

SURFACE TRANSPORTATION BOARD

DECISION

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

Decided: June 24, 2015

On October 28, 2014, the Colorado Wheat Administrative Committee, the Colorado Association of Wheat Growers, the Colorado Wheat Research Foundation, and KCVN, LLC (collectively, the Colorado Interests) filed a complaint alleging that V and S Railway, LLC (V&S), has violated 49 U.S.C. §§ 11101 and 10903 by removing certain track and related assets from a segment (the Western Segment) of V&S's 121.9-mile line known as the Towner Line.¹ Concurrently, the Colorado Interests also filed a motion seeking, among other things, a preliminary injunction.

In a decision served on May 7, 2015, the Board granted the preliminary injunction in part and ordered the parties to confer regarding discovery matters and provide a report setting forth a proposed procedural schedule.²

V&S submitted a proposed procedural schedule on June 12, 2015. It asks for a schedule under which V&S would serve its initial discovery requests on or before July 1; the Colorado Interests would respond on or before July 22, 2015; the Colorado Interests' opening evidence would be due 30 days after discovery is complete; V&S would have 45 days to file its reply; and the Colorado Interests would have 30 days to file a rebuttal.

Also on June 12, 2015, the Colorado Interests submitted a different proposed schedule, under which discovery would be completed in 60 days; the Colorado Interests' opening evidence would be due in 90 days; V&S's reply evidence would be due in 120 days; and the Colorado Interests' rebuttal evidence would be in 150 days.

¹ The Towner Line extends between milepost 747.5 near Towner, Colo., and milepost 869.4 near NA Junction. The Western Segment of the Towner Line extends between milepost 808.3 near Haswell, Colo., and milepost 868.5, which is approximately 0.9 miles short of the Towner Line's western terminus at milepost 869.4.

² See 49 C.F.R. § 1111.10(a).

A date for the completion of discovery is useful here, and only the Colorado Interests' schedule has one. Moreover, it is reasonable to allow 30 days for the preparation of each round of evidence. Therefore, the following procedural schedule will govern this proceeding:

August 24, 2015 Completion of discovery by both parties.
September 23, 2015 Colorado Interests' opening evidence due.
October 23, 2015 V&S's reply evidence due.
November 23, 2015 Colorado Interests' rebuttal evidence due.

It is ordered:

1. The parties shall comply with the procedural schedule set forth in this decision.
2. This decision is effective on the date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.