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December 23, 2022

Chairman Martin J. Oberman
Surface Transportation Board
395 E Street SW.,
Washington, DC 20423-0001

ENTERED
Office of Proceedings
January 13, 2023
Part of
Public Record

RE: Response to Petition for Exemption
STB Docket No. AB 575 (Sub-No 2X)

Dear Chairman Oberman,

Please accept this correspondence as a response to the above referenced Petition for Exemption pending before the Surface Transportation Board (STB). The Petition seeks approval of a transaction between Montana Rail Link (MRL) and BNSF Railway Company (BNSF) pursuant to which MRL's lease of BNSF's trackage in Montana, Idaho, and Washington would be terminated and control of the trackage turned over to BNSF. As stated below, Southeast Railroad (SERR), a long time customer of MRL, wishes to apprise the STB of its grave concerns regarding the impact approval of the Petition would have on SERR and similarly situated customers.

SERR is a small railroad company owned by the undersigned. For over a decade SERR has traveled over both Amtrak and numerous other railroads across the country. For over a decade ending when COVID hit the US we were a meaningful customer of Amtrak and various freight railroads. We operated up and down the Eastern corridor as well as throughout the rest of the country including Chicago, Denver, Seattle, Portland, Oakland, New Orleans and many other destinations including use of the trackage currently operated by MRL in Montana.

As indicated in the STB's Notice dated December 8, 2022, MRL and BNSF have represented that "discontinuance will therefore leave no customer on the Leased Premises or the Trackage Rights Lines without access to railroad common carrier service, as any such customers would have service via BNSF." However, we have reached out to BNSF regarding SERR's ability to continue to operate its private train on the trackage and

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we have been advised definitively that such service will not be provided by BNSF. Accordingly, the Petition, if granted, would result in the exclusion of certain historic customers from accessing the trackage.

We have been actively following the work of the Surface Transportation Board and its concerns over reduction in competition, loss of access to certain lines/destinations by customers, deterioration in customer service, and other vital economic issues confronting our country. We share these concerns and fully support your efforts.

In addition to these matters we are concerned about the heavy handed business operations of railroads as evidenced by the language of the PERSONAL RELEASE FORM customers are now required to sign to have access to freight track which is often the only rail access to many parts of the US. In the release form language below we have omitted the name of the railroad but not altered any other language.

I do hereby assume all risk of my personal injury or death, and loss of or damage to property in my custody or possession, which shall in any manner arise from or be caused by defects in tracks, roadbed, structures, trains, engines, cars or other equipment or apparatus of any kind whatsoever, including violations of the Safety Appliance Act, or by any accident of any kind whatsoever on or about the property of The Host Railroad or any of the equipment, however it may occur or be caused, in any manner arising or growing out of the above-mentioned permission, WHETHER THE SAME BE CAUSED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS OFFICERS, EMPLOYEES, AGENTS, OR ANY THIRD PARTY; and I hereby for myself and my heirs, and legal representatives, release and forever discharge The Host Railroad and their respective subsidiaries and affiliated companies, the officers, agents, and employees of said companies from all claims, liabilities, and costs of every kind by reason of any such injury, death, and loss or damage to property.

This restrictive approach to access and use of the national rail footprint is not healthy for businesses or their customers. We believe that national competitive rail access serves the long term interests of an enduring and safe national rail system consistent with the goals of safe, reliable and efficient movement of people and goods. These objectives are the underpinning of original federal railway policy.

SERR believes that the current position of the large US railroads is inconsistent with safety and prior productive business relationships. We respect the railroads and believe they have a critical role in the US economy. There is a need for balance to be

restored between railroad profitability and care and safety of customers whose person and property are now held captive without competitive choices.

Thank you for your consideration and we are available to discuss with you or any of the Surface Transportation Board's members or staff. Please do not hesitate to contact us.

Thank you for your attention to this matter.

Best regards,



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CC: Parties of Record

Note added January 4, 2023: This letter was mailed to the Board on December 23, 2022, but we later received instructions to e-file the letter.

Note added January 13, 2023: This letter was e-filed and re-distributed to all parties of record on January 13, 2023.