

SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N.W. 235474
WASHINGTON, D.C. 20036-3003

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PETER A. PFOHL
DANIEL M. JAFFE
STEPHANIE A. ARCHULETA

OF COUNSEL
DONALD G. AVERY

ENTERED
Office of Proceedings
February 14, 2014
Part of
Public Record

TELEPHONE:
(202) 347-7170

FAX:
(202) 347-3619

WRITER'S E-MAIL:
dmj@sloverandloftus.com

February 14, 2014

BY E-FILING

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0111

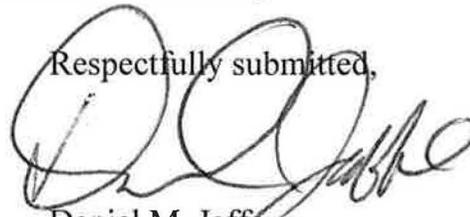
Re: Canadian Pacific Railway Company, et al. – Control –
Dakota, Minnesota & Eastern Railroad Corp., et al.,
Finance Docket No. 35081 (Sub-No. 2)

Dear Ms. Brown:

Enclosed for filing in the above-referenced docket, please find an e-filed copy of the Motion to Modify the Procedural Schedule of the State of South Dakota Acting By and Through its Department of Transportation.

Thank you for your attention to this matter.

Respectfully submitted,



Daniel M. Jaffe
Attorney for Movant

cc: Parties of Record
Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

CANADIAN PACIFIC RAILWAY)	
COMPANY, ET AL. – CONTROL –)	Finance Docket No. 35081 (Sub-No. 2)
DAKOTA, MINNESOTA & EASTERN)	
RAILROAD CORP., ET AL.)	
)	

**MOTION TO MODIFY THE PROCEDURAL SCHEDULE OF THE STATE
OF SOUTH DAKOTA ACTING BY AND THROUGH ITS DEPARTMENT
OF TRANSPORTATION**

By: Karla L. Engle
Special Assistant Attorney General
South Dakota Department of
Transportation
700 E. Broadway Ave.
Pierre, SD 57501-2586
(605) 773-3262

John H. LeSeur
Daniel M. Jaffe
Stephanie M. Archuleta
Slover & Loftus LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: February 14, 2014

Attorneys for Movant

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

CANADIAN PACIFIC RAILWAY)	
COMPANY, ET AL. – CONTROL –)	Finance Docket No. 35081 (Sub-No. 2)
DAKOTA, MINNESOTA & EASTERN)	
RAILROAD CORP., ET AL.)	
)	

**MOTION TO MODIFY THE PROCECURAL SCHEDULE OF THE STATE
OF SOUTH DAKOTA ACTING BY AND THROUGH ITS DEPARTMENT OF
TRANSPORTATION**

The State of South Dakota acting by and through its Department of Transportation (“South Dakota” or “State”) files this motion asking the Board to issue an order modifying the procedural schedule by extending all dates by forty-five (45) days and in support hereof South Dakota states as follows:

1. The State filed a Petition with the Board on August 8, 2013 asking the Board to enforce the investment representations made by Canadian Pacific Railway Company (“CP”) in *Canadian Pacific Railway – Control – Dakota, Minnesota & Eastern Railroad*, FD 35081 (STB served Sept. 30, 2008). The State filed a supplement to its Petition on September 20, 2013.

2. In its decision served on December 20, 2013, the Board, on its own motion, adopted the following procedural schedule to address the State’s Petition:

February 18, 2014 (end of discovery); March 20, 2014 (Petition supplement due); April 21, 2014 (CP reply due).

3. The State respectfully requests that the Board extend the current schedule dates by forty-five (45) days, as follows: April 4, 2014 (end of discovery); May 5, 2014 (Petition supplement due); June 6, 2014 (CP reply due).

4. The State seeks this extension for the following reasons:

(i) The State served its discovery requests on January 10, 2014.

The State asked CP to provide responsive documents on a rolling basis. However, CP did not produce any responsive documents until February 12, 2014. The State needs additional time to review these materials and engage in any necessary follow-up requests or motions.

(ii) CP has objected to responding at all to many of the State's discovery requests. The State is filing a motion to compel today. The Board will need time to respond to that motion and the State will need additional time to review the answers and documents the Board orders CP to produce.

(iii) Even in the absence of the discovery issues, the State would need more than the time allotted under the present schedule to conduct a detailed audit of the information CP has produced to date.

(iv) The State's legislature is currently in session. The legislature convened on January 14, 2014 and runs through mid-March of 2014. This is a time of intense activity for State officials, including those who are working on the State's Petition. The requested schedule modification will extend all current schedule due dates beyond the

end of the current legislative session, thus affording State officials the additional time they need to participate meaningfully in the process the Board has directed the parties to follow.

5. The State respectfully requests that the Board modify the procedural schedule for the reasons set forth above.

Respectfully submitted,

By: Karla L. Engle
Special Assistant Attorney General
South Dakota Department of
Transportation
700 E. Broadway Ave.
Pierre, SD 57501-2586
(605) 773-3262

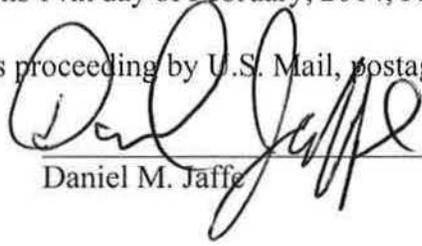
John H. LeSeur 
Daniel M. Jaffe
Stephanie M. Archuleta
Slover & Loftus LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: February 14, 2014

Attorneys for Movant

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of February, 2014, I served copies of the forgoing on all parties of record to this proceeding by U.S. Mail, postage prepaid.



Daniel M. Jaffe