT

In order to uphold the grant of the adverse discontinuance, the PC&N standard in this reopened proceeding requires that Peoria establish, after balancing multiple factors – including the relative burdens that continuation of service on the one hand, and cessation of service on the

other would have on (1) the involved carrier (PIRY), (2) the owners-would-be-lessors² of the line (Peoria and Peoria Heights), and on (3) the public (as represented by a variety of interests, including shippers, interstate commerce, local individuals, etc.) – that such factors collectively weigh in favor of the adverse discontinuance. January 2007 Decision at 8.³ Of paramount importance in this balancing test is the adequacy of service to shippers if an adverse discontinuance is granted. If service would be degraded, routing options eliminated, or there would be other adverse impacts on the shipping public, then Board precedent is clear: the adverse discontinuance should be denied. In reopening this proceeding, the Board correctly noted that the underpinning of its prior decision, i.e. that adequate service to all shippers would be preserved, is now in doubt. The record now reflects that the impact to the shipping community has been anything but beneficial and that there has indeed been a degradation of service and a loss of routing options. As such, the Board’s original decision is no longer valid and it should be reversed.

Neither Peoria nor CIRY have done anything to address the Board’s concerns. Rather, on reopening, and despite the clear instructions of the Board’s January 2007 Decision, Peoria has failed to make its case for the adverse discontinuance of PIRY’s rail service over the so-called

¹ Although originally an applicant in the adverse discontinuance proceeding, the Village of Peoria Heights (“Peoria Heights”) no longer concurs in the City’s pursuit of the adverse discontinuance.

² The Board should note that the lease between the Cities and CIRY for CIRY’s operation of the Kellar Branch has expired.

³ See also, New York Cross Harbor R.R. v. STB, 374 F.3d 1177, 2004 U.S. App. LEXIS 14304, (D.C. Cir. 2004) (“Cross Harbor”); Salt Lake City Corporation – Adverse Abandonment – In Salt Lake City, UT, STB Docket No. AB-33 (Sub-No. 183) (STB served Mar. 8, 2002) (“Salt Lake City”); Western Stock Show Assn. – Aban. Exemption – In Denver, CO, 1 S.T.B. 113 (1996) (“Western Stock Show”). All of these cases, discussed more fully below, emphasize the

Kellar Branch because Peoria has ignored all but its own interests. Peoria does not dispute the fact that removal of PIRY has resulted in the loss of direct rail service to an active Kellar Branch shipper (and, by extension, to any other shipper that might locate on the north/west end of that line), which prompted the subject reopening. Peoria is aware of the harmful ramifications of its adverse discontinuance application, and it has done little, if anything, to ameliorate those impacts. Instead, the entire thrust of Peoria's comments on reopening is that, as part owner of the Kellar Branch (along with Peoria Heights), it should be allowed to exercise its alleged prerogative with respect to operators of the line and, by extension, the ultimate disposition of the line, even if that subjects a shipper or shippers to hardship. In so doing, Peoria entirely overlooks the fact that it bears the burden of proof under the PC&N test.

In fact, Peoria's various statements actually prove the very case *against* it. Those statements, along with other information from the record, show that the replacement service via CIRY and the "Western Connection" has not been effective, has resulted in substantial rate increases and reduced services to Carver Lumber Company ("Carver"), has resulted in Carver losing competitive routing options that were previously available, and will not be effective unless and until the acknowledged operating and pricing issues are permanently resolved, if ever. Peoria's comments amount to nothing more than its insistence upon a preferred course of action to implement a rails-to-trails program. But Peoria and Peoria Heights no longer agree about that plan, so that, if the Board were to grant the adverse discontinuance, it is unlikely that the trail could be implemented as originally envisioned. Granting of the application would also be contrary to Board precedent, which supports denying adverse discontinuances when they – (1)

importance of balancing these multiple interests in light of the Board's primary concern for preserving rail service and upholding interstate commerce.

are opposed by the incumbent carrier and shippers and (2) would result in the diminution of service and/or loss of routing options. Accordingly, based upon the facts and arguments presented previously in this proceeding and as supplied by Peoria and CIRY on reopening, Peoria's adverse discontinuance application fails to satisfy the PC&N test and must be denied. For the Board to do otherwise under the circumstances would be contrary to agency policy and precedent.

BACKGROUND AND STATEMENT OF FACTS

The history of this case is thoroughly set forth in the Board's January 2007 Decision and August 2005 Decision. As noted in those decisions, this case involves the future of rail service to shippers over the Kellar Branch, extending between milepost 1.71, where it connects with the Tazewell & Peoria Railroad, Inc. ("TZP"), and milepost 10.0, near where it connects with the Western Connection, which itself then connects with a rail line owned by the Union Pacific Railroad Company ("UP").⁴ The City desires to convert most of the Kellar Branch into a recreational trail and has thus pursued the termination of all rail service over the line. Significantly, Peoria Heights, the owner of the middle section of track to be removed under Peoria's plan, no longer concurs with Peoria's trail proposal.

⁴ The Kellar Branch is generally aligned from northwest to southeast. Carver is located at the north/west end, and O'Brien Steel Service ("O'Brien"), another shipper, is located near the south/east end. Currently, there are no active shippers on the middle portion of the Kellar Branch between Carver and O'Brien, although at least two other businesses have expressed an interest in shipping via PIRY if PIRY's service were restored. Under a "service reconfiguration," the City proposes to remove the middle 6.29 miles of the Kellar Branch, from milepost 2.21 to milepost 8.5. The City contemplates that O'Brien would be served via the preserved south/east segment of the Kellar Branch, which connects with TZP, while Carver would have to obtain new service via the "Western Connection" (constructed pursuant to City of Peoria, IL, d/b/a Peoria Heights & Western Railroad – Construction of Connecting Track Exemption – in Peoria County, IL, STB Finance Docket No. 34395 (STB served Feb. 23, 2004, and Sept. 27, 2004)), linking the north/west end of the Kellar Branch to a UP main line.

In seeking to remove PIRY from the Kellar Branch under the adverse discontinuance process, the Cities⁵ represented that – despite contemporaneous efforts to abandon the central portion of that line – shippers located on the branch would continue to enjoy adequate service with PIRY out of the way. Carver, which originally did not oppose the Cities’ adverse discontinuance application (based upon the Cities’ assurances that service via the UP and the Western Connection would be a comparable substitute to the service previously provided by PIRY), now objects to the plan behind that discontinuance and severance of the Kellar Branch. The “reconfigured service” via the Western Connection has proven so slow and expensive that PIRY understands that Carver no longer receives any direct rail service at its facility and is transloading all of its lumber from a TZP railhead at considerable additional cost, which places them at a significant competitive disadvantage in the marketplace and puts an employee-owned business at risk.⁶

Due to these problems, the Board issued its January 2007 Decision and provided the Cities and CIRY with an opportunity to address the PC&N balancing test and to establish that the Board’s rationale for discontinuance, as articulated in the August 2005 Decision, was still valid. On February 22, 2007, following a Board-granted extension of time, Peoria and CIRY, respectively, filed a “Statement” and “Supplemental Evidence and Comments” in response to the

⁵ Where this pleading refers to actions and assertions made prior to Peoria Height’s decision to no longer concur with the City, this pleading refers to Peoria and Peoria Heights as the “Cities.”

⁶ These are largely the same service inadequacies that Carver and PIRY had pointed out following completion of the Western Connection. See, e.g., PIRY’s August 14, 2006 Reply to July 24th Comments at 6-7 and Attachment 1, Verified Statement of Lee Miller filed in Finance Docket No. 34917 (“Reply to July 24th Comments”) (attached hereto as Exhibit A); PIRY’s Petition to Reopen filed January 24, 2006; Carver Letter/Comments filed on July 21, 2006 (attached hereto as Exhibit B). The problems that Carver was experiencing then are essentially the same that exist today. In short, the Western Connection does not work and is not a viable alternative to the Kellar Branch.

January 2007 Decision. As noted, those filings reflect that CIRY service has resulted in increased freight rates and a marked diminution in service to Carver. A close reading of those filings clearly establishes the following facts:

- Despite the absence of an embargo or abandonment authority, the portion of the Kellar Branch between O'Brien and Carver (the "Middle Segment") is out of service,⁷ in declining condition, and CIRY refuses to provide service over it.
- Neither CIRY nor the Cities will restore the Middle Segment, and thus CIRY will provide service to Carver only via the Western Connection.⁸
- Current CIRY management has been in place for more than six months, but CIRY and Peoria are unable and/or unwilling to resolve service and price issues that would make service to Carver via the Western Connection practicable and viable.⁹
- Notwithstanding admitted problems developing practicable rail service to Carver via the Western Connection, Peoria insists that eliminating the Middle Segment of the Kellar Branch for a recreational trail is the appropriate course.
- Peoria ignores the inadequacy of CIRY's current service to Carver. In stressing the desirability of its proposed service reconfiguration, Peoria says nothing about whether, or if, that reconfiguration would do anything but provide Carver with *theoretical* access to the interstate rail network.

⁷ Although the Middle Segment is purportedly "out of service," CIRY has not placed it under an embargo. Under the circumstances, CIRY still has a common carrier obligation to follow Carver's routing instructions and to provide service to Carver over the Middle Segment upon reasonable request. Yet, CIRY refuses to meet this obligation.

⁸ Despite implying otherwise to the Board in its withdrawal of its discontinuance on December 5, 2006, by claiming in that filing (AB 1066X, at page 3), that "CIRY will continue to provide service on this line as if it had never filed any discontinuance request."

⁹ See CIRY Supplemental Evidence and Comments, Verified Statement of John A. Darling ("V.S. Darling") at 5 (CIRY is still working with UP to "present Carver with a service package [via the Western Connection] that makes economic sense for all parties" ... "*If we can solve the economic problems, we will then work with UP to arrange a service schedule and frequency that is operationally feasible and acceptable to [Carver]*") (emphasis added). Nowhere does CIRY describe the level of service that it provides to Carver, nor does CIRY even indicate whether it has been providing direct service to Carver in recent months. See also, Peoria Statement, Verified Statement of Stephen N. Van Winkle ("V.S. Van Winkle") at 5 ("CIRY and UP have been attempting to work with Carver to satisfy Carver's service concerns").

- CIRY also does not discuss the adequacy of service to Carver. Rather than compare service to Carver today vis-à-vis service under PIRY, CIRY merely offers the highly-qualified assertion that it is doing its best under the circumstances. See CIRY Supplemental Evidence and Comments at 7.

It is thus clear that allowing the adverse discontinuance to stand would mean no effective rail service for Carver. In contrast, by denying the application and allowing PIRY to continue its operations, the Board would guarantee adequate rail service to Carver without imposing a substantial burden on the City or CIRY. PIRY has been, and remains, ready, willing and able to restore service to Carver via Kellar Branch. PIRY would rehabilitate the Kellar Branch at its own expense, unlike the City and CIRY who have no plans to restore the Middle Segment due to allegedly prohibitive cost. Indeed, despite earlier claiming that the Kellar Branch could be rehabilitated for \$50,000, CIRY now says that the line needs about \$466,000 in repairs. CIRY dismisses PIRY's sworn testimony – STB Finance Docket No. 34917, Rebuttal, Verified Statement of Roger Stice¹⁰ – that the track could be returned to operating condition for \$9,496.11. CIRY Supplemental Evidence and Comments, V.S. Darling at 4 (asserting that PIRY's repair estimates would involve “quick and dirty” repairs to restore service “on the cheap”). CIRY addresses PIRY's estimate by denigrating it, not by disproving it, and it completely ignores the distinction between restoring the line to excepted track status, which is how the line operated for years, and restoring the line to Class I status, or even higher.¹¹

¹⁰ Although Mr. Stice's testimony in that related proceeding was introduced into this record in PIRY's Reply to July 24th Comments, PIRY also requests that the Board take judicial notice of the entire record in Finance Docket No. 34917 and incorporate it into the record of this proceeding. 49 CFR § 1114.6. As noted, in that proceeding, the Cities and CIRY first claimed that it would take millions, then claimed that it would take \$50,000, then later claimed that was a typo and they meant \$550,000, and now claim that to return the Kellar Branch to service, \$466,000 is the number.

¹¹ The differences in the numerous rehabilitation cost estimates were thoroughly addressed in Finance Docket No. 34917. As pointed out therein by Mr. Carr and Mr. Stice, the Kellar Branch

Finally, restoring PIRY service would reinstate the routing options that were available to Carver before the Middle Segment was taken out of service. The southern/eastern end of the Kellar Branch connects with TZP, a terminal switching carrier offering switching access on neutral and cost-effective terms to 8 connecting carriers, including CN, BNSF and UP.¹² The Western Connection, on the other hand, affords Carver and others access to only to UP, a line-haul railroad with no incentive or desire to serve as a terminal switching carrier like TZP has and does.¹³ Neither Peoria nor CIRY has shown that the Western Connection service offers economical access to the multiple line-haul options that Carver had enjoyed from PIRY via the Kellar Branch. In fact, CIRY acknowledges the problems with UP as an intermediate carrier when it admits that it is “currently negotiating with UP on a more acceptable rate package” for Peoria-area service. CIRY Supplemental Evidence and Comments, V.S. Darling at 3.

ARGUMENT

The facts now before the Board do not support the City’s adverse discontinuance application. As those facts establish, the rationale for the Board’s previous decision granting adverse discontinuance is no longer valid. Indeed, Carver (and any other shipper that might locate or desire service on the north/west of the Middle Segment) would continue to be harmed if the Board were to uphold its original decision. Because the Western Connection simply is not a

operated for many years as excepted track and PIRY’s proposal would be to restore that track to that condition. This is not doing something on the “cheap and dirty” but merely restoring the track to its previous operating status.

¹² Most of Carver’s shipments originate on CN; and some originate on BNSF. Prior to the loss of the Kellar Branch, UP was not in the routing for any Carver shipments.

¹³ TZP, like its predecessor, Peoria & Pekin Union Railway, is primarily a terminal switching carrier that provides intermediate switching between connecting line-haul carriers in and around Peoria. As such, Carver’s access to multiple line-haul carriers (its access to multiple routing

practicable outlet for traffic, Carver has become isolated from the interstate rail system and faces unacceptably high rates and less frequent service options as a consequence of the adverse discontinuance and subsequent closure of the Middle Segment. These harms are not outweighed by the potential community benefits of a trail, and even that benefit might be achieved through a joint rail/trail operation, which PIRY is willing to negotiate.

It is not clear that the Cities were deliberately misleading when they initially told the Board that evicting PIRY merely involved replacing one operator for another. Instead, most likely, the Cities had hoped or presumed that construction of the Western Connection and the attendant service reconfiguration would preserve the *status quo ante* for Carver and prospective customers located to the north/west of the Middle Segment, but, as all parties well know, that presumption is no longer valid. Carver has been deprived of viable rail service. As CIRY's and the City's latest filings show, they have been unable to make the so-called reconfiguration work. Thus, viable service to Carver via the Western Connection is not now, and may never be, possible.

Notwithstanding these facts, Peoria continues to seek credit for its promises and insists that its failure to live up to its representations should not impede its plan to convert the Middle Segment to a trail. The Board should not take the bait. Peoria has elevated its interest in a recreational trail over the value of continued and practicable common carrier service to Carver. In the light of precedent, however, such an interest is not sufficient to support the granting of an adverse discontinuance application. Indeed, by failing to address the balancing test required by Cross Harbor, the City impermissibly has attempted to shift its burden of proof to PIRY. The

options) is, as a matter of economic reality, only possible via the Kellar Branch's south/east connection to the TZP.

facts do not support upholding the Board's prior decision. In fact, upholding the August 2005 Decision would be contrary to law and policy.

I. GRANTING AN ADVERSE DISCONTINUANCE IN THE FACE OF A LOSS – OR SUBSTANTIAL DIMINUTION OF THE QUALITY – OF COMMON CARRIER SERVICE WOULD BE CONTRARY TO PRECEDENT

The central consideration in any adverse abandonment or discontinuance in service is the impact of the proposed action on any adversely impacted shipper's ability to access the interstate rail system.¹⁴ To be sure, where a line has long been moribund with little or no prospect that it would ever be returned to service or where the owner of the line seeks to exercise its contractual right to replace an operator of a line with another while preserving the *status quo ante* for shippers, the Board has accommodated the applicant.¹⁵ Where the proposed adverse discontinuance or abandonment would, however, result in terminating (or substantially diminishing the quality of) rail service to shippers and/or a reduction in routing options, the proper course is to deny the application.¹⁶ Here, the Board now knows that the discontinuance of PIRY's service has resulted in diminished rail service and a reduction in routing options, which it

¹⁴ The PC&N standard that the Board is using on reopening to address the merits of an adverse discontinuance is the same standard used in adverse abandonments. See Cross Harbor, 2004 U.S. App. LEXIS 14304, at **13 n.5 (D.C. Cir. 2004).

¹⁵ See, e.g., Modern Handcraft, Inc.—Abandonment, 363 I.C.C. 969, 972 (1981) (adverse abandonment granted over long dormant line over which the incumbent carrier had not taken any steps to restore service); Jacksonville Port Authority – Adverse Discontinuance – In Duval County, FL, STB Docket No. AB-469 (STB served Jul. 17, 1996) (“Jacksonville”) (granting the port authority's application in order to replace the incumbent terminal operator with another operator who would provide the same services over the same network of tracks).

