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February 14, 2011

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

ENTERED
Office of Proceedings
FEB 14 2011
Part of
Public Record

Dear Ms. Brown:

This refers to STB Finance Docket No. 35459, V&S Railway, LLC—Petition for Declaratory Order—Railroad Operations in Hutchinson, Kansas, and to the letter of Hutchinson Salt Company, Inc. (“HSC”), Hutchinson Transportation Company, Inc. (“HTC”) and BNSF Railway Company (“BNSF”), filed February 11, 2011.

V&S Railway, LLC (“V&S”) apologizes that it appears to be prolonging the exchange of correspondence with HSC, HTC and BNSF, but V&S believes that their latest letter cannot go unanswered.

The entry of an appearance, even if filed within 20 days of the date of the filing of the Petition for Declaratory Order, does not constitute a reply or motion, as contemplated by 49 C.F.R. §1104.13(a).

In each of the Board proceedings cited in the letter of HSC, HTC and BNSF the petitioning party requested the Board to institute a proceeding for the receipt of evidence to determine the petition for declaratory order. See, the petitions for declaratory order in FD No. 35239, Allegheny Valley Railroad Company, filed April 23, 2009, FD No. 35324, Teck Metals Ltd., filed November 17, 2009; FD No. 35290, West Point Relocation, Inc., filed August 13, 2009.

In the instant proceeding V&S did little more than forward the Memorandum and Order of the United States District Court for the District of Kansas, filed December 20, 2010, in Case No. 08-1402 WEB, V&S Railway, LLC v. Hutchinson Salt Company, Inc., Hutchinson Transportation Company, Inc., and BNSF Railway Company, which posed the three questions within the Board’s competence which it asked be answered expeditiously by the Board.

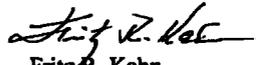
HSC, HTC and BNSF had ample opportunity in the District Court case to present the evidence upon which they place such importance, as, for example, the ownership of the land underlying all or part of the railroad line purchased by V&S and its improvements.

Indeed, the District Court in its Memorandum and Order noted the assertions regarding the ownership of the land and its improvement. The District Court's recitation of the facts is ample to permit the Board to answer the three questions the District Court posed.

In their letter HSC, HTC and BNSF conveniently overlook that, pursuant to 28 U.S.C. §1336(b), the District Court will have the exclusive jurisdiction to review the Board's decision containing the answers to the three questions posed by the District Court, and, if HSC, HTC and BNSF then believe that the Board's decision was wanting in substantial evidence or entered arbitrarily and capriciously, they will have ample opportunity to try to persuade the District Court that such was the case.

A copy of this letter was served upon HSC, HTC and BNSF by e-mailing a copy to their counsel, Edward J. Fishman, Esq., at ed.fishman@klgates.com, and on ARM and TRAIN by e mailing a copy to their counsel Robert T. Opal, Esq., at RobertTOpal@aol.com.

Sincerely yours,


Fritz R. Kahn