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December 10, 2012  
Part of  
Public Record

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December 10, 2012

## VIA E-FILING

Cynthia T. Brown  
Chief of the Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington DC 20423-0001

Re: North America Freight Car Association v. BNSF Railway Company, CSX Transportation, Inc., Canadian National Railway Company, Kansas City Southern Railway Company, Norfolk Southern Railway, Canadian Pacific Railway Company, Union Pacific Railroad Company, and Association Of American Railroads  
STB Finance Docket No. NOR 42137

Dear Ms. Brown:

In accordance with the decision issued by the Surface Transportation Board on November 30, 2012, The Kansas City Southern Railway Company hereby files this Answer to complaint filed by the North America Freight Car Association in the above captioned proceeding. If there are any questions concerning this filing, please contact me by telephone at (202) 663-7823 or by e-mail at [wmullins@bakerandmilller.com](mailto:wmullins@bakerandmilller.com).

Sincerely,



William A. Mullins

Enclosure

cc: W. James Wochner  
David C. Reeves  
Parties of Record

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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North America Freight Car Association	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. 42137
	)	
	)	
BNSF Railway Company, <i>et al.</i> ,	)	
	)	
Defendants	)	
	)	

**ANSWER OF THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

**W. James Wochner, Esq.  
David C. Reeves, Esq.  
THE KANSAS CITY SOUTHERN  
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**Attorneys for The Kansas City Southern  
Railway Company**

**Dated: December 10, 2012**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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North America Freight Car Association	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. 42137
	)	
	)	
BNSF Railway Company, <i>et al.</i> ,	)	
	)	
Defendants	)	
	)	

**ANSWER OF THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

THE KANSAS CITY SOUTHERN RAILWAY COMPANY (“KCSR”) hereby answers the Complaint filed by North America Freight Car Association (“NAFCA”) in this proceeding. KCSR adopts and incorporates by reference the Answer of the Association of American Railroads (“AAR Answer”) in response to all allegations in the Complaint, except to the extent KCSR lacks sufficient information to either admit or deny certain allegations as delineated below. KCSR denies all allegations that are not specifically admitted herein or through reference to the AAR Answer.

Regarding the allegations in numbered Paragraph 7 of the Complaint, based on currently available, first-hand information and recollection, KCSR lacks sufficient information to admit or deny that “some car owners have made request to AAR to adopt certain procedures that would purport to allocate economic benefits arising from rules adopted by AAR.” KCSR otherwise adopts and incorporates by reference the AAR Answer with respect to this Paragraph.

Regarding the allegations in numbered Paragraph 9 of the Complaint, based on currently available, first-hand information and recollection, KCSR lacks sufficient information to admit or deny that “To quantify the extent that truck hunting might be occurring on each railcar as recorded by a wayside detector, in 2006 the railroad industry developed what it called a Hunting Index ("HI"),” as stated in the first sentence of NAFCA’s Paragraph 9, or to admit or deny that “proposed standards that employed the new HI initially set the condemnable level at 0.65 for a single reading or 0.50 for two readings within a 12-month period,” as stated in NAFCA’s Paragraph 9. KCSR otherwise adopts and incorporates by reference the AAR Answer with respect to this Paragraph.

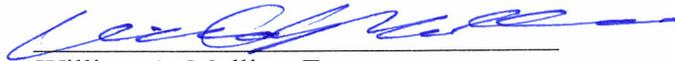
Regarding the allegations in numbered Paragraph 10 of the Complaint, based on currently available, first-hand information and recollection, KCSR lacks sufficient information to admit or deny that “in 2007 the AAR, through the ARC, reduced the condemnable HI for a single reading within a 12-month period from 0.65 to 0.55, and the condemnable HI reading for two readings within a 12-month period to 0.40,” or to admit or deny that “the HI program referenced above was not initially opposed by NAFCA or private railcar interests who were members of ARC and the AAR,” as stated in the last sentence of Paragraph 10 of NAFCA’s complaint. KCSR otherwise adopts and incorporates by reference the AAR Answer with respect to this Paragraph.

Regarding the allegations in numbered Paragraph 11 of the Complaint, based on currently available, first-hand information and recollection, KCSR lacks sufficient information to admit or deny that “In October 2010, the AAR Equipment Engineering Committee ("EEC"), a committee of SOMC, proposed a further reduction of the HI to from 0.55 to 0.50 for a single reading and from 0.40 to 0.35 for two values read in a 12-month period. These changes were proposed to take effect on January 1, 2011,” as stated in the first sentence of Paragraph 11 of NAFCA’s

complaint. KCSR otherwise adopts and incorporates by reference the AAR Answer with respect to this Paragraph.

Regarding the allegations in numbered Paragraph 12 of the Complaint, based on currently available, first-hand information and recollection, KCSR lacks sufficient information to admit or deny that “a TTCI staff member sent an email indicating that, of the projected benefits of the rule change relating to reductions in railroad fuel costs and reduction in damage to rail cars, 90% was attributed to fuel cost reduction and 10% to reduced railcar damage.” KCSR otherwise adopts and incorporates by reference the AAR Answer with respect to this Paragraph.

Respectfully submitted,



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Attorneys for The Kansas City Southern  
Railway Company

Dated: December 10, 2012

**CERTIFICATE OF SERVICE**

This is to certify that on this 10<sup>th</sup> day of December, 2012, I caused the foregoing “Answer of The Kansas City Southern Railway Company” in this Docket No. 42137 to be served upon

Andrew P. Goldstein  
John M. Cutler, Jr.  
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1825 K Street, N.W., Suite 700  
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Thomas W. Wilcox  
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1054 31<sup>st</sup> Street, N.W., Suite 200  
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and separately on counsel for each Defendant, by first class mail, postage prepaid, or by more expeditious means.

  
William A. Mullins