¹⁶ See discussion of cases such as Cross Harbor, Salt Lake City, and Western Stock Show, *infra*.

should not sanction.¹⁷ Under these circumstances, the Board should reverse course and deny the adverse discontinuance application in keeping with precedent.

The Board's August 2005 Decision accepted (based on the applicants' representations) that the Cities would preserve the *status quo ante* for Kellar Branch shippers. Specifically, Kellar Branch shippers were to continue to get the sort of service they had received from PIRY, and they were to have access to multiple carriers at Peoria (and therefore multiple traffic routing options) just as they had enjoyed under PIRY. That is why shippers such as Carver did not object to the application. Under that set of facts and assumptions, the Board's decision to grant the application might have been consistent with cases such as Jacksonville and others.

But Carver's experiences show that this now is nothing like a Jacksonville-style discontinuance. As of July of 2006, Carver's rail rates via the UP and the Western Connection were \$1,931.50 per car compared to the previous TZP-PIRY rate (via the Kellar Branch) of \$872 per car. This represents a 121% increase. See Carver Letter/Comments filed July 21, 2006 at 2. Carver has suffered a 60% reduction in service; receiving service only on Monday and Wednesday versus five days a week when PIRY operated the Kellar Branch.¹⁸ In fact, price and

¹⁷ Cf. State of Okla., Ex Rel. Dept of Highways, Abandonment, 324 I.C.C. 666, 676 (allowing the adverse abandonment of a rail line based in part on findings that shippers might, in some cases, actually benefit from a reconfiguration of service resulting from the abandonment and because there was no evidence that the abandonment would not "result in increases in freight rates or a diminution of adequate service to the protesting shippers"); CSX Corporation and CSX Transportation, Inc. – Adverse Abandonment Application – Canadian National Railway Company and Grand Trunk Western Railroad Inc. (STB served Jan. 28, 2002), slip op. at 6 (granting an adverse abandonment where no shippers have opposed the abandonment, and that "shippers will not lose routing options or have less efficient, more costly service if [the railroad] is forced to abandon its trackage").

¹⁸ CIRY's alleged service is itself deceptive. CIRY has no presence in Peoria and has left loaded cars at interchange for up to a week before delivering them, and it has also frequently ignored EDI interchange from UP, waiting for Carver employees to drive out to interchange, discover their cars, and then call and ask for service from CIRY.

service has gotten so bad that Carver has informed PIRY that it stopped using direct rail service altogether in November 2006, and now transloads every carload from significant distances to Carver's yards in Pioneer Park and Tremont. As such, the facts more closely resemble the situation in Cross Harbor, and, for the same reasons that the Board eventually denied the adverse abandonment in that case, it should likewise do so here.

Denial of the Cities' application would also be consistent with the Board's denial of Salt Lake City Corporation's adverse abandonment application in Salt Lake City. In that proceeding, the Board denied the adverse abandonment of a rail line that afforded UP with an alternative route in and through Salt Lake City, UT. Here, by comparison, Carver doesn't even have a single, viable route available to it, let alone an alternative route. The effective result of the adverse discontinuance has been, and will continue to be, that Carver will be deprived of a critically important outlet (via PIRY and TZP) to a variety of line-haul service options at Peoria. Under the facts as they now exist, the Board's August 2005 Decision and its denial of Salt Lake City Corporation's abandonment application in Salt Lake City do not square.

A review of agency precedent beyond Cross Harbor and Salt Lake City also shows that the adverse discontinuance of PIRY's operations, given the facts as they have developed, should not be granted. Western Stock Show, 1 S.T.B. 113 (1996) (adverse abandonment denied, in part because shippers complained about the expense and unsuitability of motor carrier service as a substitute for rail service);¹⁹ Wisconsin Department of Transportation – Abandonment Exemption, ICC Finance Docket No. 31303 (ICC decided Nov. 23, 1988) (Board predecessor,

¹⁹ In that decision, the Board also noted that: (1) "there is a statutory duty to preserve and promote continued rail service;" and (2) the agency's role is "to provide the public with a degree of protection against unnecessary discontinuance, cessation, interruption, or obstruction of available rail service." Id. at 131 (citations omitted).

Interstate Commerce Commission, indicated that adverse abandonment of rail line that would deprive service to a shipper might not be granted because it would frustrate agency's goal to promote competition between railroads and trucks). In light of Carver's loss of service, including the loss of line-haul routing options via PIRY-TZP, and Board precedent, the Board must revisit its August 2005 Decision and deny the adverse discontinuance application.

II. THE CITY HAS FAILED TO MEET ITS BURDEN OF PROOF TO JUSTIFY THE GRANT OF AN ADVERSE DISCONTINUANCE

The applicants bear the burden of proving that, on balance, the PC&N factors weigh in favor of the adverse discontinuance they seek,²⁰ and Peoria has failed to meet that burden. It is not enough that Peoria articulate a plan that purportedly has "substantial" public support, point to the amount it has invested in the Kellar Branch, declare, in effect, that "the public interest is Peoria," and demand the benefit of the doubt on all other elements of the PC&N test. Rather, the City must make its case with respect to balancing *all* of the prongs of the PC&N analysis, which it most decidedly has not done here. Ignoring the three-part PC&N test clearly set forth in the Board's January 2007 Decision, it follows that Peoria could not possibly have met its burden of proof.

By highlighting its ownership of a portion of the line²¹ and pointing to alleged public support for a recreational trail as elements of the purported "public interest," Peoria might believe that it is then up to PIRY and Carver to disprove Peoria's one-note PC&N presentation.

²⁰ See, e.g., Western Stock Show, 1 S.T.B. at 131 ("noncarrier 'third-party' applicants have the burden to establish that the public convenience and necessity require or permit abandonment or discontinuance") (citation omitted).

²¹ Peoria Heights has informed PIRY that it is the owner of the underlying right-of-way and tracks over a significant portion of the Middle Segment. Without Peoria Height's consent to the removal of PIRY and the establishment of a trail, the City's alleged public interest benefits cannot be achieved even if the Board were to grant the adverse discontinuance.

If so, Peoria is wrong. Like the New York City Economic Development Corporation in Cross Harbor and Salt Lake City Corporation in Salt Lake City, Peoria may not shift the burden of proof in an adverse discontinuance to the objecting carrier and shippers. Such a move would be contrary to law.²²

In its January 2007 Decision, the Board instructed the parties to address on reopening “the relative benefits and burdens that continuation of PIRY’s service on the Kellar Branch, on the one hand, and the cessation of PIRY’s service on the other, would have on the involved carrier, on the owner-lessor of the line, and on the public.” January 2007 Decision, slip op. at 9. In so doing, the Board correctly reinforced its need to subject the application to a balancing of the various interests at play. In fact, although the Board set forth as a three-part analysis, the interests at play here could be even more precisely identified as the United States Court of Appeals for the District of Columbia recently did: “There are thus ... at least four interests to balance: (1) the railroad; (2) the owner and/or the public; (3) the shippers; and (4) interstate commerce and the rail system in general.”²³

Peoria, conspicuously not joined by its co-applicant, Peoria Heights, entirely disregards the purpose of the reopening, and focuses its efforts on only one of the four interests articulated in Cross Harbor – namely, the impact of the discontinuance on the line owner and the non-shipping public. Even so, Peoria’s assertions concerning the purported public interest is

²² “The City is attempting to rewrite the PC&N test to fit its own purposes. Yet, the burden to show that the PC&N require or permit abandonment here is on the [applicant], not on [the railroad], and the [applicant’s] attempt to shift that burden to the railroad is contrary to the statute and the case law interpreting it.” Salt Lake City, slip op. at 10.

²³ Cross Harbor, 2004 U.S. App. LEXIS 14304, at **17 (citing Cherokee v. ICC, 727 F.2d 748, 751 (8th Cir. 1984) and Colorado v. United States, 271 U.S. 153, 168-69 (1966)).

thoroughly suspect.²⁴ Claiming that there is substantial support for a recreational trail (Peoria Statement at 2), Peoria has glossed over the fact that Peoria Heights has specifically *not concurred* in Peoria's latest argument. There are, quite apparently, differing community views about whether removing PIRY, or any other carrier for that matter, from the Middle Segment is truly consistent with the public interest. At best, Peoria's latest comments reflect its view that the Cities should be permitted to do as they see fit with the rail property that they claim to own²⁵, and that the Cities' interests (which, incidentally are no longer clear) should be the overriding factor in the Board's analysis going forward.

It is worth noting that Peoria, having articulated a desire to convert the Middle Segment to a linear park, nowhere substantiates a *need* for such a park that is even remotely commensurate with Carver's need for direct and economical rail service. Online research (the results of which are attached as Exhibit C) reveals that the Cities enjoy considerable park facilities, including five existing linear parks or trails, of which at least one (the Rock Island State Trail) was formed from a former railroad right-of-way. In all, the Peoria Park District's website reveals that the District already has 29 miles "and counting" of trails and urges readers to "enjoy the many miles of bicycle, walking, or hiking trails Peoria has to offer," calling it "a unique system of regional trails....linking schools, recreation facilities and scenic natural areas throughout the area." The Peoria Park District's website also boasts that the District's "open space holdings in the City of Peoria, Peoria Heights and outlying townships approach[es] 9,000 acres," and that the District "ranks first in the state and is one of the top public park systems in the nation based on its ratio of

²⁴ In fact, there is considerable public opposition to the proposed trail, although, to be fair, it is probable that the vast majority of Peoria citizens don't have an opinion on the issue.

²⁵ There is some question as to just what the Cities' ownership interests are. They have certainly never been proven or documented in this proceeding.

open-space holdings to population.” Consequently, a decision denying the Cities’ application on reopening would not serve to deprive the communities of critical park space, but it would prevent Carver from having direct rail service. Moreover, PIRY stresses again its willingness to work with the communities to allow a linear park to be located alongside the Kellar Branch tracks.

By ignoring all other factors in the Board’s adverse discontinuance analysis, Peoria would have the Board improperly elevate “to premier status” Peoria’s non-rail plans for the property, a course the Board once before had attempted and had rejected upon judicial review. See Cross Harbor, 2004 U.S. App. LEXIS at **20. Addressing the balancing test, the D.C. Circuit advised as follows: “The [Board] does not, and cannot, simply accede to a public entity’s wishes in an abandonment proceeding; instead it weighs that interest as ‘only one factor in [its] analysis.’”²⁶ Despite such clear guidance, Peoria has attempted to reduce the Board’s analysis to the consideration of but one factor. But, as it happens, that one factor (interest in a trail) may not have the necessary community support to go forward. As such, Peoria has failed to meet its burden of proof.

CIRY’s Supplemental Evidence and Comments do not fill the gaping void left by Peoria’s terse and indignant filing. Depicting itself as “at best” a “member of the public,” (CIRY Supplemental Evidence at 6), CIRY does not squarely address the PC&N balancing that the Board must engage in. CIRY never articulates a specific public interest to be accomplished by way of PIRY’s discontinuance. CIRY only indirectly addresses whether Carver would be harmed or helped by PIRY’s removal from the line, acknowledging that CIRY will spend no

²⁶ Id. at **21 (quoting Salt Lake City, slip op. at 10) (citations omitted).

money to restore the Middle Segment²⁷ and admitting that service problems via the Western Connection are still unresolved.²⁸ And no one has bothered to address the impact of the discontinuance on PIRY, presumably because the harms PIRY incurs thereby are a given.

Finally, Peoria does not explain what happened to the promises it made in the Cities' application to maintain "the existing level of rail service to the satisfaction of the users of that service." August 2005 Decision, slip op. at 7. In fact, Peoria does not dispute that the Cities have fallen far short of their commitments to Carver. Peoria Statement, V.S. Van Winkle at 1 ("[the January 2007 Decision] that reopened this proceeding contains a generally-accurate history of the Cities' ownership of the Kellar Branch"). Peoria's Statement contains the minutes of a Peoria City Council meeting at which two former mayors of the City discuss the problems associated with the Western Connection. Former mayor Dick Carver stated that – (1) UP service to the Western Connection is undependable, (2) the price for service has doubled since service over the Kellar Branch has ceased, and (3) the Western Connection is "not complete." CIRY

²⁷ See Exhibit D, October 17, 2006 e-mail from John Darling, President of CIRY, to Randy Oliver. "[T]he CIRY can, and will, *not* accept any Carver Lumber cars via the TZP. Moreover, the CIRY has no common carrier obligation to repair decades of deferred maintenance. . . . The Central 8+ mile segment of the PPH&W railroad [the Kellar Branch] is out of service by General Order and will remain so until someone (other than CIRY) invests the money required to repair the track." (emphasis in original). These statements are quite revealing, especially given that CIRY does have a common carrier obligation over the Kellar Branch as it has never received discontinuance authority and has withdrawn its request for such authority.

²⁸ The Board appears to be keenly interested in the public impact element of the PC&N test, and in particular the impact of PIRY's discontinuance on Carver. See January 2007 Decision at 8 n. 16 ("we will now focus strictly on the adequacy of CIRY's current service"). CIRY, being second only to Carver in having a sense of the inadequacy of CIRY's current service, acknowledges that, despite over 6 months of effort, major obstacles remain to making the Western Connection a viable service option for Carver (or for any other shipper that might wish to locate on the north/west end of the Kellar Branch). Not only that, but CIRY states that it will not restore the Kellar Branch to operating condition, despite overwhelming evidence already in the record that PIRY would do so, and could do so, for far less than CIRY says it would cost.

Statement, Appendix 1 (City Council minutes) at 27950-1. Former mayor Richard Neumiller also testified that the Kellar Branch “was an operable railroad” and, with some maintenance, could serve shippers such as Carver again, and that the Kellar Branch was an asset that gave shippers a “better opportunity for competitive business.” Id., Appendix 1 at 27951-2.²⁹

Neither Peoria nor CIRY defend the Western Connection “service” as in any way comparable in quality or cost to PIRY’s service to Carver via the Kellar Branch, and neither dares claim that Western Connection service is in any way “adequate” for Carver or any other shipper that may locate on the northern/western end of the Kellar Branch. Instead, the Cities have acquiesced in working with a carrier (CIRY) that has no plans to take the most appropriate and obvious step to provide adequate, direct rail service to Carver or to reopen the Middle Segment – ignoring PIRY’s repeated commitment to do so. It is therefore abundantly clear that Peoria has repudiated its original commitment to shippers.

III. THE PUBLIC INTEREST FAVORS RETAINING PIRY SERVICE

In light of Carver’s service needs, the conflicting interests of the communities, the benefits of preserving the Kellar Branch as an outlet for effective access to the interstate rail network, and the harm that flows to PIRY from evicting it from the line, the PC&N factors here clearly militate in favor of denying the Cities’ adverse abandonment on reopening. On balance, the collective interests at play here overwhelmingly would be harmed, not promoted, by upholding the Board’s previous decision allowing PIRY to be removed from the Kellar Branch. Accordingly, the Cities’ adverse discontinuance application should be denied.

²⁹ The City Council records reflect that J. Michael Carr, PIRY’s president and CEO, confirmed PIRY’s outstanding offer to purchase the Kellar Branch for \$565,000. Id., Appendix 1 at 27953.

As the record reflects, Carver has a need for rail service that is currently not being met, and, absent restoration of service via the Kellar Branch by PIRY, may never be met again. This is so because Peoria continues, despite the ineffectiveness of the Western Connection, to insist upon “reconfiguring” rail service for the purposes of a trail.³⁰ Consequently, this is not a case of a simple substitution of one operator for another, the net result of which would be nil. Rather, this situation pits PIRY, which is committed to its common carrier obligation to shippers such as Carver, against Peoria, who does not care about Carver, and has selected a “substitute” operator who has been unable to provide adequate service over the Western Connection, still has no operable working relationship with UP, and refuses to provide any service over the Kellar Branch notwithstanding a continuing common carrier obligation to do so.

PIRY is the only party committed promptly (and at its own cost) to restoring service to Carver via the Kellar Branch to fulfill a pre-existing contract with that shipper if it is given the opportunity.³¹ Indeed, the Kellar Branch is not merely the only viable route for Carver traffic, but it is also *the only practicable way* to get access to the array of connecting carriers in and around Peoria. Although CIRY says it would explore service via the Kellar Branch if track maintenance funding were given to it, only PIRY would restore service to all shippers without demanding track maintenance funds.

³⁰ Thinking that Carver is no longer “cut off from rail service,” and is receiving service via the Western Connection (the facts prove otherwise), the Board says it will now examine the “adequacy of CIRY’s current service.” January 2007 Decision, slip op. at 8 n.16. PIRY now knows that Carver is not, in fact, receiving rail service via the Western Connection at all, due to operating issues and service costs.

³¹ Other than CIRY’s description of PIRY’s Kellar Branch restoration estimates as a “quick and dirty” fix, no one has challenged PIRY’s repair cost estimates, already in the record, that show that the Kellar Branch could be restored to excepted status at a very reasonable sum.

Having all but acknowledged that the Western Connection, which was intended as a make-whole alternative to the Kellar Branch for shippers like Carver, has been a bust, the Cities are faced with two choices – (1) re-evaluate plans to sever the Kellar Branch in order to ensure that shippers such as Carver obtain truly adequate service, or (2) abandon Carver (and other potential shippers) in favor of a trail. Peoria and Peoria Heights have made different decisions. Peoria favors turning its back on Carver in the interest of a recreational trail (which, as noted above, is not tied in any way to a critical need for linear park space), while Peoria Heights is considering rebuilding, rather than removing, the Middle Segment tracks for the initiation of a trolley service. See Exhibit E attached hereto.

