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Before the  
SURFACE TRANSPORTATION BOARD

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

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



ENTERED  
Office of Proceedings

JAN 10 2006

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JOINT REPLY TO MOTION TO COMPEL

Part of  
Public Record

Comes now Columbiana County Port Authority ("CCPA") and files its Reply to the Motion to Compel Document Production filed by Railroad Ventures, Inc. ("RVI"). It is CCPA's position that RVI, as a matter of law, is not entitled to discovery at this stage of the proceeding. Simply stated, the Board did not reopen this proceeding, but instead allowed RVI to address a single issue based on the existing evidentiary record.

In addition, RVI's request is moot in that all relevant documents pertaining to the repairs covered by the \$149,872 that the Board has authorized have been in RVI's possession for over a year. As RVI itself has conceded, "the Board's Decision directed that RVI respond to the additional evidence submitted by CCPA/CCPR in January 2005." Because all relevant evidence was submitted to the Board with a true copy to RVI in January 2005, the Motion to Compel should be denied on the grounds that RVI has the documents it is now requesting.

RVI has also requested documents related to the "negotiation and sale of the former Youngstown and Southern rail line to the Ohio Central Railroad system and any reimbursement or repayment of any ORDC funds by CCPA as a consequence of or incident to that transaction or other repayment arrangement." Even if there were documents that would be responsive to that request, the request is not germane to the narrow issue the Board has permitted RVI to address at

this juncture, namely possible rebuttal of CCPA/CCPR's evidence that \$149,872 in documented repair expenses were for damage caused by RVI. December 15, 2005 Decision at p.12. The repairs that are at issue herein were made in 2001. The negotiations for a possible sale to Ohio Central did not occur until 2004. Because there is absolutely no connection between the repairs for which RVI is being held responsible and the arrangements for a possible future sale of the line to Ohio Central, RVI is not entitled to the documents it has requested, even if it were to be assumed that such documents may exist.

For all the above reasons CCPA respectfully urges that RVI's Motion to Compel Document Production must be denied and that no further extension in the time permitted RVI to submit a rebuttal pleading should be granted.

Respectfully submitted,



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Counsel for Columbiana County Port Authority

Dated: January 10, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have this 10<sup>th</sup> day of January, 2006 served a copy of the Joint Reply to Motion to Compel Document Production upon the following by fax and first class United States Mail, postage prepaid:

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cc: Tracy V. Drake, Esq.