

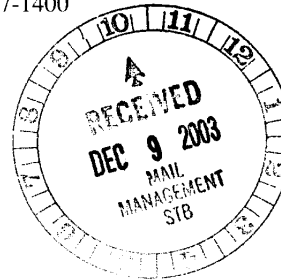
PIONEER RAILCORP

1318 SOUTH JOHANSON ROAD • PEORIA, ILLINOIS 61607 • (309) 697-1400

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December 8, 2003

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



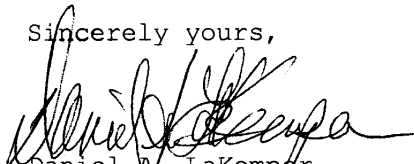
RE: City of Lincoln Petition for Declaratory Order
FD No. 34425

Dear Secretary Williams:

Enclosed, for filing, is an original and ten copies of our Notice of Intent to Participate and Statement in Support of Publication in the Federal Register, and a Disk with a WORD file of the same filing.

Please call me if you have any questions.

Sincerely yours,



Daniel A. LaKemper,
General Counsel.

Enclosures.

ENTERED
Office of Proceedings

DEC - 9 2003

Part of
Public Record

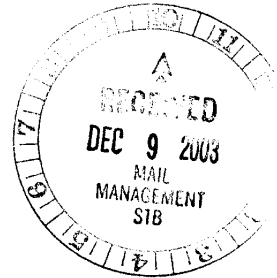
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BEFORE THE SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34425

CITY OF LINCOLN

PETITION FOR DECLARATORY ORDER



NOTICE OF INTENT TO PARTICIPATE
AND
STATEMENT IN SUPPORT OF
PUBLICATION IN THE FEDERAL REGISTER

Daniel A. LaKemper, Esq.
LaKemper Law Office
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Morton, Illinois 61550
Tel.: (309) 678-6048
Fax: (309) 697-8486

Attorney for Pioneer Railcorp
and Minnesota Commercial Ry. Co.

Dated: December 8, 2003.

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Comes now Pioneer Railcorp ("Pioneer"), a shortline holding company that owns 16 operating Class III railroad subsidiaries, and Minnesota Commercial Railway Co. ("MNNR"), a class III carrier operating in the State of Minnesota, and hereby state as follows:

1. Pioneer and MNNR intend to participate in the above-captioned proceedings, as interested parties.

2. Pioneer and MNNR support Lincoln Lumber Co.'s request that the Board publish notice of the filing of the Petition for Declaratory Order in the **Federal Register**, and provide an opportunity for filing of public comments on the issue of involuntary trail use of operating railroad right-of-way.

3. Pioneer and MNNR agree that the proceeding involves an important issue of general transportation policy on which public notice and opportunity for comment are warranted.

4. Counsel for the City of Lincoln asserts that this issue is not important merely because the taking only involves part of a five-block right-of-way. The length of the right-of-way involved in this case, however, does not limit the legal principle involved. If an involuntary sharing of right-of-way is required, it matters not whether it is five blocks, or 500 miles. The principle is the same. The City's emphasis on the partial taking of the right-of-way is even more misplaced as a reason not to fully examine this issue. By taking only part of the right-of-way, the railroad retains its common carrier obligation to operate, and is forced to do so while sharing a its right-of-way with, not even another railroad, but another activity, only tangentially connected with transportation. The proposed trail will be primarily recreational in nature. A railroad right-of-way is not, by its nature, a place of public recreation or amusement.

5. Pioneer and MNNR recognize that some carriers, including Lincoln Lumber Co., have been willing to negotiate shared use. That is not the issue in this case. Voluntary shared use is one thing. Involuntary shared use is another. If every city, county, state and local government is suddenly empowered to arbitrarily condemn parts of railroad right-of-ways, without regard for the operating needs of the railroads operating on them, operational interference and unresolved issues of safety, liability, crossings, fencing, signaling, access, to name but a few, will create havoc. Whereas voluntary shared use agreements can address these issues, condemnation would create chaos, and, ultimately, injury, service failures, and economic and physical disaster.

6. This is not a local issue, as evidenced by the City's choice of counsel. If the City is able to "sneak in under the radar" in this proceeding, it will be open season on operating railroad right-of-way all over the country. Publication in the Federal Register is clearly appropriate.

WHEREFORE, Pioneer Railcorp and Minnesota Commercial Railway Co., respectfully request that they be permitted to participate as interested parties, and that the Board publish notice of this proceeding in the Federal Register, in accordance with the request of Lincoln Lumber Co.

December 8, 2003.

Respectfully submitted,

Daniel A. LaKemper, Esq.
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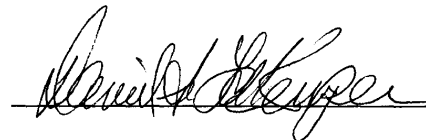
Attorney for Pioneer Railcorp and
Minnesota Commercial Ry. Co.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument was served by United States Mail, first class, postage fully pre-paid, this 8th. Day of December, 2003 upon:

Charles H. Montange
426 N.W. 162nd. St.
Shoreline, WA 98177

Thomas McFarland
208 S. LaSalle St., Suite 1890
Chicago, Illinois 61604



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