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October 31, 2005



Vernon A. Williams
Secretary
Surface Transportation Board
Washington DC 20423

Re: Finance Docket No. 34667
BNSF Railway Company-Acq. & Oper.-State of South Dakota

Dear Mr. Williams:

I am in receipt of the status report, filed October 25, 2005,
by applicant BNSF Railway Company (BNSF).

This response is on behalf of John D. Fitzgerald (UTU/GO-386),
a party to the proceeding, who filed comments and reply comments
(including verified statement), in response to the Board's decision
served March 3, 2005, and executed a highly confidential undertaking
pursuant to the Board's October 6, 2005 decision.

This party is not, at this time, in accord with BNSF's declared
intent to dismiss its application, and to convert the acquisition
and operation to a series of notices of exemption. The BNSF response
to discovery has been incomplete, with access to the settlement agree-
ment in critical areas not available, despite execution of the highly
confidential undertaking. Moreover, UTU/GO-386 has not been consulted
by BNSF in connection with implementing agreements.

Very truly yours,

Atty. for John D. Fitzgerald

cc: All parties

ENTERED
Office of Proceedings

OCT 3 2005

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