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ENTERED
Office of Proceedings
February 12, 2014
Part of
Public Record

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February 12, 2014

VIA E-FILING

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

RE: *James Valley Grain, LLC v. BNSF Railway Company, STB Docket No. 42139*

Dear Ms. Brown:

Enclosed on behalf of the Red River Valley & Western Railroad Company ("RRVW") please find a copy of RRVW's petition to intervene and participate as a party of record in the above-referenced proceeding. I understand, based upon an examination of the Surface Transportation Board's rules, that there is no filing fee applicable to intervention requests under the agency's formal complaint procedures.

Please let me know if you require any additional information to process the following petition.

Respectfully submitted,



William A. Mullins
Attorney for Red River Valley & Western
Railroad Company

cc: Parties of Record

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

STB Docket No. 42139

**JAMES VALLEY GRAIN, LLC
v.
BNSF RAILWAY COMPANY**

**PETITION TO INTERVENE OF
RED RIVER VALLEY & WESTERN RAILROAD COMPANY**

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**Attorneys for Red River Valley & Western
Railroad Company**

Dated: February 12, 2014

**BEFORE THE
SURFACE TRANSPORTATION BOARD
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**JAMES VALLEY GRAIN, LLC
v.
BNSF RAILWAY COMPANY**

**PETITION TO INTERVENE OF
RED RIVER VALLEY & WESTERN RAILROAD COMPANY**

Pursuant to the procedures at 49 C.F.R. § 1112.4, and for the reasons set forth herein, Red River Valley & Western Railroad Company (“RRVW”) hereby petitions for leave to intervene in the above-docketed proceeding before the Surface Transportation Board (the “Board”) and requests to participate as a party of record.¹

It is unfortunate that this dispute has now risen to the level of Board action; RRVW was hopeful that this dispute could have been resolved through negotiation. However, RRVW shares JVG’s frustration over the purposeful evasion by BNSF Railway Company (“BNSF”) of its obligations and responsibilities, which BNSF has undertaken in an effort to reduce the revenues of RRVW and enhance the revenues of BNSF – all at the expense of the shipper.

¹ Because this proceeding has not yet been “set for modified procedure,” 49 C.F.R. § 1112.4(a), it is not clear whether RRVW has to formally seek to intervene at this stage of the proceeding or whether it could simply submit a notice that it desired to be a party of record. Nevertheless, in an abundance of caution, RRVW submits this petition to intervene pursuant to 49 C.F.R. § 1112.4. Granting permission to intervene at this time, pending Board initiation of a proceeding under its modified procedures, is justifiable because James Valley Grain, LLC (“JVG”) is seeking expedited Board action on its complaint. If RRVW’s petition is premature, then RRVW respectfully requests that this instant filing be made a part of the record, and that its intervention petition be acted upon at the appropriate later date.

In keeping with section 1112.4, RRVW respectfully submits that its petition to intervene should be granted for the following reasons:

- RRVW's intervention request has been filed very early in proceeding, and RRVW's involvement will not unduly disrupt the subject proceeding (including any to-be-prescribed schedule for the filing of verified statements or additional filings, if any).
- As the only railroad capable of providing rail service to JVG at its proposed Verona, North Dakota facility, RRVW has a strong interest in this proceeding. Like JVG, RRVW desires to have BNSF adhere to and comply with (1) its long-standing practice of holding itself out to the public as a common carrier for the provision of direct service (via a single origin-destination through route, with RRVW serving in its traditional and agreed-upon role as a handling carrier) to all existing and future customers located on RRVW's lines, including Verona; and (2) its commitment to offer customers located on RRVW's lines non-discriminatory through rates under the same conditions BNSF offers to similarly situated customers located on BNSF's lines. As such, RRVW's interests are coterminous with those of JVG, and RRVW's intervention will not unduly broaden the issues raised in this proceeding.
- RRVW also believes that BNSF must abide by its statutory duty to quote common carrier rates, refrain from engaging in unreasonable practices that violate ICCTA, and comply with the fiduciary duties BNSF owes to RRVW as holder of RRVW's power of attorney to price all traffic that originates or terminates on RRVW and is handled on an interline basis with BNSF. BNSF's refusal to provide JVG shuttle rates, in violation of its fiduciary duty, has harmed both RRVW and JVG.
- RRVW supports the relief that JVG has requested in this proceeding.

Regrettably, RRVW now shares JVG's views that the time has come to submit this lingering dispute for third-party resolution.² BNSF cannot be allowed to continue to engage in rate practices (including the failure to respond adequately to rate requests) that effectively foreclose JVG from achieving service efficiencies that facilitate North Dakota grain farmers' participation in global markets.

² Indeed, in that regard, RRVW encourages the Board to take appropriate action by instituting a proceeding and also welcomes STB-sponsored mediation or arbitration to resolve the issues presented in JVG's complaint.

As a party with an immediate and unmistakable interest in the outcome of this proceeding, RRVW respectfully petitions for leave to intervene here. As explained above, RRVW's intervention will not be disruptive to the proceeding, will not unduly broaden the issues raised in this proceeding, and will allow all parties with an interest in the dispute to resolve the issues in one forum without the need of piecemeal, and often times, contradictory forums.

Respectfully submitted,

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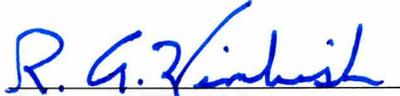
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Attorneys for Red River Valley & Western
Railroad Company

Dated: February 12, 2014

CERTIFICATE OF SERVICE

I have this day served a copy of the foregoing Petition to Intervene of Red River Valley & Western Railroad Company upon all parties of record by U.S. mail in a properly-addressed envelope with adequate first-class postage thereon prepaid, or by other, more expeditious means.



Robert A. Wimbish
Attorney for Red River Valley & Western
Railroad Company

Dated: February 12, 2014