

# VONACHEN, LAWLESS, TRAGER & SLEVIN

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**Via Certified Mail 7006 2760 0002 3122 2518**

Mr. J. Michael Carr  
President/CEO Pioneer Railcorp  
1318 S. Johanson Rd.  
Bartonville, IL 61607

Dear Mr. Carr:

This law firm represents the Village of Peoria heights. Pioneer Railroad Corp claims rights under an agreement signed on July 10, 1984. The Village of Peoria Heights is hereby placing Pioneer Railroad Corp. on 60-day notice of its default regarding the agreement presently in place between Pioneer Railcorp and the Village.

The Village shows no record of any yearly payments being made for use of the railroad tracks. The rental fee is \$1.00 a year. To date, there is no record of this payment ever being made to the Village.

Pioneer Railcorp has also never supplied to the Village records on a monthly basis showing the information regarding the rail cars which have been moved through the Village. This would include "...the car number and initials, the shipper or receiver thereof; and the date of shippage, receipt of all revenue cars shipped or received by industries located on or adjacent to said tracks, including team tracks."

Most importantly, Pioneer Railcorp is contractually bound to maintain drainage and correct drainage issues and problems along the tracks within the corporate limits of the Village of Peoria Heights. There is no evidence that these issues have ever been addressed by Pioneer Railcorp, leading to a decrepit and dangerous situation along the rail tracks in the Village. We are enclosing a report illustrating these drainage issues. This report was completed by Randolph & Associates, Inc. These issues are many, and have an extremely negative impact on the private properties surrounding the tracks.

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These issues need to be addressed and corrected within 60 days of the receipt of this notice.

Per the default clause of the agreement signed on July 10, 1984, "The rights herein granted to the P&PU (Pioneer Railcorp) are expressly conditioned upon the performance by the P&PU (Pioneer Railcorp) of all and singular the covenants and agreements herein set forth to be performed by the P&PU (Pioneer Railcorp). In the event the P&PU (Pioneer Railcorp) 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 (Village of Peoria Heights), the CITY (Village of Peoria Heights) shall have the right at any time thereafter to terminate this agreement forthwith."

In short, all of these drainage issues need to be corrected within this 60-day time frame; inspected and attested to by Randolph & Associates that ALL work has been completed, or the Village of Peoria Heights will send notice that the agreement is terminated, and that Pioneer Railcorp will be hereafter removed from using the Kellar Branch Rail Line for any reason, whatsoever. This also applies to the \$1/year rental fee, and the reports showing the rail usage over the past 24 years by Pioneer Railcorp. All of these listed areas need to be rectified within the 60 day time frame.

Pioneer Railcorp has taken virtually no steps through the years to correct the drainage issues that have detrimental effects on the surrounding landowners. Pioneer is now on 60-day notice to have every real and potential drainage issue corrected, and verified by Randolph & Associates, along with submitting all information and monies which should have been on a timely basis through the years.

Sincerely,

VONACHEN, LAWLESS, TRAGER & SLEVIN

BY:   
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MMW/jse

Enclosure

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## **Drainage Inspection Along Railroad Village of Peoria Heights**

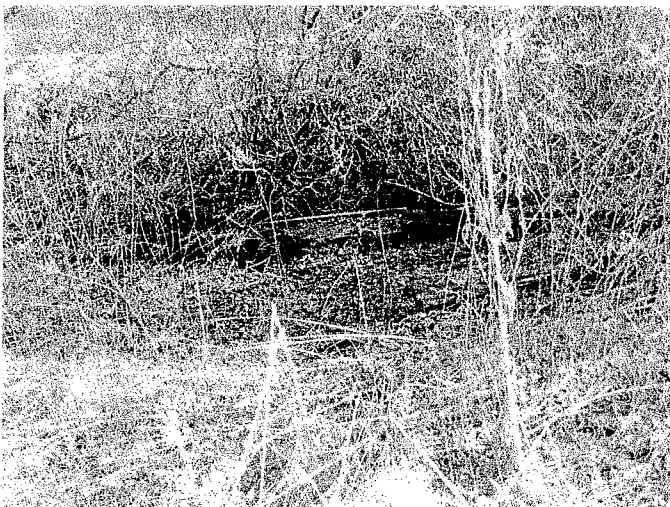
On March 13, 2008 Mark Allen, Mayor, Bob Roth, Public Works Director, and I (Dan Good, Devonshire Randolph Engineering) performed a drainage inspection of the railroad area as follows: 1) from Glen Avenue toward the northwest to approximately the southeast end of Humboldt Ave., and 2) from Prospect Road at Marietta Ave. toward the southeast to approximately Miller Avenue. The results of this inspection are summarized below.

