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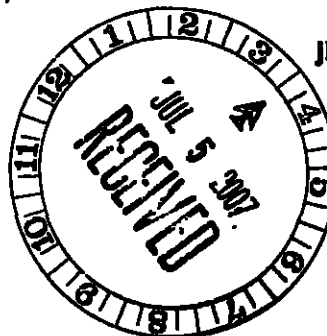
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July 5, 2007

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VIA HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Attn: STB Ex Parte No. 672
395 E Street, SW
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings
JUL 05 2007
Part of
Public Record

Re: Ex Parte No. 672, Rail Transportation of Resources
Critical to the Nation's Energy Supply

Dear Secretary Williams:

Please find an original and ten (10) copies of the Written Testimony of Western Fuels Association, Inc. in the above-referenced proceeding. This filing contains **COLOR COPIES**.

We have enclosed an additional copy of this Written Testimony. Please indicate receipt and filing by time-stamping this copy and returning it with our messenger.

Thank you for your attention to this matter.

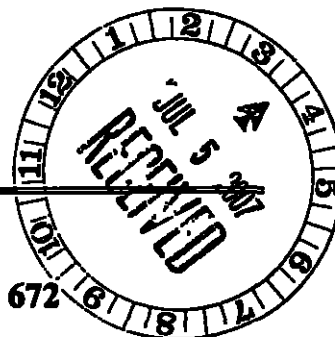
Sincerely,

John H. LeSeur
An Attorney for
Western Fuels Association, Inc.

Enclosure

219704

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



**RAIL TRANSPORTATION OF
RESOURCES CRITICAL
TO THE NATION'S ENERGY
SUPPLY**

Ex Parte No. 672

**WRITTEN TESTIMONY
SUBMITTED ON BEHALF OF
WESTERN FUELS ASSOCIATION, INC.**

**ENTERED
Office of Proceedings**

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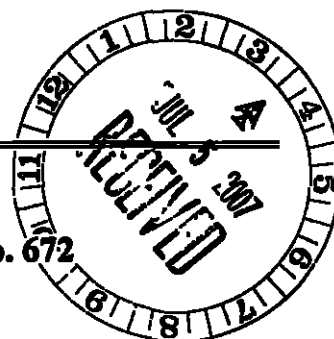
Dated: July 5, 2007

**By: Duane L. Richards
Chief Executive Officer
Western Fuels Association, Inc.
1100 West 116th Avenue
Westminster, CO 80234**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**RAIL TRANSPORTATION
OF RESOURCES CRITICAL
TO THE NATION'S ENERGY
SUPPLY**

Ex Parte No. 672



**WRITTEN TESTIMONY
SUBMITTED ON BEHALF OF
WESTERN FUELS ASSOCIATION, INC.**

My name is Duane L. Richards. I am the Chief Executive Officer of Western Fuels Association, Inc. ("Western Fuels"). On behalf of Western Fuels, I appreciate the opportunity to address the issues raised in the Surface Transportation Board's ("STB's" or "Board's") notice instituting this hearing.

BACKGROUND

Western Fuels is a non-profit fuel supply cooperative corporation headquartered in Denver, Colorado. Western Fuels members consist of nineteen consumer-owned utilities, including rural electric generation and transmission cooperatives, municipal utilities and other public bodies. Western Fuels exists to assist its members in obtaining coal and coal transportation in a timely, efficient and cost-effective manner. Western Fuels pursues these objectives in many ways, including the management (through affiliated companies) of some coal mines, the management of a private rail car fleet, and the purchase of coal, and coal transportation, on behalf of some

of its members.

In 2006, Western Fuels purchased and arranged for the transportation of approximately 17.3 million tons of western coal for its members. Western Fuels is intimately familiar with all aspects of western coal mining and transportation, as we are directly involved on a day-to-day basis with the mining and the transporting of western coal. Western Fuels has also actively participated in other proceedings before the Board, and its predecessor the Interstate Commerce Commission, involving the transportation of western coal.