As to Peoria Heights' recent Kellar Branch concept, PIRY is eager to coordinate its service with that of a trolley operator, so that both uses of the line are accomplished for the benefit of all stakeholders. PIRY has read, and supports, the comments filed by Illinois Prairie Railroad Foundation ("IPRF"), which demonstrate that Peoria Height's trolley concept and PIRY's interest in restoring adequate service to Carver would be separate sides of the same coin, and if properly developed and executed, could be arranged so that a recreational trail also could coexist with the rail aspect of the corridor. Were the community to coalesce around the idea of a trolley operation on the Kellar Branch (perhaps combined with an adjacent linear park), then there would be no reason whatsoever for Peoria to force its wholly ineffective rail service reconfiguration on the community and its shippers.

Based upon PIRY's familiarity with the Kellar Branch, a side-by-side recreational trail and rail line using divided portions of the existing right-of-way is feasible. PIRY is willing to work with Peoria to accomplish such a goal, should the City and Peoria Heights agree to a recreational trail with or without the trolley. In fact, Peoria's stubborn insistence upon isolating

Carver and other potential north/west-end shippers as a trade-off for a trail reveals a glaring flaw in Peoria's depiction of the public interest: Peoria has not proven, and cannot prove, that low-density short line rail operations and a linear park could not be accommodated within the existing right-of-way. In that regard, to support its PC&N arguments, Peoria ought to have explained to the Board why it cannot accommodate both the public's need for adequate freight rail service and Peoria's desire for more recreational space.

Finally, there would be no logistical problems with restoring PIRY service on the Kellar Branch, even though both PIRTY and CIRY would possess common carrier authority to serve shippers. Since service via the Western Connection has not proven viable and is now unused, CIRY service to Carver has been completely nonexistent. Furthermore, CIRY has made clear that it will not operate the Kellar Branch absent some \$466,000 worth of track improvements. In contrast, PIRY has agreed to rehabilitate the line and to restore service to Carver. Finally, the only other shipper on the Kellar Branch (on the south/east end) is engaging in self-service. Specifically, O'Brien Steel, the only other current Kellar Branch shipper, appears to be largely unaffected by the outcome of this proceeding, due to its close proximity to the southern/eastern end of the line. O'Brien still has access to TZP, but PIRY understands that O'Brien is moving its own cars over the south/east portion of the Kellar Branch by pulling such cars to and from its facility with its own equipment and delivering them to TZP. If this is so, then CIRY does not currently serve *any* shippers on the Kellar Branch.³² For these reasons, it is highly unlikely that PIRY's operations would interfere with CIRY's. Of course, were there any chance that CIRY

³² Confirming that CIRY doesn't truly envision providing any rail service, even over the Western Connection, CIRY has proposed to lease a locomotive to Carver so that Carver could try to provide its own service over CIRY's Western Connection in order to connect to UP. Such

does or would provide service on any portion of the Kellar Branch now or in the future, PIRY would agree to the customary joint operating protocols, which, given the modest traffic levels, should not be difficult to establish.

In sum, the Board is left with a choice. On the basis of the paltry evidence that Peoria and CIRY offer in response to the January 2007 Decision, the Board could preserve the current situation, uphold its August 2005 Decision on reopening (despite overwhelming precedent against such action), and allow Carver to remain without adequate rail service despite the Cities' earlier promises that Carver would not suffer as a result of the discontinuance. Or, based on PIRY's confirmed willingness to restore adequate service to Carver (and any other shippers that might chose to locate on the north/west end of the Kellar Branch), the Board could deny the application, allowing all of the stakeholders here to re-evaluate the situation and reach a solution that provides for interstate commerce and the needs of shippers who require adequate rail service. If at some future point the Western Connection were to become a fully viable service alternative to the Kellar Branch, then it may be that Carver and all others concerned might reevaluate the situation, but there is no reasonable prospect for that to happen in the foreseeable future. For the time being, allowing Peoria to force its recreational trail goals to trump Carver's rail service needs is contrary to the Rail Transportation Policy ("RTP") of 49 U.S.C. 10101.

CONCLUSION

When it granted the Cities' adverse discontinuance application in 2005, the Board and the Cities most likely presumed that the Western Connection would be a viable substitute for Kellar Branch service for shippers such as Carver. The facts have clearly demonstrated that the Western

"self-service" arrangements undermine the premise behind the August 2005 Decision that the City would ensure that adequate substitute service is provided to shippers.

Connection does not work, and that Carver has suffered a loss of rail service and competitive through route options as a consequence. Carver's transportation costs have skyrocketed to such an extent that Carver no longer receives direct rail service at its facilities. Carver could enjoy direct rail service again, but only if PIRY is permitted back on the line.

As shown above, the Board was correct to reopen this proceeding. The facts, as they now stand, do not support the Cities' adverse discontinuance of PIRY's operations. In fact, to uphold the discontinuance would be contrary to Board precedent and policy to preserve adequate rail service where possible. Furthermore, Peoria addresses only one of the elements of the PC&N balancing test, thereby utterly failing adequately to satisfy its burden of proof in support of the Cities' application. Finally, even if the Board does engage in the appropriate balancing of the competing interests on the basis of the paltry evidence and argument furnished by Peoria and CIRY, the Cities' application should still be denied. In denying the application, the Board would facilitate further analysis of the situation among the various stakeholders.

Respectfully submitted this 15th day of March, 2007,

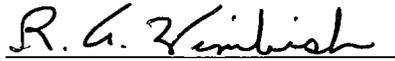
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Attorneys for Pioneer Industrial Railway Co.

CERTIFICATE OF SERVICE

I, Robert A. Wimbish, hereby certify that on this 15th day of March, 2007, copies of the foregoing Reply have been served by first class mail, postage prepaid, or by more expeditious means of delivery upon all Parties of record in AB-878 who are identified on the Surface Transportation Board's website. A copy has also been e-mailed to counsel for CIRY, the Cities, and the Park District.



Robert A. Wimbish
Attorney for Pioneer Industrial Railway Co.

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-878

**CITY OF PEORIA AND THE VILLAGE OF PEORIA HEIGHTS, IL—ADVERSE
DISCONTINUANCE—PIONEER INDUSTRIAL RAILWAY COMPANY**

EXHIBIT A

BAKER & MILLER PLLC

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August 14, 2006

VIA ELECTRONIC FILING

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Re: STB Docket No. AB-878
City Of Peoria and The Village of Peoria Heights, IL — Adverse
Discontinuance—Pioneer Industrial Railway Company

STB Docket No. AB-1066X
Central Illinois Railroad Company – Discontinuance Of Service Exemption – In
Peoria County, IL

Dear Secretary Williams:

Enclosed via electronic filing on behalf of Pioneer Industrial Railway Co. (“PIRY”) is PIRY’s Reply to the comments filed on July 24, 2006 by Central Illinois Railway Company and Carver Lumber Company regarding the adequacy of rail service to Carver Lumber. As can be seen from the certificate of service attached, copies of this Reply are being served today on all parties of record in the two above-captioned proceedings. If there are any questions concerning this proposal, please contact me by telephone at (202) 663-7823 or by e-mail at wmullins@bakerandmilller.com.

Sincerely,



William A. Mullins

Enclosures

cc: Daniel A. LaKemper, Esq.
All Parties of Record

A. Service Is Inadequate

CIRY is correct that rail service to Carver from the west began on or around March 20, 2006. Of course, that was about six months beyond the date that the Cities and CIRY promised this Board that service via the west would be available. Nonetheless, CIRY claims that service is adequate because it had not yet received any complaints from Carver and that Mr. Rob Happach, a former employee of Carver, had allegedly told Mr. Steve Van Winkle, Public Works Director for the City of Peoria, that “Carver could live with the transit time experience on shipments to Carver.”³ CIRY did not have the benefit of viewing Carver’s simultaneously filed comments, but the Board does. Those comments and the verified statement filed by Lee Miller, Carver’s Vice President of Operations, in the Alternative Service Order proceeding (attached hereto as Exhibit 1, “V.S. Miller”), tell a different story than that told by CIRY.⁴

Some of Carver’s comments regarding the adequacy of its service via the western connection bear repeating:

- “While rail service to Carver is now available via the Western Connection our strong belief is that that service is inadequate.” Carver’s July 24 Comments at 1.
- “The delivery of cars via the Western Connection represents a 400% greater delivery time than cars delivered via the Kellar Branch Line.” Carver’s July 24 Comments at 2.

³ Curiously, this alleged statement by Mr. Happach to Mr. Van Winkle is not verified or supported by either of the two parties to the conversation but by a “Mr. Oliver.” Mr. Oliver is not identified and does not appear to be in a position to verify Mr. Happach’s statements. As such, these assertions by CIRY deserve no weight. See CIRY Comments at 3-4 and Appendix 3. It should also be noted that Mr. Happach’s letter of April 17, which CIRY is fond of taking out of context, while extremely polite and conciliatory, made clear that Carver was dissatisfied with the “west connection” and that both rates and service were at issue.

⁴ Contrary to CIRY’s unsubstantiated assertions that Mr. Miller is unaware of the factual circumstances and that Mr. Happach’s outdated assertions should be followed, Mr. Miller has been a Vice President of Carver Lumber for eight and a half years and the person most directly responsible for arranging Carver’s transportation needs. He well knows what service Carver has received from both PIRY and CIRY.

- The loss of service via the Kellar Branch has deprived Carver of direct access to eight line-haul carriers and has left them captive to the UP. Carver's July 24 Comments at 2.
- "Carver is heavily dependent upon rail service to remain cost competitive and the loss of the Kellar Branch . . . threatens the livelihood of 50 employees." Carver's July 24 Comments at 3.
- "Carver Lumber has tried to work with both the City of Peoria (CIRY) and the Union Pacific to address the issue of guarantying minimum levels of service and rate stability to no avail." Carver's July 24 Comments at 3.
- "Carver Lumber Company needs and desires competitive and timely rail service to protect the livelihood of our employee/owners. The Western Connection is not, in our opinion, succeeding on either of those issues." Carver's July 24 Comments at 3.
- "CIRY service is not, and never has been adequate or satisfactory." V.S. Miller at ¶ 2.
- "I have no reason to believe that service or rates will improve in the future." V.S. Miller at ¶ 3.
- "Carver's concern is and always has been dependable, efficient, and cost-effective rail service. PIRY provided that to us for over nine years, but we were willing to accept another carrier, if they could so perform. CIRY has not so performed." V.S. Miller ¶ 5.

These are not the comments of a shipper who believes that its rail service from the west is adequate, as CIRY wants this Board to believe. It is obvious that CIRY has not made "good on its representation to provide adequate rail service to Carver Lumber and fulfill its common carrier obligation under 49 U.S.C. 11101," as required by the Board's April 25 decision.

Finally, CIRY's allegation that service from the west is an adequate replaced is refuted by its own admission that such service is not viable because Carver's business "does not provide sufficient revenue" at current rates. See footnote 2. Therefore, it can be assumed that CIRY will soon be raising Carver's rates, or asking for discontinuance authority for the "west connection," or both. By CIRY's own admission, service from the west is a failure.

B. CIRY's Rates Threaten Carver's Business

CIRY does acknowledge that Carver has complained about the new freight charges via the western route but places that blame on UP's portion of the route, not CIRY's charges. As Carver made clear in its comments, its freight rates have more than doubled – costing \$872.00

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-878

**CITY OF PEORIA AND THE VILLAGE OF PEORIA HEIGHTS, IL—ADVERSE
DISCONTINUANCE—PIONEER INDUSTRIAL RAILWAY COMPANY**

and

STB DOCKET NO. AB-1066X

**CENTRAL ILLINOIS RAILROAD COMPANY— DISCONTINUANCE OF SERVICE
EXEMPTION – IN PEORIA COUNTY, IL**

REPLY TO JULY 24TH COMMENTS

EXHIBIT 1

VERIFIED STATEMENT OF LEE MILLER FILED IN

FINANCE DOCKET NO. 34917

**PIONEER INDUSTRIAL RAILWAY CO.
– ALTERNATIVE RAIL SERVICE –
CENTRAL ILLINOIS RAILROAD COMPANY**

FINANCE DOCKET NO. 34917

**PIONEER INDUSTRIAL RAILWAY CO.
-ALTERNATIVE RAIL SERVICE-
CENTRAL ILLINOIS RAILROAD COMPANY**

**REBUTTAL IN SUPPORT OF PETITION
TO PROVIDE ALTERNATIVE RAIL SERVICE**

VERIFIED STATEMENT OF LEE MILLER

My name is Lee Miller, and I am the President of Carver Lumber Company ("Carver"). I have reviewed the Response of CIRY dated August 3, 2006, to Pioneer Industrial Railway Co.'s ("PIRY's") Request for Alternative Service over the Kellar Branch railroad line, which Carver supports.

The statement of Carver's former President, Rob Happach, which is cited in the response, is taken out of context. Mr. Happach was attempting to cooperate with the City and Central Illinois Railroad Co. ("CIRY"), and attempting to be conciliatory. Unfortunately, our willingness to cooperate and "wait and see" attitude, failed to produce satisfactory results. CIRY service is not, and never has been adequate or satisfactory. Carver is absolutely not better off with the "western connection", and renews its request that the Board order the restoration of service over the Kellar Branch.

CIRY continues to refuse to route cars over the Kellar Branch, despite the fact that it is still a common carrier railroad line. I am informed and believe that CIRY has no local presence, and CIRY does not seem to know when there is a car at interchange. Carver generally notifies CIRY that a car needs to be delivered. I have no reason to believe that service or rates will improve in the future, whereas PIRY and Carver Lumber Company have already entered into an Agreement as to rates, in the event that PIRY is permitted to resume service on the Kellar Branch. That agreement provides for the restoration of Carver's previous Kellar Branch rate structure, which is less than half what we are currently paying to get cars from the TZPR yard to our facility. It allows provides

for as-needed five day per week service. Carver has the option to keep this agreement in place for up to ten years if PIRY is able to permanently restore service over the Kellar Branch. I also reasonably believe that PIRY will and can attract additional business to the Kellar Branch, if the connection to the TZPR remains open, and it can market competitive service, as opposed to captive Union Pacific service.

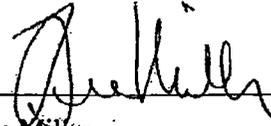
Carver believes that the restoration of service on the Kellar Branch is both feasible and necessary to its business. I have every reason to believe that PIRY is sincere in its desire to provide that service, and I believe that the suggestion that PIRY is a "front" for unnamed parties "opposed to the creation of a recreational trail" is pure fantasy.

Carver's concern is and always has been, dependable, efficient and cost-effective rail service. PIRY provided that to us for over nine years, but we were willing to accept another carrier, if they could so perform. Ciry has not so performed, and Carver should not be penalized for its patience and willingness to consider the City's proposals.

Carver respectfully requests that the Kellar Branch be immediately restored to operation by a willing carrier, PIRY.

VERIFICATION

I, Lee Miller, declare under the penalty of perjury that to the best of my knowledge the foregoing is true and correct. Further, I certify that I am qualified to file this Verified Statement. Executed this 8th day of August, 2006.

A handwritten signature in cursive script, appearing to read "Lee Miller", is written over a horizontal line.

Lee Miller

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-878

**CITY OF PEORIA AND THE VILLAGE OF PEORIA HEIGHTS, IL—ADVERSE
DISCONTINUANCE—PIONEER INDUSTRIAL RAILWAY COMPANY**

EXHIBIT B



CARVER LUMBER

8700 N. UNIVERSITY AVE.
PEORIA, ILLINOIS 61615
(309) 692-2000 • FAX (309) 693-7919



July 19, 2006

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

ENTERED
Office of Proceedings

JUL 26 2006

Part of
Public Record

RE: Docket No. AB-1066X (Kellar Branch Discontinuance of Service Exemption-
Peoria, IL)

STB Docket No. AB-878

217146

217148

Dear Mr. Williams:

This letter is in response to your order to Carver Lumber "to file comments with the Board at the conclusion of the 90-day period regarding service via the new western connection" as referenced in the Docket proceedings referenced above.

For brevity of this letter I have enclosed copies of previous pertinent documents which will document Carver Lumber Company's concerns and position relevant to this issue.

In this letter I will focus exclusively on the current issues relevant to your findings and order on April 25, 2005 that "these proceedings will be held in abeyance to permit additional assessment of the situation and for further development of the record."

Specifically, we reference the last sentence in paragraph 3 of our January 18, 2006 letter, attached, to you which states; "If it is found that such service and/or cost has been substantially compromised, we would expect our rights to access the full Kellar line to have somehow been preserved for the benefit of our company and any other shippers who may one day locate on the line." Our findings and beliefs as of this date are as follows:

- While rail service to Carver is now available via the Western Connection our strong belief is that that service is inadequate to the exemplary service we have received from PIRY for many years via the Kellar Branch and that this view is supported by the actual tracking of cars arriving in Peoria and their subsequent delivery to Carver as summarized in the attached RAIL CAR ROUTING SCORECARD. As you can see the SCORECARD clearly shows in detail that after cars arrive in Peoria they take either another 4 or 8 days to arrive at our facility. Our understanding

is that this is the result of CIRY only providing service to Carver two days per week. For years our records show that delivery up the Kellar Branch Line took between 1 and 2 days to reach our facility. Thus the delivery time of cars via the Western Connection represents a **400% greater** delivery time than cars delivered via the Kellar Branch Line.

