

Mac A. Fleming
President

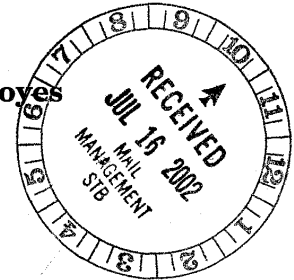


William E. LaRue
Secretary-Treasurer

Brotherhood of Maintenance of Way Employees

Affiliated with the A.F.L.-C.I.O. and C.L.C

July 15, 2002



via messenger

Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, D.C. 20423

ENTERED
Office of Proceedings

JUL 16 2002

Part of
Public Record

Re: Finance Docket No. 34177
Iowa, Chicago & Eastern R.R.-Acquisition & Operation Exemption-Lines of
I&M Rail Link, LLC

Dear Secretary Williams:

Enclosed for filing with the Board are the original and ten copies of three documents from the Cooperating Labor Organizations ("CLO"). CLO-3, a motion to compel discovery responses; CLO-4 a supplement to CLO's motion for stay and opposition to IC&E's motion to lift stay; and CLO-5 a motion to extend the time for CLO to supplement its petition to revoke. Three diskettes containing the documents are enclosed in WordPerfect 6/7/8 format.

Please file stamp the extra copy carried by the messenger so it can be returned to the undersigned. Thank you.

Respectfully,

Asst. General Counsel

enclosures
cc: service list

William A. Bon, General Counsel
26555 Evergreen Rd., Suite 200
Southfield, MI 48076-4225
Telephone (248) 948-1010
FAX (248) 948-7150

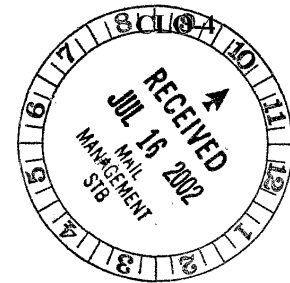
Donald F. Griffin, Assistant General Counsel
10 G Street, N.E., Suite 460
Washington, D.C. 20002-4213
Telephone (202) 638-2135
FAX (202) 737-3085

205856

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34177

IOWA, CHICAGO & EASTERN RAILROAD CORPORATION
-- ACQUISITION AND OPERATION EXEMPTION --
LINES OF I&M RAIL LINK, LLC



ENTERED
Office of Proceedings

JUL 16 2002

SUPPLEMENT TO PETITION FOR STAY AND OPPOSITION
TO MOTION TO LIFT STAY

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Public Record

David Neigus, Esq.
International Association of Machinists
9000 Machinists Place
Upper Marlboro, MD 20772
(301) 967-4550

Mitchell Kraus, Esq., General Counsel
Chris Tully, Esq., Asst. General Counsel
Transportation•Communications
International Union
3 Research Place
Rockville, MD 20850
(301) 948-4910

Donald Griffin, Esq.
Assistant General Counsel
Brotherhood of Maintenance of
Way Employes
10 G Street, N.E., Suite 460
Washington, D.C. 20002
(202) 638-2135

Michael S. Wolly, Esq.
Zwerdling, Paul, Leibig, Kahn & Wolly
(For Intl. Broth. of Electrical Workers)
Suite 712
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 857-5000

Harold A. Ross, Esq.
Ross & Kraushaar
(For Broth. of Locomotive Engineers)
#1548 - Standard Building
1370 Ontario Street
Cleveland, Ohio 44113-1702
(216) 861-1313

William L. Phillips, Esq.
General Counsel
Brotherhood of Railroad Signalmen
601 West Golf Road
Box U
Mount Prospect, IL 60056
(847) 439-3732

Counsel for Cooperating Labor Organizations

July 15, 2002

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 34177

**IOWA, CHICAGO & EASTERN RAILROAD CORPORATION
-- ACQUISITION AND OPERATION EXEMPTION --
LINES OF I&M RAIL LINK, LLC**

**SUPPLEMENT TO PETITION FOR STAY AND OPPOSITION
TO MOTION TO LIFT STAY**

On June 13, 2002, the Cooperating Labor Organizations ("CLO")¹ submitted a petition to stay the effective date of the above verified notice of exemption pending Board consideration of a concurrently filed petition to revoke the use of the class exemption. The Iowa, Chicago & Eastern Railroad Corporation ("IC&E") replied to both petitions on June 24, 2002. On June 27, 2002, the Board served an order staying the effective date of the use of the verified notice of exemption until July 26, 2002 pending issuance of a decision on CLO's petition for stay. CLO respectfully submits this brief supplement to its Petition to Stay to respond to the Verified Statement of Thomas E. McGraw, dated June 28, 2002 and the motion by IC&E, dated July 12, 2002, seeking to lift the stay.