Currently, Western Fuels is a co-complainant in a pending rate case docketed at the STB (No. 42088), Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. v. BNSF Railway Company. This case was filed in October of 2004 and has been pending before the Board for almost three years. I will not discuss the case specifics here other than to request that our case be decided promptly and fairly.

My testimony focuses on three general topics: reliable rail service, rail capacity, and recent changes in the coal transportation marketplace.

Reliable Rail Service

As the Board is well aware, coal transportation service out of Wyoming's Powder River Basin ("PRB") deteriorated significantly after the May 2005 derailments on the joint line that serves the Wyoming PRB mines and the subsequent track inspection that led to major maintenance activities in 2005 and 2006. Unit train cycle times rose sharply in response to the slowdown in transit times while the joint line was under repair.

However, after the track maintenance work was completed, unit train cycle times did not return to their historical averages. Table 1, and my Exhibit 1, provide cycle time data for a representative cross-section of Western Fuels' members.

Table 1 Cycle Times From Wyoming PRB Origins			
<u>Western Fuels' Member Plant</u>	<u>2000 Average Cycle Time (Hours)</u>	<u>2006 Average Cycle Time (Hours)</u>	<u>Difference %</u>
Laramie River, WY	50	65	+30%
Holcomb, KS	111	139	+25%
Nearman, KS	109	144	+32%
Sherco, MN	85	107	+26%
Sikeston, MO	154	223	+45%
Quindaro, KS	190	165	-13%

As shown on Table 1, and further illustrated in Exhibit 1, cycle times for Western Fuels' member companies have increased significantly since 2000. Slower cycle times translate into reduced deliveries of needed coal supplies, higher equipment costs, and, in the recent past, have led to near disastrous results for some Western Fuels' members. Last year's service problems at the Laramie River Station illustrate these points.

The Laramie River Station is a coal-fired electric generating station situated in southeastern Wyoming. Coal used at Laramie River originates in the Wyoming's PRB. The one-way distance between the PRB and Laramie River is approximately 175 miles with rail service provided by the BNSF Railway Company ("BNSF"). To meet its generating requirements, the Laramie River Station must obtain ratable BNSF deliveries of approximately 8.3 million tons of PRB coal annually.

For years, BNSF met the Laramie River Station coal delivery requirements by cycling three trainsets of Western Fuels'-supplied cars between the PRB and Laramie River. In 2006, BNSF's cycle times on Laramie River trains became so slow that the Laramie River Station's reliability of operations became seriously threatened. By March 2006, the Laramie River Station coal stockpile was down to less than five days. Had the stockpile decreased any more, electric generation at Laramie River would have been curtailed. This would have forced the Laramie River Station owners to obtain substitute power at a price vastly in excess of the cost of the displaced Laramie River Station generation.

Western Fuels was able to prevent this devastating scenario by placing into Laramie River service a fourth trainset of Western Fuels' supplied cars. This set remains in Laramie River service today. Western Fuels' prompt actions avoided a service disaster at Laramie River, but only at a great cost to our non-profit members. To this day, Western Fuels is not sure why BNSF's service to the Laramie River Station has not improved in the last year. Whatever the reasons, there is no question that service to Laramie River, and many other Western Fuels' members, has deteriorated significantly since 2000.

Sufficient Rail Capacity

Western coal shippers hear a lot from the railroads these days about "capacity" and "capacity constraints." The general refrain is that capacity constraints prevent the carriers from providing efficient coal transportation service. A corollary .

refrain is that western coal shippers need to pay vastly higher rates to support new rail infrastructure.

The railroad industry's broad brush characterization of capacity issues bears little resemblance to the real world of western coal transportation. On the service side, the 2003 American Association of State Highway and Transportation Officials Freight-Rail Bottom Line Report ("AASHTO Study") contains a thorough and authoritative review of the nation's current rail infrastructure and future infrastructure needs. The Study divided the nation's rail infrastructure into specific freight and commodity movement corridors and addressed infrastructure issues on a corridor-by-corridor basis.