- The cost of cars delivered to Carver via the Western Connection (Union Pacific/CIRY), based upon the newly published UP rates dated May 31, 2006 of \$1100, attached, plus fuel surcharges of \$181.50 plus the CIRY charge of \$650 totals \$1,931.50. The cost of the same car delivered to Carver via the Kellar Branch (TZPR/CIRY) is \$940.00. The cost of the same car delivered to Carver via the Kellar Branch (TZPR/PIRY) is \$872.00. Thus, the delivery of cars via the Western Connection is approximately **105% greater** than the cost of the same car delivered via the Kellar Branch using CIRY and approximately **121% greater** than the cost of the same car delivered via the Kellar Line using PIRY.
- While this item is not specifically requested in your order “regarding the adequacy of rail service” we believe it is pertinent to the issue of Carver’s rights to “have a vested interest in making sure that delivery to our business over that line (Kellar) is made available (Carver’s letter to you of January 18, 2006). As I believe the STB knows, service to Carver via the Kellar Branch was interrupted due a CIRY runaway/derailment/collision during their first delivery attempt to Carver forcing us to transload material for a period of nearly 5 months (see our letter of February 6, 2006 to City of Peoria, attached) resulting in costs to date of \$41,605.10 which neither the City or CIRY have been willing to reimburse. We are currently seeking the aid of independent legal counsel in an effort to collect these costs. The federal court case of New York Cross Harbor Railroad v. Surface Transportation Board, 374 F.3d 1177 (D.C. Cir. Ct. App. 2004) also recognizes that the “Surface Transportation Board (has a) statutory duty to preserve and promote continued rail service, and that one of its functions is to provide the public with a degree of protection against the unnecessary discontinuance, cessation, interruption, or obstruction of available rail service.” Given the regulations set forth above we believe the City of Peoria is obligated to provide Carver Lumber with sufficient rail service, and that the disruption in rail service experienced by Carver Lumber should be compensable.
- Carver has had direct access to eight line-haul carriers over the Kellar Branch Line via the TZPR (the local terminal switching carrier) for many years. The loss of service over the Kellar Branch will permanently deprive Carver Lumber of competitive service, by depriving us of direct access to CN, BNSF, ISIA, NS, I&M, KJRY and TP&W, and leaving us with only one line-haul carrier (UP), that will have ultimate control over our service and delivered cost of material. Currently, approximately 75% of our cars originate on CN, and 25% on BNSF. Forcing us to depend on the “western connection” will add another carrier to all of our shipments, which has resulted in, and will continue to result in, longer transit times,

less responsive service, and higher rates. We become a captive shipper. Depending on business conditions, we receive 50 or more cars per year. At a premium of approximately \$1,000 per car (see bullet 2 above) that results in at least a \$50,000 hit to our bottom line that for a company of our size is almost catastrophic. If the Keller Branch is abandoned, that premium can only be expected to increase, as there will no longer be any option to restrain rate increases, and, as a small shipper, we have no bargaining power.

- Carver Lumber Company is a local 100% employee owned business that is competing with much larger companies who have considerable purchasing power. Carver is heavily dependent upon rail service to remain cost competitive and the loss of the Keller Branch Line is clearly going to put Carver at a significant competitive disadvantage with its competitors and thus unduly threaten the livelihood of 50 employees.
- Carver Lumber has recently attempted to route two cars to our location using the Keller Branch via BNSF PEORIA TZPR PEORIA CIRY (car #NOKL 734824 B/L L-104859, attached) and CN PEORIA CIRY (car CN 598024 B/L 1175453, attached) both of which were delivered via the Western Connection via UP without our knowledge or consent. Information I received today from TZPR was that the CIRY “would not accept” the cars for Keller Branch Line delivery and told TZPR to hand the cars off to the UP. We do not understand why we are being denied rail service via the cheaper Keller Branch line and ask you for your assistance in this matter. It is our understanding that the Keller Branch Line is in full compliance with all relevant Federal regulations for this type of rail line. Please see our letter of April 17, 2006 to the City of Peoria, page 3 **DELIVERY RATE COMPARISONS**, attached.
- Carver Lumber has tried to work with both the City of Peoria (CIRY) and the Union Pacific to address the issue of guarantying minimum levels of service and rate stability to no avail. These are critical issues to a company of our size, especially as we have had a long established track record with PIRY on both of these issues. Under the Western Connection scenario we have neither. The PIRY has submitted a proposal to Carver Lumber whereby both the issue of levels of service and rates are being guaranteed for a period of 10 years which greatly surpass the service conditions and rates that we are currently experiencing over the Western Connection.

Carver Lumber Company needs and desires competitive and timely rail service to protect the livelihood of our employee/owners. The Western Connection is not, in our opinion, succeeding on either of those issues. In light of recent industry articles addressing the increased congestion on the UP mainline it would seem to us that maintaining the Keller Branch Line makes good sense. Trucking and/or transloading material is not only cost prohibitive for Carver Lumber, but seems to be contrary to public policy in general as the impact on the environment (fuel consumption, air pollution and deterioration of the infrastructure) to move goods by truck is significantly greater than that of moving goods

by rail. In light of the fact that Carver is a willing customer of rail service and there exists a willing carrier (PIRY) to provide that service, we cannot imagine how the public good will be served by forcing Carver Lumber Company to switch from affordable rail service which has satisfied our needs for many years to more expensive trucking service.

In conclusion, based upon the statements in the above bullet points we respectfully request the STB to consider the following course of action:

Given CIRY's demonstrated inability, and stated unwillingness, to provide service over the Kellar Branch, we believe the Board should reopen and deny the adverse discontinuance of PIRY service over the Kellar Branch (and grant CIRY's request to discontinue service), or, in the alternative, in order to preserve service on the Kellar Branch, deny the discontinuance of CIRY service over the Kellar Branch and order CIRY to comply with its common carrier obligations to provide such service. In the interim we request that the Board enter an alternative service order permitting PIRY to provide service to the Kellar Branch.

Carver appreciates the Board's consideration of this matter, and its prompt action to reopen this proceeding in response to our request. The Board's concern for the preservation of viable rail service has been very important to Carver Lumber, its employee/owners, suppliers and customers.

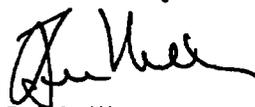
Sincerely,
Carver Lumber Company Board of Directors



Mark Booth



Debra Wolfe



Lee Miller

Enclosures

January 18, 2006

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001



**CARVER
LUMBER**

8700 N. UNIVERSITY AVE.
PEORIA, ILLINOIS 61615
(309) 692-2000 • FAX (309) 693-7919



RE: Docket No. AB-1066X (Kellar Branch Discontinuance of Service Exemption – Peoria, IL.)

Dear Mr. Williams:

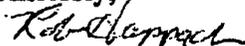
I am in receipt of a copy of Mr. Thomas McFarland's letter to you of January 11, 2006. Carver Lumber Company appreciates the City's restatement of their promise not to remove any trackage from the Kellar Line "...until the City certifies to completion of the track connection" (from the West). We also appreciate CIRY's willingness to delay any consummation of its discontinuance authority until the City is successful in having their contractor complete the new Western connection with the Union Pacific Railroad's secondary line.

Mr. McFarland's same letter makes reference to his objection to PRY's January 9, 2006 "Petition for Stay" regarding the original STB decision of December 23, 2005. While there are reasons why it is not prudent for us to inject ourselves into any dispute between parties regarding PRY's claim of authority to operate over the Kellar Line, we do have a vested interest in making sure that delivery to our business over that line is made available to our company *until such time as the proposed alternate service from the West has been tested and found to meet our business needs*. While it is noteworthy that Mr. McFarland's letter does offer assurances regarding the positive intentions of both the City and CIRY, it also seems to imply that so long as the connection to the West is made and "...alternative rail service is available", the City has fulfilled its obligation to our company. If that indeed is Mr. McFarland's understanding of the situation, we respectfully disagree. In our letter to you of January 3, 2006 we stated our concerns about logistical challenges associated with proposed service from the West. We do not see that by simply connecting two tracks and making it possible for train operation across a new line assures that meaningful and/or affordable service will automatically follow, at least not without additional agreements I understand the City desires from the U.P.

Therefore, we reiterate to you and all interested parties that our position on this matter remains essentially unchanged from several years ago when the notion of turning a portion of the Kellar Line into a hiking/biking trail began to be discussed in earnest. We strongly support a new connection to the West but have always felt it should be *tested* over a reasonable amount of time to insure that service in the manner we have come to depend on in the past is not somehow compromised. If it is found that such service and/or cost has been substantially compromised, we would expect our rights to access the full Kellar Line to have somehow been preserved for the benefit of our company and any other shippers who may one day locate on the line.

We are not knowledgeable regarding all of the intricacies associated with PRY's "Petition for Stay", nor are we familiar with what options the STB might have at its disposal as an alternative that might help us attain our stated goals. Absent any such alternative options from the STB, or absent a strong written agreement with the City regarding a commitment to allow any new service from the West to be thoroughly tested prior to proceeding with a discontinuance, it would seem logical for a "Petition for Stay" to be given consideration if the Board feels it provides the best and strongest form of insurance that the full Kellar Line will remain available to us (open and operational, once repaired) while the new connection is given a fair test. We leave this matter in your capable hands and thank you for your time.

Sincerely,


Rob Happach
President / CEO

CC: Randall Ray; Thomas McFarland; Melinda Sammons (all via fax)

Rob Happach

From: <PRPRICE@UP.COM>
To: <rhappach@carverlumber.com>
Cc: "Lee Miller" <lmiller@carverlumber.com>; "Richard E Carver" <richardecarver@aol.com>; "Steve Van Winkle" <SVanWinkle@ci.peoria.il.us>
Sent: Wednesday, May 31, 2006 4:38 PM
Attach: pic18467.jpg
Subject: Tariff change

Rob,

We have completed your request to publish a rate for your Peoria to Peoria move via the UP. You can refer to the rate change below and if you have any questions please feel free to contact me.

(Embedded image moved to file: pic18467.jpg)

-Thank you and have Great Day!

Paul R. Price

Marketing and Sales | Lumber Account Representative

Phone 402.544.5908 | Fax 800.544.4162 | Customer Service 800.272.8777

PRPrice@up.com | www.uprr.com

Union Pacific Railroad | 1400 Douglas St. STOP 1320 | Omaha, NE 68179

Register for UPRR | Price Inquiry | Fuel Surcharge | Service Information |
Car Trace

If the links above are not active you may find the same pages through the exact addresses below:

Register for UPRR

<http://c02.my.uprr.com/crr/crrServlet.jas>

Price Inquiry

http://www.uprr.com/customers/price_inquiry.shtml

Fuel Surcharge

<http://www.uprr.com/customers/surcharge/index.shtml>

Service Information

<http://www.uprr.com/customers/updates/index.shtml>

Car Trace

<https://c01.my.uprr.com/wet/secure/TraceForm.jas?trace=trace>

UP 24 Item 2059

Current Peoria, IL to Peoria, IL Grp Rates

Rate	Car type
\$2,144	Equipment length between 40' and 53'
\$2,454	Equipment length up to 67'
\$1,829	STD CTB
\$1,975	HC CTB

CHANGE TO:

UP 24 Item 2059

Revised Peoria, IL to Peoria, IL Grp Rates

Rate	Car type
\$900	Equipment length between 40' and 53'
\$1,100	Equipment length up to 67'
\$1,100	STD CTB
\$1,250	HC CTB

April 17, 2006



CARVER LUMBER

8700 N. UNIVERSITY AVE.
PEORIA, ILLINOIS 61615
(309) 692-2000 • FAX (309) 693-7919



To: Steve Van Winkle
Director of Public Works
City of Peoria

From: Robert Happach, Pres/CEO
Carver Lumber Company
Peoria, IL.

RE: Conclusions on rail service to our company
Pricing and Service Issues
Possible remedies for Improvement

Dear Steve:

Thanks once again for your patience. I realize that the status of that section of the Kellar Line earmarked for a trail brings with it a sense of urgency to issues concerning future action. I know you realize the complexity of this situation and how extraordinarily difficult it has been to obtain solid information on rates due to the confidential nature of freight contracts. Realizing that everyone is anxious to know how the new system is working out for our company, I am offering my very best effort regarding the situation as I see it today. Please also see the attachments that will provide some additional support to parts of this document: (1) a railcar delivery "scorecard" for shipments since the Western Connection was officially opened; (2) a comparative schedule on rate options for Carver Lumber with facts as of this writing; (3) Copy of a U.P. freight bill to our supplier (PAL).

I believe in general that this report supports the notion that the Western Connection project is a "work in progress", rather than being considered "completed" by virtue of two sets of rails being connected. Towards that end our company is prepared to continue operating as a good-faith partner in an effort to see if this project can be completed to the satisfaction of all interested parties.

THE UNION PACIFIC RAILROAD (U.P.):

- Throughout the U.S. and Canada, our suppliers tell us that the U.P. in general appears to have a well-earned reputation at the mill level for being difficult to work with and apparently disinterested in moving forest products through their system in line-haul fashion. How this affects the attitudes of local U.P. management and/or the rates that are being tossed about for local "car moves" is unknown to me. I'm told U.P. rates for the line haul are often not competitive against a BN or a CN haul (oddly in my pricing from PAL for Riley Creek stock, the UP and BN rates are the same....must be Riley's particular contract).
- Locally, they appear to have been very consistent for several years in their attitude regarding their role in servicing a Western connection. They would apparently rather not do it for several reasons: (1) It's low volume and more trouble than it's worth; (2) The "J" track arrangement at the Pioneer Junction (instead of the "wye" that was planned for originally) is not very compatible with the equipment they use locally (it takes two U.P. locomotives to make a "car drop"); (3) The track radius works well enough for moving boxcars, but not well for moving the larger center-beam lumber cars, which make up a significant part of our car traffic (over 50% since the opening of the Western Connection).
- They have been highly resistant to offering "trackage rights" over their local line. Such rights as given to a CIRY, for example, would allow the U.P. to stay uninvolved in the actual car handling, much to their liking. However, I am told that access to this local U.P. line is "spotty" (eg: sometimes train crews "time out", and by law must simply stop wherever that occurs) and that having reliable access to their tracks would be

difficult to accomplish. I'm told it would require extensive communication and coordination, all for moving one or two cars per trip. While I'm sure there are also safety and liability issues to consider, another big sticking point with them is the traffic that would need to pass through their own yard in order to make it out to the Pioneer Junction. As I understand it, the CIRY would need to do just that in order to get to the TZPR yard for non-U.P cars, or to pick up U.P. direct cars out of their yard. I will comment on "trackage rights" later in my report.

- **The U.P. is not legally required to "publish a rate"** for their portion of the handling from downtown out to the Pioneer Junction. Supposedly they are required to disclose the rates, but no one I've been working with has been able to make much meaningful progress on that. It has been suggested that if they were to go ahead and publish their rates, suppliers and freight logistic companies would have little trouble putting a final "hard number" cost to Carver shipments. Absent a published rate for a specific haul, I am told that one must rely on the general tariff rates as shown on their website, which shows four categories of rates for lumber products (under Item 2059-A of UP 24-C): These rates range from a low of \$1,829 to a high of \$2,454. Obviously this kind of per-car rate structure for moving freight the last 10 miles to the Pioneer Junction is unworkable for our situation. A professional logistics firm (Raven Logistics) that was consulting to PAL (our buying group), on this issue indeed came back to them with a rate "in the range of \$2,000" for moving a car from downtown Peoria to the Pioneer Junction. Additionally, PAL received and paid a freight bill from the U.P. for bringing a Carver car from Chicago to Peoria this past January (see attachment to this E-mail). The bill was for \$1,693, roughly three times (on a per mile basis) what it has historically cost us to move cars from the Pacific Northwest to our door. Thus this extra cost ends up being a 100% "adder" to what we have paid in the past.
- **The U.P. intends to make car handoffs at the Pioneer Junction only twice per week (Mondays and Wednesdays) compared to five (5) day per week service we had been getting from the PRY over the old Kellar Line, even when we were the only customer left on the line.** We do understand the reasons for the U.P.'s decision, given the low volume involved and the physical difficulties they have trying to make handoffs at the Pioneer Junction as it is currently designed. Additionally, it is not as easy for the CIRY to send a crew in from Granville, IL. compared to past short-line operators having local people available. We are not totally happy about receiving deliveries only twice a week, but we're willing to make the adjustment in the hopes that the other "kinks" in this new connection will somehow offset the reduced service issue.

In Conclusion on the Union Pacific: Disappointingly, but not surprisingly, until there are some changes forced on the U.P., or unless new evidence is produced to the contrary, it is hard to view the U.P. as anything more than a very reluctant partner in the Western Connection project. I'm sure you can appreciate our concern about the long term viability of the U.P. regarding service, and especially cost. It seems that the easy way out of a business arrangement that they have little use for would be to simply price themselves out of contention, which absent a reasonable published rate, they seem to be doing. In fairness to the U.P. I will say that I've been told that at least some of their rate people in Omaha are not even aware of our local situation or what it takes to develop a rate. As a result, they may be having difficulty providing reliable rates and could simply be falling back on the published general tariffs I mentioned earlier. In any case, resolving all of these important issues with the U.P. seems very crucial to the overall success of this new connection. It is our hope that the City of Peoria can accomplish what needs to be done to make it work and to meet the expectations that we have all long held as important to the process.

