

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



Docket No. AB-556 (Sub No. 2X)

**RAILROAD VENTURES, INC. - ABANDONMENT EXEMPTION
BETWEEN YOUNGSTOWN, OHIO AND DARLINGTON, PA
IN MAHONING AND COLUMBIANA COUNTY, OH
AND BEAVER COUNTY, PA**

**REPLY OF RAILROAD VENTURES, INC. TO THE SUPPLEMENT TO THE
JOINT PETITION FOR STAY AND REPLY TO PETITION FOR
CLARIFICATION BY COLUMBIANA COUNTY PORT AUTHORITY AND
CENTRAL COLUMBIANA AND PENNSYLVANIA RAILWAY**

Richard R. Wilson, Esq.
Attorney for Railroad Ventures, Inc.

VUONO & GRAY, L.L.C.
2310 Grant Building
Pittsburgh, PA 15219
(412) 471-1800

**ENTERED
Office of Proceedings
JAN 05 2005
Part of
Public Record**

Date: December 28, 2004

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-556 (Sub No. 2X)

**RAILROAD VENTURES, INC. - ABANDONMENT EXEMPTION
BETWEEN YOUNGSTOWN, OHIO AND DARLINGTON, PA
IN MAHONING AND COLUMBIANA COUNTY, OH
AND BEAVER COUNTY, PA**



**REPLY OF RAILROAD VENTURES, INC. TO THE SUPPLEMENT TO THE
JOINT PETITION FOR STAY AND REPLY TO PETITION FOR
CLARIFICATION BY COLUMBIANA COUNTY PORT AUTHORITY AND
CENTRAL COLUMBIANA AND PENNSYLVANIA RAILWAY**

Railroad Ventures, Inc. ("RVI") files this Reply to the Supplement to Petitioners Joint Petition for Stay.

RVI's Petition for Clarification filed on December 21, 2004 seeks clarification from the Board as to the party or parties from whom RVI may seek collection of the \$217,282 plus interest on January 12, 2005. The Board's ordering paragraph did not address this issue which is raised as a consequence of the CCPR bankruptcy filing of which the Board was made aware many months ago. If, as contended by CCPR, the Board's December 2004 order would violate the provisions of the automatic stay entered by the Bankruptcy Court, then the Board's order should be revised to impose liability solely on CCPA in as much as CCPA was the entity to which the escrow funds were transferred by the STB and on which competitive bidding and documentation obligations were imposed by the STB's November 2001 decision. To the extent that CCPR agreed to indemnify CCPA for any payment determined not to be covered by the Board's escrow funds, that is a matter to be resolved between CCPA and CCPR in the bankruptcy court. Any indemnification agreement between CCPA and CCPR is not binding on the STB or RVI and is totally irrelevant to this proceeding.

The December 21, 2004 letter to Mr. O'Brien by the undersigned addressed the possibility that CCPA might refuse to comply with the STB's current order in which case, RVI would have no option but to pursue appropriate enforcement actions against CCPA. However, nothing in the enforcement provisions of the ICC Termination Act of 1995 imposes irreparable harm on CCPA because avoidance of those provisions is entirely within CCPA's control: i.e. it can comply with the Board's order on January 12, 2005.

Finally, CCPA contends that ordering paragraph 8 of the November 2001 decision absolves CCPA of any liability for funds "spent from the escrow account for repairs to its lines..." However, CCPA chooses to ignore that such protections were afforded in the context of the entire November 2001 decision which mandated that CCPA competitively bid and document such repairs in order to be entitled to those protections. Any attempt to construe ordering paragraph 8 to shift liability solely to CCPR which is now in bankruptcy would not be just or reasonable.

Accordingly, nothing in the supplement to the joint petition justifies or establishes joint petitioners entitlement to a stay and RVI respectfully requests that the relief requested by joint petitioners be denied.

Respectfully submitted,

VUONO & GRAY, L.L.C.

By: 
Richard R. Wilson
Attorney for Railroad Ventures, Inc.

VUONO & GRAY, LLC
2310 Grant Building
Pittsburgh, PA 15219
(412) 471-1800

CERTIFICATE OF SERVICE

I hereby certify that I have this 29th day of December, 2004 served a copy of the Reply of Railroad Ventures, Inc. to the Supplement to the Joint Petition for Stay and Reply to Petition for Clarification by Columbiana County Port Authority and Central Columbiana and Pennsylvania Railway following by First Class United States Mail, postage prepaid:

Keith G. O'Brien, Esq.
REA, CROSS & AUCHINCLOSS
1707 L Street N.W.
Suite 570
Washington, D.C. 20036

Richard H. Streeter, Esq.
BARNES & THORNBURG
750 17th Street, N.W.
Suite 900
Washington, D.C. 20006



Richard R. Wilson
Attorney for Railroad Ventures, Inc.