

BALL JANIK LLP

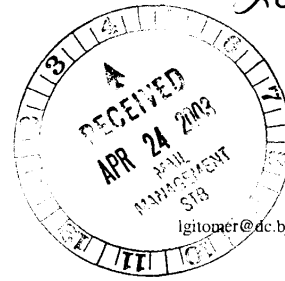
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April 24, 2003

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Washington, DC 20423

ENTERED
Office of Proceedings

APR 24 2003

Part of
Public Record

RE: Finance Docket No. 34335, *Keokuk Junction Railway Company.—Feeder
Railroad Development Application—Line of Toledo, Peoria and Western Railway
Corporation between La Harpe and Hollis, IL*

Dear Secretary Williams:

Enclosed for filing are the original and ten copies of the Responses to Discovery Requests of Keokuk Junction Railway Company by the Toledo, Peoria and Western Railway Corporation, and three diskettes with the file Discovery Response.doc.

Please time and date stamp the extra copy of this letter and the Response and return it with our messenger. If you have any questions, please contact me.

Respectfully submitted,

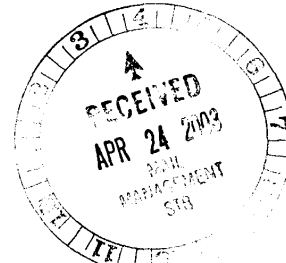
Louis E. Gitomer

Enclosures

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34335



KEOKUK JUNCTION RAILWAY COMPANY—FEEDER RAILROAD DEVELOPMENT
APPLICATION—LINE OF TOLEDO, PEORIA & WESTERN RAILWAY CORPORATION
BETWEEN LA HARPE AND HOLLIS, IL

TOLEDO, PEORIA AND WESTERN RAILWAY CORPORATION RESPONSES TO
DISCOVERY REQUESTS OF KEOKUK JUNCTION RAILWAY COMPANY

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Public Record

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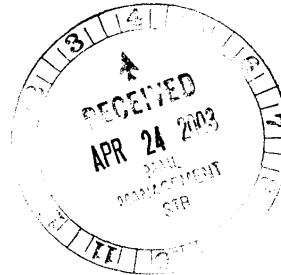
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Attorneys for: TOLEDO, PEORIA AND
WESTERN RAILWAY CORPORATION

Dated: April 24, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34335



KEOKUK JUNCTION RAILWAY COMPANY—FEEDER RAILROAD DEVELOPMENT
APPLICATION—LINE OF TOLEDO, PEORIA & WESTERN RAILWAY CORPORATION
BETWEEN LA HARPE AND HOLLIS, IL

TOLEDO, PEORIA AND WESTERN RAILWAY CORPORATION RESPONSES TO
DISCOVERY REQUESTS OF KEOKUK JUNCTION RAILWAY COMPANY

Toledo, Peoria and Western Railway Corporation ("TP&W") responds to the Discovery Requests of Keokuk Junction Railway Company ("KJRY") served on April 9, 2003 and received on April 10, 2003 (the "Discovery Request").

GENERAL RESPONSES

The following general responses are made with respect to all of the discovery requests.

1. TP&W has conducted a reasonable search for responsive documents and information to respond consistent with the stated objections.¹
2. Where objections have been raised to the scope of the request, TP&W is willing to discuss searching for and producing documents or information covered by a more limited request taking into account the stated objection.
3. Production of information or documents does not necessarily imply that they are relevant to this proceeding, and is not to be construed as waiving any applicable objection.

¹ Thus, any response that states that responsive documents are being produced is subject to the General Objections, so that, for example, any documents subject to attorney-client privilege or the work product doctrine are not being produced.

GENERAL OBJECTIONS

The following general objections are made with respect to all of the discovery requests. Any additional specific objections are stated at the beginning of the response to each discovery request.

