



Department of Energy
Washington, DC 20585

September 28, 2007

Chairman Charles D. Nottingham
Office of Chairman
Surface Transportation Board
395 E Street, SW
Washington, D C 20420-0001

RE. Docket Nos 38302S and 38376S



Dear Chairman Nottingham

The order entered in these dockets July 27, 2005 (served August 2, 2005, and effective September 1, 2005), approving the Government's settlement agreement with Union Pacific Railroad Company, further held these proceedings in abeyance while directing the Government to file quarterly reports on the progress of settlement negotiations. The Government continues to pursue settlement with individual carriers and is engaged in separate discussions with individual railroad defendants BNSF and Norfolk Southern. The Government and BNSF had an extensive discussion concerning outstanding issues on September 5 and plan to continue discussions in person in the near future. Settlement discussions remain open with Norfolk Southern as well.

Accordingly, we are not yet in a position to report an agreement with either BNSF or Norfolk Southern. However, we remain hopeful that we will be able to reach agreements with both carriers. We will file a further report by the end of December 2007.

Sincerely,

Stephen C. Skubel
Assistant General Counsel
For Litigation
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cc: Vice Chairman W. Douglas Buttrey
Board Member Francis P. Mulvey
Attached Service List

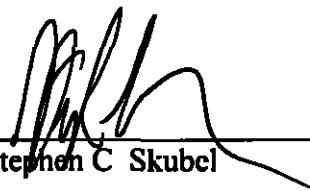


CERTIFICATE OF SERVICE

I, Stephen C Skubel, hereby certify that I served a copy of the foregoing document by prepaid first-class mail this 28th day of September 2007, on the following

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