Essentially, Mr. McGraw repeats the mantra chanted by IC&E that the I&M Rail Link, LLC ("IMRL") is a failing firm that has no other options than the sale the IC&E to preserve rail service. This position is exemplified in IC&E's statement that "the proposed IC&E transaction

¹The members of CLO are identified in the Petition for Stay (CLO-1).

represents the best and possibly last chance to assure the preservation of competitive, efficient and vibrant rail service on the IMRL lines.” IC&E Motion at 7 (emphasis in original). However, the IMRL does not share in this view of its own prospects. As we will show below, the President of IMRL sent an “Administrative Message” to the IMRL employees on June 26, 2002 challenging the IC&E’s claims that IMRL was on its financial last legs. In that message, the President expressly stated that “[o]ther than the original purchase price debt, of over five years ago, the company’s financial statements are stronger and healthier than ever.”² Also, the CLO notes that by letter dated July 10, 2002, the current owners of IMRL, Soo Line Railroad Company d/b/a Canadian Pacific Railway and I&M Holdings, LLC, informed the Board that “IMRL’s current owners believe that various statements, such as the one made by IC&E that its proposal is likely the ‘last opportunity to preserve economically viable, financially stable, competitive rail service to local shippers on the IMRL system’ . . . are not supported by the facts.”³ The CLO respectfully submits that given the statements of IMRL and its owners, there is no need to lift the stay currently in place, and further, that there is no equitable reason why the stay should not be continued until the Board decides CLO’s petition to revoke on its merits.

On June 28, 2002, the Bank of Montreal filed the Verified Statement of Thomas E. McGraw, Vice President, commenting on the alleged financial condition of the I&M Rail Link LLC (“IMRL”). Mr. McGraw stated that the Bank of Montreal was one of a group of financial institutions “who are the principal creditors” of IMRL. According to Mr. McGraw, “IMRL has for some time faced challenges in developing and maintaining a revenue base sufficient to

²A copy of Mr. Stoeckly’s June 26, 2002 message is Exhibit 1.

³A copy of the IMRL owners’ letter of July 10, 2002 is Exhibit 2.

support its needs and has explored a variety of options to meet this challenge.” The course of action chosen, according to Mr. McGraw, was a sale of IMRL’s assets and, again according to Mr. McGraw, IMRL’s senior lenders acquiesced in a moratorium on payments of principal and interest on its debt beginning in October 2000. Under the IC&E-IMRL proposed transaction, the senior lenders have “agreed to accept substantially less than they were owed in full satisfaction of their obligations.” Mr. McGraw’s statement contained the implied threat that if the proposed transaction is not consummated, the senior lenders will take different legal steps to obtain the monies owed to them. Mr. McGraw concluded with the observation that “[c]ontinued maintenance of the status quo is not an option for the lenders if the IC&E transaction is not closed.”

Apparently, the statement is a response to an “Administrative Message,” dated June 26, 2002 from Richard J. Stoeckly, President and CEO of IMRL, addressed to “I&M Rail Link Employees.” In the message, Mr. Stoeckly referenced certain comments made by IC&E in its reply to the CLO Petition to Stay and Petition to Revoke that implied that if the transaction did not close, IMRL’s lenders would force it into bankruptcy. Mr. Stoeckly pointedly observed, “this is ICE’s representation to the Federal Government; this is not IMRL’s position.” He then addressed the question of IMRL’s financial health thus (emphasis added):

For the past 12 to 13 months (after the floods), IMRL is reporting record operating income (profit before restructuring costs and bank payments). Contrary to the ICE representation in the filing with the Federal Government of June 22nd, IMRL senior lenders (the banks) have not gone without payments since November 2000. Beginning in January 2002 IMRL has paid monies to the bank on a monthly basis totaling approximately 2 million dollars, year to date. Capital expenditures (money put back into the physical plant, such as new rail) if annualized are at a record pace. IMRL on its own accord is upgrading and modernizing its locomotive fleet when appropriate. The frequency of accidents,

derailments, and personal injuries this year are the best performance the company has experienced in its 5-year history. *Other than the original purchase price debt, of over five years ago, the company's financial statements are stronger and healthier than ever.*

Given our recent track record and if the ICE transaction does not close, there are still options available other than bankruptcy. If despite our efforts it does not close by July 31st, IMRL believes that all concerned will work with the goal to keep the railroad running while the next steps are worked out.