1. TP&W objects to production of, and is not producing, documents or information subject to the attorney-client privilege, the work product doctrine, or administratively confidential documents or information.
2. TP&W objects to production of, and is not producing, documents prepared in connection with, or information relating to, possible settlement of this or any other matter.
3. TP&W objects to production of, and is not producing, public documents or information that is readily available, including but not limited to documents on public file at the Surface Transportation Board ("STB"), the Securities and Exchange Commission, or any other government agency or court, or that have appeared in newspapers or other public media.
4. TP&W objects to the production of, and is not producing, information or documents that are as readily attainable by the KJRY from its own files.
5. TP&W objects to the production of, and is not producing, information or documents containing confidential or sensitive commercial information, including information subject to disclosure restrictions imposed by law in other proceedings or by contractual obligation to third parties, and that is of insufficient materiality to warrant production here even under a protective order.

6. TP&W objects to the production of, and is not producing, information or documents to the extent they are sought in a form not maintained by TP&W in the regular course of business and are not readily available in the form requested, on the ground that such documents or information could only be developed, if at all, through unduly burdensome and oppressive special studies, which are not ordinarily required and which TP&W objects to performing.

7. TP&W objects to the discovery requests as overbroad and unduly burdensome to the extent that they seek information or documents for indeterminate periods of time and periods prior to February 10, 2003, the date TP&W reacquired the 71.5-mile line of railroad between La Harpe, IL, milepost 194.5, and west of Peoria, IL, milepost 123.0.

8. TP&W objects to KJRY' Definitions and Instructions to the extent that they seek to impose requirements that exceed those specified in the applicable discovery rules and guidelines.

DISCOVERY REQUESTS

In accord with the foregoing definitions and instructions, please produce the following information:

DISCOVERY REQUEST NO. 1

All records demonstrating the origin, destination, commodity, car type, car ownership, shipment weight, number of shipments, and routing of all shipments tendered to TP&W for movement to or from any point on the Line east of Milepost 123.0.

Response:

TP&W objects to Discovery Request No. 1 as being overly broad and unduly burdensome; as requesting confidential or other information that is either not relevant or reasonably calculated to lead to the discovery of admissible evidence or is insufficiently relevant to warrant search and production; and as being vague and ambiguous.

TP&W objects to Discovery Request No. 1 in that it is impossible from KJRY's Definitions and Discovery Request No. 1 for TP&W to determine the location, in that KJRY did not define the term "Line" in the Definitions. TP&W further objects to Discovery Request No. 1 in that it requests TP&W to subject itself to a fine and to violate 49 U.S.C. § 11904(b) by providing "information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to" it "for transportation." TP&W further objects to Discovery Request No. 1 in that KJRY has solicited (49 U.S.C. § 11904(a)(2)) "information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to" TP&W "for transportation" in violation of 49 U.S.C. § 11904(b). TP&W further objects to Discovery Request No. 1 in that it is overly broad and burdensome since it is an open ended request with no limit on the time period for which TP&W must respond. TP&W further objects to Discovery Request No. 1 in that it is not relevant to the case-in-chief presented by KJRY which rejects the calculation of going concern value based upon KJRY's novel, unconstitutional, unsubstantiated, and unjustified trackage rights theory.

DISCOVERY REQUEST NO. 2

All valuation maps, real estate records, deeds, track charts, maintenance records, hi-rail and other inspection records with respect to the Line.

Response:

TP&W objects to Discovery Request No. 2 as being overly broad and unduly burdensome and as being vague and ambiguous.

TP&W objects to Discovery Request No. 2 in that it is impossible from KJRY's Definitions and Discovery Request No. 2 for TP&W to determine the location, in that KJRY did not define the term "Line" in the Definitions. TP&W further objects to Discovery Request No. 2

in that any valuation maps, real estate records, and deeds are matters of public record and readily available to KJRY. TP&W further objects to Discovery Request No. 2 in that KJRY either possesses or has access to the track charts that it believes are relevant based on the application (page 13) and Mr. Gohmann's verified statement (pages 174-175 and 180). TP&W further objects to Discovery Request No. 2 in that it is overly broad and burdensome since it is an open ended request with no limit on the time period for which TP&W must respond.

