

ENTERED
Office of Proceedings

JUL 18 2002

Part of
Public Record

Phone: (312) 540-0500

Fax: (312) 540-9098

www.fletcher-sippel.com

FLETCHER & SIPPEL LLC

Two Prudential Plaza, Suite 3125
180 North Stetson Avenue
Chicago, Illinois 60601-6721

Thomas J. Litwiler
(312) 540-9440
tlitwiler@fletcher-sippel.com

July 17, 2002

VIA FACSIMILE AND FEDERAL EXPRESS

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, DC 20006



Re: **Finance Docket No. 34177**
Iowa, Chicago & Eastern Railroad Corporation – Acquisition
and Operation Exemption – Lines of I&M Rail Link, LLC

Dear Secretary Williams:

Iowa, Chicago & Eastern Railroad Corporation ("IC&E") hereby submits this brief reply to the "Supplement to Petition for Stay and Opposition to Motion to Lift Stay" (CLO-4) filed yesterday by the so-called Cooperating Labor Organizations ("CLO"). CLO relies on a recent letter filing by the owners of I&M Rail Link, LLC ("IMRL") and a month-old internal memorandum from IMRL's president to suggest that no harm will result from a further stay of IC&E's proposed acquisition of IMRL's assets. There is no merit to CLO's contention.

IC&E responded fully to the IMRL owners' letter in a reply filed yesterday. As discussed there and in a letter dated July 16, 2002 from the Bank of Montreal, representing IMRL's senior lenders (copy attached), the owners' "offer" for a recapitalization of IMRL has been previously rejected and constitutes neither a viable nor a likely alternative if the IC&E acquisition does not go forward. The senior lenders -- who are, to use CLO's own words, "the one[s] who should know . . . better than anyone," CLO Supplement at 5 -- have made clear that, in lieu of the IC&E transaction, retention of the status quo at IMRL is not an option and that in such circumstances the banks would pursue their alternative legal remedies. Verified Statement of Thomas E. McGraw, Bank of Montreal, filed July 2, 2002, at 2.

CLO's selective reading of a June 26, 2002 memorandum from IMRL's president to IMRL employees does not support a contrary conclusion. That memorandum specifically discusses IMRL's operating income "before restructuring costs and bank payments" and the company's financial position "other than the original purchase price debt, of over five years ago." Yet IMRL cannot simply walk away from its debt and bank payments, and it is clear that with those obligations IMRL is not a viable entity in its present configuration.

FLETCHER & SIPPEL LLC

Mr. Vernon A. Williams
July 17, 2002
Page 2

While IMRL has made nominal cash payments to its senior lenders during the "standstill" period leading up to completion of the IC&E transaction, those payments are but a fraction of IMRL's current interest obligations, let alone its principal and past-due interest obligations. Compare CLO Supplement, Exhibit 1 at 2 (claiming that IMRL has paid \$2 million to its senior lenders during the first half of 2002) with IC&E Reply to Motions for Stay, June 22, 2002, Exhibit 2, Attachment A (showing IMRL interest expense in 2001 of over \$21 million). Neither the IMRL memorandum nor any other evidence of record supports CLO's naked claim that "IMRL's revenues currently support both the operation of the railroad and service of IMRL's long-term debt" CLO Supplement at 5. Nor is there any way to reconcile CLO's dismissive attitude regarding a potential IMRL bankruptcy, CLO Supplement at 5, with the hugely disruptive impacts such a development would cause -- most relevantly to the very IMRL employees that CLO purports to represent.

Seven days before the internal IMRL memorandum, one of IMRL's current owners declared that IMRL was in the "zone of insolvency." IMRL's other owner was owed more than \$4 million by IMRL and threatened to discontinue dispatching and other essential services for IMRL. In 2001, IMRL's operating income covered less than one-fourth of its fixed charges, and IMRL incurred an overall loss of more than \$16 million. IC&E Stay Reply, Exhibit 2, Attachment A; Exhibits 3 and 4. There can be no doubt that IMRL faces serious financial difficulties, and that the IMRL situation would rapidly become a crisis if IC&E cannot close the proposed acquisition by the end of July as required in the IC&E-IMRL asset purchase agreement.