As the Board knows, most western coal originates in the Wyoming PRB. The AASHTO Study identified the PRB coal transportation corridor as one extending from the PRB to power plants "throughout the Midwest and South" (at 117). The AASHTO Study found "there are no significant rail capacity constraints" in the PRB coal transportation corridor "[b]ecause of the volume and profitability of this market":

Because of the volume and profitability of this [PRB] market, there are no significant rail capacity constraints. From the building of the Powder River line, to triple tracking where the corridor shares assets with transcontinental flows, to upgrading of lines to handle 287,000-pound and 315,000-pound cars, the railroads have made the necessary investments.

(at 117). The Study further concluded that the PRB corridor will continue not to be capacity constrained over the next twenty years because railroads "will remain effective

at attracting, retaining, and financing unit train business” (at 93).

The AASHTO Study conclusions clearly call into question the claims by western railroads that asserted infrastructure shortages are causing service problems for PRB coal shippers. Western Fuels urges the Board to take a hard look at whether the lack of improvement in service is caused by other factors that are not tied to the physical capacity of the western coal transportation infrastructure.

The Board should also take a hard look at carrier claims that coal rates need to be significantly increased to adequately fund new coal-related infrastructure improvements. According to Association of American Railroad (“AAR”) figures, over the past ten years (1996-2005), coal shippers paid Class I railroads over \$80 billion in freight revenues – an amount that constitutes over 21% of the railroads’ total freight revenues.¹ Included in this \$80 billion are large profit contributions that the railroads can use for funding new infrastructure and that otherwise meet their revenue needs. As BNSF’s CEO Matt Rose told his employees in 2003:

As far as coal, I do know the numbers and understand the profitability. Coal is the most profitable commodity we haul.²

¹ AAR, Railroad Ten-Year Trends 1996-2006 (Vol. No. 23) at 47.

² BNSF, Powder River Reflection (Sept./Oct. 2003) at 6 (www.newslinkinc.com/pubs/PRR/PRRO309.pdf).

The STB, to the best of my knowledge, has never reviewed the railroad industry's profitability to identify how much profit the railroads are earning on their coal traffic, and where that money is being spent. The regulators may likely find that the coal rates that have been paid by shippers are more than adequate to fund new coal-related rail infrastructure.

Western Fuels joins with many other shippers and shipper associations, including the Western Coal Traffic League, the Edison Electric Institute, and the Concerned Captive Coal Shippers in requesting that the Board conduct a meaningful and thorough investigation of these rail capacity issues.

Changes in the Western Coal Transportation Marketplace

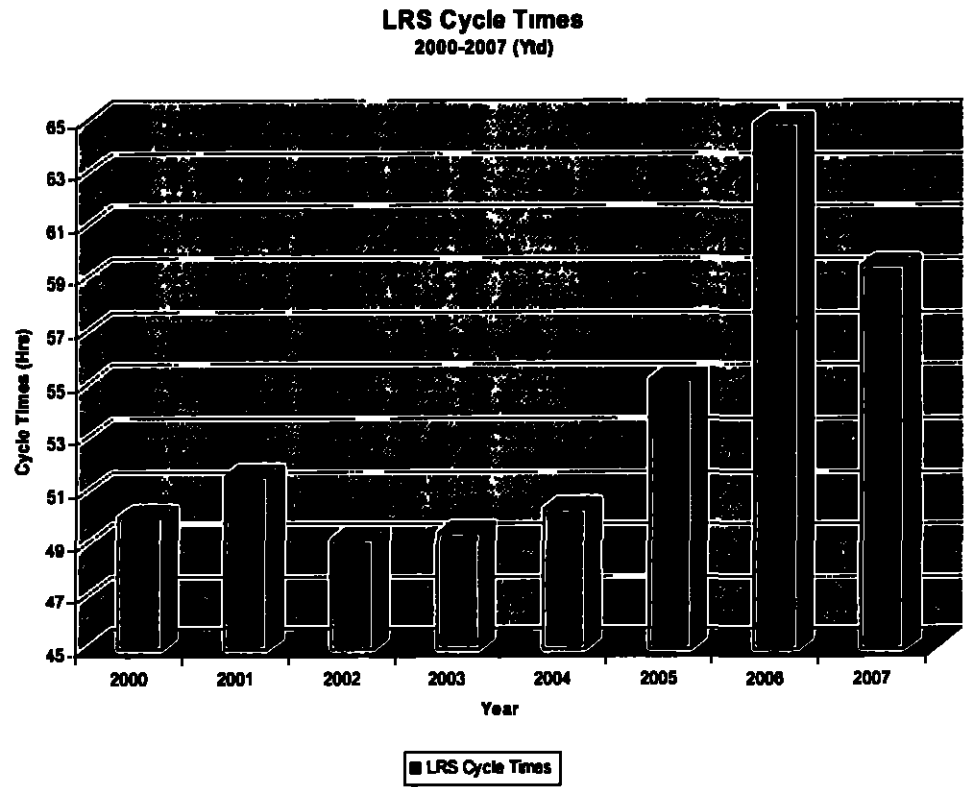
Over the past few years, Western Fuels has observed some fundamentally disturbing changes in the western coal transportation marketplace. These changes include the following:

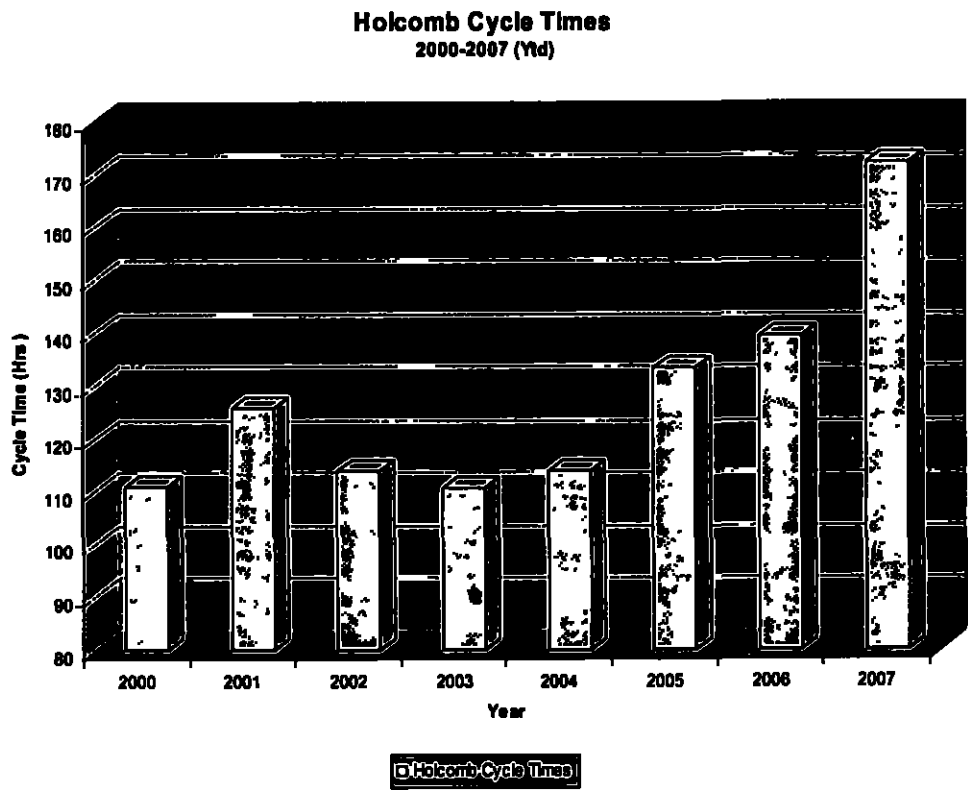
- **End of Competition.** Following the Chicago and North Western Railway Company's ("CNW's") entry into the PRB in 1984, BNSF and CNW/Union Pacific Railroad Company ("UP") vigorously competed against each other in competitive coal transportation markets. This competition was beneficial to all involved – the railroads, the shippers, and the consuming public. However, it appears to Western Fuels that BNSF and UP have decided to stop engaging in any meaningful competition for coal transportation business.
- **Advent of Public Price Signaling.** For years, most western coal transportation was

