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Office of Proceedings
June 2, 2016
Part of
Public Record**

June 2, 2016

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: KCVN, LLC and Colorado Pacific Railroad, LLC -
Feeder Line Application -
In Crowley, Pueblo, Otero and Kiowa Counties, Colorado
STB Docket No. FD 36005

Dear Ms. Brown:

V and S Railway, LLC ("V&S") requests that the Board accept this reply to the letter filed by Kansas and Oklahoma Railroad ("K&O") in response to the V&S Motion to shorten the time periods for responses and to issue subpoenas to third parties. Although replies to a reply are generally not permitted, V&S requests that the Board accept this short reply in the interest of having a complete record. Allowance of the reply will not prejudice any parties, and will not unduly prolong the proceeding. *See City of Woodinville – Petition for Declaratory Order*, STB Docket No. FD 35905 (served October 7, 2015), slip op. at 4.

While it is true as K&O notes that it is not technically a party to this proceeding, it has been named as the prospective operator of the Towner Line if the feeder line application were to be granted, it has provided a verified statement in support of the application, and it has provided the applicants with the three year operating plan, and the costs of maintenance and operation. A review of the proposed subpoena will demonstrate that it is narrowly tailored to the information supplied by K&O.

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K&O (and the applicants) point to the date the feeder line application (including the initial K&O verified statement) was filed with the Board (March 18, 2016) in an attempt to show that V&S has been dilatory in seeking discovery. However, K&O ignores that the application was not accepted by the Board until April 15, 2016, that the acceptance required that supplemental information (including details of the operating plan, and the costs of maintenance and operation provided by K&O) be filed by April 29, 2016, and that the supplemental information was not available to V&S until the Board entered a protective order on May 16, 2016. V&S filed its motion to extend the procedural schedule three days later (May 19), served discovery on the applicants a day after that, and file the motion seeking third party subpoenas just five days later (May 25). Accordingly, V&S has not been dilatory in seeking the third party discovery, and the shortened time periods for responses are justified by the current procedural schedule.¹

Respectfully,

CLARK HILL PLC



Eric M. Hocky

EMH/e

cc: All persons shown on the attached certificate of service

¹ If the Board were to extend the procedural schedule, then the time for responses could be correspondingly extended.

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of June, 2016, I served a copy of the foregoing letter by email on the following:

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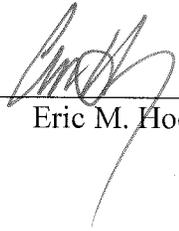
and by FEDEX (and by email where indicated) on the following:

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By: 

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