

**PIONEER INDUSTRIAL RAILWAY CO.**

1318 S. JOHANSON ROAD  
PEORIA, ILLINOIS 61607  
(309) 697-1400

April 7, 2008

M. Michael Waters, Esq.  
Vonachen, Lawless, Trager & Slevin  
Twin Towers Plaza  
456 Fulton St., Suite 425  
Peoria, Illinois 61602

RE: Kellar Branch Rail Line

Dear Mr. Waters:

Thank you for your letter to Mr. Carr, dated March 31, 2008. Pioneer Industrial Railway Co. ("PIRY") is encouraged by the fact that the Village has finally acknowledged that the 1984 Agreement is still in force. We are, however, disappointed by the fact that nobody from the Village contacted us about any of these concerns prior to your sending the letter. Had anyone done so, you might have avoided the numerous inaccuracies and false assumptions said letter makes. Not to mention the perception that the Village is continuing to act in bad faith, despite Pioneer's many efforts to proceed in a spirit of cooperation. If the Village is only interested in confrontation, as it appears from this letter, then Pioneer will withdraw its offers of compromise.

As for the specifics of your letter, let me start by pointing out, once again, that Pioneer Railcorp has no interest in the Kellar Branch, and never has. Your continued insistence on referring to Pioneer Industrial Railway Co. by the name of another corporation is vexatious at best.

Your allegation that Pioneer failed to pay the agreed rental is incorrect. Section 6 requires payment to the City (of Peoria), which PIRY did. Attached is a receipt for payment of 6 years rental in 1998 (covering 1998-2004); a check for \$20.00, for the next twenty years from 2004; and letter from the City Attorney refusing said check and directing that no more checks be sent. The 1998 receipt references both Peoria and Peoria Heights. If the City did not give the Village its share, I suggest you take it up with the City. At no time was PIRY advised that the rental was divided and we should make separate payments.

I am, pursuant to your demand, enclosing a check for \$20.00, make payable to the Village. I trust you will forward the City's portion to them.

Your next point is the monthly reports. Once again, you are incorrect. Reports were supplied to the City (of Peoria), per the Agreement, including the Railroad

Commission, on which the Village had a representative. Enclosed is a report covering the months since operations resumed, pursuant to the Surface Transportation Board's order. If, after a diligent search, you cannot locate your copies from 1998-2006, we will endeavor to obtain copies from our records.

Your statement that the railroad (PIRY) 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" is also patently inaccurate. Section 4(e) of the Agreement provides that the City (now, presumably, the Village, as successor to the City within its corporate limits") is responsible "for performance of weed and brush control not on the roadbed which does not affect rail operations or safety." PIRY is responsible only for the maintenance of tracks, crossing protection and roadbed". Roadbed is defined in Section 1(b) as "all that property and appurtenances located within ten (10) feet of the center line of the track". To the very limited extent that your report deals with roadbed drainage issues, our maintenance forces will correct the very minor washouts you point out. The weeds, brush and other issues in the ditches and beyond the roadbed are entirely the responsibility of the Village.

PIRY also categorically rejects the suggestion that it has to comply with the dictates of any third party engineering firm hired by the Village. There is nothing in the Agreement that provides for that. In addition your "report" provides photographic evidence that three individuals trespassed upon the railroad tracks, without notice to PIRY.

Your references as to anything pertaining to the P&PU are also totally without basis. I enclose a copy of the Consent to Assignment signed by the Village that specifically states "Village does hereby release P&PU from its obligation to continue rail service under the Agreement dated July 10, 1984, and agrees that P&PU has performed all of its duties and obligations under said Agreement to the Village's satisfaction. The Village expressly releases P&PU, its agents, employees, and assigns from any and all claims or demands arising out of occurrences on or after the effective date of this Assignment."

Your threat that Pioneer may be "removed from using the Kellar Branch Rail Line for any reason" if your alleged defaults are not corrected to the satisfaction of Randolph & Associates, is, as you well know, a threat to interfere with interstate commerce in direct violation of the Interstate Commerce Act, and in open defiance of the Order of the Surface Transportation Board. There is case law that provides recovery of attorney fees should PIRY be required to file an action in Federal Court to enforce the Board's Order.

Finally, as you know, the Agreement provides, at Section 4(c), that PIRY shall have "sole control" over the operation of the Kellar Branch, and gives PIRY the right to serve all industries on the track (Section 3(b)). As you also know, the Village has been a party to the admission of Central Illinois Railroad Company ("CIRY"), which currently operates on the Kellar Branch, without a contract. Please advise immediately what steps the Village intends to take to remove CIRY from the Kellar Branch, and what the Village intends to do to compensate PIRY for the loss of business it has suffered due to CIRY's operations.

In my letter of December 4, 2007, to Mr. Trager of your firm, we offered to meet with the Village and discuss its concerns, as an alternative to litigating this matter. That offer was ignored.

Too many taxpayer dollars have already been wasted in this misguided effort to force an unneeded trail upon our railroad line. I ask that the Village cease and desist from this transparent attempt to disparage PIRY, and renew its commitment to resolving this matter in good faith, in the interest of all parties, and in accordance with the law.

Sincerely yours,

Daniel A. LaKemper,  
General Counsel.

cc: J. M. Carr.  
City of Peoria.