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Attorney at Law

A Professional Corporation

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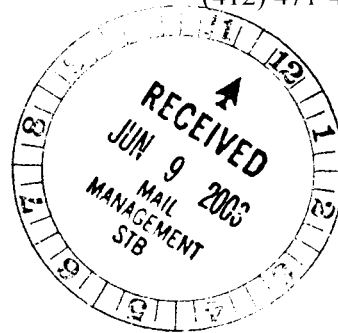
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Of Counsel to:

Vuono & Gray LLC
2310 Grant Building
Pittsburgh, PA 15219
(412) 471-1800
(412) 471-4477 FAX

June 4, 2003



Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Re: Emergency Petition of Maumee & Western Railroad Corporation and RMW Ventures, LLC for Declaratory Order - Condemnation of Main Line Tracks By the City of Napoleon, Ohio
STB Finance Docket No. 34354

Dear Mr. Williams:

Enclosed for filing please find the original and ten copies of a Motion for a Procedural Order filed on behalf of Petitioners in the above captioned proceeding. Service has been made on all parties of record.

Very truly yours,

RICHARD R. WILSON, P.C.

Richard R. Wilson

RRW/bab

Enclosures

xc: All Parties of Record

ENTERED
Office of Proceedings

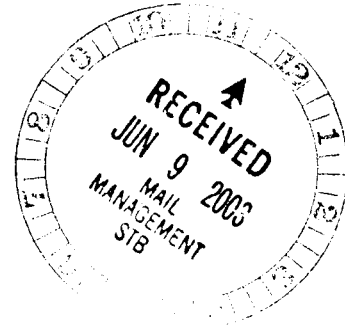
JUN 9 2003

Part of
Public Record

208000

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34354



**EMERGENCY PETITION OF MAUMEE & WESTERN RAILROAD
CORPORATION AND RMW VENTURES, L.L.C. FOR DECLARATORY
ORDER - CONDEMNATION OF MAIN LINE TRACKS BY THE
CITY OF NAPOLEON, OHIO**

**MOTION OF MAUMEE & WESTERN RAILROAD
CORPORATION AND RMW VENTURES, L.L.C. FOR
PRODCEDURAL ORDER**

Filed on Behalf of Maumee & Western
Railroad Corporation and RMW Ventures,
L.L.C.

By: Richard R. Wilson, Esq.
P.A. ID #25661
127 Lexington Avenue, Suite 100
Altoona, PA 16601
(814) 944-5302
(814) 944-6978 fax

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Date: June 4, 2003

Before the
SURFACE TRANSPORTATION BOARD

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**EMERGENCY PETITION OF MAUMEE & WESTERN RAILROAD
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PRODCEDURAL ORDER**

Now comes Maumee & Western Railroad Company and RMW Ventures, LLC and requests that the Board issue a Proceedural Order providing an appropriate period for discovery and establishing filing dates for the parties under the Board's modified procedure rules and in support thereof states as follows:

1. On May 23, 2003 the City of Napoleon filed a pleading entitled "Opposition to Emergency Petition for Declaratory Order". In that pleading the City of Napoleon ("City") acknowledged that under the provisions of the applicable Ohio statutes, the Common Pleas Court of Henry County, Ohio would be required to make factual determinations as to whether or not the proposed Commerce Drive crossing unreasonably interfered with Petitioner's use of it railroad right-of-way and whether Petitioners could continue to reasonably use their property for rail operations. The City further acknowledges that "Ohio law requires the court to conduct virtually the same inquiry regarding the effect of the proposed taking on M&W's rail operations that the STB would otherwise conduct." However, under the provisions of 49 U.S.C. §10501(b) Congress has preempted the power of the state courts to make these regulatory determinations with respect to railroad facilities and operations. Indeed, in various proceedings, the STB through its Section of Environmental Analysis, routinely considers

issues of crossing safety. See e.g. Environmental Conditions 8 (a), CSX Corporation and CSX Transportation, Inc. Norfolk Southern Corporation and Norfolk Southern Railway - Control and Operating Leases/Agreements - Conrail, Inc. and Consolidated Rail Corporation, Finance Docket No. 33388 (Decision No. 89) (July 23, 1998); Norfolk Southern Corporation and Norfolk Southern Railway Company - Construction and Operation - In Indiana County, PA, STB Finance Docket No. 33928 (May 15, 2003) (Appendix - Environmental Mitigation Measures).

