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November 28, 2006

BY HAND DELIVERY

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

218154

Re: STB Finance Docket No. 34753, Central Illinois Railroad Company — Operation Exemption — Rail Line of the City of Peoria, IL

Dear Secretary Williams:

Enclosed on behalf of Pioneer Industrial Railway Co., are an original and 11 copies of a "Petition To Reject Or Revoke" filed in connection with the above-captioned class exemption proceeding. Also enclosed is a check for the \$200.00 filing fee for a petition to revoke. Copies of this petition are being served today on all parties of record.

Please file stamp the 11th copy of this petition and return it to the person making this filing for return to me. If there are any questions concerning this proposal, please contact me by telephone at (202) 663-7823 or by e-mail at wmullins@bakerandmiller.com.

Sincerely,

William A. Mullins

Enclosures

cc: Daniel A. LaKemper, Esq.
All Parties of Record

FILED

NOV 28 2006

ENTERED
Office of Proceedings

NOV 28 2006

Part of
Public Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB FINANCE DOCKET NO. 34753

**CENTRAL ILLINOIS RAILROAD COMPANY
— OPERATION EXEMPTION —
RAIL LINE OF THE CITY OF PEORIA, IL**

PETITION TO REJECT OR REVOKE



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November 28, 2006

**Attorneys for Pioneer Industrial
Railway Co.**

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB FINANCE DOCKET NO. 34753

**CENTRAL ILLINOIS RAILROAD COMPANY
— OPERATION EXEMPTION —
RAIL LINE OF THE CITY OF PEORIA, IL**

PETITION TO REJECT OR REVOKE

BACKGROUND AND SUMMARY OF RELIEF REQUESTED

Pioneer Industrial Railway Co. (“PIRY”) hereby petitions the Surface Transportation Board (“Board”) to reject the notice of exemption filed by Central Illinois Railroad Company (“CIRY”) in Finance Docket No. 34753, or, in the alternative, to revoke CIRY’s exemption obtained pursuant to that notice. As PIRY will show, the notice of exemption that CIRY has filed in this proceeding was materially false and misleading because it is not CIRY but an entity that was, and may still be, a corporate affiliate of CIRY, that possesses the contractual rights to serve the line involved in Finance Docket No. 34573, and it is that entity that should have filed for authority from the Board. In addition, because CIRY appears to be operating a line of railroad (which is not the subject of Finance Docket No. 34573) without a Board authority to do so, the Board should find that CIRY is operating illegally in violation of the Board’s licensing requirements.

Over a year ago, CIRY invoked the Board’s class exemption procedures at 49 CFR 1150.41, et seq. to operate approximately 1.9 miles of rail line (the so-called “western

connection”) owned by the City of Peoria, IL (“the City”).¹ The transaction covered by CIRY’s notice was to be consummated on September 14, 2005, or shortly thereafter. About one year prior to that, the City obtained Board authority to construct approximately 1,800 feet of track (“connecting track”) linking the western connection to a line known as the Kellar Branch in Peoria, IL. See City of Peoria, IL d/b/a Peoria, Peoria Heights & Western Railroad – Construction of Connecting Track Exemption – In Peoria County, IL, STB Finance Docket No. 34395 (“Peoria Construction”) (STB served Sept. 17, 2004).

PIRY has determined that CIRY was not the proper entity to obtain operating authority over the western connection because, despite the implication in its notice of exemption, CIRY does not have a contract with the City to operate that line. Rather, as PIRY’s witness, Daniel A. LaKemper, shows, the City’s western connection operating agreement is with DOT Rail Services (“DOTR”), not CIRY. See Verified Statement of Daniel LaKemper, General Counsel, Pioneer Industrial Railway Co., at 1-2 (“V.S. LaKemper”), attached hereto as Exhibit A.² Indeed, as if to further mislead this Board and the public, it now appears that CIRY is not even the entity providing service over the western connection. Instead, a company called Central Illinois Railroad Holdings, LLC (“Holdings”) may in fact be the entity that is currently providing rail service over the western connection, while either Holdings or CIRY operates over the connecting track. (A search of the Board’s records reveals that, despite the fact that the connecting track was built with Board authority and thus constitutes Section 10901 track, neither Holdings nor

¹ Central Illinois Railroad Company — Operation Exemption — Rail Line of the City of Peoria, IL, STB Finance Docket No. 34753 (STB served Oct. 6, 2005).

