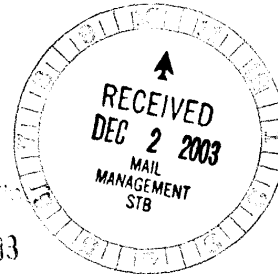


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LAW OFFICE
THOMAS F. MCFARLAND, P.C.
208 SOUTH LASALLE STREET - SUITE 1890
CHICAGO, ILLINOIS 60604-1112
TELEPHONE (312) 236-0204
FAX (312) 201-9695
mcfarland@aol.com

THOMAS F. MCFARLAND

December 1, 2003



By UPS overnight mail

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

Re: Finance Docket No. 34425, *City of Lincoln - Petition for Declaratory Order*

Dear Mr. Williams:

Enclosed is a copy of a letter to me from the attorney for the City of Lincoln, Nebraska, dated November 24, 2003, and attached discovery. Although the City's letter is dated November 24, it was not received until today, December 1, one week later. I replied to the City's November 20 letter in the interim. I sent a copy of my letter to the Board.

The City's submission of discovery is premature before the Board decides whether or not to institute a proceeding in response to the City's Petition for Declaratory Order. If the Board institutes such proceeding, my client will respond to the discovery in accordance with a procedural timetable established by the Board in conjunction with institution of the proceeding. The timetables contained in the City's discovery are not binding in the absence of institution of a Board proceeding.

The City's submission of discovery is confirmation of the appropriateness of my client's previous request for a procedural schedule that allows sufficient time for discovery. However, it would be manifestly unfair, as proposed in the City's attached letter, to provide for discovery in aid of the City's rebuttal statement without having provided for discovery in aid of my client's opposition statement.

In sum, the Board, rather than the City, should establish a procedure best designed to provide for due process in this matter. My client continues to suggest that Federal Register notice and opportunity for comment, along with a procedural schedule that provides ample opportunity for discovery, would be most conducive to fair resolution of the issues presented by

THOMAS F. MCFARLAND

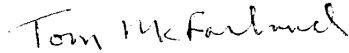
Vernon A. Williams

December 1, 2003

Page 2

the Petition. But that is for the Board to decide. The City cannot usurp the Board's procedural authority by submitting discovery before the Board has decided whether to institute a proceeding.

Very truly yours,



Thomas F. McFarland
*Attorney for Lincoln Lumber Company,
a Class III rail carrier*

TMcF:kl:enc:wp11\977\lstrsb2

cc: Charles H. Montange, *by UPS overnight mail*
Mr. Don Hamill

CHARLES H. MONTANGE

ATTORNEY AT LAW

426 NW 162ND STREET
SEATTLE, WASHINGTON 98177

(206) 546-1936
FAX: (206) 546-3739

DEC 01 2003

24 November 2003

Thomas McFarland, Esq.
208 South LaSalle St., Suite 1890
Chicago, IL 60604-1112

Re: City of Lincoln, Petition for a
Declaratory Order, F.D. 34425

Dear Tom:

This is further follow-up to my fax of 20 November and telephone call today concerning right of entry for purposes of survey and inspection for the sewer project, and for the trail project. You indicated that the issue was "under consideration" as were all other issues raised in my letter of 20 November.

Judging from your letter of 18 November to the Board, it appears that your client intends to contest any and all use of the right of way between 22d and 23d Streets for trail purposes. In such circumstances, we believe some discovery against Lincoln Lumber Company is prudent. We tender herewith some document requests, returnable on December 30, which is after the date we have requested for LLC's Reply (Dec. 19), but in time for use in the City's Rebuttal. If the Board issues a procedural schedule providing for Replies after December 30, then we require supplementation of LLC's response five days after the due date of LLC's Reply.

The City is concerned about snowfall rendering survey and inspection difficult or impossible. While we appreciate your need to consult with your client concerning entry, in order to protect the City's interest, we are making a Request to permit Entry Upon Land, pursuant to 49 C.F.R. § 1114.30(a)(2), for December 15, or alternative days as specified in the event of adverse weather conditions. We would like to work out an earlier date if possible.

Very truly,


Charles H. Montange
for Lincoln

Encl.

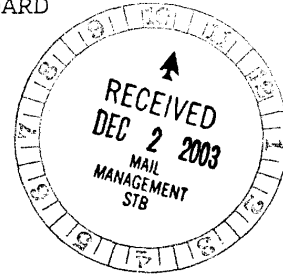
cc.. Joel Pedersen, Esq. (w/encl.)

BEFORE THE SURFACE TRANSPORTATION BOARD

Finance Docket 34425

CITY OF LINCOLN

PETITION FOR A DECLARATORY ORDER



CITY OF LINCOLN'S
FIRST
REQUEST FOR PRODUCTION OF DOCUMENTS
and
REQUEST TO PERMIT ENTRY UPON LAND
TO LINCOLN LUMBER COMPANY

REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to 49 C.F.R. § 1114.30(a)(1) and any other applicable authority, City of Lincoln hereby requests Lincoln Lumber Company (LLC) to produce, and permit City of Lincoln to inspect, any and all documents (defined to include, but not to be limited to, writings, drawings, graphs, charts, photographs, tapes, computer files, and other data compilations, notes and drafts, other than those items which are protected by attorney-client privilege or which are attorney work product) as set forth below.

Time and location for production. City of Lincoln requests that said production occur at a mutually convenient time and place, provided, however, that such production must take place, and unless otherwise agreed is hereby scheduled to take place at 9 AM, Tuesday, December 30, 2003. Unless otherwise provided by mutual agreement, the documents will be produced for inspection

at the offices of Joel Pedersen, Assistant City Attorney, 575 South 10th Street, Suite 4201, Lincoln, NE 68508.

