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December 19, 2011

Via E-Filing

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

**Re: *Canexus Chemicals Canada, L.P. v. BNSF Railway Company*, STB
Docket No. NOR 42132**

Dear Ms. Brown:

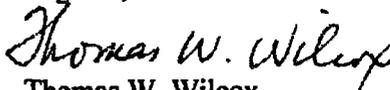
On December 14, 2011, BNSF filed a Motion to Permit Consideration of 2011 TIH Movements from BNSF Traffic Data in Selecting Comparison Group ("Motion") in the captioned case. On December 16, 2011, counsel for BNSF filed a letter asking the Board for "expedited consideration" of the Motion. The letter stated that Canexus does not support the request. Canexus opposes BNSF's request because expedited consideration of BNSF's Motion is neither appropriate nor necessary. First, the Motion is extensive and is supported by verified statements of two witnesses. It was also filed with electronic workpapers and "waybill sample data and other highly confidential information" which Canexus only received very late in the day last Friday after BNSF filed its letter requesting expedited consideration.¹ The foregoing, combined with the onset of the 2011 Holiday season, when counsel, client representatives, and potential reply witnesses are all generally less available, means that Canexus will require all of the 20 days allotted to it by the Board's regulations to formulate and submit a response to the Motion, if not more. Second, the only reason BNSF

¹ Because there is no protective order entered in the case, BNSF agreed to supply counsel for Canexus with material BNSF designated "highly confidential" only if counsel would agree to treat the material as if the Board's standard protective order was in place. Thus, Canexus was not served the complete highly confidential version of the Motion on December 14.

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cites for its request for expedited consideration is that the Board's regulations establish an expedited procedural schedule for Three Benchmark rate cases. However, adjustments to the procedural schedules for rate cases set forth in the Board's regulations are commonly made by the Board on its own motion or at the request of the parties if the circumstances in a particular case require them. In the unlikely event that the Board concludes BNSF's Motion has any merit, any appropriate adjustments to the procedural schedule can be considered at that time. Canexus adds that counsel for the parties have not yet had their conference to discuss procedural and discovery matters required by 49 CFR §1111.10(b), which could also include the possibility of the parties mutually agreeing to an alternative procedural schedule to submit to the Board for its consideration. Accordingly, there are insufficient grounds to justify "expedited consideration" of BNSF's Motion.

Regards,



Thomas W. Wilcox

Attorney for Canexus Chemicals Canada, L.P.

cc: Counsel for BNSF Railway