Mr. Stoeckly's message directly contradicts Mr. McGraw's statement that the senior lenders have not received payments since late in the calendar year 2000. While IMRL may face financial difficulties, it is clearly not near bankruptcy and cannot be considered a "failing firm."

We submit Mr. McGraw's statement does not demonstrate that continuance of the stay past July 26, 2002 will result in undue harm to the senior creditors of IMRL. According to Mr. Stoeckly, the senior lenders again are receiving payments on IMRL's long-term debt. Moreover, Mr. McGraw concedes that even if the transaction closes, the lenders will receive less than 100 cents on the dollar of their original loans. A delay in consummation is not going to change that dynamic based upon the statements of both Messrs. Stoeckly and McGraw. Presently, IMRL's senior lenders are receiving payments on the loans they extended and the lenders have agreed to long-term arrangements that will result in the write-off of part of the long term obligations of IMRL, put simply, the IMRL's senior lenders will not be unduly harmed by a continuance of the stay past July 26, 2002. Similarly, the representations of IMRL and its Owners rebut the continued claim by IC&E that a delay in consummation past July 30, 2002 will result in the loss of any rail service on the IMRL lines. Indeed, the statement from the Owners of IMRL strongly supports a conclusion that IMRL can continue operations on the its lines indefinitely and a sale of its properties is not necessary to preserve rail service. Accordingly, the public's interest in

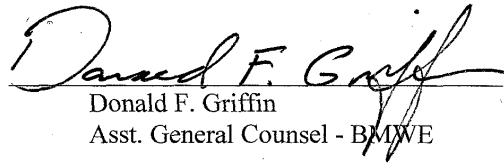
continuing rail service on IMRL lines will not be threatened by a continuance of the stay.

Also, nothing in Mr. McGraw's statement shows that the public's interest in continued rail operations over the IMRL's property will be prejudiced by a continuance of the stay. Mr. Stoeckly, the one who should know IMRL's finances and capabilities better than anyone, stated that if the transaction does not close by July 31, 2002, he "believes all concerned will work with the goal to keep the railroad running while the next steps are worked out." Moreover, even if Mr. McGraw's implied threat that the lenders will place the IMRL in bankruptcy if the transaction does not close by the end of July is true; a bankruptcy filing will not result in a cessation of service on the lines. Instead, the IMRL will continue to operate under the direction of a trustee while it begins a reorganization process. Given Mr. Stoeckly's statement that IMRL's revenues currently support both the operation of the railroad *and* service of IMRL's long term debt, the trustee should have no trouble operating the IMRL in a railroad reorganization proceeding. Indeed, given Mr. Stoeckly's representations, bankruptcy seems a highly unlikely result in this case. Again, continuance of the stay will not harm the public's interest in the continued operation of the IMRL properties.

In conclusion, CLO respectfully submits that neither the Verified Statement of Mr. McGraw nor the motion of IC&E seeking to lift the stay provides any support for the Board to lift the stay prior to July 26, 2002. Indeed, we submit that the statements from IMRL and its Owners demonstrate that there is no equitable reason not to grant CLO's motion and extend the stay until the Board rules on the merits of CLO's petition to revoke the use of the class exemption.

-6-

Respectfully submitted,



Donald F. Griffin
Asst. General Counsel - BMW

an attorney for CLO

Dated: July 15, 2002

Certificate of Service

I hereby certify that today I served a copy of the foregoing Supplement to Petition for Stay to the following parties by overnight mail delivery:

Terry A. McIlroy
CHAPMAN & CUTLER
111 West Monroe Street
Chicago, Illinois 60603-4080

William C. Sippel, Esq.
FLETCHER & SIPPPEL LLC
Two Prudential Plaza, Suite 3125
180 North Stetson Avenue
Chicago, Illinois 60601-6721

and to all other parties by first class mail delivery.