### **Area 1:**

- East side of railroad tracks  
– Brush in the ditch line is restricting proper drainage. Standing water was observed in some locations. Brush should be removed to restore normal flow path.



- East side of railroad tracks  
– railroad ties and rails in ditch line are restricting proper drainage. Ties and rails should be removed to restore normal flow path.



- West side of railroad tracks  
– Brush is restricting proper drainage. Brush should be removed.



- West side of railroad tracks  
– Tree has fallen onto private property. Tree should be removed.



- West side of railroad tracks  
-- Erosion has occurred under end of railroad ties. Additional gravel should be placed under the ties and the area stabilized to prevent further drainage problems.





- West side of railroad tracks
  - In general old railroad ties and rails are lying along the bank. In some cases they are located in the ditch, which restricts proper drainage. Railroad ties and rails should be removed.



- East side of railroad tracks
  - Brush is lying in the ditch line restricting normal drainage. The brush should be removed from the area.



- West side of railroad tracks
  - The steep bank at the storm sewer crossing has potential erosion/stability concerns. Bank should be investigated and stabilized as needed.



- East side of railroad tracks  
– Village storm drain is backed up due to ditch blockage along railroad. Railroad ditch should be cleaned and graded to drain.

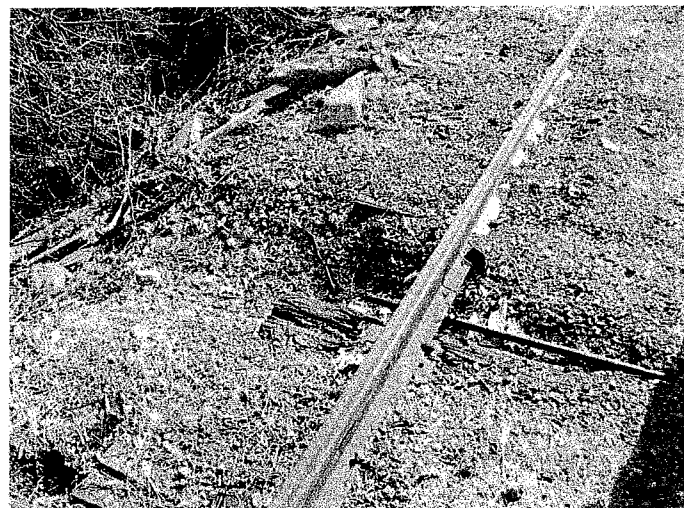


**Area 2:**

- North side of railroad tracks -- Erosion has occurred under end of railroad ties. Additional gravel should be placed under the ties and the area stabilized to prevent further erosion.



- North side of railroad tracks -- Erosion has occurred under end of railroad ties. Additional gravel should be placed under the ties and the area stabilized to prevent further erosion.



- North side of railroad tracks – Ditch is poorly graded and covered with brush and debris, which inhibits proper drainage. The brush and debris should be removed. The ditch should be re-graded, as needed, to create good drainage.



- North side of railroad tracks – Brush in the ditch prevents proper drainage. The brush should be removed.



- North side of railroad tracks – Erosion has occurred near the culvert. Gravel should be replaced and the bank properly shaped and stabilized.



- North side of railroad tracks – Brush in the ditch is restricting proper drainage. Brush should be removed.



- North side of railroad tracks – Brush in the ditch is restricting proper drainage. Brush should be removed.



- North side of railroad tracks – Brush in the ditch is restricting proper drainage. Brush should be removed.

