

SERVICE DATE – JANUARY 4, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42170

KINGSBURY ELEVATOR, INC.

v.

GRAND TRUNK WESTERN RAILROAD COMPANY

Decided: December 31, 2020

On August 6, 2020, Kingsbury Elevator, Inc. (KE), filed a complaint against Grand Trunk Western Railway Company (GTW) alleging a number of violations of 49 U.S.C. subtitle IV part A related to GTW's transportation of canola meal, corn gluten meal, gluten feed pellets, and fertilizer. On October 5, 2020, KE submitted an amendment to its complaint along with a motion for leave to amend.¹ On October 26, 2020, GTW filed an answer to the amended complaint. On December 2, 2020, the Board served a decision setting a procedural schedule.

On December 21, 2020, KE and GTW filed a joint request for Board-sponsored mediation and to hold the proceeding in abeyance.² Accordingly, mediation will be initiated and this proceeding will be held in abeyance. See 49 C.F.R. §§ 1109.1, 1109.3(e).

The Chairman will soon appoint one or more mediators pursuant to 49 C.F.R. § 1109.3(a). Once appointed, the mediator or mediators will contact the parties to discuss the timing and logistics for conducting the mediation, and other matters. At least one principal of each party, who has authority to commit that party, shall participate in the mediation and be present at any session at which the mediator or mediators request(s) that the principal be present. The mediation period shall be 30 days, beginning on the date of the first mediation session. 49 C.F.R. § 1109.3(b). The Board may extend mediation pursuant to mutual written requests of all parties to the mediation proceeding. Id. The mediator or mediators are instructed to inform the Board when mediation has ended, with or without a resolution.

¹ The Board granted the unopposed motion in a decision served on November 9, 2020.

² The joint request is styled as a "Request for Board-Sponsored Mediation and Abeyance." Although the parties do not otherwise address holding the proceeding in abeyance, the Board interprets the request to include a request to hold the proceeding in abeyance based on how the request is styled.

It is ordered:

1. Mediation will be initiated as discussed above.
2. This proceeding is held in abeyance pending the conclusion of mediation.
3. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.