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April 7, 2009

VIA ELECTRONIC FILING

Hon. Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 I. Street SW
Washington, DC 20423

Dear Secretary Quinlan:

This refers to STB Finance Docket No. 35164 BNSF Railway Company--Petition for Declaratory Order, and to the Reply of BNSF Railway Company to Motion for Leave to Participate as a Party of Record, filed April 6, 2009.

BNSF Railway Company's pique with Mr. James Riffin does not give it license to make an impermissible filing, assailing altogether different and unallied parties. On behalf of Bio-Energy Wellness Center and North American Transportation Institute I respectfully request that the Board, pursuant to 49 C.F.R. 1104.8, strike as irrelevant and immaterial BNSF Railway Company's gratuitous criticism of the Comments of Bio-Energy Wellness Center and North American Transportation Institute on page 6 of its pleading, including footnote 3. The Comments of Bio-Energy Wellness Center and North American Transportation Institute were filed November 3, 2008, and if BNSF Railway Company found fault with the Comments, 49 C.F.R. 1104.13 required it to file its reply or motion within twenty days' time.

I certify that I this day have served copies of this letter upon BNSF Railway Company and the other parties by e-mailing or facsimile transmitting copies to their representatives.

Sincerely yours

Fritz R. Kahn