THE CENTRAL ILLINOIS RAILROAD COMPANY (CIRY):

To date we have found the CIRY to be a reliable partner, especially considering the fact they do not have much of a local presence. Ray Fuchs, their Manager of Railroad Operations, has made a real effort to be accessible to me by cell phone, to answer our questions and to delve into matters in order to help us better understand the challenges we face with this new connection. When cars are finally dropped at the Pioneer Junction by the U.P., (which we do not always get dates and times for) the CIRY crew seems to have made a very conscious effort to complete the delivery to our yard within a reasonable time frame, all things considered.

As you know, there is a significant remaining issue that may or may not involve the CIRY: After a derailment on the old Kellar Line during their very first delivery attempt to us (likely caused not by the condition of the track, but by their use of an under-powered TrackMobile), the CIRY refused to deliver cars over that line, preferring to wait for the completion of the new Western Connection. In part, this was due to the fact their adequately powered locomotive was essentially "trapped" on the Western side where it had been placed in anticipation of a quick completion of the Western Connection. At any rate, Carver Lumber was told that there would be about a 3-4 week delay in direct rail service while construction of the Western Connection was completed. It turned out to be 22 weeks before service was restored via the Western Connection. The delay was not really due to the work being done on the new track, but to delays associated with the City's project to upgrade remaining parts of the old line. One could argue it was no fault of the CIRY that the City's project rendered the line inaccessible, or one could argue that the CIRY had no authority to abandon service to us over the old Kellar Line in the first place. The result thus far has been over \$60,000 of additional expense to Carver Lumber through no fault of its own. This issue must be fully resolved so as not to delay the progress we hope to make in completing the overall project. We encourage the City to take the lead in establishing a dialogue between interested parties.

DELIVERY RATE COMPARISONS:

I would like to start by saying that we regarded the most potent test of rates to come as a result of having PAL price out some cars of lumber to us comparing total delivered cost via the Western Connection with total delivered cost over the old Kellar Line (via TZPR switch to CIRY). However, our suppliers were unable to price cars over the old Kellar Line. First, we were told by Ray Fuchs of CIRY that the line had recently failed a government track inspection and it was illegal for CIRY to be out on the line (I took this to mean that the government had taken the line out of service). Later, the TZPR reported to us that the line was "down" because PRY had apparently filed an "Embargo" on the line when they left (I have been told this is a common practice among railroads when they leave a line in order to protect them from car-hire and/or re-routing charges). I have asked both the CIRY and the PRY for explanations. I have yet to receive a reply from the CIRY but PRY has checked with the FRA in Washington, D.C. and they show the line as "open" and not in any way unusable by the CIRY. They have no record of a failed track inspection report and the embargo was limited to PRY deliveries only. We intend to further understand the reasons for not being able to obtain a rate, correct them, and then in the interest of fairness, test the pricing up both sides once and for all.

Please see the rate spreadsheet attachment, which shows that rates via the Western Connection (under conditions as they stand today) fall far short of being able to fulfill the assurances that were originally given to us, or of meeting the goals or expectations of the City of Peoria, I'm sure. Obviously this area is in need of some major work. While we can understand why some people look at this spreadsheet and feel that our company should go ahead and trans-load our product through the TZPR (the best rate as shown), some important facts need to be addressed:

Page 4 of 5

- The City has already spent well over \$2,000,000 of taxpayer funds to build the Western Connection. How will that sit with the public if the line is basically abandoned without ever really getting off the ground? Most people will likely ask why some of the “deal-breaker” issues were not resolved prior to spending the funds.
- Direct rail service is very important to our company. It is a highly desirable component of any high-volume lumber yard and the loss of it would reduce our options for delivery (trans-loading being the only remaining option). It would also lower the prestige of our company in the eyes of our customers and competitors, and also could lower the value of our property. Being located in an industrial park and being designed and built as a single-use facility (material distribution) demands viable direct rail service be maintained.
- Our company was given assurances of having reliable, *affordable* direct rail service from the West in order to garner our support for rail-banking our only alternative (the Kellar Line), so a trail could be built in its place. We are not asking for one thing that we were not promised. In fact, we are accepting a 60% reduction in delivery frequency (5 days to 2) that was never discussed originally and certainly not anticipated by our company.
- The TZPR price includes a third-party handler, who may or may not be interested in trans-loading later.

DELIVERY PERFORMANCE:

- Please see the attached spreadsheet (“scorecard”), which details the movements of 8 cars that have been received by our business since the opening of the Western Connection. When you look at column “D” (Routing) you will notice that 5 of the cars were delivered over the new connection while 3 others were delivered to Amerhart without using the new connection. The first Amerhart delivery occurred because the car was unable to be re-routed over the Western Connection. The other two Amerhart deliveries were intentional as a way to compare service and because our buying group (PAL) received rates over the Western Connection that added \$1,475 to the delivered cost of each car, net of Amerhart’s trans-loading charges. These added costs were attributed by PAL to the Union Pacific’s short haul rate out to the Pioneer Junction.
- If we do not count the first delivery attempt (which had some problems getting off the ground), on average cars that were routed via the U.P.- CIRY Western Connection sat idle in Peoria for 50% longer than cars being delivered to Amerhart by the U.P. (see column “I” of the spreadsheet, which I believe is the critical number). Some of this delay can be attributed to the 2-day per week U.P. delivery schedule service for Carver Lumber versus unbroken service by the U.P. to Amerhart. But in the end, it still took 2.5 days longer, on average, to receive our material over the Western Connection.
- As you can see from column “G” of the spreadsheet, the time it takes for a railcar to arrive in Peoria from the various mill locations can vary widely, even when the shipments come from the same mill. Taking 15-18 days to arrive Peoria makes the short-line service all the more critical from a time standpoint.

IDEAS TO GENERATE BETTER SERVICE AND RATES OVER THE WESTERN CONNECTION:

While we commend the CIRY for their service to us to date, and understand that a contract does exist between the City and the CIRY, it is impossible to ignore another, possibly better, long-term solution to the service (logistical) issues, and more importantly, the rate issues. Obviously these ideas have been floated by others for a while now:

- The Keokuk Railroad has a local railyard just South of Bartonville. They already have trackage rights in place that allow them to go directly to the TZPR switching yard to pick up cars. If the Union Pacific can be persuaded to give the Keokuk trackage rights over their line, then the Keokuk could conceivably pick up ALL of our cars at the TZPR, take them a short distance to their yard for further switching and deliver them directly to our door without any further need to enter the U.P. yard or use the problematic "J" at the Pioneer Junction. The fact that the Keokuk is owned by the PRY is certain to raise the ire of some, but it should be communicated to them that President/CEO Guy Brenkman has retired from the PRY and moved from the area. PRY's new president, Michael Carr, seems very capable, entirely reasonable and desirous of mending fences as needed. How this option is viewed in light of the contract the City has with the CIRY is unknown to us.
- Send a contingent of high-ranking City officials, along with Ray LaHood, to the Union Pacific headquarters in Omaha with the goal of:
 - (1) Obtaining a commitment to allow trackage rights over their line for short-line delivery use by others
 - (2) Absent that being possible, secure an agreement to provide timely service at a reasonable rate
 - (3) Then get them to agree to publish the rate in order to take the guesswork out of it for everyone
 - (4) Reaffirm their commitment to help the City of Peoria market Growth Cell II to high-volume rail users

When back home, further coordinate that marketing effort with a re-energized City Economic Development Department. Then when a high-volume user is secured, use that substantially increased car traffic as a lever to lower the rail rates to the benefit of all who might use the Western Connection.

Steve, I hope you find this report to be helpful. I will continue to try different strategies as they are developed regarding rates and will also continue my "scorecard" in terms of tracking delivery times. Our company remains committed to doing our part on improving the situation over the Western Connection. We also appreciate the opportunity to share our views on this project from the business perspective, with all due respect to those who would very much like to see the regional hiking-biking trail finally completed.

Thanks again for all your hard work. Please let us know how we can help further and please let me know how much, if any, of this report you would consider releasing to other parties who have an interest. For example, I know that the Recreational Trail Advocates are aware of my promise to generate a report to the City, but I will make it clear to them that out of courtesy to you, the decision to share part or all of it is yours to make as you see fit.

Sincerely,

Robert E. Happach
President/CEO

RAIL CAR ROUTING SCORECARD										add'l	Total	
CAR# - TYPE	SHIPPER	ROUTING	date	ARRIVAL DATE PEORIA	days car	Delivery Date	days car	days car	days car	days car	days car	
() indicates "intermediate" carrier whose initials will not show up in the routing from the originator, supposed to have been changed to UP - CIRY for carver delivery from original routing of UP for Amerhart delivery.										days in transit to Peoria	in town	in system
Bold-face cars #s indicate those sent via Western connection.										2	until final delivery	days in system
1) TTZX84700 - c-beam	Riley Creek - Chilco, ID		18-Feb 3/2 UP Peoria	15	15	15-Mar	14	29				
			3/3 TZPR									
			3/10 UP 4:30 AM									
			(7 days lost unnecessarily)									
2) HS 3185 - boxcar	Grant - Ontario, CAN	CN(TZPR)-UP carver	27-Feb TZPR 3/7 8:30 PM	9	17-Mar	10	19					
			UP - 3/10 4:30 AM									
3) BCOL-80384 - boxcar	Grant - Ontario, CAN	CN(TZPR)-UP carver	18-Feb TZPR 3/8 9:08 PM	18	16-Mar	8	26					
			UP - 3/10 4:30 AM									
4) DWC-625787 - c-beam	Abitibi - B.C. CAN	BN(TZPR)-UP-Amerhart	8-Mar UP - 3/20	12	3/24 Amerhart	4	16					
5) CN-598221 - boxcar	Grant - Ontario, CAN	CN(TZPR)-UP(CIRY)-carver	12-Mar to TZPR 3/22 10:40 PM	10	30-Mar	8	18					
			to UP 3/23 11:00 PM									
6) CN 558351 - boxcar	Teico	CN(UP)-CIRY-carver(no TZPR?)	16-Mar TZPR showed no record	estim 10	3-Apr edim. 8	16						
7) CN 624553 - center bm	Abitibi	CN(TZPR) UP-Amerhart	27-Mar at TZPR -4/3 (bad ordered)	7	11-Apr	8	15					
			on repair track at TZPR		(via Amerhart)							
			rel. to UP 4/9 PM									
8) BNSF- 561769 - c. bm	Abitibi	BN(TZPR) UP-Amerhart	23-Mar to TZPR 3/28 10:55 AM	5	3/31 Amerhart	3	8					
			to UP 3/28 6:55 PM									
			4/11/2006									

HOW TO POSSIBLY CIRCUMVENT U.P. FREIGHT ADDERS TO MOVES ASSOCIATED WITH THE PIONEER JUNCTION:

AT THIS POINT IT WAS DECIDED THAT POSSIBLY BY LEAVING THE UP OUT OF THE ROUTING AND JUST SHOWING THE LINE-HAUL CARRIER AND THE CIRY, THE LINE-HAUL CARRIERS JUST MIGHT ABSORB ANY REASONABLE CHARGES FROM THE U.P. FOR THEIR PORTION. HOWEVER, THERE IS THE CHANCE THAT THE LINE-HAUL CARRIERS WILL ATTEMPT TO COLLECT ON THE UP CHARGES FROM THE BUYER (CARVER THROUGH THE PAL BUYING GROUP), OR WILL SIMPLY ADJUST THE OLD RATES UPWARD TO TAKE THE UP CHARGES INTO ACCOUNT. THE HIGHER THE UP CHARGES, THE MORE LIKELY THAT CARVER WILL END UP PAYING THAT EXTRA FREIGHT COST IN SOME FORM OR ANOTHER. ONE VERY GOOD EXAMPLE OF THIS WAS A CN SHIPMENT THAT REQUIRED THE UP TO BRING THE CAR THE LAST 160 MILES FROM CHICAGO TO PEORIA. THIS "MOVE" BY THE UP HAD BEEN DONE MANY TIMES IN THE PAST WITH THE CN APPARENTLY ABSORBING THE COST. HOWEVER, LATE THIS PAST JANUARY PAL RECEIVED A \$1,700 INVOICE FROM THE UP FOR THAT SAME MOVE. PAL PAID THE BILL WITHOUT PROTEST, FEARING THAT PROTESTING MIGHT CAUSE THE UP TO LOOK BACK ON PAST MOVES AND TRY AND COLLECT FOR THOSE ALSO. THE POINT IS THIS: THIS BILL MAY HAVE FOUND ITS WAY BACK TO PAL BECAUSE THE CN REFUSED TO ABSORB IT, PERHAPS DUE TO THE LARGE AMOUNT FOR SUCH A SHORT HAUL. IF THE UP ENDS UP SENDING BIG BILLS BACK TO THE LINE-HAUL CARRIERS FOR SHORT MOVES, EVENTUALLY THOSE BILLS ARE GOING TO FIND THEIR WAY BACK TO CARVER, EITHER DIRECTLY OR MORE LIKELY, BY

<p>VIRTUE OF THE LINE-HAUL CARRIERS SIMPLY MAKING THE ADJUSTMENT IN THEIR FREIGHT RATES TO CARVER IF INDEED THEY PLAN TO PAY THE UP DIRECTLY FOR THEIR SERVICES. SINCE THIS JANUARY BILL TO PAL (I HAVE ATTACHED A COPY FROM PAL TO THE E-MAIL ACCOMPANYING THIS REPORT) COULD BE A PRECURSOR TO HOW THE U.P. INTENDS TO HANDLE THIS SITUATION IN THE FUTURE, THERE IS CAUSE FOR CONCERN HERE. IT IS OUR UNDERSTANDING FROM PAL THAT OUR VARIOUS SUPPLIERS WILL INFORM THEM IF THERE ARE ANY RATE INCREASES AS A RESULT OF THE UP "PILING ON". UNFORTUNATELY, THESE THINGS TAKE TIME TO WORK THEIR WAY THROUGH THE VARIOUS SYSTEMS AND TRAFFIC DEPARTMENTS INVOLVED. BILLS FOR ADDITIONAL SERVICES CAN JUST "POP UP" HERE AND THERE ALONG THE WAY AND IT MAY TAKE THE PLACEMENT OF ADDITIONAL ORDERS WITH THE SUPPLIERS INVOLVED UNTIL SUCH TIME AS THE TRUE FREIGHT COSTS ARE REALIZED BY ALL CONCERNED AND WORKED INTO THE OVERALL MIX.</p>									
4/18/06	- Carver report on effects of the new western connection, including this scorecard and a rate comparison, were delivered to Steve Van Winkle								
9)	CN-598024- boxcar	Grant - Ontario, CAN	CN (TZPR - UP) CIRY for Carver	25-Mar to TZPR 4/1 at 5:00 PM to UP 4/2 11:30 PM	8	4/6/2006 2:00		4	12
10)	CN 598036-boxcar	Grant - Ontario, CAN.	CN (TZPR - UP) CIRY for Carver	11-Apr 4/20 1:45 AM @ TZPR 4/24 AM to UP 4/27 to CIRY	9	28-Apr		8	17
11)	CN 525957-center bn.	Abitibi - BC, CAN.	CN (TZPR - UP) CIRY for Carver	12-Apr to TZPR 4/24 PM to UP 4/25 PM	12	4/28 to Amerhart U.P. ERROR		4	16
<p>Regarding these next 3 carloads, which were all purchased on the same day, and all with BN origin, the BN priced the freight the same for delivery to Amerhart (for reloading at about \$1,000 additional cost) as for delivery to Carver via the CIRY (with UP doing the handoff). We'll have to wait and see if the UP sends an additional charge to someone for their involvement.</p>									
<p>NOTE: New information 4/20/06 per PAL: ICC regs allow railroads to bill for services up to 24 months after those services have been rendered. PAL is currently disputing a CX freight bill just received (\$1,200) for a car movement that took place 19 months ago. Correction: I have now learned that RR have up to 36 months to back-bill for services - and often wait until the last minute to do so.</p>									
(car numbers pending)									
12)	NOKL 733971 - cnt r b	Abitibi	BN (TZPR - UP) CIRY for Carver	26-Apr					
13)	CNA 523677 - center b	Abitibi	BN (TZPR - UP) CIRY for Carver	14-Apr to TZPR 4/24 11 PM to UP 4/26 to CIRY 4/27	10	28-Apr		4	14
14)	BNSF 562555 - cnt r b	Riley Creek	BN (TZPR - UP) CIRY for Carver	26-Apr					
15)	HS 3247	Grant	CN (TZPR-UP) CIRY for Carver	20-Apr to TZPR 4/27 to UP 4/28 to CIRY 5/1	7	5-May		8	15

Ship: Jul. 13. 2006 3:42PM

PAL FOREST PRODUCTS

FORM NO. 205 3370

No. 0049

P.

