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
and
MOTION FOR SANCTIONS

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Dated: May 23, 2007.

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On or about May 3, 2007, Mr. Charles Montange, representing the Chillicothe-Brunswick Rail Maintenance Authority ("CBRA") filed a "Opposition to Motion to Compel and Opposition to Tardy Motion for Leave to File…". Vandalia Railroad Company ("VRRC") hereby respectfully moves that the Board strike this Motion in its entirety and impose sanctions on CBRA and Mr. Montange for inserting what he knows to be inappropriate matter in said pleading.

This document, in its entirety, is an outrageous and unveiled attempt to arouse prejudice against VRRC. Mr. Montange begins by referring to VRRC as "Pioneer Railcorp/Vandalia Railroad". Pioneer Railcorp is not a party to this proceeding. Mr. Montange has been repeatedly told, and is well aware, that Pioneer is not a carrier, and that it has a separate legal existence from its common carrier subsidiaries (See FD No. 34889 and 34890). Yet, Mr. Montange continues to throw the Pioneer name out, apparently believing it gives him some tactical advantage.

Mr. Montage's inappropriate conduct does not stop there. He includes a copy of an Order

entered in a court case settled over thirteen years ago, in which Green Hills Rural Development Inc. sued another Pioneer subsidiary. This Order, "just thrown in" is both completely irrelevant, and apparently calculated to excite more prejudice against VRRC.

Finally, Mr. Montange leaves nothing to chance in his appeal to prejudice by openly referring to this proceeding as "another Pioneer Railcorp open-ended procedural free-for-all". VRRC could obviously respond in kind, given Mr. Montange's sorry record for disregard of procedural guidelines in other cases, but VRRC is not going to accept his invitation to engage in a mud-slinging contest. Mr. Montange's blatant appeal to prejudice has no place in this proceeding. The Board should exercise its powers under 49 CFR Sections 1103.5 and 1103.11 and enter sanctions against CBRA and Mr. Montange.

As for the substantive portions of this pleading, they are repetitive to other filings, irrelevant, and fail to provide any authority for CBRA's refusal to provide the requested information.

VRRC will mention in passing, that Mr. Montange omits to mention that there is a lawsuit pending in state court in Missouri, in which at least a temporary restraining order was entered against the City of Chillicothe, involving allegations of improper contract-awarding involving this rail line. One wonders if the concern with the alleged delay in the resolution of this proceeding has more to do with litigation strategy in Missouri, than with the National Transportation Policy?

While a Motion to Compel the provision of basic information is not the proper forum for arguing whether or what form an O.F.A. should take, since Mr. Montange repeats his argument as to the form of the OFA in his motion, VRRC notes that it believes the statute authorizes a sale under the circumstances of this case, and is prepared to so argue at the appropriate time. The CIRY proceeding that was cited by Mr. Montange was voluntarily dismissed by the discontinuing carrier

and, thus, is not binding precedent.

Finally, VRRC states again, that it seeks only information at this time, required by statute, from which it can make a decision as to whether or not to make an OFA. It may well be, particularly in light of recent flooding in the Chillicothe area, that VRRC will elect not to make an OFA. The National Transportation Policy, however (which Mr. Montange claims to be so fond of), encourages giving shippers access. It is not there to promote the creation of more bike trails (Mr. Montange's true goal). If the Board allows this track to be removed, it will deprive shippers of access to two of the three carriers they can currently access, and make them captive to one carrier. Such a result should not be allowed with the unseemly haste Mr. Montange demands. It should be given due consideration.

WHEREFORE, VRRC respectfully requests that the Board Strike CBRA's filing of May 3, 2007, in its entirety, and enter appropriate sanctions against CBRA and its attorney, Mr. Charles Montange.

Respectfully submitted,

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Tel.: (309) 697-1400

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument was served by electronic or facsimile transmission and/or United States Mail, first class, postage fully pre-paid, this 23th day of May, 2007 upon all parties of record as disclosed by the filings of record herein.