

214114

SLOVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036-3003

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PETER A. PFOHL
DANIEL M. JAFFE
KENDRA A. ERICSON

TELEPHONE:
(202) 347-7170

FAX:
(202) 347-3619

WRITER'S E-MAIL:
cam@sloverandloftus.com

May 25, 2005

BY HAND DELIVERY

Dr. William Huneke
Chief, Section of Economics
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings

JUN 01 2005

Part of
Public Record

Re: Docket No. 42088, Western Fuels Association, Inc. and Basin
Electric Power Cooperative, Inc. v. BNSF Railway Company

Dear Dr. Huneke:

This letter constitutes the response of Complainants Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. ("WFA/Basin") to Question #3 of the attached "proposed MOW Questions" which you handed out at the technical conference on May 17, 2005.

As noted in Question #3, in its Opening Evidence WFA/Basin allocated BNSF's MOW expenditures for the joint facility (the portion of BNSF's Orin and Reno Subdivisions that is jointly owned by BNSF and Union Pacific) to either "maintenance & operating or to "capital" except for the { } cost to { } This { } cost item was inadvertently omitted from WFA/Basin's analysis. This cost should have been included and allocated to "capital." The allocation to capital is appropriate because { }

—, which are set forth in
WFA/Basin's Opening Workpapers Vol.1, p. 00672.

Correcting the error resulting from the exclusion of this cost item does not impact the MOW maintenance and operating costs for the joint facility because the { } "capital" item does not impact the MOW operating expenses for the joint

Dr. William Huneke
May 25, 2005
Page 2

facility. The variable MOW maintenance and operating costs for the joint facility are set forth in WFA/Basin Opening electronic workpaper "2004 JT_variable joint facility WFA.xls," sheet jt fac summary, cell K11 and sheet BN17554, cell L171.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Mills", written in a cursive style.

Christopher A. Mills

CAM:jml

cc: David Konschnik (STB)
Anthony J. LaRocca (Counsel for BNSF)
David Rifkind (counsel for BNSF)