2. Furthermore, the matter of the regulatory impact of crossing cost allocation decisions rendered by Ohio Common Pleas Court judges on railroad operating revenues and maintenance budgets and the impact of those mandated crossing expenditures on the ability of small railroads such as Maumee & Western Railroad Corporation to provide common carrier rail service fall squarely within the STB's preemptive regulatory jurisdiction.

3. Nor does the Board's declaratory order jurisdiction conflict with federal district court jurisdiction in this matter. On May 28, 2003, Maumee & Western Railroad Corporation and RMW Ventures, LLC filed a Notice of Removal of the City's Petition for Appropriation from the Common Pleas Court of Henry County, Ohio to the U.S. District Court for the Northern District of Ohio. (Exhibit A). As noted in that Removal Petition, the ground for removal is that the City's condemnation proceeding is preempted under the provisions of 49 U.S.C. §10501(b). In that federal court proceeding, Petitioners will request the Court to dismiss or stay the City's condemnation proceeding pending the STB's determination in this Declaratory Order proceeding. Thus, this Declaratory Order proceeding will provide the parties an opportunity to develop a complete factual record on which the Board can render a decision and which in turn will aid the federal district court in the disposition of these issues.

4. In furtherance of this objective, Petitioners have filed Interrogatories and Document Production Requests with the City on or about June 4, 2003 to aid in developing additional information regarding the extent to which the City has undertaken relevant studies or investigations regarding traffic counts, safety surveys, and impact assessments with respect to the proposed Commerce Drive crossing (Exhibit B).

WHEREFORE, Petitioners respectfully request that the Board issue an Order establishing an appropriate period for discovery and directing the parties to file statements of fact and argument in accordance with the Board's modified procedure rules.

Respectfully submitted,

RICHARD R. WILSON, P.C.

By: 
Richard R. Wilson, Esq.
Attorney for Maumee & Western
Railroad Co. and RMW Ventures,
LLC

Date: June 4, 2003

ROTH, BLAIR, ROBERTS, STRASFELD & LODGE

A LEGAL PROFESSIONAL ASSOCIATION

DANIEL B. ROTH
RICHARD B. BLAIR
JAMES E. "TED" ROBERTS
STUART A. STRASFELD
THOMAS J. LODGE
DAVID S. BARBER
CHRISTOPHER P. LACICH*
SCOTT R. DEBONIS
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OSCAR A. STEPHENS
1888-1975
BENJAMIN F. ROTH
1894-1978
OF COUNSEL:
HERBERT H. PRIDHAM
RETIRED:
EDWARD ROBERTS
JERRY O. STEPHENS

COLUMBIANA COUNTY OFFICE
11 SOUTH MAIN STREET
COLUMBIANA, OHIO 44408-1306
TELEPHONE (330) 482-3825

May 27, 2003

Geri M. Smith, Clerk
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION
1716 Spielbusch Avenue
Toledo, OH 43624

RE: *City of Napoleon, Ohio v. Maumee and Western Railroad, LLC, et al*

Dear Ms. Smith:

Enclosed herein please find the following:

1. Civil Cover Sheet.
2. Our check in the amount of \$150.00 representing the filing fee.
3. Notice of Removal with a copy of Summons and Complaint attached.
4. Notification of Filing of Notice of Removal.
6. A copy of the original Complaint.

