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NTEC v. BNSF
NOR 42178
NTEC Oral Argument Presentation

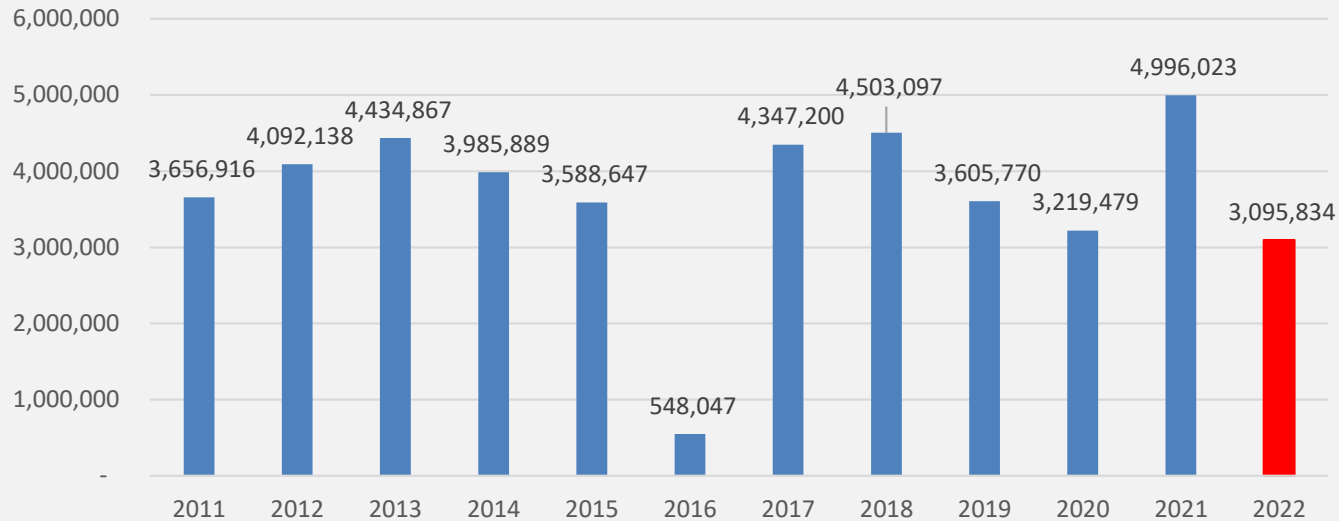
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May 10, 2023

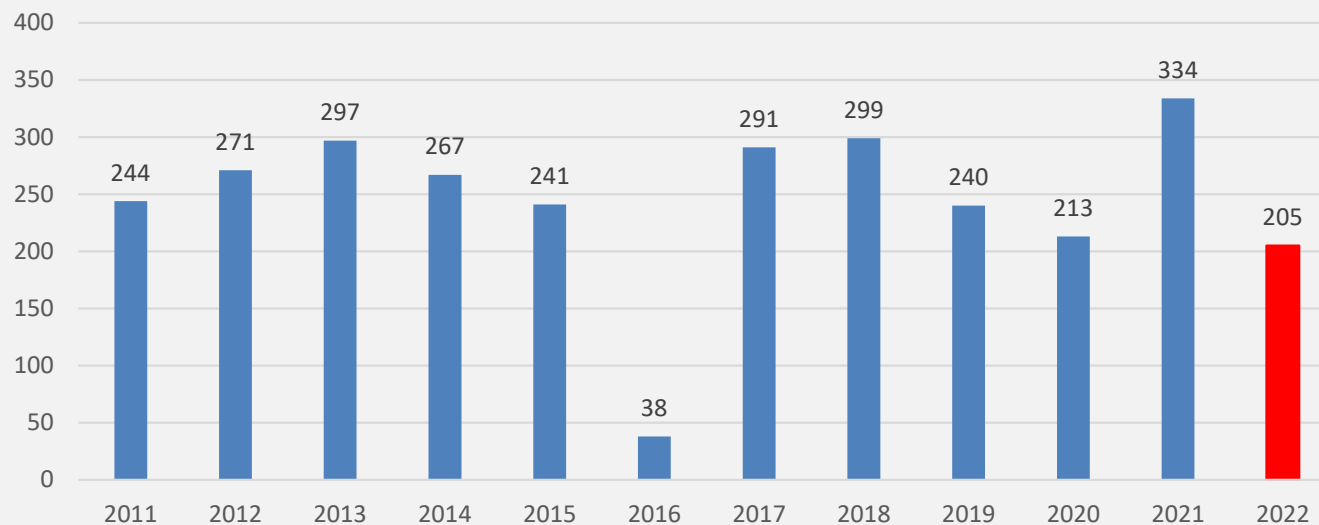
Slover & Loftus LLP

NTEC/BNSF Coal Shipments

BNSF Transportation of Spring Creek Export Coal (Tons)