DISCOVERY REQUEST NO. 3

All agreements, court orders, and other documents relating to crossings of the Line over, under or at-grade with any public or private road or drive, and any stream, river or other body of water.

Response:

TP&W objects to Discovery Request No. 3 as being overly broad and unduly burdensome; as requesting confidential or other information that is either not relevant or reasonably calculated to lead to the discovery of admissible evidence or is insufficiently relevant to warrant search and production; and as being vague and ambiguous.

TP&W objects to Discovery Request No. 3 in that it is impossible from KJRY's Definitions and Discovery Request No. 3 for TP&W to determine the location, in that KJRY did not define the term "Line" in the Definitions. TP&W objects to Discovery Request No. 3 in that this information is publicly available to KJRY through observation and the use of publicly available maps. TP&W further objects to Discovery Request No. 3 in that it is overly broad and burdensome since it is an open ended request with no limit on the time period for which TP&W must respond. TP&W further objects to Discovery Request No. 3 in that it request material containing confidential or sensitive commercial information.

DISCOVERY REQUEST NO. 4

A list of the names and mailing addresses of all shippers who have originated or received shipments at points on the Line during the 12 months preceding the date of these requests.

Response:

TP&W objects to Discovery Request No. 4 as being overly broad and unduly burdensome; as requesting confidential or other information that is either not relevant or reasonably calculated to lead to the discovery of admissible evidence or is insufficiently relevant to warrant search and production; and as being vague and ambiguous.

TP&W objects to Discovery Request No. 4 in that it is impossible from KJRY's Definitions and Discovery Request No. 4 for TP&W to determine the location, in that KJRY did not define the term "Line" in the Definitions. TP&W further objects to Discovery Request No. 4 in that it requests TP&W to subject itself to a fine and to violate 49 U.S.C. § 11904(b). TP&W further objects to Discovery Request No. 4 in that it is overly broad and burdensome since it is an open ended request with no limit on the time period for which TP&W must respond. TP&W further objects to Discovery Request No. 4 in that KJRY apparently has such information in its possession as evidenced by its contacting TP&W's customers and especially contacting TP&W's customers in the Mapleton area as evidenced by Mr. Sauer's attached verified statement.

DISCOVERY REQUEST NO. 5

All records concerning any complaint about the provision of rail service on the Line made or received by TP&W or any of its affiliates within the 5 years preceding the date of these requests.

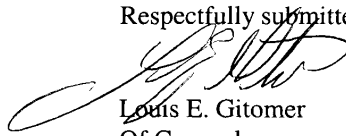
Response:

TP&W objects to Discovery Request No. 5 as being overly broad and unduly burdensome and as being vague and ambiguous.

TP&W objects to Discovery Request No. 5 in that it is impossible from KJRY's Definitions and Discovery Request No. 5 for TP&W to determine the location, in that KJRY did not define the term "Line" in the Definitions. TP&W further objects to Discovery Request No. 5 in that it is overly broad and burdensome since it requests five years of information. TP&W further objects to Discovery Request No. 5 in that TP&W cannot be held accountable for complaints that have been "made" but not "received" by TP&W. TP&W further objects to Discovery Request No. 5 in that KJRY has in its possession a number of, and perhaps all, documents responsive to Discovery Request No. 5. See Verified Statement of Catherine Busch (pages 115-159, especially Exhibit A, pages 121-134, and Exhibit B, pages 135-144). TP&W further objects to Discovery Request No. 5 in that KJRY has the information concerning the illegal entry onto the Line by KJRY officers on August 23, 2001 in a hy-rail vehicle in which the operator was not qualified to operate on the Line, had no permission from the dispatcher to be on

the Line, and was investigated by both the Federal Railroad Administration and the Illinois Commerce Commission and the subject of a disciplinary hearing by TP&W.