Very truly yours,

ROTH, BLAIR, ROBERTS, STRASFELD & LODGE

Stuart A. Strasfeld

SAS/plm
Enclosures

c: Clerk of Court
HENRY COUNTY, OHIO

David M. Grahn, Napoleon City Law Director

IN THE UNITED STATES DISTRICT COURT OF THE
NORTHERN DISTRICT OF OHIO,
WESTERN DIVISION

City of Napoleon, Ohio	)	Civil Action No. _____
	)	
Plaintiff	)	Judge _____
	)	
v.	)	
	)	
MAUMEE and WESTERN	)	
RAILROAD, LLC, ET AL	)	NOTICE OF REMOVAL
	)	
Defendants	)	

Now come the Defendants, Maumee and Western Railroad, LLC, Maumee & Western Railroad Corp., and RMW Ventures, LLC, by and through their attorneys, ROTH, BLAIR, ROBERTS, STRASFELD & LODGE, and pursuant to 28 U.S.C. §§ 1441 and 1446, remove this case to the United States District Court for the Northern District of Ohio, Western Division, on the following grounds:

1. On May 16, 2003 a civil action was commenced by the City of Napoleon in the Court of Common Pleas, Henry County, Ohio, Case No. 03 CV 087, seeking to appropriate certain property by way of easement (of right-of-way) for public purposes. A copy of the Summons and Complaint are attached hereto as Exhibit "A" and hereby made a part hereof. This Notice of Removal is being filed within thirty (30) days of the service of the Petition for Appropriation as provided by 28 U.S.C. §1446(b).

2. Defendant, Maumee & Western Railroad Corp., is an Indiana Corporation licensed to do business in the State of Ohio. Maumee & Western Railroad Corp. engages in business as a common carrier railroad along a rail line that runs approximately fifty-one (51) miles from a point of interchange with the Norfolk Southern Railroad at Woodburn, Indiana to east of Liberty Center,

Liberty Township, Henry County, Ohio. Maumee & Western Railroad Corp. holds a valid Certificate of Public Convenience and Necessity from the Surface Transportation Board.

3. Defendant, RMW Ventures, LLC, is an Indiana Limited Liability Company, that acquired the rail line and associated real estate, improvements, and appurtenances, pursuant to Exempt Merger and Control Authorization issued by the Surface Transportation Board on March 10, 1998 in STB Finance Docket Nos. 33541 and 33565. RMW Ventures, LLC leases the rail line to the Maumee & Western Railroad Corp. and retains a residual common carrier rail service obligation for the line.

4. As noted in its Petition for Appropriation, Plaintiff is seeking to acquire an at-grade crossing over the Maumee & Western Railroad Corp. line in Napoleon, Ohio. As further noted in Exhibit "A" to Plaintiff's Petition, the City of Napoleon seeks to appropriate a **"fee simple interest and/or right-of-way"** along and across the railroad right-of-way owned by RMW Ventures, LLC, and leased to and operated by Maumee & Western Railroad Corp. for the following purposes: **"(a) to open and/or extend streets; (b) to allow for construction and maintaining of sewers and drains; (c) to allow for the placement and maintenance of public utilities, including natural and/or artificial gas lines, electric lines, and lighting and for supplying the product thereof; (d) to allow for the protection of public buildings and their environs and the usefulness of public grounds occupied by public buildings; (e) to allow for the providing of a water supply for the City and its inhabitants by the construction and/or maintaining of water pipes, and for the protection thereof; and (f) to the extent permitted by law, to promote economic development and/or to allow for the placement and maintenance of other public utilities not specifically named in (c) above."**

5. The City of Napoleon's Petition for Appropriation presents a federal question which requires application of federal law to enforce exclusive federal jurisdiction over railroad rights-of-way. The ICC Termination Act of 1995, 49 U.S.C. §10101, et seq., contains an express preemption clause that provides:

"Except as otherwise provided in this part, the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law."
49 U.S.C. §10501(b)(2).

