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September 7, 2005

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: Docket No. AB-878, *City of Peoria, Illinois and Village of Peoria Heights, Illinois -- Adverse Discontinuance -- Pioneer Industrial Railway Co.*

Dear Mr. Williams:

Enclosed please find an original and 10 copies of Reply To Petition To Reopen For Immediate Modification Or Clarification, for filing with the Board in the above referenced matter.

Very truly yours,

Tom McFarland

Thomas F. McFarland
Attorney for Applicants

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BEFORE THE
SURFACE TRANSPORTATION BOARD

CITY OF PEORIA, ILLINOIS AND	)	
VILLAGE OF PEORIA HEIGHTS,	)	
ILLINOIS -- ADVERSE	)	DOCKET NO. AB-878
DISCONTINUANCE -- PIONEER	)	
INDUSTRIAL RAILWAY CO.	)	

**REPLY TO PETITION TO REOPEN
FOR IMMEDIATE MODIFICATION OR CLARIFICATION**

CITY OF PEORIA, ILLINOIS
CITY HALL
419 Fulton Street
Peoria, IL 61602

VILLAGE OF PEORIA HEIGHTS, ILLINOIS
VILLAGE HALL
4901 North Prospect Rd.
Peoria Heights, IL 61616

Applicants

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
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(312) 236-0204

Attorney for Applicants

DUE DATE: September 9, 2005

BEFORE THE
SURFACE TRANSPORTATION BOARD

CITY OF PEORIA, ILLINOIS AND	)	
VILLAGE OF PEORIA HEIGHTS,	)	
ILLINOIS -- ADVERSE	)	DOCKET NO. AB-878
DISCONTINUANCE -- PIONEER	)	
INDUSTRIAL RAILWAY CO.	)	

**REPLY TO PETITION TO REOPEN
FOR IMMEDIATE MODIFICATION OR CLARIFICATION**

Pursuant to 49 C.F.R. § 1104.13(a), Applicants CITY OF PEORIA, ILLINOIS and VILLAGE OF PEORIA HEIGHTS, ILLINOIS (“the Municipalities”) hereby reply to a Petition to Reopen for Immediate Modification or Clarification (“Petition”) filed by Pioneer Industrial Railway Co. (“PIRY”) on August 19, 2005.

REPLY

The gist of the Petition is that the Board should clarify that the segment of the Kellar Branch on which no shippers are located cannot be lawfully removed by the Municipalities until (1) Central Illinois Railroad Company (CIRY) obtains Board authority or an exemption for discontinuance of its authority and obligation to operate over that segment; and (2) the Municipalities obtain a Court order ejecting PIRY from that segment.

No such clarification is required. The Board’s decision served August 10, 2005 already clearly provides that the segment cannot be removed until CIRY’s operating authority over that segment is lawfully discontinued, viz. at 6:

... CIRY retains an obligation to provide service over this line and it would have to be relieved of that obligation prior to the Cities' planned reconfiguration ...

The Municipalities intend to abide by that statement. Thus, the Municipalities will not remove that segment until CIRY's authority to operate over that segment has been discontinued in an effective Board decision. CIRY has informed the Municipalities that CIRY will initiate proceedings for discontinuance of its rail service over that segment.

PIRY ceased operations on the Kellar Branch shortly after the August 10, 2005 effective date of the Board's decision granting the Municipalities' application for adverse discontinuance of PIRY's operations on the Branch. That being the case, an action in state court seeking to eject PIRY from the Branch is not necessary. Consequently, the segment of the Branch at issue can be lawfully removed without regard to the absence of a state court order ejecting PIRY from the Branch.^{1/}

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, for the reasons stated, the Petition should be denied.

Respectfully submitted,

CITY OF PEORIA, ILLINOIS
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419 Fulton Street
Peoria, IL 61602

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VILLAGE HALL
4901 North Prospect Rd.
Peoria Heights, IL 61616

Applicants

^{1/} PIRY itself has filed a state court action, and has sought a preliminary injunction against removal of the trackage at issue. *Pioneer Industrial Railway Co. v. DOT Rail Service, Inc., et al.*, Cir. Ct., 13th Jud. Dist., LaSalle County, IL, No. 05-L-146. Presumably, that request for injunction will be decided before CIRY's exemption for discontinuance becomes effective.

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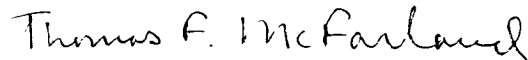
DUE DATE: September 9, 2005

CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2005, I served the foregoing document, Reply To
Petition To Reopen For Immediate Modification Or Clarification, on the following by UPS
overnight mail.

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