

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

242228

RICHARD BEST TRANSFER, INC.	)	ENTERED
	)	Office of Proceedings
	)	December 12, 2016
Complainant,	)	Part of
	)	Public Record
v.	)	Docket No. NOR 42149
	)	
UNION PACIFIC RAILROAD	)	
COMPANY	)	
	)	
Defendant.	)	
	)	

**PARTIES' JOINT REPORT ON THE PARTIES' CONFERENCE
AND REQUEST TO ADOPT A PROCEDURAL SCHEDULE**

Pursuant to 49 C.F.R. § 1111.10(a), Complainant Richard Best Transfer, Inc. ("Richard Best"), and Defendant Union Pacific Railroad Company ("Union Pacific") (collectively, the "Parties") submit this joint report on their conference and request that the Surface Transportation Board ("Board" or "STB") adopt the procedural schedule set forth below and resolve one aspect of the schedule where the Parties have not been able to reach agreement.

Under 49 C.F.R. § 1111.10(a), parties are to confer regarding discovery and procedural matters within 12 days after an answer to a complaint is due and submit a proposed procedural schedule within 19 days after an answer to a complaint is filed. The Parties have so conferred and are submitting this joint report accordingly.

The Parties have agreed on the following schedule, subject to one unresolved issue:

JOINT RICHARD BEST/UNION PACIFIC PROPOSED PROCEDURAL SCHEDULE FOR STB DOCKET NO. 42149	
Day	Event
0	To be resolved by the Board
0+90	Discovery Ends
0+135	Richard Best's Opening Statement
0+180	Union Pacific's Reply Statement
0+210	Richard Best's Rebuttal Statement

The Parties' disagreement relates to when the schedule begins, *i.e.*, what constitutes "Day 0." In Richard Best's view, the procedural schedule, including discovery, should not commence until the Board has ruled on the pending motion for preliminary injunction, as that ruling may narrow or focus the areas of dispute or moot the proceeding entirely, enabling the Parties to conserve resources. In Union Pacific's view, the Parties should be free to engage in discovery at any time, as is normally permitted under the Board's Rules, and initiating discovery before a decision on the preliminary injunction is consistent with both parties' desire for expedited resolution. Both Parties wish to stress that the positions they present here are specific to this particular dispute.

In addition, the Parties have agreed to defer the issue of post-evidentiary briefing, *i.e.*, the Parties may later reach agreement on such briefing, or one Party may seek such briefing on its own, which each Party reserving the right to oppose such briefing.

WHEREFORE, Richard Best and Union Pacific jointly submit this report and ask that the Board adopt the proposed procedural schedule and resolve the one disputed aspect of the proposed schedule.

Respectfully submitted,

UNION PACIFIC RAILROAD
COMPANY

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Attorneys for Richard Best Transfer, Inc.

Dated: December 12, 2016

CERTIFICATE OF SERVICE

I hereby certify that I have this 12th day of December, 2016, caused a copy of the foregoing filing to be served by email or other means upon all parties of record.



Katherine F. Waring
An Attorney for Complainant