Page 1 of 1

ATTN: LEE

From: Jane P

2 PAGES

06/26/2006

RILEY CREEK LUMBER

B/L # L-104859

Shipper	RILEY CREEK LUMBER	LACLEDE	ID
Consignee	P A L CO-OP INC	GRAND RAPIDS	MI 49518
	PO BOX 823		
Care of	M.S. CARVER LUMBER	PEORIA	IL
Third Party Pay	RILEY CREEK LUMBER	LACLEDE	ID 83841
	PO BOX 220		
Rule 11	P.A.L. CO-OP	GRAND RAPIDS	MI 49518
	PO BOX 823		

Origin:	LACLEDE	ID	Prepared by:	CARRIE KING
Destination:	PEORIA	IL	Phone Number:	208-265-6524
Sec 7 (Y/N):	No			
Freight Charges:	"To Be Prepaid"		Patron Code:	

Route: BNSF PEORI T2PR PEORI CRIY
 Origin Switch Road: BOVA Junction: Delivery Switch Road:
 Rule 11 (Y/N): Yes
 Contract (#) #: BNSF-BNSFQ105355
 LBR TIMBER, DRID 2421184 Loaded 1 Carload Agreement Weights
 LOGS Permit: LF52152

Net Weights
196,300 Pounds

LOADED 6-26-06

INIT NUMBER	WEIGHT	SEALS	DUNNAGE REFERENCE
NOXL 734824	196300		0

FAXED
 JUN 26 2006
 By _____

STATUS: Accepted w/Errors-824 Date: 06/26/2006 Time: 15:29 CST WAYBILL #: 819356



Grant Forest Products Sales Inc.
2233 Argentia Road, Suite 104
Mississauga, Ontario L5N 2X7

SHIPPER/ORIGIN GRANT FOREST PRODUCTS SALES INC. HIGHWAY 11 NORTH P.O. BOX 960 Englehart ON POJ 1H0	SHIPPING DATE	GFPC ORDER NUMBER
	06/06/24	1175453
	CUSTOMER ORDER NUMBER	BILL OF LADING NUMBER
	F8106	1175453
SOLD TO Progressive Affiliated Lumbermen Co-op I 2480-44th St. S.E., P.O. Box 823 Vendor Code: 7943GRT IRS# 38-0285365 Grand Rapids MI 49518-0823 United States	CUSTOMS BROKER	CAR/TRUCK NUMBER
	TRANS AMERICAN	CN598024
	ROUTE	
	ONT NBAY CN (PEORI-CIRY DELY) CN24401	
CONSIGNEE & DESTINATION MS Carver Lumber Co -CIRY Del PHYSICAL ADDRESS: 8700 N. Universit RailHead: Peoria IL 61605 United States	CARRIER	GROSS WEIGHT
	RAIL	80782.746 KG 178,093.6420 LBS
	PREPAID FREIGHT	SEAL NOS: 502508,502507
	FREIGHT TO POINT OF ENTRY U.S. DOLLARS	VOLUME 150.464 M3
	TOTAL FREIGHT TO DESTINATION U.S. DOLLARS	

NO OF PACKAGES	DESCRIPTION OF SHIPMENT	QUANTITY MSF/FT	UNIT PRICE	AMOUNT
22	112 7/16" OSB Rtd. Shtg. 24/16 90 Panels per Bundle 4x8	63.3600		
23	132 1/2" OSB Rtd. Shtg. 32/16 78 Panels per Bundle 4x8	57.4080		
<i>[Signature]</i>		<i>In 7/7/06</i>		
		<i>Done 7/10/06 1:20 pm</i>		

DELIVERY INSTRUCTIONS PREPAID FREIGHT SHOW PO# 9272-4
REBILL OVER Rail UNLOAD FROM PLACARDED SIDE
PROVINCE OF ORIGIN - ONTARIO
MADE IN CANADA O S B - ORIENTED STRANDED BOARD
HST: 4410.21.0000

THE ABOVE PRICE INCLUDES FREIGHT AND ALL U.S. CUSTOMS RELATED CHARGES. TERMS 1 % 10 DAYS A.D.I

CONFIRMED / LOADED BY _____
SHIPMENTS TO US DESTINATIONS ALL AMOUNTS IN US \$
SIGNATURE SHIPPER _____
CARRIER / DRIVER _____
RECEIVER _____

February 6, 2006



CARVER LUMBER

City of Peoria
419 Fulton
Suite 200
Attn. Mr. Randall Ray
Peoria, IL. 61602

8700 N. UNIVERSITY AVE.
PEORIA, ILLINOIS 61615
(309) 692-2000 • FAX (309) 693-7919



RE: Rail-to-Truck Reloading

Dear Randy:

Last November when we met in Steve Van Winkle's office, one topic of discussion was the fact that our company, due to an interruption of direct rail service, was forced to reroute our railcars to Amerhart, Ltd. for reloading and delivery to our yard by truck. You might recall that this interruption was initiated as a result of CIRY's derailment during their first delivery attempt, likely caused by using an under-powered "Trackmobile" instead of a standard locomotive to haul two cars up a rather steep grade near the Vine Street hill area. During the derailment "cleanup process" I had several discussions with CIRY's Allen Brown, who attempted to blame the derailment on bad track conditions (simply not true), and as such, was unwilling to risk further attempts to use the line. He decided that the best course of action for CIRY would be to wait for the completion of the Western connection, which he stated would be done "within 2-3 weeks". Mr. Brown admitted that CIRY created a problem for themselves (and us) by temporarily placing their locomotive on the West side of University St. in anticipation of a quick connection to the UP. He went on to say that to reverse that move and put the locomotive to the Kellar side would be very costly and time-consuming, and also impractical if needed for only a couple of weeks. Therefore, Carver Lumber agreed to make other arrangements (with Amerhart as a re-load) that were anticipated to be very temporary in nature, lasting only until early October when service from the West would be available. As we know, the City was unable to make the connection to the West within the expected time frame, but does now appear to be close to finishing the needed work. We have recently assisted in expediting this process by allowing the City's contractor to use our yard and rail spur at no charge to funnel their equipment to those sections still needing attention. We have, and will remain, supportive of the City's efforts to complete a quality rail connection to the West, so that the hiking/biking trail project can finally be launched for the anticipated betterment of our community.

That leaves us with an unresolved and significant financial issue: The extra cost that our company continues to incur for having our rail cars re-loaded at Amerhart. What was supposed to be a 3-week delay has stretched to nearly 5 months and has cost our company over \$34,000 to date. When I brought this subject up at our November meeting at City Hall, both you and Steve suggested that we should look to CIRY for reimbursement, so I called them shortly thereafter. Their position is that they were prevented from rendering us service for most of the time period in question because the City had their contractor tear out a critical section of the line and the repair portion of the project subsequently experienced a lengthy and unexpected delay. While it seems their point is well taken, they did abandon their responsibilities in the early weeks by refusing to use the Kellar line any longer. In any case, I feel that is for CIRY and the City to work out, and I would prefer that reimbursement to our company not be held hostage to a long, drawn out legal battle between you two parties, if it comes to that. I fairness to the City, I did mention to Steve early on in the reload process that things were going smoothly with Amerhart and that I expected some offsets in rail freight costs as a result of having no short-line carrier in the chain. Had that been true, in theory we could have allowed the reload process to go on almost indefinitely. But as my past correspondence to you indicated (substantiated by a letter from Jeff Parish of the PAL buying group), due to the way rail rates are constructed and paid, there is an extra cost to Carver Lumber for bypassing a short-line delivering carrier and trucking it off the UP line from Amerhart's yard. We finally were able to piece that fact together after about the second or third delivery to Amerhart. Once we realized the true facts, encouraging CIRY to restore direct service to us became a big priority. Unfortunately for all of us, the significant delay in completing the construction work for the connection (Metroplex contract)

Page 2

significant delay in completing the construction work for the connection (Metroplex contract) has brought us to this point today. In closing, your assistance on helping resolve this issue will be greatly appreciated, as these reloading fees are having a large impact on our bottom line. We are more than anxious to realize complete financial recovery for our shareholders, as well as seeing our direct rail service re-established as soon as possible, and we are willing to assist in any way we can.

Thanks in advance for your help and advice. Please feel free to call me at 692-2004 if you would like to discuss this further. Otherwise I will look for a timely and thoughtful written response. Please feel free to e-mail that response to rhappach@carverlumber.com if you prefer.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Happach". The signature is written in a cursive, flowing style.

**Rob Happach
President / CEO**

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-878

**CITY OF PEORIA AND THE VILLAGE OF PEORIA HEIGHTS, IL—ADVERSE
DISCONTINUANCE—PIONEER INDUSTRIAL RAILWAY COMPANY**

EXHIBIT C

Peoria Park District

Established in 1894 as the first park district in Illinois, the Peoria Park District is also the largest in land holdings, providing public stewardship to almost 9,000 acres of open space and conservation areas. In addition to eight major and numerous smaller neighborhood parks, the district also boasts a nature center, zoo, botanical garden and two large wooded facilities used for special events and camping.



The District has five public golf courses, a state of the art Golf Learning Center and Academy, exciting water parks, ice-skating, Riverfront Festival Park and more. Visit peoriaparks.org for more information.

MAP

Peoria Park District Facilities

REGIONAL PARKS / FACILITIES

Administrative Offices: located in Glen Oak Park, 682-1200

1. Bicycle Safety Town: 6518 N. Sheridan, 682-6684
2. Bradley Park: 1500 N. Park Road
3. Central Park Pool: 415 W. Richmond, 686-3370
- Com Stock Theatre: located in Bradley Park, 676-2196
4. Detweiler Park: 6327 N. Galena Rd.
5. Detweiler Marina: foot of Caroline St., 673-6523
6. Forest Park Nature Center: 5609 Forest Park Dr., 696-3360
7. Franciscan Rec Complex & Park: 908 Sterling Ave., 677-6705
8. Galena Marina: 6414 N. Galena Rd.
9. Glen Oak Park: 2218 N. Prospect Rd.
Glen Oak Amphitheatre: located in Glen Oak Park, 681-2851
Glen Oak Zoo: located in Glen Oak Park, 686-3365
10. Gwynn, John Park & Aquatics: 807 W. Second, 676-2891
11. Heart of Illinois Special Rec: 8727 N. Pioneer Rd., 691-1929
12. Lakeview Park: Intersection of Lake & University
Lakeview Family Aquatic Center: located in Lakeview Park, 686-3377
Lakeview Museum: located in Lakeview Park, 686-7000
Logan Rec Center: located in Logan Park, 676-8179
Luthy Botanical Garden: located in Glen Oak Park, 686-3362
Northmoor Observatory: located at Donovan Golf Course
13. Northtrail Park: 1621 W. Meadowview Dr.
Owens Center: located in Lakeview Park, 686-3369
Peoria Players Theatre: located in Lakeview Park, 688-4473
14. Proctor Recreation Center: 309 S. DuSable, 673-9183
Recreation Offices: located in Glen Oak Park, 681-2851
15. RiverPlex: 600 N.E. Water St., 282-1700
16. Robinson Park: 2825 Mossville Rd.
17. Rolling River Playground: located adjacent to RiverPlex
18. Sommer, Wm. H. Park: 6329 Koerner Rd., Edwards, 691-8423
19. Trewyn Park: 2219 S. Idaho, 637-3211
20. Wokanda, Camp: 620 Boy Scout Rd., Chillicothe, 579-2157

GOLF COURSES

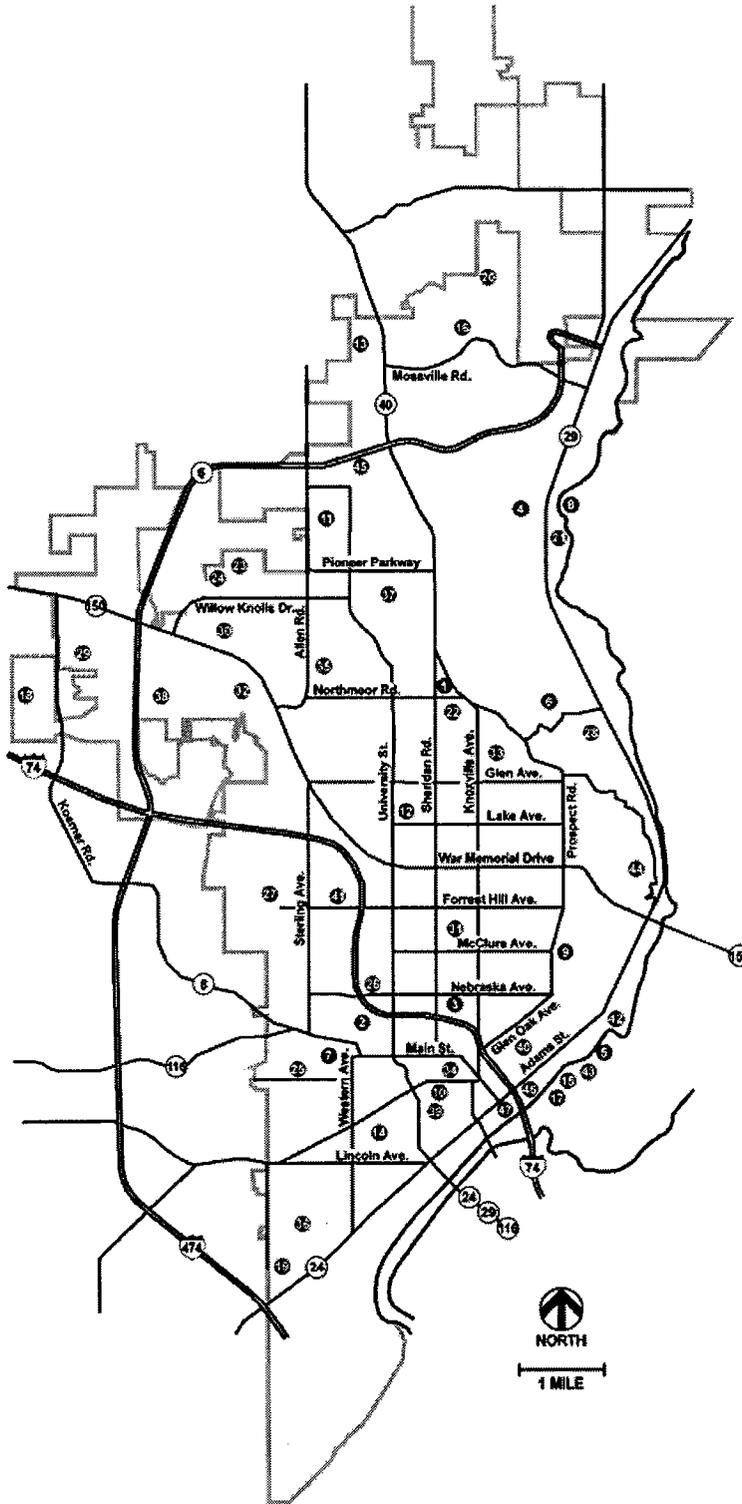
21. Detweiler Golf Course: 6412 N. Galena Rd., 692-7518
22. Donovan Golf Course: 5805 N. Knoxville, 691-8361
23. Kellogg Golf Course: 7716 Radnor Rd., 691-0293
24. Learning Center, Golf: 7815 N. Radnor Rd, 690-7162
25. Madison Golf Course: 2735 W. Dr. ML King Jr. Dr., 673-7161
26. Newman Golf Course: 2021 W. Nebraska, 674-1663

NEIGHBORHOOD PARKS

27. Becker Park: 3400 W. Woodhill Lane
28. Bielfeldt Park: 5906 N. Galena Rd.
29. Charter Oak Park: 5802 Orange Prairie Rd.
30. Chartwell Park: 2828 Willow Lake Rd
31. Columbia Park: 300 McClure
32. Creighton Woods Park: off of Creighton Ter.
33. Endres Park: 5100 Willard Rd.
34. Giant Oak Park: 426 W. High St.
35. Iris Park: Intersection of Allen & Northmoor
36. Logan Park: 1414 S. Livingston, 676-8179
37. Manning Park: off of Queen Court Rd.
38. Markwoodland Park: 6001 N. Froshwood Pkwy
39. Martin Luther King Jr. Park: 825 W. McBean
40. Morton Square Park: 901 N.E. Monroe
41. Schmoeger Park: 3400 N. Western
42. Woodruff Park: foot of Grant St.

LINEAR PARKS / TRAILS

43. Constitution Garden: located along RiverFront
44. Grandview Drive
45. North End - Rock Island Trail
46. Festival Park at the RiverFront
47. RiverFront Trail / Bike Path



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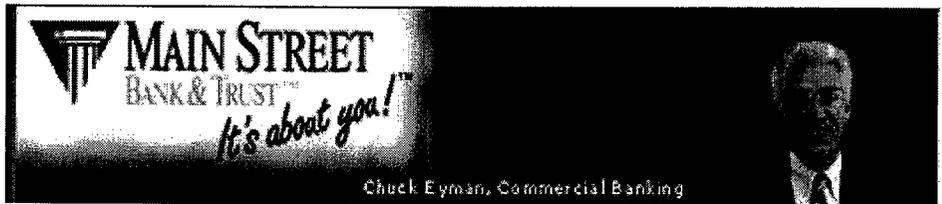
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Sports and Recreation > Parks and Outdoors

Anderson Lake Conservation Area

Astoria, Illinois; Anderson Lake is a floodplain lake that frequently receives overflow waters from the Illinois River.

