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ENTERED  
Office of Proceedings  
February 4, 2019  
Part of  
Public Record

February 4, 2019

**BY E-FILING**

Cynthia Brown  
Chief, Section of Administration  
Surface Transportation Board  
Office of Proceedings  
395 E Street, S.W.  
Washington, DC 20423

Re: Docket No. FD 35068, *Soo Line Railroad Company d/b/a Canadian Pacific Railway—Acquisition and Operation Exemption—BNSF Railway Company*

Dear Ms. Brown:

BNSF Railway Company (“BNSF”) has reviewed the Petition to Reopen filed in this proceeding by New Century Ag (“NCA”) on December 21, 2018 (the “Petition”), along with the errata filed by NCA on January 28, 2019, and January 30, 2019. NCA requests that the Surface Transportation Board (“Board” or “STB”) reopen this proceeding and reexamine the Board’s 2007 decision that exempted from the otherwise-applicable prior approval requirements a transaction between BNSF and Soo Line Railroad Company d/b/a Canadian Pacific Railway (“CP”) in which BNSF conveyed its interests in certain rail lines to CP. *See Can. Pac. Ry.—Acquisition & Operation Exemption—BNSF Ry. Co.*, FD 35068 (STB served Sept. 7, 2007).

NCA requests that the Board reopen this proceeding and “require that CP do what is necessary to permit BNSF to provide the competitive service to NCA on which the STB based its 2007 decision.” Petition at 2. Specifically, NCA requests the Board to “order CP immediately to implement a plan that removes any restrictions on the number or type of cars it will accept in interchange with BNSF.” Petition at 23. Alternatively, NCA requests that the Board revoke the exemption and require the parties to unwind the 2007 transaction.

BNSF has not at this time determined whether to support the remedies requested by NCA in the Petition. However, BNSF acknowledges that the Petition raises important

issues regarding the Board's finding in its 2007 decision, slip op. at 4, that the BNSF-CP transaction would result in "no loss of rail competition" because BNSF would "retain[ ] the right to service all customers" on the rail lines conveyed by BNSF, and that "there will be no material change in the level or nature of service provided to those shippers." BNSF stands ready and willing to work with CP to ensure that NCA receives adequate service and that the principles of the Board's 2007 decision are upheld.

Finally, should the Board decide to reopen this proceeding, BNSF would not be opposed to Board-sponsored mediation in an effort to resolve the issues raised by the Petition.

If you have any questions, please contact me. Please note that Adrian Steel of Mayer Brown LLP will also be representing BNSF in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter W. Denton", with a long horizontal flourish extending to the right.

Peter W. Denton  
Attorney for BNSF Railway Company

cc: All parties of record  
Adrian L. Steel, Jr.

## CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2019, I served the forgoing letter by electronic mail on all parties of record on the service list.

A handwritten signature in black ink, appearing to read 'Peter W. Denton', with a long horizontal flourish extending to the right.

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Peter W. Denton  
Attorney for BNSF Railway Company