



Department of Energy
Washington, DC 20585

March 31, 2009



Acting Chairman Francis P. Mulvey
Office of Chairman
Surface Transportation Board
395 E Street, SW
Washington, D C 20420-0001

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224810

RE. Docket Nos 38302S and 38376S

Dear Chairman Mulvey

The order entered in these dockets July 27, 2005 (served August 2, 2005, and effective September 1, 2005), approving the Government's settlement agreement with Union Pacific Railroad Company, further held these proceedings in abeyance while directing the Government to file quarterly reports on the progress of settlement negotiations. The Government continues to pursue settlement with individual carriers and is engaged in separate discussions with individual railroad defendants BNSF and Norfolk Southern. The Government and BNSF met on February 3, 2009, and plan to continue discussions. The Government is awaiting Norfolk Southern's response to information supplied by the Government following the parties' June 17, 2008 meeting.

Accordingly, we are not yet in a position to report an agreement with either BNSF or Norfolk Southern. However, we remain hopeful that we will be able to reach agreements with both carriers. We will file a further report by the end of June 2009.

Sincerely,

Stephen C. Skubel
Assistant General Counsel
For Litigation
(202) 586-5579

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Office of Proceedings
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Public Record

cc Board Member Charles D. Nottingham
Attached Service List

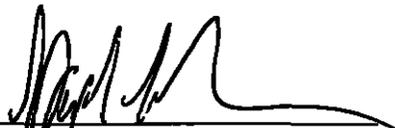


CERTIFICATE OF SERVICE

I, Stephen C Skubel, hereby certify that I served a copy of the foregoing document by prepaid first-class mail this 31st day of March, 2009, on the following

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