

MULLINS LAW GROUP PLLC

Transportation Solutions for the 21st Century

2001 L Street NW, Suite 720
Washington, DC 20036

Crystal M. Zorbaugh
czorbaugh@mullinslawgroup.net
mullinslawgroup.net

Telephone: (202) 663-7850
Direct: (202) 663-7831
Facsimile: (202) 464-9123

July 7, 2025

309741

VIA E-FILING

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

ENTERED
Office of Proceedings
July 7, 2025
Part of
Public Record

Re: Ohi-Rail Corporation – Discontinuance – In Perry and Muskingum Counties,
Ohio, AB 1321X; Conrail Abandonment of Lines in Zanesville, Ohio, AB 167
(Sub-No. 445)

Dear Ms. Brown:

Enclosed for filing in the above-referenced docket, please find Ohio Rail Development Commission, as the successor to the Ohio Rail Transportation Authority, hereby submits its Motion for Leave to file a reply to Newark, Heath, & Buckeye Lake Scenic Railway's Petition to Reopen and Vacate Discontinuance and concurrently filed Motion for Preliminary Injunction (Expedited Consideration Requested). If there are any questions about this matter, please contact me directly, either by telephone: 202-663-7831 or by email at czorbaugh@mullinslawgroup.net. If I am unavailable, you may contact Spencer M. Naake, who can be reached at (202) 663-7829, or by e-mail at snaake@mullinslawgroup.net.

Sincerely,

/s/ Crystal M. Zorbaugh

Crystal M. Zorbaugh
Special Counsel for the Ohio Rail Development
Commission

Enclosures

cc: Alan Klodell
Matt Dietrich
Parties of Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1321X

**OHI-RAIL CORPORATION – DISCONTINUANCE OF SERVICE AND LEASE
OPERATIONS – IN PERRY AND MUSKINGUM COUNTIES, OH**

AB 167 (Sub-No. 445N)

CONRAIL ABANDONMENT OF LINES IN ZANESVILLE, OH

**OHIO RAIL DEVELOPMENT COMMISSION’S MOTION FOR LEAVE
TO REPLY TO NEWARK, HEALTH, & BUCKEYE LAKE SCENIC RAILWAY’S
PETITION TO REOPEN AND VACATE DISCONTINUANCE
AND MOTION FOR PRELIMINARY INJUNCTION
(EXPEDITED CONSIDERATION REQUESTED)**

**Crystal M. Zorbaugh
Spencer M. Naake
2001 L Street NW, Suite 720
Washington, DC 20036
Tel: (202) 663-7831
Fax: (202) 464-9123**

July 7, 2025

**Attorneys for Ohio Rail Development
Commission**

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1321X

**OHI-RAIL CORPORATION – DISCONTINUANCE OF SERVICE AND LEASE
OPERATIONS – IN PERRY AND MUSKINGUM COUNTIES, OH**

AB 167 (Sub-No. 445N)

CONRAIL ABANDONMENT OF LINES IN ZANESVILLE, OH

ORDC’S MOTION FOR LEAVE

Ohio Rail Development Commission (“ORDC”), as the successor to the Ohio Rail Transportation Authority (“ORTA”) and one of two parties that could be significantly harmed by the relief sought believes that 49 C.F.R. § 1104.13(a) authorizes it to file a reply to Newark, Heath, & Buckeye Lake Scenic Railway’s, doing business as the “Zanesville and Western Railroad Company”(“Z&W” or “Petitioner”), Petition to Reopen and Vacate Discontinuance (“Petition”) and concurrently filed Motion for Preliminary Injunction (“Motion”) in the above-captioned proceedings. In case there is any question about the validity of ORDC’s right to reply, however, ORDC hereby submits this motion, pursuant to 49 C.F.R. § 1117.1, respectfully requesting leave from the Surface Transportation Board (the “Board”) to file its response.

The Board’s consideration of ORDC’s response would be appropriate and fair. ORDC is the owner of the 14.8-mile rail line (the “Line”) that is at issue in both Z&W’s Petition and Motion. Further, ORDC, and its special counsel, assisted the Ohi-Rail Corporation (“Ohi-Rail”)

in filing for discontinuance authority in AB 1321X,¹ and ORDC was directed by the Board that it could “pursue interim trail use/rail banking under the Trails Act without seeking to revoke its exempt status or commencing a new abandonment proceeding”² in the Conrail Abandonment Docket.³ Moreover, ORDC and its trail sponsor, the Muskingum Valley Park District (“MVPD”) consummated a Trails Use Agreement on April 4, 2025, as indicated in its joint letter to the Board. Therefore, ORDC has a direct and significant interest in both the outcome of the Board’s decisions related to the Z&W’s Petition and Motion, as both could negatively impact the Trails Use Agreement and anticipated salvaging of the Line.

Permitting ORDC to reply to both Z&W’s Petition and Motion would not only ensure fairness to ORDC, but it would also enable the Board to establish a more complete record and consider fully the perspectives of both parties that have an interest in the Line, as the parties have wildly divergent views on the Board’s regulations and precedent. The Board has granted parties to intervene upon motion in analogous circumstances.⁴

Finally, granting ORDC’s motion for leave will not prejudice Z&W, as it had knowledge of and the opportunity to oppose the discontinuance exemption in 2023 and also has had the opportunity over the past two years to seek any additional recourse it believed necessary while

¹ See Ohi-Rail Verified Notice of Exempt Discontinuance Pursuant to 49 C.F.R. § 1152.50 filed on January 12, 2023 in Ohi-Rail Corporation – Discontinuance of Service and Lease Operations– In Perry and Muskingum Counties, OH, AB-1321X (“Discontinuance Proceeding”).

² See Ohio Rail Development Commission – Petition for Declaratory Order, FD 36387, slip op. at 6 (STB served December 22, 2020) (“Petition for Declaratory Order Decision”).

³ See Conrail Abandonment of Lines in Zanesville, Ohio, AB 167 (Sub-No. 445N), (“Conrail Abandonment Docket”); see also Section 8(d) of the National Trails System Act (“Trails Act”), 16 U.S.C. § 1247(d).

⁴ See Norfolk Southern Railway Company – Petition to Set Trackage Rights Compensation – Norfolk & Portsmouth Belt Line Railroad Company, FD 36223, slip op. at 6-7 (STB served March 29, 2019); The Wenger Group, Inc., and Esbenshade, Inc. – Petition for Declaratory Order and Injunctive Relief - Rail Service to Pennsylvania Feed Mills and Other Facilities, FD 36695, slip op. at 2 (STB served May 18, 2023).

ORDC negotiated with two different trail sponsors towards ultimately reaching a trails use agreement. Accordingly, to exclude ORDC's right to reply would prevent the Board from hearing from a party that would be harmed by a Board decision in granting either Z&W's Petition or Motion.

CONCLUSION

For the foregoing reasons, ORDC respectfully requests that the Board permit the filing of ORDC's replies to both the Petition and Motion.

Respectfully submitted,

/s/ Crystal M. Zorbaugh

**Crystal M. Zorbaugh
Spencer M. Naake
MULLINS LAW GROUP PLLC
2001 L St., N.W.
Suite 720
Washington, D.C. 20036
Tel.: (202) 663-7831**

**Special Counsel for the Ohio Rail Development
Commission**

July 7, 2025