BNSF Train Counts of Spring Creek Export Coal

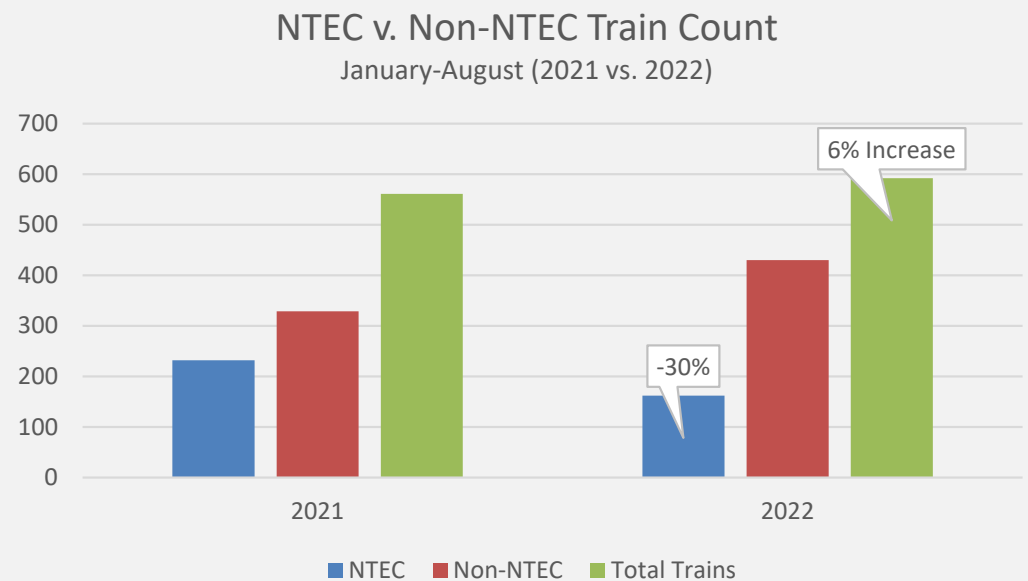


Spring Creek Historical Shipments

Year	Spring Creek Export Tons Moved by BNSF	Trains
2011	3,656,916	244
2012	4,092,138	271
2013	4,434,867	297
2014	3,985,889	267
2015	3,588,647	241
2016	548,047	38
2017	4,347,200	291
2018	4,503,097	299
2019	3,605,770	240
2020	3,219,479	213
2021	4,996,023	334
2022	3,095,834	205

Spring Creek Historical %s

Year	Spring Creek % of Total BNSF Export Movements to Westshore
2011	51.9%
2012	52.9%
2013	46.0%
2014	40.4%
2015	38.8%
2016	9.3%
2017	36.4%
2018	34.2%
2019	33.0%
2020	30.5%
2021	39.4%
2022	28.2%
2023 YTD	28.7%



BNSF “Sole Discretion” Tariff Language Is Not a Remnant

BNSF 90068, Rev. 62 (2008)

Service Limitation Notice: The provision of service and acceptance of any tenders for movement under this publication, including the supply of carrier equipment and/or the introduction of shipper train sets on BNSF for the movement of coal pursuant to this Common Carrier Price Authority shall, for the foreseeable future, be subject to BNSF’s sole discretion.

BNSF 90068, Rev. 92 (2022) (Incorporated Into NTEC’s 2022 Contract)

Service Limitation Notice: The provision of service and acceptance of any tenders for movement under this publication, including the supply of carrier equipment and/or the introduction of shipper train sets on BNSF for the movement of coal pursuant to this Common Carrier Price Authority shall, for the foreseeable future, be subject to BNSF’s sole discretion.

BNSF 90068, Rev. 93 (2023)

Service Limitation Notice: The provision of service and acceptance of any tenders for movement under this publication, including the supply of carrier equipment and/or the introduction of shipper train sets on BNSF for the movement of coal pursuant to this Common Carrier Price Authority shall, for the foreseeable future, be subject to BNSF’s sole discretion.

BNSF 90139 (NTEC’s Current Tariff)

Service Limitation Notice: The provision of service and acceptance of any tenders for movement under this publication, including the supply of carrier equipment and/or the introduction of shipper train sets on BNSF for the movement of coal pursuant to this Common Carrier Price Authority shall, for the foreseeable future, be subject to BNSF’s sole discretion.