

2303M

GKG Law, P.C.

RICHARD BAR
BRENDAN COLLINS
STEVEN JOHN FELLMAN
EDWARD D. GREENBERG
KATHARINE FOSTER MEYER
DAVID K. MONROE
TROY A. ROLF
DAVID P. STREET
KEITH G. SWIRSKY
THOMAS W. WILCOX
CHRISTOPHER B. YOUNGER -

SVETLANA V. LYURCHENKO

ROBERT N. KHARASCHO

o OF COUNSEL
- NOT ADMITTED IN DC

MINNESOTA OFFICE:
700 TWELVE OAKS CENTER DRIVE, SUITE 700
WAYZATA, MN 55391
TELEPHONE: 952.449.8817 FACSIMILE: 952.449.0614

WRITER'S DIRECT E-MAIL ADDRESS
TWILCOX@GKGLAW.COM

WRITER'S DIRECT DIAL NUMBER
202-342-5248

June 23, 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

ENTERED
Office of Proceedings
JUN 23 2011
Part of
Public Record

**Re: *Canexus Chemicals Canada L.P. v. BNSF Railway Company*, STB
Docket No. FD 35524**

Dear Ms. Brown:

Attached for e-filing in the above-referenced proceeding is Canexus Chemicals Canada L.P.'s Response to the Board's Decision of June 21, 2011 Regarding Mediation.

Please feel free to contact me with any questions.

Regards,
Thomas W. Wilcox
Thomas W. Wilcox
Attorney for Canexus Chemicals Canada L.P.

Enclosure
CC: Counsel for BNSF Railway
Counsel for UP

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

CANEXUS CHEMICALS)	
CANADA L.P.)	
100 Amherst Ave.,)	
North Vancouver, B.C., V7H 1S4)	
Canada)	
Complainant,)	
v.)	Docket No. FD-35524
BNSF RAILWAY COMPANY)	
2650 Lou Menk Drive)	
Fort Worth, TX 76131-2830)	
Defendant)	
)	

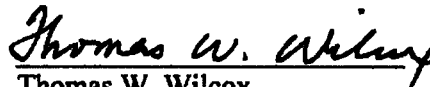
**RESPONSE TO THE BOARD'S DECISION OF JUNE 21, 2011
REGARDING MEDIATION**

Canexus Chemicals Canada, L.P. ("Canexus") hereby responds to the Board's Decision served in this proceeding on June 21, 2011 ("Decision"). The Decision ordered that the Board will provide Board-supervised mediation in this proceeding between the defendant BNSF Railway and a non-party to this case, Union Pacific Railroad Company. Moreover, the mediation will occur despite the fact that Canexus did not consent to ADR treatment of this case, a prerequisite under 49 C.F.R. §1109.1, because UP and Canexus agree on the interchange to which Canexus seeks an order compelling BNSF to provide a rate, and Canexus' concern with involving BNSF in discussions that affect a contract to which BNSF is not a party. The Decision encouraged Canexus to participate in the

mediation, however, and ordered Canexus to inform the Board by June 24, 2011 if it chose to participate in the mediation.

Canexus is not opposed to resolving disputes through mediation, and is cognizant of this Board's desire to try and utilize mediation as a means to resolve disputes between railroads and shippers. Accordingly, while Canexus still maintains the foregoing reservations, Canexus agrees to participate in Board-supervised mediation in a good faith effort to either resolve the issues set forth in Canexus' complaint, or to frame the issues for the Board to resolve.

Respectfully Submitted,



Thomas W. Wilcox
Edward D. Greenberg
Svetlana Lyubchenko
GKG Law, P.C.
1054 31st Street NW, Suite 200
Washington, D.C. 20007
Tel: (202) 342-5248
Fax: (202) 342-5222

*Attorneys for
Canexus Chemicals Canada, L.P.*

June 23, 2011

CERTIFICATE OF SERVICE

I do hereby certify on this 23th day of June, 2011 that I have delivered a true and correct copy of the foregoing *Response to the Board's Decision of June 21, 2011 Regarding Mediation* to the following addressees at the addresses stated via email and hand delivery:

Samuel M. Sipe, Jr.
Anthony J. LaRocca
Steptoe & Johnson LLP
1130 Connecticut Avenue, NW
Washington, DC 20036-1795

Michael L. Rosenthal
Covington & Burling LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004
Union Pacific Railroad Company

and via U.S. Mail to:

J. Michael Hemmer
Louise A. Rinn
Union Pacific Railroad Company
1400 Douglas Street
Omaha, Nebraska 68179



Thomas W. Wilcox