The Act grants exclusive jurisdiction to the Surface Transportation Board over:

- (1) *Transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and all operating rules), practices, routes, services, and facilities of such carriers; and*
- (2) *The construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State. 49 U.S.C. §10501(b)(1) & (2).*

"Transportation" as used in §1050(b)(1) is defined very expansively in the ICC Termination Act to include:

- (A) *A locomotive, car, vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, by rail, regardless of ownership or an agreement concerning use; and*
- (B) *Services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property. 49 U.S.C. §10102(9)(A) & (B).*

"... it is clear to the Court that Congress intended the preemptive net of the ICC Termination Act to be broad by extending exclusive jurisdiction to the STB over anything included within the general and all inclusive term "transportation by rail carrier." CSX Transportation, Inc. v. Georgia Public Service Commission, 944 F. Supp. 1573 (N.D. Ga. 1996).

6. The ICC Termination Act of 1995 expressly preempts the use by the City of Napoleon of the eminent domain procedures contained in Ohio Revised Code §§ 163.01 to 163.22 to appropriate rail lines and railroad property. Wisconsin Central, Ltd. v. The City of Marshfield, 160 F. Supp. 2d 1009 (2000 U.S. Dist. LEXIS 10570). "In using State law to condemn the track, Defendant is exercising control - - the most extreme type of control - - over rail transportation as it is defined in §10102(9) ... the City is impermissibly attempting to subject to State law

ROTH, BLAIR, ROBERTS,
STRASFELD & LODGE
LEGAL PROFESSIONAL ASSOCIATION

CITY CENTRE ONE
FEDERAL PLAZA EAST, SUITE 800
YOUNGSTOWN, OHIO
44503

TELEPHONE: (330) 744-6211

Wherefore, Defendants respectfully request that this matter be removed from the Court of Common Pleas of Henry County, Ohio to the Federal District Court for the Northern District of Ohio, Western Division.

Respectfully submitted,

ROTH, BLAIR, ROBERTS, STRASFELD & LODGE



Stuart A. Strasfeld, Esq. (Reg. #0012399)
600 City Centre One, 100 Federal Plaza East
Youngstown, OH 44503-1893

Attorney for Defendants,
Maumee and Western Railroad, LLC,
RMW Ventures, LLC, and
Maumee & Western Railroad Corporation

Telephone: (330) 744-5211
Facsimile: (330) 744-3184
E-mail: sstrasfeld@roth-blair.com

ROTH, BLAIR, ROBERTS,
STRASFELD & LODGE

LEGAL PROFESSIONAL ASSOCIATION

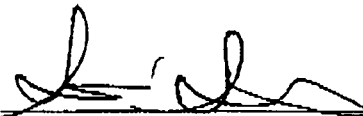
CITY CENTRE ONE
FEDERAL PLAZA EAST SUITE 800
YOUNGSTOWN, OHIO
44503

TELEPHONE: (330) 744-5211

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of May 2003 I did serve a true copy of the foregoing **Notice of Removal** on the attorney of record for the **City of Napoleon** in the above entitled action by causing the same to be placed in the United States Mail, Postage Prepaid, and addressed to **David M. Grahn, Napoleon City Law Director, 255 West Riverview, Napoleon, Ohio 43545.**

A true copy of the foregoing **Notice of Removal** has also been served on the Clerk of Courts for the Court of Common Pleas, Henry County, Ohio by causing the same to be placed in the United States Mail, Postage Prepaid, and addressed to **Clerk of Courts, Henry County, Ohio, 660 North Perry Street, Napoleon, Ohio 43545.**



Stuart A. Strasfeld, Esq.
ROTH, BLAIR, ROBERTS, STRASFELD & LODGE
Youngstown, OH 44503-1893

Attorney for Defendants

ROTH, BLAIR, ROBERTS,
STRASFELD & LODGE

A LEGAL PROFESSIONAL ASSOCIATION

CITY CENTRE ONE
FEDERAL PLAZA EAST, SUITE 800
YOUNGSTOWN, OHIO
44602

TELEPHONE: (330) 744-8211

IN THE UNITED STATES DISTRICT COURT OF THE
NORTHERN DISTRICT OF OHIO,
WESTERN DIVISION

City of Napoleon, Ohio

Plaintiff

v.

MAUMEE and WESTERN
RAILROAD, LLC, ET AL

Defendants

Civil Action No. _____

Judge _____

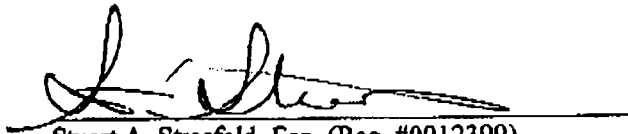
NOTIFICATION OF FILING
OF NOTICE OF REMOVAL

TO: David M. Grahm, Napoleon City Law Director
255 West Riverview
Napoleon, OH 43545

PLEASE TAKE NOTICE that Maumee and Western Railroad, LLC, Maumee & Western Railroad Corp., and RMW Ventures, LLC, have this date filed a Notice of Removal of this action to the Office of the Clerk of the United States District Court for the Northern District of Ohio, Western Division. A copy of the Notice is attached hereto.

You are further advised that Maumee and Western Railroad, LLC, Maumee & Western Railroad Corp., and RMW Ventures, LLC, have also filed a copy of the Notice with the Clerk of Court, Court of Common Pleas, Henry County, Ohio, thus effecting removal under 28 U.S.C. §§ 1441 and 1446.

Respectfully submitted,
ROTH, BLAIR, ROBERTS, STRASFELD & LODGE



Stuart A. Strasfeld, Esq. (Reg. #0012399)
600 City Centre One, 100 Federal Plaza East
Youngstown, OH 44503-1893

Attorney for Defendants,
Maumee and Western Railroad, LLC,
RMW Ventures, LLC, and
Maumee & Western Railroad Corporation

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Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34354

**EMERGENCY PETITION OF MAUMEE & WESTERN RAILROAD
CORPORATION AND RMW VENTURES, L.L.C. FOR
DECLARATORY ORDER - CONDEMNATION OF
MAIN LINE TRACKS BY THE CITY OF NAPOLEON, OHIO**

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

Filed on Behalf of Maumee & Western
Railroad Corporation and RMW Ventures,
L.L.C.

By: Richard R. Wilson, Esq.
P.A. ID #25661
127 Lexington Avenue, Suite 100
Altoona, PA 16601
(814) 944-5302
(814) 944-6978 fax

Date: June 4, 2003

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34354

**EMERGENCY PETITION OF MAUMEE & WESTERN RAILROAD
CORPORATION AND RMW VENTURES, L.L.C. FOR
DECLARATORY ORDER - CONDEMNATION OF
MAIN LINE TRACKS BY THE CITY OF NAPOLEON, OHIO**

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

Petitioners, by and through their attorney, Richard R. Wilson, P.C., request that City of Napoleon ("City") answer fully, under oath and in writing the following interrogatories and produce the requested documents within thirty (30) days after service of these interrogatories and requests for production in accordance with the Surface Transportation Board's ("STB") Rules of Practice. These Interrogatories and Document Production Requests are deemed to be continuing.

I. DEFINITIONS

As used herein, the following words and terms shall have the following definitions.

A. The words "identify", "identity", and "identification" when used with respect to a person mean to state the full name and present or last known residence and business address of such person, and his present or last known job title, and the name and address of his present or last known employer.

B. The words "identify", "identity", and "identification" when used with respect to a document mean to describe the document by date, subject matter, the name of each person who wrote, signed, initialed, dictated or otherwise participated in the preparation of same, the name and address of each addressee (if any) and the name and address of each person who has possession custody or control of the Respondent, state the date and manner of its disposition.

C. The word "identify", when used with respect to an act, occurrence, statement or conduct, including an alleged violation or breach (hereinafter collectively called an "act"), means to: (1) describe the substance of each event constituting such act and to state the date when such act occurred; (2) identify each person participating in such act; (3) identify each person present when such act occurred; (4) state whether the occurrence of such act was recorded or described in a document; (5) state whether such document, or a copy thereof, now exists; and (6) identify the person presently having possession, custody or control of each such document.

