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May 26, 2016

By E-Filing

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

Re: *Docket No. FD 36005 – KCVN, LLC and Colorado Pacific Railroad, LLC –
Feeder Line Application – Line of V AND S Railway, LLC, Located in
Crowley, Pueblo, Otero and Kiowa Counties, Colorado*

Dear Ms. Brown:

This letter replies to one aspect of the Motion of V&S Railway, LLC (“V&S”) for Issuance of Third-Party Subpoenas filed in this proceeding yesterday. Specifically, KCVN, LLC and Colorado Pacific Railroad, LLC (“Applicants”) strongly oppose the request by V&S that the Board substantially shorten, to June 1, 2016, the time period allowed by the Board’s rules to reply to the merits of the Motion. Motion at 5.¹ Significantly, because V&S elected to wait until late in the day on May 25 to file and serve its Motion, and due to the intervening Memorial Day Holiday weekend, granting V&S’s request would mean that Applicants and the non-parties listed in the motion would have only around 3.5 business days to review the Motion and prepare and file their responses.

V&S’s request is baseless. There is no emergency and there are no other special circumstances that warrant such extreme action by the Board. On the contrary, the only reason given by V&S for its request is that the timing of the Motion’s filing means there is

¹ V&S has also requested that the Board convene a “telephonic hearing” on June 2, 2016.

GKG Law, P.C.

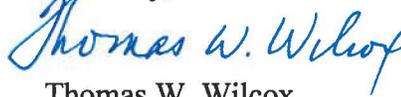
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now a “short time available before the [June 14, 2016] due date for comments on the Application.” *Id.* However, as demonstrated in Applicants’ Reply to V&S’s Motion for Extension of Time for Filing Comments, this is a situation entirely created by V&S alone through its decision to wait until the 11th hour to even attempt to pursue the discovery of third parties. Indeed, after filing its motion to extend the comment deadline on May 19, 2016, V&S waited nearly another full week to file its Motion.

It therefore would be patently unfair for the Board to accede to V&S’s dilatory actions by placing on Applicants and non-parties the burden and disruption that substantially shortening the time period allowed by the Board’s regulations to reply to V&S’s Motion would impose. Moreover, due to commitments of counsel for Applicants to be out of the office and unavailable for some of the 20-day reply period allowed by the Board’s rules (June 7, and 9-14), it is imperative that Applicants be allowed the full reply period to prepare their substantive opposition to the Motion.

For the foregoing reasons the Board should reject V&S’s request to require substantive responses to the Motion for Issuance of Third Party Subpoenas be filed on June 1, 2016. Do not hesitate to contact me with any questions or if you need additional information.

Sincerely,



Thomas W. Wilcox
*Attorney for KCVN, LLC and Colorado Pacific
Railroad, LLC*

Cc: Counsel for V&S Railway, LLC (via email)