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BY E-FILING

January 22, 2010

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Office of Proceedings

JAN 22 2010

Part of
Public Record

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

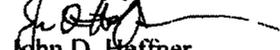
**RE: STB Docket No. AB-1036, The City of Chicago -
Adverse Abandonment - Chicago Terminal Railroad, Et Al**

Dear Ms. Brown:

On behalf of Chicago Terminal Railroad, protestant, I am filing the Supplemental Verified Statement of its President and Chief Executive Officer Edwin E. Ellis in support of the Motion to Strike and the Request for a Cease and Desist Order it previously submitted in the above-captioned proceeding on January 14, 2010. This statement is intended to bring to light certain *new facts and information* that was not previously available at the time the original motion was filed.

I am serving a copy of this letter and the associated supplemental verified statement on inside and outside counsel for the City of Chicago, the only other party to this proceeding.

Sincerely yours,


John D. Heffner

Enclosure

cc: Thomas F. McFarland, Esq. (by email)
Steven Holler, Esq. (by email)
Mr. Edwin E. Ellis

VERIFIED STATEMENT
OF EDWIN E. ELLIS

Edwin E. Ellis, being duly sworn, deposes and states as follows:

My name is Edwin E. Ellis. My business address is 118 South Clinton Street, Suite 400, Chicago, IL 60661. I appear here in my role as President and Chief Executive Officer of Iowa Pacific Holdings, LLC ("IPH"), a short line railroad holding company. IPH and its wholly-owned operating subsidiary Permian Basin Railways, Inc. ("Permian"), are well regarded members of the American short line railroad industry. As relevant here, Permian owns and operates six short line railroads in the United States, one of which - Chicago Terminal Railroad ("CTM") - is the subject of an adverse abandonment application the City of Chicago ("the City") plans to file in the near future.

On January 12, 2010, the City initially filed a Notice of Intent ("Notice") with the Board announcing its plan to file an adverse abandonment application of two short segments of CTM's track on or about February 1, 2001.¹ Upon discovering that someone had salvaged without the railroad's knowledge and without Board approval a portion of the Lakewood

¹ Those lines are The Kingsbury Branch between its point of connection to the Goose Island Branch north of North Avenue and its terminus at the junction of Division and Halsted Streets ("Kingsbury Segment" or "Kingsbury Branch"), and a portion of the Lakewood Avenue Line between the south right-of-way line of Clybourn Avenue and the terminus of that Line at Diversey Parkway ("Lakewood Avenue Segment")

Avenue Segment, I directed my Surface Transportation Board counsel to take appropriate action at the Board . On January 14, 2010, CTM's counsel filed a Motion to Strike the City's Notice on the grounds that it was inappropriately filed. Counsel also asked the Board for a Request for a Cease and Desist to prevent the City from conducting further salvage operations without Board authority. That Motion included a supporting statement by CTM's Superintendent of Operations John Sorrel. I have read that statement and adopt Mr. Sorrel's comments as my own testimony.

I believe the City may submit a filing challenging as false certain statements Mr. Sorrel made to the effect that the City removed CTM's track without obtaining STB permission and without any notice to CTM. Accordingly, I am tendering this statement as a supplement to Mr. Sorrel's so that the Board has a correct understanding of the facts.

On January 15, 2010, I received an email from City of Chicago attorney Steve Holler advising that the contract purchaser for the Peerless site (Ogden Partners, Inc.) had removed the track that is the subject of CTM's Motion as part of the pre-development work on the site in anticipation of its adaptive reuse as a residential housing project. A copy of this email is attached to my statement. I want the Board to realize that the project for which this track segment was unlawfully removed and which will

be included in the City's adverse abandonment application is a privately financed real estate development project rather than one being undertaken for any public purpose. Furthermore, it is my understanding and belief that this track removal was undertaken with the knowledge, consent, and urging of local officials. While the City may not have actually removed the track itself, the fact is that it stood by silently and allowed others to do so. The Board should not allow the City to profit from the behavior of others over whose actions it had knowledge.

J. HEFFNER

From: Holler, Steven [steven.holler@cityofchicago.org]
Sent: Friday, January 15, 2010 4:30 PM
To: 'J. HEFFNER'
Cc: 'mcfarland@aol.com'; Zalmezak, Paul; Wuellner, Chris; Hohenadel, Donald; Alonzo, Joe
Subject: RE: Chicago Terminal

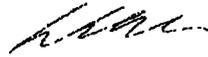
John,

As a follow-up to our phone call this morning, based on information that I have received since your email yesterday, Mr Sorrel's statement that the City removed the track on the Peerless property appears to be false. I have contacted the persons in the City likely to have knowledge of such removal and none report any such City action. More to the point, the Alderman's office has affirmatively advised me that the contract purchaser for the Peerless site (Ogden Partners, Inc.) removed such track as part of the pre-development work on the site in anticipation of its adaptive reuse as a residential housing project. I have also been provided with a copy of a written letter from Peerless in which Peerless states that it constructed and maintained such sidetrack for its own use. As we briefly discussed, I would urge your client to consider voluntarily withdrawing its false and misleading motion before the City must respond to it. I am sorry I was unable to get back to you before your 4:00 p.m. departure today but will be calling you on Tuesday to discuss this further.

This e-mail, and any attachments thereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail (or the person responsible for delivering this document to the intended recipient), you are hereby notified that any dissemination, distribution, printing or copying of this e-mail, and any attachment thereto, is strictly prohibited. If you have received this e-mail in error, please respond to the individual sending the message, and permanently delete the original and any copy of any e-mail and printout thereof.

Pursuant to 28 U.S.C. 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on:



[signature]

EDWIN E. ELLIS