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**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**ENTERED**  
Office of the Secretary  
**SEP 13 2001**  
Part of  
Public Record

**STB DOCKET NO. 42060 (Sub-No. 1)**

**NORTH AMERICA FREIGHT CAR ASSOCIATION**

**v.**

**THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY**

**PETITION FOR LEAVE TO INTERVENE  
OF  
THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE**

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Transportation League

Dated: September 13, 2001

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SURFACE TRANSPORTATION BOARD**

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Petitioner, the National Industrial Transportation League ("NITL"), pursuant to 49 C.F.R. § 1112.4, submits this Petition for Leave to Intervene in STB Docket No. 42060 (Sub-No. 1), *North America Freight Car Association v. The Burlington Northern and Santa Fe Railway Company*, and in support of its petition states, as follows:

1. NITL is an organization of shippers whose members conduct industrial and/or commercial enterprises throughout the United States and internationally. NITL is the oldest and largest nationwide organization representing shippers of all sizes and commodities. NITL has over 600 separate company members, ranging from small shippers to some of the largest shippers in the country. The members of NITL use all modes of transportation to move their goods in interstate, intrastate, and international commerce. NITL members ship substantial volumes of commodities by rail and regularly employ The Burlington Northern and Santa Fe Railway Company ("BNSF"). A significant number of these rail-shippers own or lease private fleets of rail cars. Accordingly, NITL's membership will be directly affected by the resolution of the issues raised in this proceeding.

2. The storage and demurrage rules and charges issued by BNSF, which are applicable to empty private cars held on BNSF tracks, will have substantial economic consequences for NITL members that own or lease rail car fleets. Therefore, NITL has a significant interest in this proceeding.

3. NITL supports innovative measures designed to improve the efficiency of the rail network. However, NITL believes that the storage and demurrage rules and charges proposed by BNSF may, in practice, adversely affect shippers and may constitute: unreasonable practices under 49 U.S.C. § 10702; a failure to furnish adequate car service and to establish, observe, and enforce reasonable rules and practices on car service in violation of 49 U.S.C. § 11121(a); a violation of 49 U.S.C. § 10745; and, a violation of 49 U.S.C. § 10746. Therefore, NITL supports the Complaint of the North America Freight Car Association ("NAFCA") that the Board should initiate an investigation into the rules and charges of BNSF Private Car Storage Book 6005, including Item 1300, and the relevant demurrage rules and charges set forth in BNSF's Demurrage Book 6004-A, effective July 1, 2001.

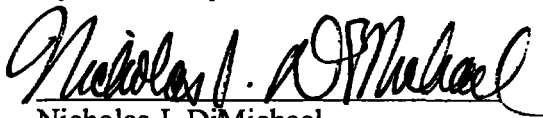
4. NITL's intervention will neither broaden the issues raised in this proceeding, nor delay its disposition.

WHEREFORE, petitioner, the National Industrial Transportation League, asks that it be granted leave to intervene and to participate fully in this proceeding.

Respectfully submitted,

**The National Industrial Transportation League**

By its attorneys,

A handwritten signature in black ink, appearing to read "Nicholas J. DiMichael", is written over a horizontal line.

Nicholas J. DiMichael

Frederic L. Wood

Michael H. Higgins

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September 13, 2001

CERTIFICATE OF SERVICE

I hereby certify that I have served on this 13<sup>th</sup> day of September, 2001, a copy of the foregoing Petition for Leave to Intervene of the National Industrial Transportation League by first-class mail on all parties of record.

  
Nicholas J. DiMichael