Any further stay of the IC&E transaction thus would cause significant harm to IC&E, IMRL, local shippers and communities, and all others dependent on stable, viable rail service in the upper Midwest. At the same time, IMRL employees will largely benefit if the transaction goes forward. Nearly all interested IMRL employees have been offered employment with IC&E, in most instances at higher rates of pay. IC&E Stay Reply at 13-14; Brownell V.S. at 10-13 and Attachment F. CLO's substantive arguments can and will be fully considered -- and any appropriate remedies adopted -- when the Board rules on CLO's petition to revoke. Neither the IMRL employees nor the shipping and railroad community should be subject to further uncertainty by continuing the stay.

Ten copies of this letter are enclosed for filing with the Board. One extra copy of this letter also is enclosed. I would request that you date-stamp that copy to show receipt of this filing and return it to me in the provided envelope. I certify that a copy of this letter has been served by overnight delivery on lead counsel for CLO, and by first-class mail, postage prepaid, on all other parties of record herein.

FLETCHER & SIPPEL LLC

Mr. Vernon A. Williams
July 17, 2002
Page 3

Please feel free to contact me should any questions arise regarding this filing.
Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,



Thomas J. Litwiler
Attorney for Iowa, Chicago & Eastern
Railroad Corporation

TJL:tl

Attachment

cc: Mr. David M. Konschnik
Donald F. Griffin, Esq.
Parties of record



Bank of Montreal

HOUSTON AGENCY

700 Louisiana Street Suite 4400

Houston, Texas 77002 (713) 223-4400

July 16, 2002

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street N.W.
Washington, DC 20006

ENTERED
Office of Proceedings

JUL 18 2002

Part of
Public Record

Re: **Finance Docket No. 34177**
Iowa, Chicago & Eastern Railroad Corporation - Acquisition
and Operation Exemption -- Lines of I&M Rail Link, LLC

Dear Secretary Williams:

I have reviewed on behalf of the Bank of Montreal the July 9, 2002 letter to you submitted on behalf of the current owners of I&M Rail Link, LLC which in part comments on my verified statement filed in these proceedings on July 3, 2002. Nothing contained in the owners' letter causes me to alter the Bank of Montreal's position herein and, indeed, I reaffirm the statements made in my prior statement.

The recapitalization proposal referenced in the IMRL owners' letter contained contingencies, including relying on a federal loan program as the proposal's primary funding source. Even assuming such financing would be available, the owners' proposal involved excessive debt forgiveness and was economically inferior to the IC&E proposal. The IMRL owners' proposal was rejected before, and there is no basis to assume that this position would change, though obviously that would require a collective vote of all senior lenders. The decision to accept the Iowa, Chicago & Eastern Railroad Corporation ("IC&E") proposal was IMRL's. The senior lenders did not participate in the IMRL deliberations (which I understand were extensive) that ultimately resulted in the decision by IMRL to proceed with the proposed asset sale to IC&E. When requested by IMRL, the senior lenders agreed to release liens contingent upon a successful closing of the IC&E transaction. There is no agreement to release liens based on what the owners suggest as their alternative.

The senior lenders consented to the IC&E proposal and agreed to make substantial economic sacrifices in order to permit the IC&E transaction to be consummated. The senior lenders have never agreed to accept the treatment they would have received under the owners' proposal, and there is no basis to assume the Senior lenders would agree to such treatment today.

Bank of Montreal

Mr. Vernon A. Williams

July 16, 2002

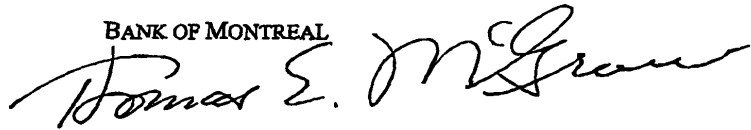
Page 2

Accordingly, if the IC&E transaction is not closed, there is no basis to suggest that the lenders would now accept the economically inferior owners' proposal in lieu of other legal remedies. Shortly put, any implication that the owners have a viable proposal that would assure maintenance of the status quo in the event the IC&E transaction is not consummated is simply not the case. The senior lenders have not approved the owners' proposal, and a renewal of that proposal would be contingent on obtaining governmental financing and would entail significant additional delay before the long-standing and difficult problems at IMRL could be resolved. It also is based on a presumption that the senior lenders would unanimously accept a substantially larger loss on their loans. There is no basis to assume that such approval would be forthcoming if the IC&E transaction is not consummated.

The only sure path to an orderly resolution of the problems confronting IMRL is the prompt consummation of the IC&E proposal. We continue to strongly support that outcome.

Very truly yours,

BANK OF MONTREAL

A handwritten signature in black ink, reading "Thomas E. McGraw". The signature is written in a cursive style with a large, prominent "M" and "G".

Thomas E. McGraw
Vice President