



Department of Energy
Washington, DC 20585



December 29, 2010

Chairman Daniel R. Elliott III
Office of Chairman
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20420-0001

RE: Docket Nos. 38302S and 38376S

Dear Chairman Elliott:

228549

228550

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 has been engaged in separate discussions with individual railroad defendants BNSF and Norfolk Southern.

We continue actively to pursue our settlement efforts with both BNSF and Norfolk Southern. While we are not able to report a complete agreement with BNSF, we have made significant progress and continue our efforts towards finalized settlement documents. We similarly are continuing efforts toward a settlement and finalized settlement documents with Norfolk Southern. We will file a further report by the end of March 2011.

Sincerely,

Stephen C. Skubel
Assistant General Counsel
For Litigation
(202) 586-5579

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Office of Proceedings

DEC 29 2010

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Public Record

cc: Vice Chairman Francis P. Mulvey
Board Member Charles D. Nottingham
Attached Service List

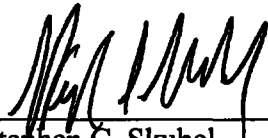


CERTIFICATE OF SERVICE

I, Stephen C. Skubel, hereby certify that I served a copy of the foregoing document by prepaid first-class mail this 29th day of December 2010, on the following:

Aberdeen & Rockfish R.R. Co. P.O. Box 917 Aberdeen, NC 28315	Buffalo & Pittsburgh Railroad c/o Genesee & Wyoming, Inc. 66 Field Point Road Greenwich, CT 06830
Montana Rail Link, Inc. 101 International Way Missoula, MT 59808	James R. Paschall Greg E. Summy Norfolk Southern Railway Company Three Commercial Place Norfolk, VA 23510
Michael L. Rosenthal Covington & Burling 1201 Pennsylvania Avenue, NW Washington, D.C. 20004-2401	Jill Mulligan The Burlington Northern and Santa Fe Railway Company 2500 Lou Menk Drive, 3rd Floor Fort Worth, TX 76131
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George H. Kleinberger P.O. Box 8002 Clifton Park, NY 12065	Ronald E. Fittrow 500 Water Street Jacksonville, FL 32202

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Stephen C. Skubel