Donald F. Griffin

Dated: July 15, 2002

EXHIBIT 1

06/28/02 FRI 07:32 FAX 815 273 3732

JACK M LIEFFORT BMWE 55 →→ M WIMMER FAX

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I & M Rail Link, LLC
1910 EAST KIMBERLY ROAD
DAVENPORT, IOWA 52807-2033
(563) 344-7600
(563) 344-7700 FAX

Administrative Message

June 26, 2002

TO: I & M Rail Link Employees

FROM: Richard J. Stosckly
President and CEO

Subject: Information

On Saturday, June 22, 2002, ICE filed a 90 page document to the Surface Transportation Board in Washington, D.C. The document was in response to requests to delay the closing and objections raised by certain companies and members of the public to the proposed transaction between IMRL and ICE. It should be posted on the "STB web site" soon and is public information.

This document contains many items of which I will attempt to share the highlights and which I believe have the greatest impact on you and your company. In summary, ICE's position is the following:

ICE informed the STB that it intended to close the transaction on July 26. ICE stated that if the STB does not allow the transaction to be completed by July 31st, the asset purchase agreement between IMRL and ICE will expire. If the asset purchase agreement expires, ICE implies the current IMRL bank group may call I&M loans immediately due and that may force IMRL into bankruptcy. ICE represents itself as the only and best alternative to this doomsday scenario.

ICE stated that it is still in the processes of finalizing financing for the proposed purchase price. Both the buyer and seller are still in negotiations for ICE to access Chicago through a METRA connection. For the above-mentioned reasons, ICE advised the Surface Transportation Board that it would not close before July 26, 2002, and requested the STB to review and to allow the transaction to be completed prior to July 31.

In regard to the bankruptcy scenario, this is ICE's representation to the Federal Government; this is not IMRL's position.

6/28/02 FRI 07:33 FAX 815 273 3732

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For the past 12 to 13 months (after the floods), IMRL is reporting record operating income (profit before restructuring costs and bank payments). Contrary to the ICE representation in the filing with the Federal Government of June 22nd, IMRL senior lenders (the banks) have not gone without payments since November of 2000. Beginning in January 2002 IMRL has paid monies to the bank on a monthly basis totaling approximately 2 million dollars, year to date. Capital expenditures (money put back into the physical plant, such as new rail) if annualized are at a record pace. IMRL on its own accord is upgrading and modernizing its locomotive fleet when appropriate. The frequency of accidents, derailments, and personal injuries this year are the best performance the company has experienced in its 5-year history. Other than the original purchase price debt, of over five years ago, the company's financial statements are stronger and healthier than ever.

Given our recent track record and if the ICE transaction does not close, there are still options available other than bankruptcy. If despite our efforts it does not close by July 31st, IMRL believes that all concerned will work with the goal to keep the railroad running while the next steps are worked out.

ICE and IMRL have been in discussions contemplating this proposed transaction since March of 2000. As instructed by IMRL's Board of Directors, myself and other IMRL people are working hard to complete the transaction. Obviously this has been a long and difficult process.

Many employees who will receive a pay raise if the transaction does close have expressed concern. Many employees who will face a pay cut and/or take on more responsibility have anxiety. Some people who will not have a job are obviously disturbed.

Some customers may have expressed reservations of the proposed transaction, but I caution everyone to support the proposed transaction to the best of their ability and to judge facts as they have knowledge.

I recognize employees' patience is starting to wane, people are becoming frustrated and anxiety levels are high, but I repeat the safety performance of you and your coworkers is of utmost importance. I thank you for your patience and performance. As always, I will do my best to keep you informed.

NO. 66
June 26, 2002
PLEASE POST

EXHIBIT 2

LEONARD, STREET AND DEINARD

PROFESSIONAL ASSOCIATION

July 10, 2002

Diane P. Gerth
612-335-1463
dpg1463@leonard.com

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

Re: Finance Docket No. 34177
Iowa, Chicago & Eastern Railroad Corporation
Acquisition and Operation Exemption - Lines of I&M Rail Link, LLC

Dear Secretary Williams:

Enclosed for filing please find a facsimile original and 10 copies of the letter of the current owners of the I&M Rail Link, LLC, Soo Line Railroad Company, d/b/a Canadian Pacific Railway and I&M Holdings, LLC.