Apple Blossom Farm

Peoria IL; Family fun on the farm! Country Market; Bakery; Hayrack rides; Apples and Pumpkins to pick; petting zoo; corn maize. All right in your backyard! Ten minutes from downtown Peoria. Take interstate 74 west Rte 6 north to Rte 150 west and turn right on Rte 91, two miles on the left hand side.

Banner Marsh

Canton, Illinois; Teeming with fish and wildlife, Banner Marsh provides various outdoor activities, including hunting, fishing, boating, dog training, picnicking, wildlife observation and photography.

Camp Emmanuel

Astoria, Illinois; Camp Emmanuel is a Christian campground owned and operated by the Illinois/Wisconsin District of the Church of the Brethren.

Camp Wokanda

Chillicothe, IL; Camp Wokanda offers a beautiful 316-acre woodland setting, including a lake for fishing, dining hall, sleeping cabins, program buildings and tent camping.

Canton Park District

Canton, Illinois; Listing of parks and facilities from the Park District.

Carl Spindler Campground

East Peoria, Illinois; On the bank of the picturesque Illinois River. Open from March 1st until December 1st, Spindler offers 48 paved sites with electric and varying combinations of water or sewer hookups, and 24 primitive sites with electricity for campers or tents.

Carl Spindler Marina

EastAdjacent to Spindler Campground the Marina is a public gateway to the Illinois River. Launch your boat for a daily fee or take advantage of a yearly rate, rent a slip, or store your boat and trailer at the Marina. Peoria, Illinois;

Detweiller Marina

Peoria, Illinois; Facilities include: 180 in-water slips ranging from 20' to 30', with

Sports and Recreation**Travel, Lodging, Transportation,
and Conference Services**

state-of-the-art electric/water pedestals with 30A twist lock electricity; 20 in-water beach slips (no power or water available); dry dock spots available with free launch for season.

Detweiller Park

Peoria, Illinois; At Detweiller Park you can find a BMX Course, Cross Country Running/Skiing, Hiking Trails, Large Open Playfields, Picnic Shelters, Play Areas, Scenic Drives, Sledding and Soccer Fields.

Disc Golf

Morton, Illinois; The 18 hole course is open for public use at no charge during regular park hours. Players use "Frisbee" type playing disc (not provided) and is played like regular golf.

Do Dive In

Peoria, Illinois; Full service scuba diving and snorkeling headquarters, providing sales, rentals, repairs, and instruction.

**Dr. Dennis M. Brtva & Associates**

Peoria, IL; Independent doctors of optometry located within Lenscrafters. Open seven days a week. Specialize in general optometry and contact lenses.

**Fon du lac Park District**

East Peoria IL; Open May through Labor Day the Farm Park offers a unique affordable outing for families with young children; featuring live farm animals, playgrounds, antiques and concessions.

**Fon-du-Lac Farm Park**

East Peoria, Illinois; Open May 1st until Labor Day, from Tuesday thru Sunday 10:00am to 4pm (closed weekends thru May 23), this quaint recreation of a 1920's farm gives children a glimpse of what farm life was like in the 1920's.

**Forest Park Nature Center**

Peoria, Illinois; Comprised of over 500 acres of dedicated Illinois State Nature Preserve, Forest Park Nature Center contains seven miles of hiking trails, from rigorous uphill courses to flatter, less strenuous paths. The Center also features a natural history museum and a viewing room for bird watchers.

Forest Park South Nature Preserve

Forest Park South lies on deeply dissected bluffs bordering the west side of the Illinois River. The rough topography includes uneven ridges, steep slopes and deep ravines. The preserve consists of extensive mesic and dry-mesic upland forest and a remnant glacial drift hill prairie of the Grand Prairie Section of the Grand Prairie Natural Division.

**Glen Oak Park**

Peoria, Illinois; Find located within the park Baseball Diamonds, Biking/Hiking Trail, Fishing Lagoon, Fitness Area and Trail, Glen Oak Amphitheatre, Picnic Shelter, Shuffleboard Courts, Tennis Courts and Playgrounds.

**Glen Oak Zoo**

Peoria IL; Open year round. The Zoo is home to more than 100 species of animals from around the world, including several which are endangered. Education programming and opportunities, family recreational resources and conservation based programs.

Jubilee College State Park

Kickapoo, Illinois; This scenic area, with its rolling topography and meandering Jubilee Creek, offers various outdoor recreational opportunities.

Kennel Lake Sportsmen's Club

Morton, Illinois; Nestled in a wooded area just north of Morton, Kennel Lake offers a quiet, peaceful and relaxing environment perfect for camping, fishing or just plain family fun.

**Luthy Memorial Botanical Garden**

Peoria, Illinois; Whether you come to relax or explore, the beautifully landscaped grounds and the tropical Conservatory will delight you.

Marshall State Fish & Wildlife Area

Lacon, Illinois; Marshall State Fish and Wildlife Area encompasses more than 6,000 acres of land along the Illinois River. The park consists of bluffs, bottomlands, croplands, forests, lakes, and sloughs.

Morton Park District

Morton, Illinois; Description of various programs that the District offers.

Pekin Park District

Pekin, Illinois; Information on parks and facilities.

Pekin Winter Wonder Land

Pekin, Illinois; promotes Christmas spirit within the community with a variety of indoor and outdoor activities

Peoria Audubon Sanctuary

Peoria Heights, Illinois; Located at the Forest Park Nature Center.

Peoria Bike Trails

Peoria, Illinois; This unique system of regional trails includes the Pimiteoui and Rock Island Trails, linking schools, recreation facilities and scenic natural areas throughout the area.

**Peoria Park District**

Peoria, Illinois; Official Parks and Recreation homepage.

Rice Lake State Fish and Wildlife Area

Canton, Illinois; Providing a stop over area for migrating waterfowl, Rice Lake and the surrounding areas provide an excellent opportunity for wildlife observation.

Riverfront Parks

Peoria, Illinois; A listing of parks on Peoria's Riverfront.

Robinson Park Hill Prairies Nature Preserve

Robinson Park Hill Prairies Nature Preserve contains forest and high-quality, glacial drift hill prairies characteristic of the Grand Prairie Section of the Grand Prairie Natural Division.

Rock Island Trail

Once an abandoned and derelict railroad, now a peaceful haven for hikers, cyclists, and cross-country skiers. A slender oasis of woodlands and prairies in central Illinois, 29 miles and counting.

Rock Island Trail Prairie Nature Preserve

The mesic prairie remnant at this site is representative of the prairies of the Grand Prairie Division of Illinois.

**Run of Luck Farm**

Pekin IL; Canada goose hunt, dove hunts, deer (bow & slug) leases. Daily up to 20 goose hunters; up to 88 dove hunters; and up to 10 deer hunters. Lodging/hunting packages available.

**Sommer Park**

Peoria, Illinois; Sommer Park is comprised of 320 secluded acres of rolling meadows, farmland and wooded ravines. The Park is a use-by-reservation facility which offers private picnics, outings or receptions for groups of 20 to 2,000.

The Rock Island Trail

Once an abandoned and derelict railroad, now a peaceful haven for hikers, cyclists, and cross-country skiers. A slender oasis of woodlands and prairies in central Illinois, 29 miles and counting.

**Three Sisters Park**

Chillicothe IL; Three Sisters Park's 400-acres features a river view.

Tremont Area Park District

Tremont, Illinois; Events sponsored by the District.

Washington Park District

Washington, Illinois

**Wildlife Prairie State Park**

Peoria IL; 10 miles West of Peoria, via I-74 exit 82. Discover the animals that called Illinois home during the pioneer days. This unique 2,000 acre zoological park is home to wolves, bison, black bear, cougar, and much more. Food, lodging, gifts.

**Wilson Eye Care Center**

Peoria, IL; Therapeutic Optometrist-general eyecare, diagnosis & treatment of eye disease, specialty contact lenses, LASIK consultant, pediatric eyecare, learning and reading problems.



FOREST PARK NATURE CENTER

5809 Forest Park Drive
Peoria, IL 61614
(309) 686-3360

Experience the natural realm of Illinois at a special nature center and preserve where you will find:

- Seven miles of hiking trails through both forested woodlands and prairie openings.
- A natural history museum and a viewing room for watching birds.
- The Trailhead Nature Store with books and unique nature items
- A variety of musical and educational programs.
- Over 500 acres of dedicated Illinois State Nature Preserve.

Click on a topic below that interests you!

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[Trail Map](#)

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[Prairie School Project](#)

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Rock Island State Trail

Northwest Region

311 E. Williams, P.O. Box 64
 Wyoming, IL 61491
 309.695.2228

E-Mail



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Beauty and solitude, away from the hustle and bustle of city traffic, await visitors at Rock Island Trail State Park. Stretching for 26 miles from Alta, in Peoria County, to Toulon, in Stark County, the park offers many natural and architectural attractions in a tree-canopied corridor that is only 50 to 100 feet wide.

Prairie grass and wildflowers co-exist as remnants of early rail travel along the trail. Just north of Alta, an arched culvert provides a lovely backdrop for the natural beauty of the area. At the Peoria and Stark County line, a tall grass prairie remnant provides a step back into time and allows visitors to see the Illinois that the early settlers experienced. Just a few miles from the Toulon access area, a trestle bridge spans the Spoon River between Wyoming and Toulon. A few miles further south, the Wyoming Chicago, Burlington, and Quincy Depot stands as a mute testimony to the hundreds of passengers that traveled along the railway just 100 years ago.

History

The Peoria and Rock Island Railroad Company was granted a charter to construct a railroad between Peoria and Rock Island on March 7, 1867. Construction began two years later, and the first regularly scheduled passenger train passed over the Rock Island Line July 8, 1871.

For more than 40 years, passenger and freight trains rumbled through the small towns of Alta, Dunlap, Princeville, Stark,

Wyoming and Toulon. By 1915, however, rail traffic through these communities began to decline, and ceased completely by the late 1950's.

Peoria's Forest Park Foundation acquired the abandoned railway corridor in June, 1965, and deeded the property to the Department of Conservation four years later. Officially dedicated in 1989, the Rock Island Trail is the first railway conversion completed by the department.

Natural Features

Rock Island Trail is in the Grand Prairie Division, a vast plain formerly covered with tall prairie grass. As the trail has reverted to nature, much of the prairie has returned.

North of Princeville lies a dedicated Class B Nature Preserve with abundant native grasses and flowering perennials. Fourteen acres have been restored to native prairie at the Kickapoo Creek Recreation Area. Hardwood trees and wildflowers can be found along the streams and rivers which cross the trail.



Facilities and Activities

Improved access points to Rock Island Trail are at Alta, Wyoming and Toulon. Hikers, bikers and skiers will enjoy more than 26 miles of uninterrupted nature. Parking, water and pit toilets are located at

access areas. Parking only facilities are located at Dunlap (on Parks School Road) and Peoria/Stark County line (North Cedar Bluff Road, 00N). Where the trail intersects the small towns along its route of city streets and sidewalks, directional signs are utilized.

The park office is in the Chicago Burlington & Quincy Depot located in Wyoming. The Depot serves as a visitor center/railroad museum and is a mute testimony to the hundreds of passengers that traveled along the railway just 100 years ago. Since the Depot is open as staffing is available, we ask that you phone ahead if planning a visit. (309) 695-2228.

Only non-motorized traffic is allowed on the trail, and equestrian use is not permitted.

Camping

The Class D (primitive) camping area is located between Alta and Dunlap in the Kickapoo Creek Recreation Area and is accessible

by trail only. Facilities include pit toilets, fire pads, picnic tables, picnic shelter and water. There is a self-pay camping station located off of Fox Road at the overnight parking lot.

Directions

The Rock Island Trail State Park stretches from Alta to Toulon, encountering Dunlap, Princeville and Wyoming along the way. The park office located in Wyoming can be reached from I-80 and I-74.

If traveling I-80, approximately 12 miles west of Princeton, take Rt 40 south. Continue south to Rt. 17. Turn right (west) on Rt. 17. Drive approximately 7 miles to Wyoming. At the 4-way stop in Wyoming, turn left (east). Drive 3 blocks, and you will see the water tower on your right. The park office is located ½ block past (east of) the tower in the Railroad Depot. Park office is located at mile #20 on the trail.

If traveling I-74, at the northwest corner of Peoria, take Rte 6 north to Chillicothe exit (the outer loop 474 turns into Rte 6 north at the junction of I-74). Drive to 3rd exit-"Allen Road" exit. Turn left (north) onto Allen Rd. After approximately 1 mile, the road will curve to the left, follow the left curve. You will be driving through Alta at this curve. Drive 7 tenths of a mile past the curve to Rock Island Trail parking lot on the right (north) side of Alta Rd. This is "Mile 0" of the trail.

- While groups of 25 or more are welcome and encouraged to use the park's facilities, they are required to register in advance with the site office to avoid crowding or scheduling conflicts.
- At least one responsible adult must accompany each group of 15 minors.
- Pets must be kept on leashes at all times.
- Actions by nature can result in closed roads and other facilities. Please call ahead to the park office before you make your trip.
- We hope you enjoy your stay. Remember, take only memories, leave only footprints.
- For more information on tourism in Illinois, call the Illinois Department of Commerce and Community Affairs' Bureau of Tourism at 1-800-2Connect.
- Telecommunication Device for Deaf and Hearing Impaired Natural Resources Information **(217) 782-9175 for TDD only**
Relay Number **800-526-0844**.

RiverFront Parks

For information: (309) 689-3019
Peoria Park District Riverfront Division

Festival Park

Festival Park is an ideal site for your next outdoor gathering. Perfect for large groups, convenient downtown location and close to the walking trail! Available for private rental.

Liberty Park

Located along the riverbank at the foot of Liberty Street, the Gazebo offers a perfect setting for outdoor weddings, concerts or family gatherings. Open to the public and available for private rental.

Marshall Plaza

Situated in front of the picturesque Gateway Building, Leonard B. Marshall Jr. Memorial



Plaza features an interactive fountain, marina access and spectacular views of the Illinois River. Open to the public.

The Gateway Fountain was presented to the City of Peoria by Mr. and Mrs. Gordon S. Peters in honor of their parents.

Memorial Plaza

Built in tribute to military veterans, this lovely plaza is located north of Festival Park under the American flag. Open to the public.

Sculpture Walk

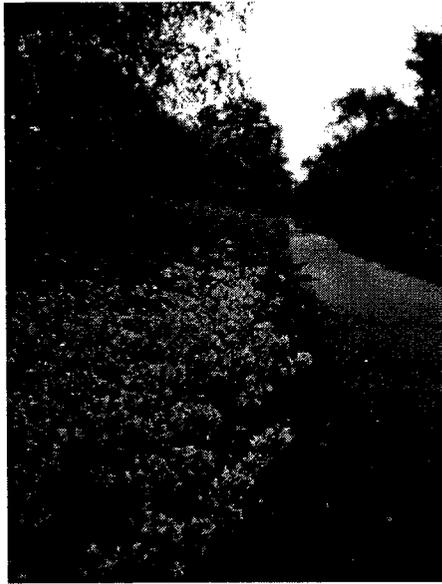
Each year various artists provide original sculptures, strategically placed for optimum visual enjoyment. Open to the public.



Sports Field & Sand Volleyball

Open to the public and available for private rental.

Welcome to The Rock Island Trail



Once an abandoned and derelict railroad, now a peaceful haven for hikers, cyclists, and cross-country skiers. A slender oasis of woodlands and prairies in central Illinois, 29 miles and counting.

This website is maintained by Friends of the Rock Island Trail, Inc., a non-profit community group dedicated to protecting and extending the trail.

Map of the trail	Current events
History of the trail	Other trail info
Affiliated groups and supporters	How to get involved

2005 IN REVIEW

- Recreational Trail Advocates (RTA) cleanup of Alta parking lot of the Rock Island Trail of debris, weeds and invasive trees.
- RTA members marked the Springdale Cemetery section of the trail with painted symbols.
- RTA arranged for placement of a utility pole at the south entrance to the route 6 tunnel of the Rock Island Trail which will hold the solar panels for the tunnel lighting.
- Friends of the Rock Island Trail, Inc. donated over \$5,000 to pay for the electrical equipment for the lighting for the trail.
- RTA received permission from the Peoria Park District (PPD) and Fondulac Park District to mark the trail with fiberglass posts 2006 spring.
- Friends of the Rock Island Trail, Inc. paid for the tools necessary to install the posts for the Fondulac Park District and PPD sections.
- RTA raised \$1,025 selling raffle tickets on a Trek bicycle donated by John Bousky of Illinois Cycle.
- Surface Transportation Board (STB) ordered Pioneer Industrial Railway Company (PIRC) off the Kellar Branch after several months of a blockade by PIRC preventing a switch from being installed on the Kellar Branch.
- STB refused to reverse its decision ordering PIRC to stop operating on the Kellar Branch and for a second time denied PIRC request to purchase the Kellar B ranch from Peoria and Peoria Heights.
- PIRC sued the City of Peoria, Peoria Heights and Central Illinois Railway Co. (CIRC) in LaSalle County and that lawsuit was dismissed. PIRC is expected to refile in Peoria or Tazewell Counties.
- The work of Metroplex on the Kellar Branch still is uncompleted despite crossing gates and the switch being installed. The rails are not fully connected to the ties with the tie plates in all places and the ballast has not been delivered.