² DOTR and CIRY are separate legal entities, but, at least at the time that CIRY filed its notice of exemption for the western connection operation, DOTR was an affiliate of CIRY. It is not clear whether a corporate relationship continues to exist between DOTR and CIRY, but Illinois State documents indicate that such a relationship may still exist. See V.S. LaKemper at 1.

CIRY has obtained authority to operate over the connecting track. Likewise, Holdings lacks Board authority to provide service over the western connection.) Because – (1) CIRY lacks Board authority to operate over the connecting track,³ (2) neither Holdings nor CIRY has a contract with the City to operate the western connection (over which Holdings also lacks authority from this Board to operate), and (3) DOTR, the only entity who holds a contract from the City to operate over the western connection, should have obtained authority to operate the western connection, but did not do so, CIRY’s notice of exemption seeking authority to operate the western connection is false and misleading and should be rejected or revoked.

ARGUMENT

All notices of exemption filed pursuant to 49 CFR 1150.41, et seq. must state that if the verified notice contains false or misleading information, the exemption is void ab initio. CIRY’s notice of exemption in this docket is false and misleading and thus null and void. CIRY’s notice stated that *it* had reached an agreement with the City to operate the western connection. As was noted above that statement was, and is, untrue. Accordingly, CIRY’s notice should be rejected,⁴

³ CIRY does have authority to operate over the Kellar Branch, but, as the Board knows full well, CIRY provides no services over the Kellar Branch. See Central Illinois Railroad Company – Operation Exemption – Rail Line of The City of Peoria and The Village of Peoria Heights in Peoria and Peoria Heights, Peoria County, IL, STB Finance Docket No. 34518 (STB served July 28, 2004) (covering CIRY’s Kellar Branch operation).

⁴ A entity invoking the Board’s class exemption processes on the basis of false or misleading information may have its notice rejected and can be ordered by the Board to undo the transaction it has already entered into. See, e.g., Sagamore National Corporation – Acquisition and Operation Exemption – Lines of Indiana Hi-Rail Corporation, Finance Docket No. 32523 (ICC served Oct. 28, 1994)(“Sagamore”); see also Yolo Shortline Railroad Company – Lease and Operation Exemption – Port of Sacramento, STB Finance Docket No. 34114 (STB served Feb. 3, 2003), slip op. at 2 (“Under 49 CFR 1150.42(c), if a notice of exemption contains false or misleading information, we will reject the notice as void ab initio”).

or, in the alternative, because the exemption CIRY obtained has been in place for over a year, the notice should be revoked.⁵

In its notice, CIRY specifically stated that “[a]n agreement has been reached for CIRY’s operation of the Subject Rail Line,” indicating that the City, as the owner of the western connection, and CIRY were parties to such an agreement. No such contract exists between the City and CIRY. Rather, as mentioned above, the operating contract is between DOTR and the City, even though it appears that actual service over the line is being provided by Holdings. Because DOTR holds the contractual right to provide common carrier service over the City’s western connection, DOTR should have filed for Board authority to provide such service, not CIRY. Moreover, since it appears that Holdings is providing service over the western connection, it should have obtained Board authority to do so, assuming that it has some agreement to provide such service in the first place. Instead, in defiance of the Board’s procedures, and contrary to the statements contained in CIRY’s notice of exemption, CIRY impermissibly inserted itself into what is quite clearly a DOTR-City transaction. Then, as if to add further confusion, it does not appear that CIRY is actually the entity providing the service. Instead, Holdings has commenced operations over the western connection and has done so without Board authority. CIRY failed to explain itself in its notice of exemption and concealed DOTR’s involvement in the transaction. Moreover, CIRY cannot serve as DOTR’s or Holdings’ surrogate for obtaining appropriate regulatory approval.