Respectfully submitted,



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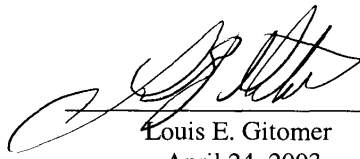
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Attorneys for: TOLEDO, PEORIA AND
WESTERN RAILWAY CORPORATION

Dated: April 24, 2003

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing document to be served by overnight delivery on all parties of record in STB Finance Docket No. 34335.



Louis E. Gitomer
April 24, 2003

VERIFIED STATEMENT OF ALFRED M. SAUER

My name is Alfred M. Sauer and I am Senior Vice President Marketing and Sales for RailAmerica, Inc. and its railroad subsidiaries, including the Toledo, Peoria and Western Railway Corporation ("TP&W"). The purpose of this statement is to advise the Surface Transportation Board (the "Board") that the Keokuk Junction Railway Company ("KJRY") has begun contacting customers of TP&W, not served by KJRY, located in the vicinity of Mapleton, IL, alleging that KJRY will shortly be taking over operations from TP&W and thereby interfering with TP&W's business relationships with its customers.

As the Board is aware, on April 9, 2003, KJRY filed an application to attempt to force TP&W to sell KJRY TP&W's 76-mile line of railroad between La Harpe, IL, milepost 194.5, and Hollis, IL, milepost 118.5 (the "Line"). STB Finance Docket No. 34335, *Keokuk Junction Railway Company—Feeder Railroad Development Application—Line of Toledo, Peoria & Western Railway Corporation between La Harpe and Hollis, IL*. I am informed that a final decision by the Board will most likely not occur in 2003. Based upon counsel's analysis, I am also informed that the Board has not even accepted the application, that the application is incomplete and should be rejected by the Board, and that KJRY has not met the statutory criteria in the application and the Board will deny the application, if it is even accepted,

I became aware of KJRY's contacts with our customer, the Lonza Group, located in Mapleton, IL on TP&W's line more than 75 miles from KJRY's rail line, through voicemails left the night of April 22, 2003 by Al Satunas (General Manager of TP&W) and Scott Hulstrom (Regional Vice President of RailAmerica). Mr. Satunas informed me that he had received a voicemail from Roger Lowe, TP&W's primary contact at the Lonza Group, informing him that KJRY wished to meet with the Lonza Group to discuss the customer's rail service needs once KJRY takes over the TP&W trackage serving the Lonza Group's facility. Based on this contact,

I directed the staff of the TP&W to determine whether any of our other customers at Mapleton had been contacted by KJRY. It appears that KJRY has contacted all of TP&W's Mapleton customers and sought their business under KJRY's presumption that the Board will automatically approve KJRY's Feeder Line Application, enabling KJRY to adversely acquire TP&W's rail line.

I have also been informed that KJRY is seeking the addresses of TP&W's Mapleton customers in discovery in the application case. Based on KJRY's contacts with those customers it is apparent that KJRY already has those addresses as well as additional information.

TP&W currently serves its shippers in Mapleton at least six days per week. Not only does TP&W serve Mapleton, but the Union Pacific Railroad Company ("UP") serves Mapleton shippers pursuant to a switch agreement between TP&W and UP, whereby TP&W performs switch service for UP cars between Mapleton customers and the UP yard at Sommer, IL. The Mapleton traffic generates about 15 percent of TP&W's revenue. The forced sale of the Mapleton segment of TP&W's line would have an adverse effect on TP&W.

VERIFICATION

I, Alfred M. Sauer, declare under penalty of perjury that the foregoing is true and correct.
Further, I certify that I am qualified and authorized to file this Verified Statement. Executed this
23rd day of April 2003.



Alfred M. Sauer