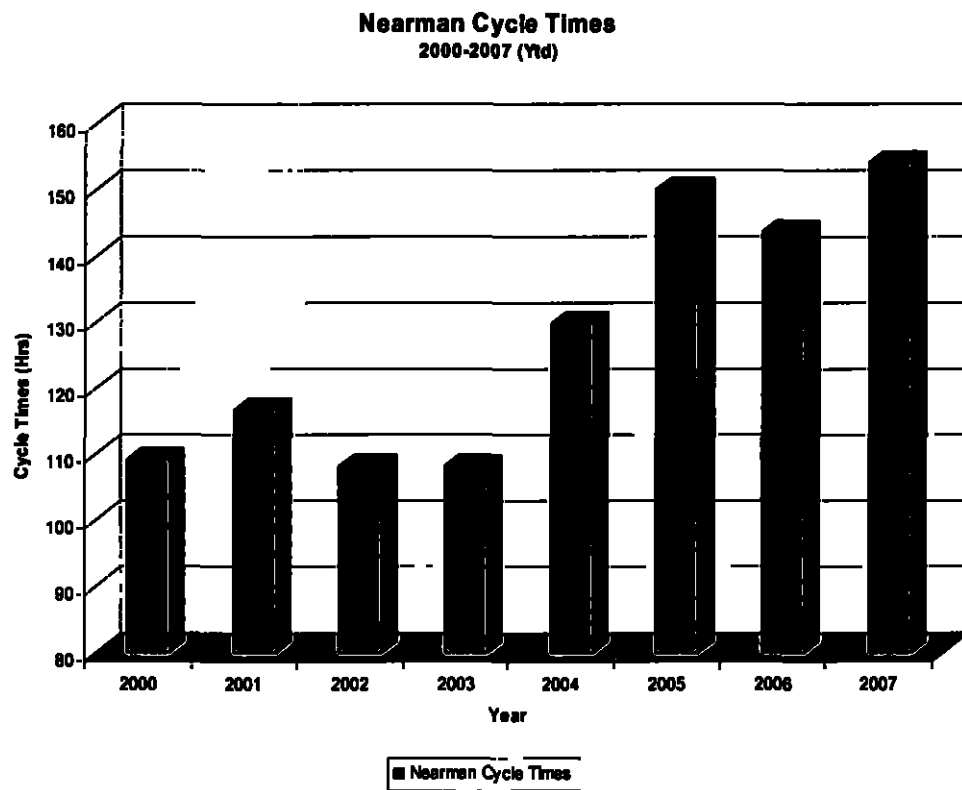
governed by confidential private contracts. These contracts were the product of mutual negotiations between railroads and shippers. In the past few years, BNSF and UP have begun to substitute “public pricing” for private contracts. The public prices are high and their public dissemination is price signaling between formerly competitive carriers. Public pricing documents also eliminate, or seriously erode, service guarantees and other protections that were standard features in confidential coal transportation contracts.