D. "Describe" and/or "state" means to set forth fully and unambiguously every fact relevant to the answer called for by the interrogatory, of which you, your agents, your attorney, or representatives have knowledge.

E. The word "person" means any entity and includes, but is not limited to, any natural person (male or female), joint owner, association, company, partnership, joint venture, corporation, trust or estate.

F. The word "you" or "your" or City means or refers to Respondents in this action.

G. The word "project" shall mean the event or occurrence giving rise to the claims asserted by Petitioner against Respondent in this proceeding.

H. When reference is made in an interrogatory or a response to a document in the possession or control of Respondent, a copy of the document shall be produced as part of the Respondent's response.

Interrogatory 1

Describe the boundaries of and all access roads serving the proposed industrial park and the current and planned capacity and current and projected average daily traffic counts for each of these roads. Produce copies of all documents in the possession of the City related to same.

ANSWER:

Interrogatory 2

Identify each person with personal knowledge regarding the information requested in Interrogatory 1.

ANSWER:

Interrogatory 3

Describe and produce all traffic studies and/or analysis conducted by or on behalf of the City for the proposed industrial park.

ANSWER:

Interrogatory 4

Identify each person with personal knowledge regarding the information requested in Interrogatory 3.

ANSWER:

Interrogatory 5

Describe and produce all documents related to any rail corridor safety diagnostic reports conducted by the City related to the Maumee & Western Railroad line.

ANSWER:

Interrogatory 6

Identify each person with personal knowledge regarding the information requested in Interrogatory 5.

ANSWER:

Interrogatory 7

Describe and produce copies of all documents related to rail facilities to be constructed within the proposed industrial park.

ANSWER:

Interrogatory 8

Identify each person with personal knowledge regarding the information requested in Interrogatory 7.

ANSWER:

Interrogatory 9

Describe and produce all documents related to each rail shipper which will locate or has indicated an interest in locating facilities in the industrial park.

ANSWER:

Interrogatory 10

Identify each person with personal knowledge regarding the information requested in Interrogatory 9.

ANSWER:

Interrogatory 11

Describe and produce copies of all documents related to plans or actions by the City to improve and/or pave local roads to and from the industrial park including Industrial Drive, Independence Drive, Riverview Avenue and Commerce Drive.

ANSWER:

Interrogatory 12

Identify each person with personal knowledge regarding the information requested in Interrogatory 11.

ANSWER:

Interrogatory 13

Describe and produce copies of documents related to plans or actions undertaken by or on behalf of the city to construct a bridge over the Maumee River to supplement or replace the Perry Street Bridge which would connect or form an intersection with Commerce Drive at Riverfront Avenue.

ANSWER:

Interrogatory 14

Identify each person with personal knowledge regarding the information requested in Interrogatory 13.

ANSWER:

Interrogator 15

Describe and produce all documents related to the determination by the City that an 80 foot wide easement was necessary for a 26 foot wide roadway over the Maumee and Western Railroad line.

ANSWER:

Interrogatory 16

Identify each person with personal knowledge regarding the information requested in Interrogatory 15.

ANSWER:

Interrogatory 17

Describe and produce all documents related to all public or private at grade crossings over the Maumee and Western Railroad line which exist within the City.

ANSWER:

Interrogatory 18

Identify each person with personal knowledge regarding the information requested in Interrogatory 17.

ANSWER:

Interrogatory 19

Describe and produce all documents related to each study or investigation undertaken by the City with respect to emergency vehicle access and response times via the proposed Commerce Drive as compared or contrasted with presently existing alternative roads serving the industrial park.

ANSWER:

Interrogatory 20

Identify each person with personal knowledge regarding the information requested in Interrogatory 19.