⁵ At times, the Board has indicated that an exemption that has already taken effect should be revoked, as opposed to rejected, if the notice of exemption contained false and misleading information. See, e.g., SF&L Railway, Inc. – Acquisition and Operation Exemption – Toledo, Peoria and Western Railway Corporation Between La Harpe and Peoria, IL, STB Finance Docket No. 33995 (STB served Oct. 17, 2002), slip op. at 10 (citing Save the Rock Island Committee, Inc. v. St. Louis Southwestern Railway Co., Docket No. AB-39 (Sub-No. 18X) (ICC served Apr. 1, 1994)) (“SF&L”).

Not only is DOTR the correct entity to have filed a notice of exemption to operate the western connection, the proposed DOTR-City transaction required additional Board approval that DOTR quite obviously overlooked. Specifically, because DOTR then controlled (and may still control) CIRY, a licensed common carrier, and because DOTR had negotiated an agreement with the City that would result in DOTR becoming a common carrier by entering into an agreement to operate over regulated track, DOTR not only should have filed a notice of exemption to operate the western connection but also should have filed a petition for exemption to continue in control of CIRY (whose operations connect with the western connection) once DOTR became a carrier. DOTR did not do so, which itself is a violation of the statute.

Under the City's contract, DOTR is the only entity that should be authorized to be a common carrier on the western connection. The contract does not specify that CIRY will provide the service on DOTR's behalf or that DOTR would enter into a subsequent transaction enabling CIRY to acquire the common carrier obligation, nor did CIRY give any indication in its notice of exemption that DOTR was the entity holding the actual operating agreement.⁶

Based upon these facts, CIRY's notice of exemption is misleading about material facts at best and contains patently false information at worst. If, as the facts now appear, DOTR anticipated negotiating the agreement it now has with the City, clearly DOTR should have filed a notice of exemption in its own name. Moreover, had DOTR anticipated that it would, in turn, designate CIRY or Holdings as the western connection service provider by such means as an assignment of contractual rights or otherwise, then DOTR should have so stated in its notice.

⁶ While CIRY may have a Board license to operate over the Kellar Branch, PIRY is not aware of any instrument granting CIRY a legal right to operate the City-owned western connection nor did they obtain authority to operate over the connecting track.

Alternatively, DOTR should have filed jointly with CIRY or Holdings if the parties intended either CIRY or Holdings to assume DOTR's common carrier obligation.

The notice of exemption at issue here was clearly predicated on an agreement between CIRY and the City, which, as Mr. LaKemper's testimony shows, simply does not exist. Accordingly, CIRY's notice falsely depicts the transaction. In short, the notice lists the correct transferor but the wrong transferee. This is neither an inadvertent omission, nor is it a minor or immaterial detail about the intended transaction. Rather, in this case, both parties to the transaction (the City and DOTR) understood the transaction they would undertake but CIRY appears to have deliberately misled the Board and the public about who actually had the operating contract.

As the new evidence confirms and as has been shown throughout related proceedings, CIRY and the City have again misled the public, PIRY, the shippers, and this Board about the true nature of the transaction for which CIRY sought authority. Accordingly, CIRY's notice of exemption should be rejected and the transaction undone, despite the fact that it has been consummated and in place for a year. See Sagamore. Alternatively, although PIRY's petition to reject or revoke should not require that the underlying proceeding be reopened in order to revoke the notice (as opposed to automatically rejecting the notice), the new information nonetheless more than justifies reopening at 49 CFR 1115.4 and revoking the transaction. This new evidence shows that the transaction is contrary to the Rail Transportation Policy and represents an abuse of the Board's processes. The abuse discussed here warrants revocation. See SF&L.

