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September 14, 2020

ENTERED

Office of Proceedings
September 14, 2020
Part of
Public Record

Ms. Cynthia T. Brown
Chief Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street SW, Room 1034
Washington, DC 20024

Re: Docket No. 36412
Board as Trustees of Joint Drainage District Nos. 6 & 56 – Petition For Declaratory Order

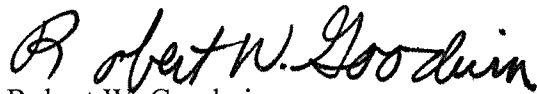
Dear Ms. Brown:

The Petitioner, Board as Trustees of JDD #6 & 56 in the above-referenced matter, hereby submits its Resistance To Iowa Northern Railway Company's Motion To Strike And, In The Alternative, Response To The Sur-Reply of The Trustees of Joint Drainage District Nos. 6 & 56 filed in the docket under board rules.

If you have any questions regarding this filing, please contact me at either goodwinlawoffice@fbx.com or 515-232-7390.

Thank you for your assistance in this matter.

GOODWIN LAW OFFICE, P.C.



Robert W. Goodwin
Attorney at Law

RWG:jcr

Enclosures

cc: Michael J. Barron, Jr. (via email)
Kimberly P. Knoshaug (via email)

BEFORE THE SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36412

**BOARD AS TRUSTEES OF JOINT DRAINAGE DISTRICT NOS. 6 AND 56 –
PETITION FOR DECLARATORY ORDER**

**BOARD OF TRUSTEES OF JDD #6 & 56'S
RESISTANCE TO IOWA NORTHERN RAILWAY COMPANY'S
MOTION TO STRIKE AND, IN THE ALTERNATIVE, RESPONSE TO THE
SUR-REPLY OF THE TRUSTEES OF JOINT DRAINAGE DISTRICT NOS. 6 & 56**

Filed on Behalf of Board as Trustees of
JDD #6 & 56

By: Robert W. Goodwin, AT0002986
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**ATTORNEY FOR PETITIONER
BOARD AS TRUSTEES OF
JDD #6 & 56**

Dated: September 14, 2020

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 36412

**BOARD AS TRUSTEES OF JOINT DRAINAGE DISTRICT NOS. 6 AND 56 –
PETITION FOR DECLARATORY ORDER**

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RESISTANCE TO IOWA NORTHERN RAILWAY COMPANY'S
MOTION TO STRIKE AND IN THE ALTERNATIVE RESPONSE TO THE SUR
REPLY OF THE TRUSTEES OF JOINT DRAINAGE DISTRICT NOS. 6 & 56**

The Board as Trustees of Joint Drainage District Nos. 6 and 56 (JDD #6 & 56) ("Board"), MAKE THE FOLLOWING Resistance To Iowa Northern Railway Company's (INRC) Motion To Strike And, In The Alternative, Response To The Sur-Reply of the Trustees of Joint Drainage District Nos. 6 & 56.

Resistance

49 CFR § 1104.13(a) provides:

"Time. A party may file a reply or motion addressed to any pleading written 20 days after the pleading is filed with the Board, unless otherwise provided."

49 CFR § 1104.13(c) provides:

"Reply to a Reply. A reply to a reply is not permitted."

On July 20, 2020, Iowa Northern Railway Company (INRC) filed its Response To Petition of the Trustees of Joint Drainage District Nos. 6 & 56 (Trustees) For Declaratory Order.

The INRC's Response was an Answer to the Board's Petition and will, therefore, be referred to as the Response/Answer.

49 CFR § 1104.13(a) provides that a Reply may be filed to any pleading, i.e., in this case INRC's Response/Answer.

INRC incorrectly calls the Trustees' Reply as a Sur-Reply. The Board's Reply indeed is just that. It is a Reply to INRC's pleading of its Response/Answer.

The INRC now wants to file a Reply to the Trustees' Reply to INRC's Response/Answer. However, a reply to a reply is not allowed per 49 CFR § 1104.13(c).

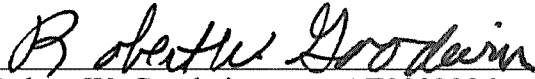
Furthermore, a Reply by INRC to the Board's Reply to INRC's Response/Answer will not change the following material facts in this matter. The installation of the 5.5-foot diameter smooth steel culvert in the INRC embankment will not interfere with the operation of INRC's railroad line because:

- A laser survey will be in operation, and if it detects more than ¼-inch movement in the track, the jack and bore operation will be stopped.
- The jack and bore operation will be 15 to 16 feet below the rail line. Therefore, it is highly unlikely there will be any movement of the rail line from the jack and bore operation.
- The jack and bore method of installing the 5.5-foot diameter smooth steel culvert will be done in accordance with INRC's own specifications for jack and bore operations on the railroad's own property.

- When a train approaches the work area, all work with the jack and bore operation will be stopped until the train passes through the area.

WHEREFORE, the Trustees of Joint Drainage District Nos. 6 & 56 respectfully request that the Surface Transportation Board deny INRC's Motion To Strike And Its Alternative of filing a Sur-Reply.

Respectfully submitted,
GOODWIN LAW OFFICE, P.C.


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AS TRUSTEES OF JDD #6 & 56**

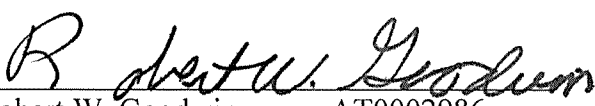
Certificate of Service

I, Robert W. Goodwin, hereby certify on this 14th day of September 2020, that I did serve a true and correct copy of the foregoing Resistance To Respondents' Motion To Strike And, In The Alternative, Response To The Sur-Reply of the Trustees of Joint Drainage District Nos. 6 & 56 upon the following by email and regular mail as set forth below:

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