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SEC

SERVICE DATE - LATE RELEASE AUGUST 11, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33853

CEMEX USA—PETITION FOR DECLARATORY ORDER—THE
BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Decided: August 11, 2000

The Board instituted this declaratory order proceeding and issued a procedural schedule in a decision served on April 10, 2000. Subsequently, Cemex USA (Cemex) filed its opening statement and The Burlington Northern and Santa Fe Railway Company (BNSF) filed its reply. On July 11, 2000, Cemex and BNSF jointly notified the Board that they had tentatively agreed to a settlement, and at their request a decision was served on July 12, 2000, granting Cemex a 30-day extension, from July 13 to August 12, 2000, to file its rebuttal statement.

On August 11, 2000, the parties requested that the due date for Cemex's rebuttal be held in abeyance for an indefinite period of time. They state that it will take another 30 to 60 days to finalize the settlement and that the withdrawal of the declaratory order petition will be conditioned on the execution of a settlement agreement and the closing of a real estate sale, which has yet to be scheduled. They also agreed to submit a status report every 30 days until the declaratory order petition is withdrawn. Under the circumstances, the extension request is reasonable and will be granted.

It is ordered:

1. The due date for Cemex to file its rebuttal statement is held in abeyance pending further action by the Board. The parties shall submit a report on the status of the settlement every 30 days from the service date of this decision until the declaratory order petition is withdrawn.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary