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**American Short Line and
Regional Railroad Association**

The Voice of America's Independent Railroads

July 13, 2006

Honorable Vernon Williams
Secretary
Surface Transportation Board
Room 715
1925 K Street N.W.
Washington, D.C. 20423

Re: STB Ex Parte No. 575: Review of Rail Access and Competition Issues – Renewed
petition of the Western Coal Traffic League

SUMMARY OF ROBERT DINGMAN TESTIMONY

Dear Secretary Williams:

Below is a summary of the testimony Robert Dingman intends to give at the above
referenced hearing on July 27, 2006 as required by the Board's June 1, 2006 Decision:

The so-called "Paper Barrier" is a legitimate part of the bargaining process when a selling or leasing carrier by rail chooses to remove itself from the direct operation of a line segment or any portion of its service territory. If the selling/leasing carrier retains a franchise in the territory served by the line, and if it retains an investment in the assets formerly used to provide the direct service, the paper barrier is no more than a form of deferred compensation in a structured transaction. The removal or modification of the paper barrier by parties other than the parties to the bargaining process would constitute confiscation of property without just compensation.

However, the original conveyance of a franchise to serve a territory for the public convenience and necessity carried with it the obligation to serve in a convenient fashion, the necessary requirements of the public, represented by the agency granting the franchise. The purchaser or lessee has made an investment in operation of the property in reliance on the continuation of quality connecting service by the seller/lessor and a right to effectively market the property. Frequently, the public has continued to grant franchise rights while permitting the seller/lessor to remove itself from direct service of the property without an abandonment process. Even in cases where an abandonment process was contemplated, the intent of the NERSA process,

and other post-Staggers Act legislation, was to require sellers to divest themselves of non-remunerative property in a fashion that permitted a purchaser/lessee to obtain certification from the ICC/STB, and connection, interchange and service from the divesting carrier.

The purchaser/lessee, intending to provide rail freight service, should not be required to purchase or lease a divested or transitioned property with no guarantees of service and marketing (principally rate-making) for the acquired property. In addition, the public frequently has expressed its will by investing in the purchase, rehabilitation or operation of the acquired property.

Public policy, as implemented by the Surface Transportation Board, clearly requires oversight of the transportation infrastructure. Included in the oversight, should be, its operation, its marketing and the reasonableness of the contracts between connecting carriers. This oversight is especially necessary when contracts are entered into by parties of vastly disproportionate economic circumstance. The objective of the STB must be to achieve the goals embodied in the interstate commerce clause of the United States Constitution.

The Oil Creek & Titusville Lines intends to submit, in further testimony, some specific recommendations for remedies and constraints that should be imposed on line divestiture transactions to protect the public interest and to promote effective use of rail transportation as a matter of public policy.

Respectfully,



Keith T. Borman
Vice President & General Counsel

cc: Robert Dingman