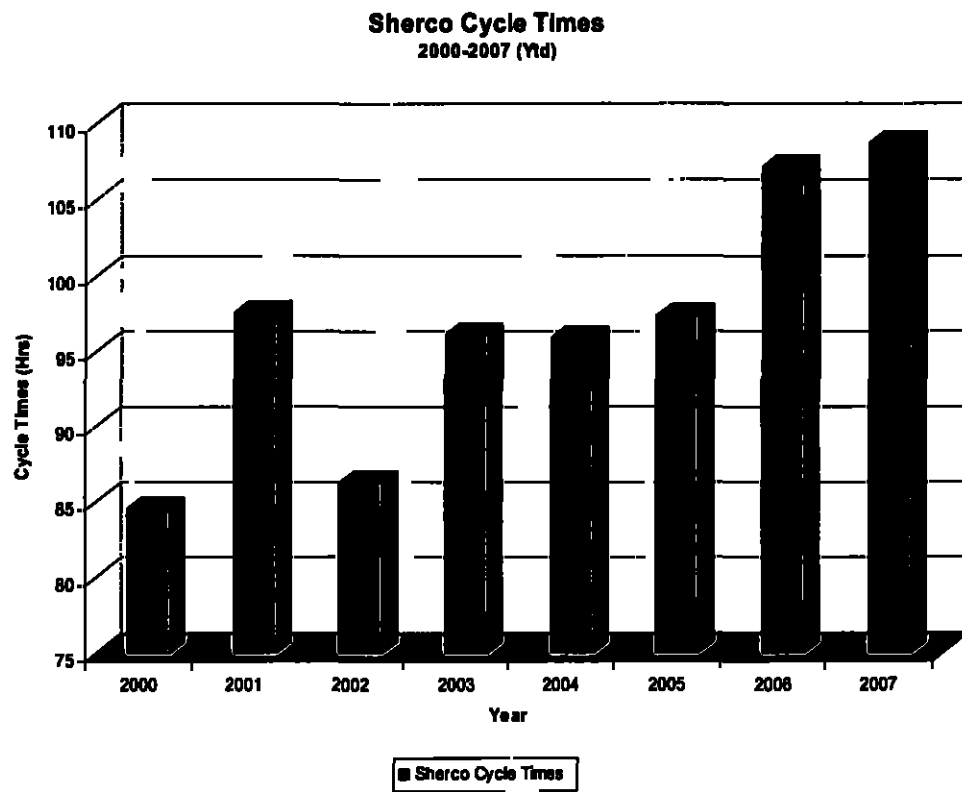
- Perception of Captive Shipper Protections. Captive coal shippers look to the STB as their last line of defense against monopoly rail pricing. As is evident from the records in several recent STB proceedings, many captive shippers have given up on the Board given the costs, delays, and results in recent cases.

For the Nation’s coal transportation markets and its coal transportation infrastructure to flourish, there needs to be a fair balance of shipper, carrier and public interests. The recent changes in the coal transportation marketplace referenced above have severely upset this balance to the extreme prejudice of the nation’s coal shippers and the consuming public they serve.

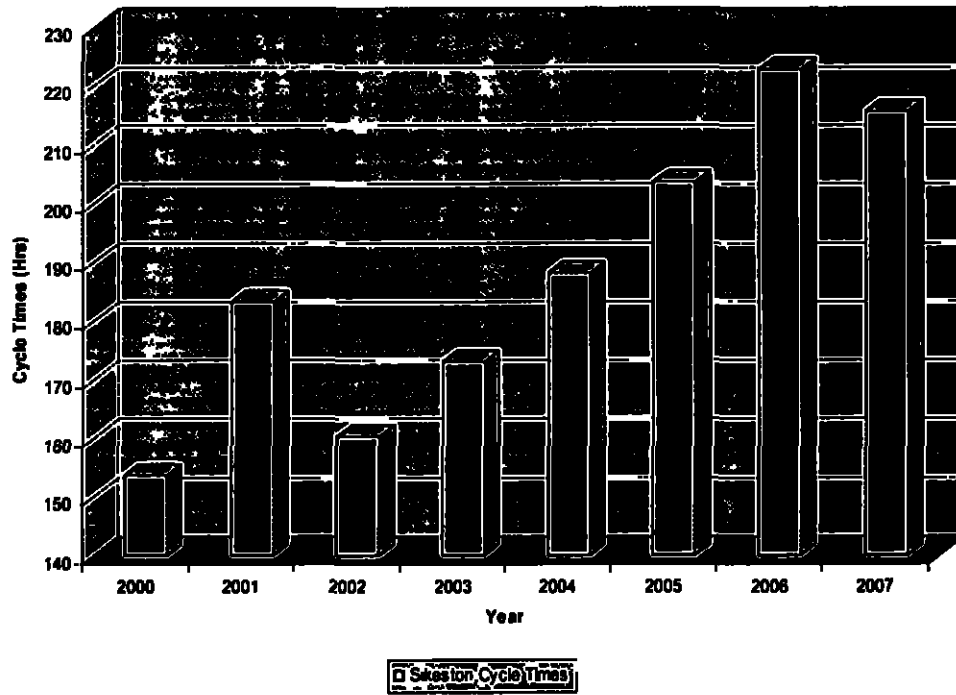








Sikeston Cycle Times
2000-2007 (Ytd)



Quindaro Cycle Times
2000-2007 (Ytd)

