

BEFORE THE SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-1001 (Sub-No. 0X)

CHILLICOTHE-BRUNSWICK RAIL MAINTENANCE AUTHORITY

-DISCONTINUANCE EXEMPTION-
IN LIVINGSTON, LINN and CHARITON COUNTIES, MISSOURI

MOTION TO STRIKE

PETITION AND REPLY OF
JOHN RUPP, JR., STEVE WAITS, JIM DAUGHERITY, JOHN FOSTER,
KEVIN FOSTER, WAYNE FOSTER, R & H SANDERS FARMS, INC.,
LEONARD T. STEPHENS, STEVE WINKLEY, JIM WAITS, MARY KENNY,
AND GERALD SOWERS

OR, IN THE ALTERNATIVE
MOTION FOR LEAVE TO REPLY

Daniel A. LaKemper, Esq.
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Dated: March 28, 2007.

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To the Secretary of the Board:

On or about March 27, 2007, John Rupp, Jr., Steve Waits, Jim Daugherty, John Foster, Kevin Foster, Wayne Foster, R & H Sanders Farms, Inc., Leonard T. Stephens, Steve Winkley, Jim Waits, Mary Kenney and Gerald Sowers (collectively the “Adjoining Landowners”) filed a “Petition and Reply” to Vandalia Railroad Company’s (“VRRC’s”) Notice of Intent to File Offer of Financial Assistance.

VRRC respectfully moves to strike that filing, or, in the alternative, for leave to file a reply thereto.

VRRC initially points out that a Petition for leave to Intervene by the Adjoining Landowners

was filed in this proceeding on or about March 20, 2007. A second Petition to Intervene is duplicitous and unnecessary.

Further, the Adjoining Landowners fail to allege any real interest in this proceeding. If they claim to have a reversionary interest in the property, they should say so. Otherwise, an adjoining landowner has no more legal interest in this proceeding than any other landowner.

As to the "Reply" part of the pleading, it is clear that it is not a reply, as the Notice was not even directed at the Adjoining Landowners. It is a gratuitous, very thinly-disguised motion, directed at the Notice for dubious purposes. If the Adjoining Landowners are, in fact, admitted as parties, they should be required to file a Motion, before making unfounded allegations that another party is "abusing the Board's authority".¹

VRRRC, therefore, respectfully requests that the Petition and Reply be stricken, or, in the alternative, that VRRRC be given leave to file a response thereto.

Respectfully submitted,



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¹ It would appear, based upon their prior filing, that the Adjoining Landowners are accusing the Trail Use applicant of abusing the Board's authority as well, and, given that the Adjoining Landowners have not alleged any real interest in the property, one must question their motives in this proceeding.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument was served by e-mail and/or United States Mail, first class, postage fully pre-paid, this 28th day of March, 2007 upon all parties of record as disclosed by the filings of record herein.