Finally, CIRY's conduct reveals that it has not only seriously misled the agency about the western connection, but also that CIRY has failed to observe the Board's licensing requirements with respect to CIRY's (or Holdings) operation of the 1,800-foot connecting track over which

the Board has jurisdiction pursuant to Peoria Construction. While this track was not built at the time CIRY filed its notice of exemption to operate over the western connection, upon its completion and before CIRY (and now, possibly Holdings) began operations over the connecting track, they should have received Board authority, which neither has done. Yet, CIRY (or Holdings) currently operates over this connecting track in order to deliver rail cars to Carver Lumber ("Carver"). See V.S. LaKemper at 2.⁷

There is no Board record, however, of a notice of exemption, petition for exemption, or even an application permitting CIRY (or Holdings) to undertake the common carrier obligation of operating over the connecting track, nor does DOTR have Board authority to operate over that track. Yet, this is precisely the same track that was subject to the Board's Section 10901 licensing authority in Peoria Construction. As Section 10901 licensed track, there is no question that CIRY (or Holdings) should have obtained an appropriate operating license. This shows once again how CIRY has misled this Board, PIRY, and the public regarding the true nature of the transactions that this Board has approved; all on the basis that CIRY was telling the truth, which the facts now show was not the case.

CONCLUSION

As PIRY has shown, either because of extreme carelessness or for some inappropriate or illegal purpose, CIRY has falsely described a transaction with the City for operation of the western connection. We now know that there was no such transaction. DOTR was the entity that undertook the transaction with the City, not CIRY. CIRY misled the Board concerning the

⁷ The irony is that CIRY has declared it uneconomical to serve Carver via either the western connection or any other route to and from Carver's facility. See CIRY's July 24, 2006 "Comments Regarding Adequacy of Rail Service in Response to Decision Served on April 25 2006" filed in Docket No. AB-1066X. The record thus reflects CIRY's efforts to avoid its common carrier obligation to that shipper.

structure of the transaction. As a result, CIRY's notice of exemption was false and/or misleading on material facts essential to the notice and is therefore void ab initio. CIRY's notice of exemption therefore should be rejected or its exemption revoked. In addition, the Board should find that CIRY's (or Holdings') operation of the connecting track and Holdings' operation of the western connection, all being done in the absence of regulatory authority, are in violation of the Board's licensing requirements and are therefore illegal.

Respectfully submitted,

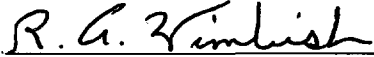
A handwritten signature in dark ink, appearing to read "William A. Mullins", is written over a horizontal line.

William A. Mullins
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Attorneys for Pioneer Industrial Railway Co.

CERTIFICATE OF SERVICE

I, Robert A. Wimbish, hereby certify that on this 28th day of November, 2006, copies of the foregoing Petition to Reject or Revoke have been served by first class mail, postage prepaid, or by more expeditious means of delivery upon all parties of record to this proceeding identified on the Surface Transportation Board's website.



Robert A. Wimbish

Attorney for Pioneer Industrial Railway Co.

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB FINANCE DOCKET NO. 34753

**CENTRAL ILLINOIS RAILROAD COMPANY
— OPERATION EXEMPTION —
RAIL LINE OF THE CITY OF PEORIA, IL**

PETITION TO REJECT OR REVOKE

VERIFIED STATEMENT OF DANIEL A. LaKEMPER

My name is Daniel A. LaKemper, I am the General Counsel of Pioneer Industrial Railway Co., and I have knowledge of the facts alleged herein.

Attached hereto as Attachment 1 is a copy of the contract between the City of Peoria (“City”) and DOT Rail Service, Inc. (“DOTR”), covering the so-called “western connection” to the Pioneer Park trackage of the Kellar Branch.

I am informed and believe that DOTR and Central Illinois Railroad Company (“CIRY”) are separate legal entities, both Illinois corporations that have been, and, on the basis of the attached documents from the Office of the Secretary of State of the State of Illinois (“Secretary of State”), may continue to be, affiliated with one another. See Attachment 2. I am also informed and believe that DOTR never assigned or has otherwise transferred its rights and obligations under its contract with the City to CIRY or to anyone else. In fact, I have been informed by CIRY representatives that such rights and obligations intentionally were not assigned to CIRY.

