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October 31, 2014

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D. C. 20423

236943
ENTERED
Office of Proceedings
October 31, 2014
Part of
Public Record

Re: Docket No. NOR 42140, Colorado Wheat Administrative Committee,
Colorado Association of Wheat Growers, Colorado Wheat Research
Foundation and KCVN, LLC v. V and S Railway, LLC

Dear Ms. Brown:

In defiance of 49 C.F.R. § 1104.13(c), Complainant have filed an impermissible reply to the Reply of V and S Railway, LLC, filed October 30, 2014. The reply to the reply offers nothing that would afford the Board a more complete record; it merely is an attempt to reiterate arguments which Complainants made at great length in their Complaint Alleging Violations of 49 U.S.C. § 10903 and § 11101 and their Motion for Emergency and Preliminary Injunctive Relief, filed October 28, 2014.

The additional pages of the transcript of the hearing of the U.S. District Court for the District of Colorado held on October 24, 2024, appended to the reply to the reply renders it even more evident that the Judge Shaffer understood full well that the allegations of illegality of the removal of rail and track materials from the segment of the Towner Line which the Board had allowed V and S Railway, LLC to cease serving were completely unfounded.

In the reply to the reply, Complainants allege that mention of the counter offer which A&K Railroad Materials, Inc. had been made in response to the offer which KCVN, LLC made July 28, 2014, to purchase the Towner Line for \$10 million violated Rule 408 of the Federal Rules of Civil Procedure. It was the Complainants that were the ones that first included a reference to the offer on page 8 of their Complaint, and thus it was perfectly permissible for V and S Railway, LLC in its Reply to point out that KCVN, LLC had received a counter offer.

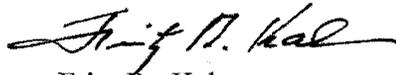
Ms. Cynthia T. Brown
October 31, 2014
Page Two

Finally, in their reply to reply, Complainants fault V and S Railway, LLC for offering arguments in opposition to their Complaint on the basis of which V and S Railway, LLC respectfully asked the Board to dismiss the Complaint. It was the Complainants who filed the Complaint, and, pursuant to 49 C.F.R. § 1104.13(a), it was altogether appropriate for V and S Railway, LLC to reply. That it chose to file its Reply in two days' time rather than twenty days does not render it an improper filing.

Complainants have failed to demonstrate that the Board needs to enter an order, pursuant to 49 U.S.C. § 721(b)(4) to prevent their suffering irreparable harm, and their Motion, accordingly, should be denied.

I certify that copies of this letter will have been served by me this day upon the Complainants by sending copies to their representatives via email or prepaid first-class mail.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Fritz R. Kahn". The signature is fluid and cursive, with a long horizontal stroke at the end.

Fritz R. Kahn

Cc: Thomas W. Wilcox, Esq.
Mr. Terry Whiteside