

**Before the
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Chief Counsel
July 27, 2026
Part of
Public Record

STB Docket No. NOR 42187

**VFRC, LLC, VENELL FARMS, INC., AND ALBANY & EASTERN RAILROAD
COMPANY V. PORTLAND & WESTERN RAILROAD, INC.,
GENESEE & WYOMING INC.,
AND UNION PACIFIC RAILROAD COMPANY, INC.**

**PORTLAND & WESTERN RAILROAD, INC. AND GENESEE & WYOMING INC.
REPORT ON CONFERENCE**

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Dated: July 27, 2026

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Pursuant to 49 C.F.R. §1111.11, Genesee & Wyoming Inc. (“G&W”) and Portland & Western Railroad, Inc. (“PNWR”) respectfully file this report on the parties’ conference on discovery and procedural matters.

In accordance with section §1111.11, the parties conferred by video conference on Monday, July 20, 2026, to discuss the schedule for this proceeding. The parties exchanged a number of emails thereafter, however, were unable to agree on a proposed procedural schedule.

The primary point of disagreement is the G&W and PNWR belief that discovery should not proceed until after the Board rules on the motions to dismiss filed in this proceeding because the motions have the potential to narrow the relevant issues and parties in this proceeding, and therefore would limit the scope of discovery.¹ This approach is supported by Board precedent

¹ See *Dairyland Power Cooperative v. Union Pacific R.R. Co.* STB Docket No. NOR 42105, slip op. at 2 (served Apr. 29, 2008)(discovery suspended until the Board issued a decision on a motion to dismiss because the motion had the potential to impact the scope of discovery); *DHX, Inc. v. Matson Navigation Company and Sea—Land Service, Inc.*, STB Docket No. WCC-105, 2002 WL 1231497 (served June 6, 2002)(“Given that a decision on the motion to dismiss may affect the scope of discovery, it is reasonable to suspend the procedural schedule at this time to allow the Board to consider the motion to dismiss”); *Philadelphia Belt Line R.R. Co. v. Conrail*

and would allow for this matter to proceed with efficiency and would limit any possible discovery disputes. Complainants do not agree with this approach and believe that discovery should begin immediately.

G&W and PNWR also disagreed with Complainants' proposal to set specific timelines for various types of discovery and what order such discovery should be held. This proposal is inconsistent with the provisions of 49 C.F.R. §1114.21(d) which provides that methods of discovery may be used in any sequence.

Given that there was no agreement with Complainants on a proposed procedural schedule, G&W and PNWR respectfully request that the Board adopt the following schedule for this matter. In this proposed schedule, N = the day the Board issues a decision on motions to dismiss.

N + 120 Days: Discovery Closes

N + 180 Days: Complainants Opening Evidence due.

N + 210 Days: Defendants Reply Evidence due.

N + 240 Days: Complainants Rebuttal Evidence due.

N + 270: Simultaneous Final Briefs due

Counsel for Union Pacific Railroad ("UP") has authorized G&W and PNWR to represent that UP also did not agree with the schedule proposed by Complainants, and that UP does not object to the schedule proposed by G&W and PNWR.

et al., STB Finance Docket No. 32802, 1996 WL 104370 (served Mar. 12, 1996)(procedural schedule and all discovery suspended pending a ruling on the merits of a motion to dismiss).

CONCLUSION

For the foregoing reasons, G&W and PNWR respectfully request that the Board issue a decision adopting the procedural schedule as outlined above.

Respectfully submitted,



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Dated: July 27, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of July, 2026, I caused a copy of the foregoing Report on Conference to be served on the persons listed below by email as indicated.

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