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March 20, 2017

By E-Filing

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: Docket No. FD 36005, *KCVN, LLC and Colorado Pacific Railroad, LLC*
– *Feeder Line Application – Line of V and S Railway, LLC, Located in*
Crowley, Pueblo, Otero, and Kiowa Counties, Colorado

Dear Ms. Brown:

By this letter, KCVN, LLC and Colorado Pacific Railroad, LLC (“Applicants”) object to the latest extension request filed by V and S Railway, LLC (“V&S”) in this docket. This the *fourth* extension V&S has sought of a filing date applicable to it in this case. This latest request should be denied for several reasons. In the first place, the request is defective on its face because it does not comply with 49 C.F.R. §1104.7(b), which states that an extension request “must be filed not less than 10 days before the due date.” V&S has not requested a waiver of this rule, and one is not justified in any event. The the one week allotted V&S to prepare and submit its response V&S now complains about was established on March 3, so V&S had plenty of time to seek an extension prior to March 20. Moreover, nothing prevented V&S from beginning its own investigation of wholesale prices for rail materials on March 3 in anticipation of Applicants’ filing and V&S’s one week reply period.

V&S is obviously engaging in litigation gamesmanship by waiting until Applicants – who diligently complied with the short time frame given them by the March 3 Decision – submitted their filing before asking for more time for V&S prepare its response. As a result, if granted, V&S’s extension would give it almost as much time to prepare a response to

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Applicants' filing as Applicants had to prepare it, which is clearly not what the Board intended in the March 3, Decision.

Nor does Applicants' supplemental filing warrant the requested extension. The information is uncomplicated and responds to the Board's request in a straightforward and fully supported manner. This is due in no small part to the limited time afforded Applicants by the Board to prepare and submit their response. Moreover, Applicants' supplemental filing was served on counsel for V&S by 1:33 PM on March 17, giving V&S extra time to begin its review than had service been made later in the day. Yet, V&S waited until the afternoon of March 20 to give any indication that it might want more time to respond.

For all these reasons, V&S's extension request should be either ignored or summarily denied. In either case, V&S should be required to comply with the March 24 filing date established in the March 3 Decision.

Sincerely,



Thomas W. Wilcox
*Attorney for KCVN, LLC and Colorado Pacific
Railroad, LLC*

cc: All parties on the official service list