

November 30, 2005

*Via Hand Delivery*

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K St. N.W.  
Washington, D.C. 20423

215236



RE: STB Docket No. 34795, *Roquette America, Inc. – Petition for Exemption from 49 U.S.C. § 10901 to Construct a New Line of Rail in Keokuk, Iowa*

Dear Secretary Williams:

On November 29, 2005, Roquette America, Inc. filed the Verified Petition for Exemption in the above referenced proceeding. On page 5, line 3, "1997 Agreement" should be replaced by "1977 Agreement." For the convenience of the Board, please find enclosed for filing the original and ten (10) copies of an Errata page 5 to be replaced in the original filing.

An extra copy of this filing is enclosed for stamping and returning to our offices.

Should you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey O. Moreno".

Jeffrey O. Moreno

Office of Proceedings  
NOV 30 2005  
Part of  
Public Record

## ERRATA

facility) and it was to have access to any new RAI facilities that may in the future become located along the track within the Keokuk facility. The Supplemental Agreement was to run concurrent with the term of the 1977 Agreement, which remained effective except as modified by the Supplemental Agreement.

Less than a year later, on March 13, 1996, Pioneer Railcorp, a railroad holding company, purchased the KJRY. Problems soon developed in the relationship between KJRY and BNSF. These problems, which have been described in detail in STB Docket No. 33740 (Sub-No. 1), *The Burlington Northern and Santa Fe Ry. Co. – Petition for Declaration or Prescription of Crossing, Trackage, or Joint Use Rights; The Burlington Northern and Santa Fe Ry. Co. – Petition for Determination of Compensation and Other Terms*, 2001 STB Lexis 575 (served June 22, 2001) ("*KJRY Crossing Decision*"), ultimately compelled BNSF to pursue an action before the STB in order to cross the KJRY to retain access to the newly relocated Mooar Line. BNSF's access to the Keokuk facility, however, was not at issue in that proceeding.

Shortly after being acquired by Pioneer Railcorp, the KJRY also attempted to isolate the Keokuk facility from BNSF. In a letter dated May 1, 1996, KJRY notified RAI and BNSF that it would terminate the 1977 Agreement "as to the crossings serving Roquette America, Inc., effective August 1, 1996."<sup>1</sup> See Exhibit 5. This eliminated BNSF's ability to serve the Keokuk facility entirely, since BNSF had lost direct access due to the relocation of the Mooar Line. KJRY served this notice at about the same time that it entered into a 10-year contract with RAI, dated May 17, 1996, to provide switching service at the Keokuk facility, which included switching cars to and from BNSF. Because of this 10-year switching contract, there was no immediate competitive impact upon RAI from KJRY's cancellation of the 1977 Agreement.

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<sup>1</sup> In a letter dated November 13, 1998, KJRY cancelled the remainder of the 1977 Agreement, which had continued to govern the relationship between KJRY and BNSF. See Exhibit 6. That action precipitated the dispute in STB Docket No. 33740 (Sub-No. 1).