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March 26, 2004

Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Room 700  
Washington, D. C. 20423

ENTERED  
Office of Proceedings

MAR 26 2004

Part of  
Public Record



**RE:** Finance Docket No. 34486, *Ohio Valley Railroad Company—Acquisition and Operation Exemption—Harwood Properties, Inc.*

Dear Secretary Williams:

CSX Transportation, Inc. ("CSXT") is submitting comments on the above-entitled proceeding in order to provide the Surface Transportation Board (the "Board") with a more complete factual background. Although CSXT is not taking a position in this proceeding, at this time, CSXT respectfully requests the Board to closely review the actual proposal being made by the Ohio Valley Railroad Company ("OVR") to determine if it will actually become a common carrier, or will merely be a new entity providing a non-common carrier service.

OVR proposes to lease and operate over about 2.8 miles of private yard track (tracks 4 through 11) owned by Harwood Properties, Inc. in Harwood Yard, Evansville, IN (the "Yard Track"). CSXT's understanding is that the Yard Track serves only one customer, Mid America Locomotive & Car Repair, Inc. ("MALX"). According to OVR, MALX has asked OVR to establish common carrier operations in order to serve not only MALX, but also other unnamed shippers. CSXT understands that MALX is currently, and will be, the only shipper served by OVR from the Yard Track. In a letter dated March 18, 2004, OVR has represented to CSXT that it operates Harwood Yard today, but has not so notified the Board. It appears that OVR's operation today is the same as the operation OVR will be conducting if it obtains an exemption from the Board.

CSXT does not connect to OVR and is not involved in the lease transaction. OVR will connect with only the Indiana Southwestern Railroad Company ("ISWR") at both ends of

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the Yard Track. To the best of CSXT's knowledge, OVRP does not have trackage rights, or any other right to operate over ISWR.

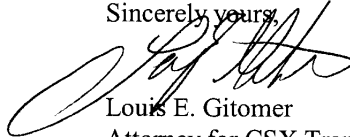
OVRP has made certain operating proposals to CSXT, which CSXT does not now find attractive. OVRP does not connect with CSXT and CSXT does not want to be drawn into, or a party to, a dispute concerning access over the ISWR by the OVRP. One of OVRP's proposals that CSXT has rejected is interchange and operation over CSXT's heavily used main line between Chicago and Nashville. At this time CSXT will not agree to provide OVRP operating rights on the Chicago to Nashville main line for any purpose, including OVRP using the Chicago to Nashville main line for interchange or access to interchange at a location on CSXT. If and when OVRP and ISWR have an agreement, CSXT contends that any interchange between CSXT and OVRP should take place in Harwood Yard. However, again, CSXT does not wish to become embroiled in any dispute (or negotiations) between OVRP and ISWR over OVRP's access to and use of ISWR's track outside Harwood Yard. CSXT also does not intend independently to seek rights to operate over ISWR.

CSXT is concerned that OVRP's operation not disrupt CSXT's operations or relations with other carriers and customers. To further that goal, CSXT has made these concerns public and believes that it is important for the Board to be aware of all of the facts surrounding OVRP's proposed common carrier operations.

Enclosed are the original and 10 copies of this letter. Please time and date stamp the additional copy of this letter, and return it to our messenger. Thank you for your assistance.

If you have any questions, please call or email me.

Sincerely yours,



Louis E. Gitomer  
Attorney for CSX Transportation, Inc.

cc: Mr. Wilson (overnight delivery)