

EXPEDITED TREATMENT REQUESTED

305851

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
December 21, 2022
Part of
Public Record

**BOROUGH OF DUMONT V. CSX TRANSPORTATION, INC.;
ABC CORPORATIONS; AND XYZ INDIVIDUALS**

DECISION ID NO.: 51546

DECIDED DATE: 12/21/2022

SERVED DATE: 12/21/2022

APPROVED:  Acting Director

STB DOCKET NO. NOR 42174

UNOPPOSED MOTION FOR STAY



GRANTED

Office of
Proceedings



CSX Transportation, Inc. (“CSXT”) hereby requests that the Surface Transportation Board (“Board”) stay all proceedings in the above referenced docket pending resolution of CSXT’s pending Motion to Dismiss. Counsel for the Borough of Dumont has informed CSXT that the Borough consents to this motion.

The Borough of Dumont filed with the Board a Complaint for Property Damages (“STB Complaint”) on November 17, 2022. On December 7, the Board extended the time for CSXT to file an answer to the STB Complaint to December 23. CSXT filed a Motion to Dismiss the STB Complaint for failure to state a claim on December 16. The Borough’s reply to that Motion to Dismiss is due on January 5, 2023.

CSXT now requests that the Board stay all proceedings in this docket except for the Borough’s reply to the Motion to Dismiss until the Motion to Dismiss has been resolved, including CSXT’s deadline of December 23, 2022 to file an answer to the STB Complaint. There is good cause to grant this request. The Board routinely stays proceedings when a motion to dismiss is pending because dispositive motions

EXPEDITED TREATMENT REQUESTED

“raise[] issues that may affect both the procedural schedule . . . and the scope of discovery” in a case.¹ For these reasons, CSXT respectfully requests that all deadlines be stayed except for the Borough’s deadline to reply to the Motion to Dismiss.

Respectfully submitted,

/s/ Matthew J. Warren

Matthew J. Warren
Allison C. Davis
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005
(202) 736-8000

Dated: December 21, 2022

¹ See *Dairyland Power Coop. v. Union Pac. R.R.*, Docket No. NOR 42105 (S.T.B. served Apr. 29, 2008), slip. op. at 2 (holding action on a request for procedural schedule and a protective order in abeyance pending resolution of a motion to dismiss); *DHX, Inc. v. Matson Navigation Co. and Sea-Land Serv., Inc.*, Docket No. WCC-105 (S.T.B. served June 6, 2002), slip op. at 2 (suspending discovery and procedural schedule pending resolution of a motion to dismiss).

EXPEDITED TREATMENT REQUESTED

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of December, 2022, a copy of the foregoing Unopposed Motion for Stay was served by email on the following counsel of record:

Marc E. Leibman
Rafael Corbalan
Chiesa, Shahinian & Giantomasi, P.C.
One Boland Drive
West Orange, NJ 07052
973-530-2326
mleibman@csglaw.com
rcorbalan@csglaw.com

/s/ Matthew J. Warren
Matthew J. Warren