CIRY had previously obtained operating authority over the western connection, and operates a 1,800-foot line, known as the “connecting track”¹ (linking the western connection to the Kellar Branch), and CIRY uses both lines to access and serve customers in the Pioneer Industrial Park, including Carver Lumber Company. CIRY, of course, currently has a discontinuance proceeding pending to cease service over most of the Kellar Branch (STB Docket No. AB-1066X), and in fact had already terminated service over the majority of that line, having since August of 2005 rejected cars that needed to be routed via the Kellar Branch.

As I have stated, I believe, based upon my discussions with CIRY representatives, that DOTR has never assigned its western connection contract rights. I understand that the reason that no such assignment has taken place is that, should the Board approve CIRY’s discontinuance of service over the Kellar Branch, CIRY could withdraw its notice of exemption to operate the western connection under the premise that such notice was an unnecessary and “mistaken” filing. The combined result of such an approach by CIRY would be to enable it to terminate service to Carver Lumber and Pioneer Park without having to seek discontinuance authority to do so.

Finally, I am informed and believe that DOTR has essentially no assets, and is still owned by Don Gibson (a convicted felon, who I am informed and believe is in a state prison) and his ex (or soon-to-be-ex) wife. Again, as the attached Secretary of State documents reflect, it appears that DOTR and CIRY may remain under common ownership. Moreover, due to the nature of the operating agreements for the Kellar Branch and western connection, respectively, it would appear that both DOTR and CIRY possess contractual rights obligating both to provide common carrier service – DOTR for the western connection and CIRY for the Kellar Branch. Nevertheless, I am informed and believe that Central Illinois Railroad Holdings, LLC (“Holdings”) is actually the entity providing the service, such as it is, over the western connection. According to the Secretary of State, Holdings has no corporate relationship with DOTR or CIRY. Despite the representations Holdings made to the Board in FD 34916, it appears that Holdings may have engaged in the acquisition of CIRY’s assets, rather than the acquisition of CIRY’s stock. Because it appears that Holdings is the nominal service-provider on the western connection, Holdings, which lacks operating authority from the Board, is providing service illegally.

¹ CIRY appears never to have obtained STB authority to operate over the connecting track.

VERIFICATION

I, Daniel A. LaKemper, declare under the penalty of perjury that to the best of my knowledge the foregoing is true and correct. Further, I certify that I am qualified to file this Verified Statement. Executed this 28th day of November, 2006.

A handwritten signature in black ink, appearing to read "Daniel A. LaKemper", written in a cursive style.

Daniel A. LaKemper

AGREEMENT

This Agreement, by and between the CITY OF PEORIA, ILLINOIS, an Illinois municipal corporation with its principal offices at 419 Fulton St., Peoria, Illinois 61603 (the "CITY"); and DOT RAIL SERVICE, an Illinois corporation with its principal offices at P.O. Box 361, LaSalle, Illinois 61301 ("DOT"), entered into this 22nd day of June, 2000; WITNESSETH:

WHEREAS, the CITY has an ownership interest in a Rail Line known as the Peoria, Peoria Heights & Western Railroad, extending from E.P.S. 75 + 00 (M.P. 1.61) to U.P.S. 516 + 21 (M.P. 10.0), in Peoria County, Illinois, being the former "Kellar Branch" of the Chicago, Rock Island & Pacific Railroad Company (herein the "Rail Line"); and

WHEREAS, DOT and the CITY desire to provide for the long-term future of rail service to customers at the end of said Rail Line; and

WHEREAS, DOT and the CITY desire to set forth the terms and conditions under which DOT would operate rail service in the event that the CITY acquires and constructs an alternative route to service said customers from the west.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

Article 1. PRECONDITIONS

1.1 The CITY shall acquire the Union Pacific ("UP") spur line ("Peoria Pioneer Spur") running from junction with the UP mainline west of Pioneer Park ("Pioneer Junction"), to the end of track in said Pioneer Park, (being just west of University St.), and as extended to serve Pioneer Park.