Supplementation. Pursuant to 49 C.F.R. § 1114.29(c), in the event the Surface Transportation Board issues a procedural schedule that provides for Replies to be filed to City of Lincoln's Petition for Declaratory Order at a date subsequent to December 30, 2003, LLC is hereby required to supplement its document responses five (5) business days after the due date for Replies, if such due date is after December 30, 2003. Such supplementation shall be made at the same address and time as provided in the preceding paragraph.

Requests

1. All documents bearing upon, discussing, or setting forth any and all plans by LLC to employ for any purpose other than storage the northernmost twenty feet of the railroad right of way between 22d and 23d Streets in Lincoln, Nebraska, acquired by LLC from Union Pacific in Union Pacific Railroad Company -- Abandonment Exemption -- Lancaster County, NE, AB-33 (Sub-no. 112X), served Jan. 16, 1998 (setting terms and conditions for LLC to acquire the five blocks), pet. to reopen denied, id. served March 2, 1998 (denying LLC petition to reduce price).

2. All documents bearing upon, supporting, detracting from, or discussing any justification relied upon by LLC for purposes of opposing City of Lincoln's plans to construct a trail on the northernmost 20 feet of the aforesaid railroad

right of way between 22d and 23d Streets. If LLC relies upon more than one justification, then all documents relating to each and every justification should be produced.

3. Documents sufficient to show the number of rail cars delivered to LLC at its facility at 23d Street in Lincoln, Nebraska for each month since January 1995.

4. Documents sufficient to show the number of rail cars stored by LLC on property acquired by LLC from Union Pacific pursuant to Union Pacific Railroad Company -- Abandonment Exemption -- Lancaster County, NE, supra for each month since said acquisition, including the duration of each such storage.

5. All documents relating to any planned expansion of LLC's operations at its facility at 23d Street in Lincoln, Nebraska.

6. All documents, including correspondence or memoranda of telephone calls, relating in any way to the proposed Husker Link Trail or the proposed underground sewer facility which City of Lincoln proposes to be located on property acquired by LLC from Union Pacific pursuant to Union Pacific Railroad Company-- Abandonment Exemption -- Lancaster County, NE, supra.

7. All documents on which LLC relies for purposes of attributing value of the northernmost 20 feet of the railroad corridor between 22d Street and 23d Street to LLC.

8. All documents relating to past, present or future "active shipper operations" on the northernmost 20 feet of the railroad right of way between 22d and 23d Streets, as referenced

in Mr. McFarland's letter at the top of p.2 dated November 18, 2003, to Mr. Vernon Williams in F.D. 34425.

9. All documents which bear on the issue whether a trail on the northernmost 20 feet of the railroad right of way between 22d and 23d Streets will impact active railroad operation.

10. All documents relating to any plans by LLC to construct or to reconstruct rail facilities on property acquired by LLC from Union Pacific pursuant to Union Pacific Railroad Company -- Abandonment Exemption -- Lancaster County, NE, supra.

11. All documents relating to any communications with Omaha, Lincoln and Beatrice (OBL) railroad or any other railroad in connection with rail facilities, improvements to rail facilities, or construction or reconstruction of rail facilities on property acquired by LLC from Union Pacific pursuant to Union Pacific Railroad Company -- Abandonment Exemption -- Lancaster County, NE, supra.

12. All documents reviewed by, or relied upon by, any expert for LLC for purposes of preparing or formulating a verified statement, affidavit, report, testimony, or other evidence for submission to the Surface Transportation Board on behalf of LLC in this proceeding.

13. All documents reviewed by, or relied upon by, any non-expert witness for LLC for purposes of preparing or formulating a verified statement, affidavit, report, testimony, or other evidence for submission to the Surface Transportation Board on behalf of LLC in this proceeding.

REQUEST TO PERMIT ENTRY UPON LAND
TO LINCOLN LUMBER COMPANY

Pursuant to 49 C.F.R. § 1114.30(a)(2) and any other applicable authority, City of Lincoln hereby requests, subject to appropriate liability releases and safety and operating considerations, entry upon property acquired by LLC from Union Pacific pursuant to Union Pacific Railroad Company-- Abandonment Exemption -- Lancaster County, NE, supra, for purposes of inspecting and measuring track and track distances, and for surveying. City of Lincoln proposes to make said inspection and surveying on Monday, December 15, 2003, at 9 AM, using competent survey crews and possibly outside consultants. In the event of adverse weather, said inspection and survey may be rescheduled for Tuesday, December 16, 2003, or for the following Monday, December 22, 2003. In the event snowfall precludes visibility of track and track materials, City of Lincoln reserves the right to reschedule said inspection and survey.

As an appropriate liability release, City of Lincoln hereby agrees to hold LLC harmless for any injury and from any property damage occurring as a result of said inspection and survey work on the premises. City of Lincoln shall not suffer the inspection or survey to be conducted so as to interfere with any active rail operation occurring at the time of the inspection.

Respectfully submitted,



Charles H. Montange
426 NW 162d St.
Seattle, WA 98177
(206) 546-1936
for City of Lincoln

Certificate of Service

I hereby certify service of the foregoing by Express Delivery (next business day) upon Thomas McFarland, Esq. (counsel for Lincoln Lumber Company), 208 South LaSalle St., Suite 1890, Chicago, IL 60604-1112, this 24th day of November, 2003.