Enclosed with this letter is an extra copy, which we would respectfully request be date-stamped and returned to the messenger. All parties of record are also being served by U.S. Mail.

Very truly yours,

LEONARD, STREET AND DEINARD



Diane P. Gerth
DPG:km

cc: Service List
Francis P. Dicello
Bill Tuttle
William Brodsky
William Gantous

07/15/2002 09:55 FAX 12166964163
07/10/02 WED 10:41 FAX 408231389

HAROLD A. ROSS
WASH DC

003



**CANADIAN
PACIFIC
RAILWAY**

WD (Bill) Garmouy es
Vice-President and Treasurer

Suite 500
Gulf Canada Square
401 - 9th Avenue SW
Calgary AB
T2P 4Z4

Tel (403) 319-7
Fax (403) 205-9
bill.garmouy@cpk

July 9, 2002

The Honorable Vernon A. Williams

Secretary
Surface Transportation Board
1925 K Street N.W.
Washington, DC 20006

Re: Finance Docket No. 34177
Iowa, Chicago & Eastern Railroad Corporation - Acquisition and
Operation Exemption - Lines of I & M Rail Link, LLC

Dear Secretary Williams:

We are writing on behalf of Soo Line Railroad Company and I&M Holdings, LLC, who are the current owners of I & M Rail Link LLC (IMRL). We respectfully request leave to submit the following comments to (1) the reply filed by Iowa, Chicago & Eastern Railroad Corporation (IC&E Reply) in response to the motions to stay this proceeding and (2) the Verified Statement of Thomas McGraw of the Bank of Montreal filed on July 3, 2002 (Bank of Montreal Filing).

Although the procedural schedule does not contemplate the filing of additional comments at this point, the current owners believe that the IC&E Reply and Bank of Montreal Filing contain a number of statements that are incorrect or misleading. In particular, IC&E's statement that "there is no 'status quo' option for IMRL if this transaction is thwarted by regulatory delay" (IC&E Reply at 2) is not supported by the facts. Because the Surface Transportation Board's decision in this matter will affect the rights and interests of many persons, including the current owners of the IMRL, it is important that the decision be based on a record that is complete and accurate.

Both the IC&E Reply and Bank of Montreal Filing describe IC&E's proposal to purchase the IMRL assets as the IMRL's only alternative to financial ruin and bankruptcy. This is simply not the case. The record in this proceeding should reflect that, *simultaneously with the submission of the IC&E offer*, the IMRL's current owners presented the IMRL's Board of Directors and its senior lenders with a refinancing/equity-infusion offer that would allow the IMRL to continue to operate, without service disruptions and with a greatly reduced debt load. In addition, the current owners have communicated that, in the event the IC&E asset purchase agreement is not realized, they intend to renew their offer.

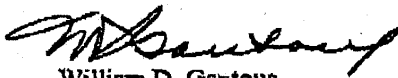
The Honorable Vernon A. Williams
July 9, 2002
PAGE 2

As the IC&E Reply and Bank of Montreal Filing acknowledge, the IMRL accepted the IC&E proposal under pressure from the senior lenders because IC&E's offer appeared to provide the senior lenders with more cash. Of course, the senior lenders' singular focus on cash available to pay off the IMRL debt did not take into consideration the benefits to shippers and communities on the IMRL lines—such as uninterrupted service—that would have resulted from acceptance of the owners' offer. Additionally, the "financial flexibility" that IC&E hopes to have because of a 50-percent reduction of IMRL's current debt load is the same flexibility that the current owners would have realized had the senior lenders accepted their offer.

In conclusion, IMRL's current owners believe that various statements, such as the one made by IC&E that its proposal is likely the "last opportunity to preserve economically viable, financially stable, competitive rail service to local shippers on the IMRL system" (IC&E Reply at 1), are not supported by the facts. We appreciate the Board's consideration of this effort to correct the record.

Very truly yours,

Soo Line Railroad Company


William D. Gantous

I&M Holdings, LLC


Helen B. Miller

cc: Service List