- STB is expected to issue a decision December 30, 2005 allowing CIRC to discontinue service on the Kellar Branch. This should be allowed because there has been no service on this branch all summer and fall 2005. Problem is that the new spur line is not finished and no rail service is currently available to Carver Lumber Co.
- First phase of Kellar Branch Trail was black topped from K's Merchandise to the end of Candletree Lane.

2006 PROJECTS

1. Complete installation of the lighting under the Route 6 tunnel.
2. Line up Bradley University Engineering Department to locate the location of the mileage markers on the Fondulac Park District portion of the trail.
3. Install mileage markers starting at East Peoria/Morton boundary to the start of the Rock Island Trail at Alta.
4. Have a dedication of the Route 6 lighting project.
5. PPD plans to put out bids for the 2nd phase of the bike trail from Candletree Lane to Glen Avenue.
6. PPD plans to submit another grant for funds to complete the trail from Glen Avenue to Springdale Cemetery.
7. Hold celebration if any new section of the trail is finished.



GRANDVIEW DRIVE PARK

342 acres adjoining Grand View Drive
Service Building - 686-3375

Scenic overlooks of the Illinois River Valley; picnic benches; ball diamond; hiking trail access; play areas; sand volleyball court; and picnic shelter.

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Rock Island Trail State Park

From Wikipedia, the free encyclopedia

The **Rock Island Trail State Park** is a 26-mile-long (42-km.) public trail in the west-central region of the U.S. state of Illinois. It passes through portions of Peoria County, Illinois and Stark County, Illinois. The southern end of the trail is in the small hamlet of Alta, Illinois, a suburb of Peoria, Illinois, and the northern end is in Toulon, Illinois, the county seat of Stark County. The right-of-way served as a railroad line from 1871 to 1965, was unused in 1965-1989, and has been a public trail since 1989.

History

The trail derives its name from the former Chicago, Rock Island and Pacific Railroad, commonly known as the *Rock Island*. The current Rock Island Trail is a fragment of what was once a spur line, built in 1869-1871, stretching southeastward from the Quad Cities of Illinois and Iowa to Peoria. The *Rock Island* owned extensive trackage throughout the North American Great Plains, and this branch line once delivered large quantities of barley, rye, and other small grains to the distilleries of Peoria for the manufacture of American blended whiskey. With the coming of Prohibition in 1920, use of the railroad for this purpose declined, and the roadbed was eventually abandoned.

The Rock Island Trail became one of the first rail-trail conversions in downstate Illinois. The right-of-way was acquired for public use in 1965, but it was only after a twenty-four-year period, in 1989, that the line was rededicated as a public trail.

Points of interest

From south (Peoria) to north (Toulon):

- Kickapoo Creek Recreation Area (Fox Road, north of Alta)
- Bridge over Kickapoo Creek (Cedar Hills Drive, south of Dunlap, Illinois)
- Class B tallgrass prairie remnant (County Line Road, north of Princeville, Illinois)
- Chicago, Burlington and Quincy Depot (east side of Wyoming, Illinois)
- Bridge over the Spoon River (2 miles west of Wyoming)

External links

- Official site (<http://dnr.state.il.us/lands/Landmgt/parks/r1/rockisle.htm>)

Retrieved from "http://en.wikipedia.org/wiki/Rock_Island_Trail_State_Park"

Categories: Cycleways in the United States | Hiking trails in Illinois | Illinois state parks | Peoria County, Illinois | Rail trails | Stark County, Illinois

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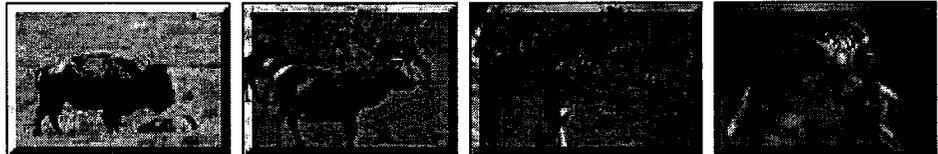
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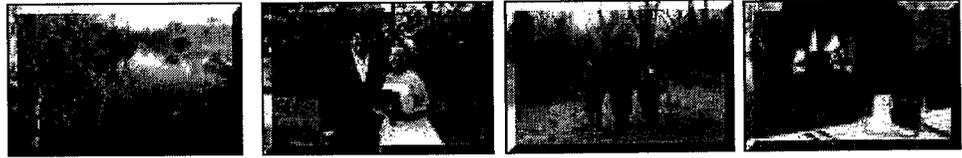


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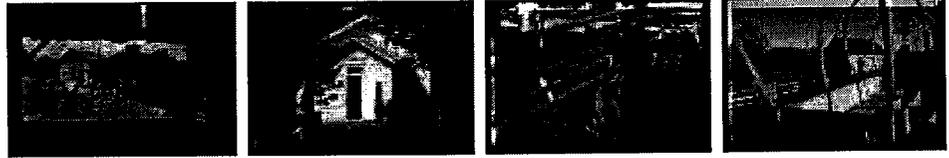
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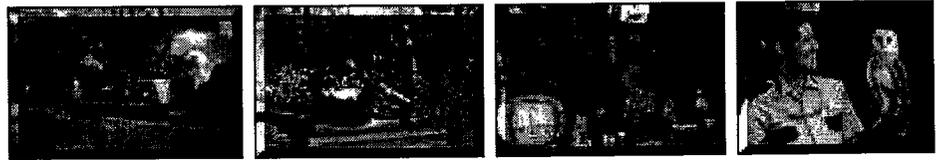
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You will enjoy the Park's spectacular natural settings, butterfly garder wildflowers, lakes, wetlands, and restored prairie.



Imagine life in the early 1800's at the Pioneer Farmstead complete with farm animals, a one room school house and log cabin.



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When your day is over, you can even spend the night on the Prairie in one of our renovated Caboosees, Cabin on the Hill, Cottages by the Lake, or Prairie Stables.

Contact Information:

Telephone

309-676-0998

FAX

309-676-7783

Postal address

3826 N. Taylor Rd., Hanna City, IL 61536

Electronic mail

General Information: Wildlife Prairie State Park Information

Webmaster: Wildlife Prairie State Park

115286 Visitors since 11/15/05

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Rod R. Blagojevich, Governor

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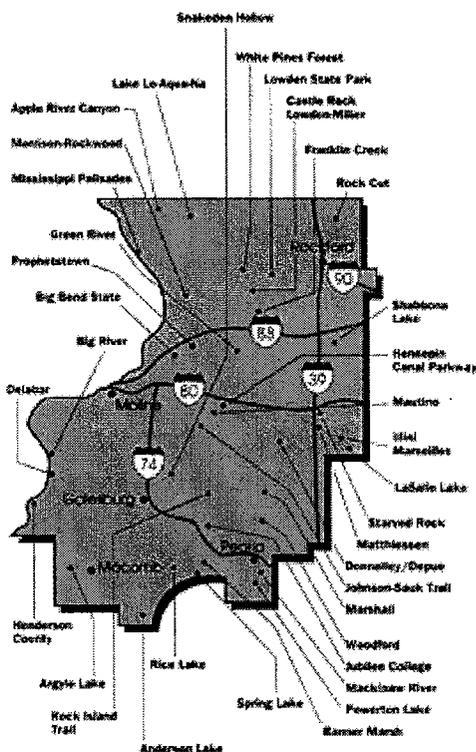
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Illinois State Parks and other Natural Areas - Northwest Region



Map courtesy of the American Park Network

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Region I Office
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Sterling, IL 61081
815/625-2968
E-Mail**

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**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-878

**CITY OF PEORIA AND THE VILLAGE OF PEORIA HEIGHTS, IL—ADVERSE
DISCONTINUANCE—PIONEER INDUSTRIAL RAILWAY COMPANY**

EXHIBIT D

John A Darling

From: "Randy Oliver" <ROliver@ci.peoria.il.us>
To: "John A Darling" <jbkingesq@sbcglobal.net>
Sent: Tuesday, October 17, 2006 4:29 PM
Subject: Re: Carver Filing

Dear Mr. Darling:

Thank you for your timely response.

Sincerely,

>>> "John A Darling" <jbkingesq@sbcglobal.net> 10/17/2006 5:00 PM >>>
 Dear Oliver:

Your legal counsel, Mr. McFarland, has responsive statements from our General Manager of Railroad Operations, Jack Stolarczyk (our senior operating officer), regarding Carver's allegations. Carver's pejorative mischaracterizations notwithstanding, the CIRY did everything it was asked to do, when it was asked to do it. The City's Allen Road Project required a temporary closing of the UP connecting track from Monday afternoon, October 9th, until Thursday afternoon, October 12th. Carver Lumber was advised of this temporary closing well in advance so it could schedule its deliveries accordingly. Also, if there had been any cars on the UP Interchange on Wednesday, October 11th, then service could, and would, have been provided. But no cars were delivered to, and none picked up from, the UP interchange track during this period. The Western Connection was closed for only 72 hours (approximately), was reopened promptly following completion of the highway project, and remains open for service. Regardless of carver's deliberate misrouting of cars away from an open interchange solely for the purpose of creating another "incident," the CIRY can, and will, *not* accept any Carver Lumber cars via the TZP. Moreover, the CIRY has no common carrier obligation to repair decades of deferred maintenance by the Peoria, Peoria Heights and Western RR. The so-called Western Connection, is open and available. The central 8+ mile segment of the PPH&W railroad is out of service by General Order and will remain so until someone (other than the CIRY) invests the money required to repair the track.

I do not know what further we can provide you and your counsel. If you have a specific request, we will take it under advisement and comply, if we can. Upon Mr. Stolarczyk's return next week, the CIRY could provide sworn statements, if useful. The CIRY does not intend to react to Carver's spurious and unfounded allegations. As the saying goes, "We don't have a dog in this hunt;" no one has given us any economic reasons to assert any rights that we may have, or could acquire, in the Kellar Branch, and we are not going to dignify Carver's sophomoric allegations with a inane "tis" vs. "taint" exchange.

John A. Darling,
 President
 Central Illinois Railroad Co.

— Original Message —

From: Randy Oliver
To: jbkingesq@sbcglobal.net
Cc: Randall Ray ; Steve Van Winkle ; Tom McFarland
Sent: Tuesday, October 17, 2006 3:10 PM

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

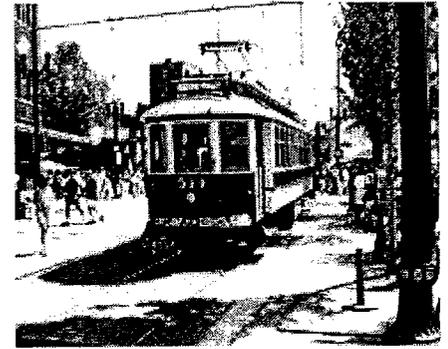
STB DOCKET NO. AB-878

**CITY OF PEORIA AND THE VILLAGE OF PEORIA HEIGHTS, IL—ADVERSE
DISCONTINUANCE—PIONEER INDUSTRIAL RAILWAY COMPANY**

EXHIBIT E

Peoria Heights interested in trolley idea for Kellar Branch

While the City Council, Park District, Journal Star, and Recreational Trail Advocates scoffed at the idea of putting a trolley on the Kellar Branch line, there's one key player who thinks the idea has some merit: the mayor of Peoria Heights.



A subscriber to the Peoria Rails Yahoo Group posted this message earlier today:

Look for a big splash in the paper tomorrow. Peoria Heights mayor Mark B. Allen at the Peoria/Pekin Urbanized Area Transportation Study (PPUATS) meeting today, said he wanted money for a look at a trolley line to link the new development at the old Cohen Warehouse to downtown Peoria. They want a replica street car to link the two areas to provide economic growth. With Peoria Heights on board so to speak, I would say that the rail line is safe for a while. I'd rather see a business with rail service in the old warehouse but any businesses that contributes to economic growth rather than drain taxes for a trail is a good thing.

Just think, if they built the trail next to the track, they could walk or bike the trail one way and ride the trolley the other. They would also support jobs. That's a win win win for everyone.

This is significant because the bulk of the section the Park District wants to convert to a trail runs through Peoria Heights, not Peoria. In fact, Peoria Heights owns the portion of the Kellar Branch that passes through their village and could decide to sell it or lease it without having to get any approval from the Peoria City Council. That's only fair, since Peoria has been unilaterally making decisions about the line up to this point in time.

The Kellar Branch saga continues.

Peoria misrepresents Peoria Heights to Surface Transportation Board

Today is the deadline for the City to file information with the Surface Transportation Board in the pending adverse discontinuance proceeding. The City filed their information this morning, basically just reiterating what was said at the last council meeting and informing the STB of the 9-2 vote in favor of CIRY as the carrier.

However, most curious was this statement (emphasis mine):

The Village of Peoria Heights concurs in the action voted by the City of Peoria. The Cities continue to support reconfiguration of rail service over the Branch whereby:

(1) Carver and any other shipper located near the north end of the Branch would be served from the west via CIRY's connection with Union Pacific Railroad Company (UP) at Pioneer Junction;

(2) O'Brien Steel Service Co, (O'Brien Steel) and any other shipper located near the south end of the Branch would be served from the east via CIRY's connection with Tazewell & Peoria Railroad, Inc. (T&P); and

(3) the segment of the Branch between the facilities of those shippers, on which there is no traffic, would be converted to recreational trail use.

That's kind of funny, because I just read in the paper that the Village wants to put a trolley on that line, not a trail. Also, no Village representative certified the filing with their signature, and the Village wasn't even served with a copy of the filing!

So I called Peoria Heights and talked to Administrator Tom Horstmann. I read him the STB filing and he said that it is not accurate, the Village does *not* concur with Peoria's action, and he advised me to send a copy of the filing to Mayor Allen, which I did. I have a feeling the City will be getting an unhappy phone call.

To claim the Village's concurrency in a legal document to the STB without the Village's consent is an unconscionable oversight at best. It's pretty apparent that there is no communication between the City and the Village on this issue, which is surprising considering how much is riding on the Village's commitment to this project. Most of the section that the City wants to turn into a trail is not located in the City, but in the Village. Furthermore, the Village owns the trackage that is within their municipal boundaries. If the Village isn't on board with the City's plans, the City better start considering Plan B.

In the meantime, the City obviously needs to retract their erroneous statement to the STB. And since the City has demonstrated a lack of interest in communicating with the Heights, the Village probably should start communicating their intentions regarding the Kellar Branch directly with the STB.

The starry-eyed dreamers are trail advocates, not rail proponents

So the predictable Journal Star editorial on the Kellar Branch today says this:

From where we sit, reports on the viability and cost of dual use of the corridor are too unreliable for that choice to be on the table now.

This was the most shocking quote in the whole editorial because the editors, for the first time in recent memory, did not just repeat the Park District's numbers as though Moses carried them down from the mountain. No, they're now "unreliable."

Then, another shocking statement: "We generally acknowledge the economic development potential of railroads and other transportation infrastructure." Good, good. They're recognizing the obvious now. Any hope that they were coming to their senses was soon dashed, however:

But with regard to the Kellar branch specifically, two decades of trying with little success make us dubious. Whatever the excuses - and rail proponents cite several - the line has not delivered.

You gotta love self-fulfilling prophecies. For about 13 years of the last two decades the city has been trying to shut down the line, and the western spur was only completed less than a year ago. These are just "excuses"? Why, I could just as easily say that after two decades, the Park District has failed to make good on their promise to convert this to a hiking path and raise property values. Whatever their excuses — and trail advocates cite several — the Park District hasn't delivered.

Here's another little gem:

If the Kellar is such a can't-miss economic development asset, why unload it at a loss?

Au contraire, if the Kellar Branch is worth \$1.2 million dollars, why should the city lease it to the Park District for \$1/year just so they can tear it up and build a trail on the corridor with at least six million more taxpayer dollars, not including on-going maintenance? Is that good stewardship of taxpayer money? What's the return on that investment for the taxpayers? When will that investment break even? How? Most of the track in question is located in the Village Peoria Heights, not the City of Peoria. How does this benefit Peoria taxpayers?

It's a wonder Councilman Gary Sandberg, City Hall's most vocal skeptic of public subsidies for private businesses, has never complained about the significant subsidy for past users of this rail line; they got something for nothing courtesy of local taxpayers.

Suppose for a moment that we accept the Journal Star's logic here. What do you think would be the reasonable solution to this?

- (a) Start charging more to lease the line to rail carriers
- (b) Reinstate the \$175-per-car fee the city levied in the 1980s that made the line uncompetitive
- (c) Sell the line so that a private owner can pay taxes on the line, thus removing the supposed "subsidy"

- (d) A and B combined
- (e) Lease it to the Park District for \$1/year so it remains off the tax rolls, remove the \$1.2 million (their figures) rail line, and instead of subsidizing tax-paying, job-creating businesses (like we do *everywhere else* in Peoria, including Junction City where they were just given enterprise zone status), start subsidizing bikers and joggers who already have nearly 9,000 acres of park land and miles of sidewalks and residential streets on which to exercise.

Naturally, the Journal Star picks the most nonsensical option: (e). Add to that the \$100,000+ in legal fees the city has been paying to secure this \$1.2 million corridor for the benefit of the Park District and, to paraphrase the illustrious editorial board, some folks, I dare say, are just caught up in the romance of *trails*. But there's a price to that passion, and Peoria has been paying it too long for too little return.

Posted by C. J. Summers on Tuesday, February 20th, 2007 at 8:19 am