1.2 The CITY shall acquire (at its expense) the property between the end of the UP Spur (referred to in Section 1.1 above) and the western terminus of the Rail Line, make modifications thereto as deemed necessary by the UP, and shall construct a connection between the two lines so that, after the discontinuance provided for in Section 2.2, railcars to/from Rail Line customers (except O'Brien Steel) can be moved over the connection to the UP mainline. Prior to constructing such connection, the CITY shall submit the plans for the connecting track to DOT's Roadmaster for review and approval, so as to assure that the connection, when constructed, will be able to handle the type and number of railcars and at the service level anticipated. DOT will respond promptly to CITY's requests for approval and shall otherwise cooperate with CITY's efforts to acquire and construct such connection.

Article 2. SERVICE FROM THE WEST

2.1 DOT shall use all commercially reasonable efforts to an interchange agreement with UP under terms that will not materially increase the rates charged the Rail Line's customers or significantly alter the service level presently provided over the Kellar Branch. Commercially reasonable efforts shall include, if necessary, the duty to pursue all available remedies through

the Surface Transportation Board ("STB") (or other regulatory agency or body having jurisdiction) to obtain such interchange agreement.

2.2 In the event that UP ever attempts to abandon or discontinue service over all or any portion of its lines with which DOT has obtained an interchange agreement, the CITY shall oppose such abandonment and shall join in and cooperate with any effort by DOT to gain possession or operational rights over that portion of the UP tracks subject to such discontinuance or abandonment needed to serve the Peoria Pioneer Spur; provided, however, that nothing herein shall be construed to obligate the CITY to contribute money to buy such track.

Article 3. LIMITS OF LIABILITY

3.1 If the aforementioned connection is not completed on or before December 31, 2002, the CITY shall have the option to terminate this Agreement and it shall then be null and void. If CITY does not exercise such option and completes the connection at a later date, CITY's option to terminate shall expire. DOT shall not be entitled to any damages or punitive relief from the CITY for the failure of the CITY to complete the connection. Completion of the connection shall be at the sole discretion of the CITY.

Article 4. GRANT OF TRACKAGE RIGHTS

4.1 The CITY hereby grants unto DOT the right to operate its engines, cars and trains over such tracks as the CITY shall gain rights to from Pioneer Junction to Pioneer Park and those parts of the Kellar Branch needed to serve customers located in Pioneer Park. Any grant of trackage rights by the CITY is subject to the CITY acquiring or leasing yard trackage currently owned by the UP.

4.2 The DOT shall have the right under the foregoing grant to serve all existing industries now located on or adjacent to said track and industries and any industries which may in the future be served over the Peoria Pioneer Junction track or portions thereof.

Article 5. OWNERSHIP, OPERATION AND MAINTENANCE

5.1 DOT shall not be granted ownership rights to any track as a result of this Agreement. In the event that the UP-owned tracks are offered for sale, DOT agrees that the CITY shall have the first right to purchase said track and that DOT will only purchase said track if the CITY declines to do so.

5.2 The mode of operation over said track shall be under the sole control of the DOT.

5.3 The CITY shall be responsible for maintenance of roadways and street crossings (excluding rails, ties and signal devices on roadways and streets) under the jurisdiction of the CITY.

5.4 The DOT shall assume the responsibility for all maintenance of tracks, crossing protection, and roadbed including weed, brush, snow and ice control thereon, all drainage control maintenance, and all weed and brush control on the remainder of the right-of-way.

5.5 The movement of engines, cars and trains of the DOT on said tracks shall be performed pursuant to federal, state and local government laws and regulations.

Article 6. STANDARD OF CARE, INDEMNIFICATION AND HOLD HARMLESS

6.1 Nothing herein shall cause the CITY's standard of care for the rights-of-way to be different than as set forth in 745 ILCS 10/3-102. Anything herein to the contrary notwithstanding, the DOT shall not by reason of any defect or by reason of the failure of the CITY to repair such defect, have or make against the CITY, its agents, employees or assigns, any claim or demand for any loss, damage, destruction injury or death whatsoever arising from such defect, neglect or failure and the DOT expressly releases the CITY, its agents, employees and assigns from any and all claims or demands on account of such loss, damage, destruction, injury or death suffered or incurred directly by the DOT arising out of such defect neglect or failure