ANSWER:

Interrogatory 21

Describe and produce all documents related to the maximum occupancy of the industrial park and the average daily high and low traffic counts for the park at full occupancy over Commerce Drive, Riverview Avenue, Industrial Drive, and Independance Drive.

ANSWER:

Interrogatory 22

Identify each person with personal knowledge regarding the information requested in Interrogatory 21.

ANSWER:

Interrogatory 23

Describe and produce all documents related each and every fact or event which the City contends constitutes an emergency requiring condemnation of an 8,000 sq. ft. right-of-way across the property of Maumee and Western Railroad Company and RMW Ventures, LLC.

ANSWER:

Interrogatory 24

Identify each person with personal knowledge regarding the information requested in Interrogatory 23.

ANSWER:

Interrogatory 25

Describe and produce all documents related to all studies or investigations conducted by the City to identify the operational impact of the proposed Commerce Drive crossing on Maumee and Western Railroad Company.

ANSWER:

Interrogatory 26

Identify each person with personal knowledge regarding the information requested in Interrogatory 25.

ANSWER:

Interrogatory 27

Describe and produce copies of all documents related to the accident history at crossings within three miles east and west of the proposed Commerce Drive crossing for the last five years.

ANSWER:

Interrogatory 28

Identify each person with personal knowledge regarding the information requested in Interrogatory 27.

ANSWER:

Interrogatory 29

Describe and produce copies of all documents related to financial resources to be used in connection with the Commerce Street crossing and the Industrial Park project.

ANSWER:

Interrogatory 30

Identify each person with personal knowledge regarding the information requested in Interrogatory 29.

ANSWER:

Interrogatory 31

Describe and produce copies of all documents related to crossing plans and funding applications reviewed by the Ohio Department of Transportation and/or the Ohio Public Utility Commission or any other state agency with respect to the Commerce Drive crossing.

ANSWER:

Interrogatory 32

Identify each person with personal knowledge regarding the information requested in Interrogatory 31.

ANSWER:

•
Interrogatory 33

Describe and produce copies of all documents related to plans or drawings of the crossing facilities to be constructed by the City at the proposed Commerce Drive crossing including stop signs, cross bucks, signals, crossing gates or highway markers.

ANSWER:

Interrogatory 34

Identify each person with personal knowledge regarding the information requested in Interrogatory 33.

ANSWER:

Interrogatory 35

Describe and produce copies of all traffic studies performed by the City to identify whether or not traffic leaving the industrial park via Commerce Drive will cause stacking of vehicles across the railroad line at the Commerce Drive crossing.

ANSWER:

Interrogatory 36

Identify each person with personal knowledge regarding the information requested in Interrogatory 35.

ANSWER:

Respectfully submitted,

RICHARD R. WILSON, P.C.

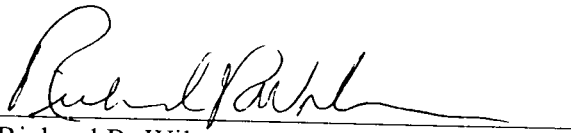
By: 
Richard R. Wilson, Esq.
Attorney for Maumee & Western Railroad
Co. and RMW Ventures, LLC

Date: June 4, 2003

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Petitioners First Set of Interrogatories and Request for Production of Documents to Respondent was served this 4th day of June, 2003, by first class, United States mail, postage prepaid, upon the following:

Jeffery O. Moreno
Michael H. Higgins
Thompson Hine, LLP
1920 N. Street, N.W.
Suite 800
Washington, DC 20036


Richard R. Wilson

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion of Maumee & Western Railroad Corporation and RMW Ventures, L.L.C. for Procedural Order was served this 4th day of June, 2003, by first class, United States mail, postage prepaid, upon the following:

Jeffery O. Moreno, Esq.
Michael H. Higgins, Esq.
Thompson Hine, LLP
1920 N. Street, N.W., Suite 800
Washington, DC 20036

A handwritten signature in black ink, appearing to read "Richard R. Wilson", written over a horizontal line.

Richard R. Wilson