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March 26, 2012

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

ENTERED
Office of Proceedings
March 26, 2012
Part of
Public Record

Re: STB Docket No. 42119

North America Freight Car Association v. Union Pacific Railroad Company

Dear Ms. Brown:

On March 23, 2012, defendant Union Pacific filed a "Petition for an Order Directing Simultaneous Final Briefs." The day before filings its Petition, Union Pacific emailed counsel for complainant NAFCA seeking permission to advise the Board that NAFCA had no objection to Union Pacific's request. NAFCA immediately advised Union Pacific that NAFCA would not take the requested position and, moreover, requested Union Pacific to advise the Board that NAFCA intended to oppose UP's request.

As the Board can see from UP's Petition, UP neither informs the Board that NAFCA was unwilling to support UP's request nor advises the Board that UP had been requested to inform the Board that NAFCA would file a pleading in opposition. These are the types of reciprocal courtesies that counsel normally extend to each other. We can only surmise that UP refused to inform the Board of NAFCA's opposition to UP's request in the hope that the Board, having no reason to expect opposition from NAFCA, might issue a decision responsive to UP's Petition before NAFCA had filed a response.

This letter is to advise the Board that NAFCA will file a pleading in opposition to UP's Petition, and that part of that response will illustrate to the Board that UP's Petition breaks an agreement that UP and NAFCA reached with respect to a procedural schedule

in this case – an agreement found reasonable and approved by the Board. NAFCA's opposition will be filed within the time limits prescribed by the Board's rules.

Respectfully submitted,



Andrew P. Goldstein

John M. Cutler, Jr.

Attorneys for

North America Freight Car Association

cc: Michael L. Rosenthal
Counsel for
Union Pacific Railroad Company
(By Electronic Transmission)