6.2 Anything herein to the contrary notwithstanding, DOT agrees to and does hereby assume the entire risk and responsibility for its trains, engines and cars and contents thereof and for its officers, agents and employees at all times while on or about said tracks. The DOT hereby agrees to indemnify and save the CITY, its agents, employees and assigns harmless from any and all claims, demands, lawsuits and liability by reason of loss of or damage to DOT trains, engines and cars and cars in custody of the DOT, and the contents thereof, and for injury to or death of DOT officers, agents and employees arising or growing out of the presence of any such property, or of any such persons, on or about said tracks or out of the DOT's use of said tracks or operations of its trains, cars or engines thereof, from any cause whatsoever regardless of the negligence of the CITY, its agents, employees or assigns

6.3 The DOT hereby agrees to indemnify and save the CITY, its agents, employees and assigns harmless from and against loss of or damage to property, and injury to or death of persons whomsoever, arising or growing out of any act or omission of the officers, agents or employees of the DOT in its use of or operation on or over said tracks.

6.4 The DOT agrees to name the CITY as additional insured on all liability policies covering DOT's operation of said track. DOT shall provide the CITY with a Certificate of Insurance listing the CITY as additional insured and providing the CITY with a thirty (30) day notice of any cancellation of the policy. DOT shall maintain liability insurance with limits of \$5,000,000 per occurrence; in the event DOT institutes passenger service, then said insurance policy shall have limits of \$10,000,000.

Article 7. CHARGE FOR TRACKAGE RIGHTS

7.1 For the use of said tracks by the DOT pursuant to the provisions hereof, the DOT shall pay to the CITY the sum of One Dollar (\$1.00) per annum. The DOT shall make this payment to the CITY within fifteen (15) days after the effective date of this Agreement. Subsequent annual payments will be made within fifteen (15) days after the anniversary date of this Agreement provided, however, that no such fee shall be due until operation from the west is ready to commence.

Article 8. REPORTS AND RECORDS

8.1 The DOT agrees to submit a report to the CITY on a calendar month basis.

8.2 All records of the DOT pertaining to the movement of cars over and upon any part of the said tracks shall be open and available to the inspection of any duly authorized representative of the CITY at any and all times during normal business hours for the purpose of checking and verifying statements furnished by DOT in accordance with the provisions hereof.

Article 9. DEFAULT

The rights herein granted to DOT are expressly conditioned upon the performance by the DOT of all and singular the covenants and agreements herein set forth to be performed by DOT. In the event DOT shall default in the performance of any of its obligations hereunder, and such default shall continue for a period of sixty (60) days after the receipt of written notice thereof by certified mail, return receipt requested, from the CITY, the CITY shall have the right at any time thereafter to terminate this Agreement forthwith, in addition to any other legal remedies which the City may have.

Article 10. TERM OF AGREEMENT

This Agreement shall remain in full force and effect for a period of twenty (20) years from the date on which service from the west becomes authorized by the STB or upon the date on which service from the west actually commences, whichever is earlier.

Article 11. NOTICES

All notices required pursuant to this Agreement to the CITY shall be addressed to the City Manager, City of Peoria, 419 Fulton, Room 207, Peoria, IL 61602. All notices to DOT shall be addressed to DOT Rail Service, P.O. Box 361, LaSalle, Illinois 61301.

Article 12. ASSIGNMENT

The DOT shall not transfer, assign or convey the rights granted hereunder without the written consent of the CITY and only upon the condition that the assignee shall abide by all terms, conditions and agreements hereof

Article 13. RULES OF CONSTRUCTION

13.1 The entities described herein with the terms "UP" and "DOT" shall be construed to mean and include the respective successors (but not assigns) of those corporations.

13.2 When used herein, terms importing the plural number shall mean and include the singular and vice versa, unless the context otherwise requires.

13.3 No amendment, modification or waiver of this agreement shall be of any force or effect unless it shall be in writing, and signed by the parties hereto.

13.4 Neither party may assign any right or obligation hereunder, except with the prior written consent of the other party. Subject to this restriction on assignment, this agreement shall inure to the benefit of and be binding upon the parties' respective successors and assigns.

13.5 This Agreement was negotiated by the parties, and should not be construed in favor of or against either of them by virtue of the fact that one or the other may have drafted any part or all of the final document.

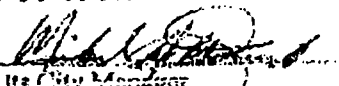
13.6 This Agreement is entered into by the parties for the benefit of the parties hereto and should not be construed as a third party beneficiary contract for the benefit of any third party.

Article 14. LEVEL OF SERVICE

~~DOT shall pick up and deliver cars within twenty-four (24) hours after being notified by the UP that the cars have been placed on the Peoria Pioneer Spur.~~

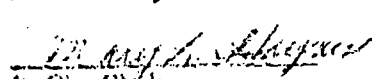
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

CITY OF PEORIA, ILLINOIS

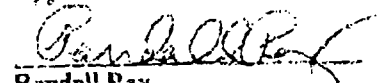
By: 
Its City Manager

CITY OF PEORIA, ILLINOIS

Attested to by:


Its City Clerk

Approved as to form:


Randall Ray,
Corporation Counsel

DOT RAIL SERVICE

Attested to by:

Walter L. Gibson
Its Vice President

DOT RAIL SERVICE

By: Paul D. Musy
Its President

Approved as to form:

[Signature]
Its General Counsel

(K250)



SERVICES PROGRAMS PRESS PUBLICATIONS DEPARTMENTS CONTACT

CORPORATION FILE DETAIL REPORT

Entity Name	D.O.T. RAIL SERVICE, INCORPORATED	File Number	53100104
Status	GOODSTANDING		
Entity Type	CORPORATION	Type of Corp	DOMESTIC BCA
Incorporation Date (Domestic)	05/26/1983	State	ILLINOIS
Agent Name	PAULA J MUDGE-GIBSON	Agent Change Date	05/07/1992
Agent Street Address	RR 1	President Name & Address	PAULA J MUDGE-GIBSON 11801 E 1250TH ST PO BOX 605 BRANVILLE
Agent City	GRANVILLE	Secretary Name & Address	PAULA J MUDGE-GIBSON SAME
Agent Zip	61326	Duration Date	PERPETUAL
Annual Report Filing Date	04/11/2006	For Year	2006

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**CORPORATION FILE DETAIL REPORT**

Entity Name	CENTRAL ILLINOIS RAILROAD COMPANY	File Number	59291599
Status	GOODSTANDING		
Entity Type	CORPORATION	Type of Corp	DOMESTIC BCA
Incorporation Date (Domestic)	02/28/1997	State	ILLINOIS
Agent Name	PAULA J MUDGE- GIBSON	Agent Change Date	12/27/2005
Agent Street Address	11801 E 1250TH STREET	President Name & Address	PAULA J MUDGE-GIBSON 11801 E 1250 ST GRANVILLE 61326
Agent City	GRANVILLE	Secretary Name & Address	SAME
Agent Zip	61326	Duration Date	PERPETUAL
Annual Report Filing Date	12/28/2005	For Year	2006

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**LLC FILE DETAIL REPORT**

Entity Name	CENTRAL ILLINOIS RAILROAD HOLDINGS LLC	File Number	01885545
Status	GOODSTANDING	On	06/09/2006
Entity Type	LLC	Type of LLC	Domestic
File Date	06/09/2006	Jurisdiction	IL
Agent Name	ROBERT J PACHMAYER	Agent Change Date	06/09/2006
Agent Street Address	123 MARKET ST #320	Principal Office	123 MARKET ST STE 320 WILLOW SPRINGS 60480
Agent City	WILLOW SPRINGS	Management Type	MGR
Agent Zip	60480	Dissolution Date	PERPETUAL
Annual Report Filing Date	00/00/0000	For Year	
Series Name	NOT AUTHORIZED TO ESTABLISH SERIES		

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