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March 23, 2009

The Honorable Anne K. Quinlan
Secretary
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

Re: Docket No. 42088, *Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. v. BNSF Railway Co.*

Dear Secretary Quinlan:

On March 20, 2009, the BNSF Railway Company ("BNSF") filed a document denominated "Notice of Filing of Verified Notice of Compliance." The Verified Notice of Compliance attaches Version 6 of BNSF Common Carrier Pricing Authority 90077. BNSF asserts in its Verified Notice of Compliance that the rates set forth in Version 6 were established in a manner that is "consistent with" the Board's decision served in this proceeding on February 18, 2009. See id. at 1.

BNSF did not consult with Western Fuels Association, Inc. and Basin Electric Power Cooperative Inc. ("WFA/Basin") before presenting its asserted "compliance" methodology and results to the Board. Also, BNSF's filing does not include any supporting workpapers.

The purpose of this letter is to advise the Board of these developments and to inform the Board that WFA/Basin will be presenting a response to BNSF's Verified Notice of Compliance in the manner provided for under the Board's Rules of Practice.

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Counsel for WFA/Basin have also submitted a request to counsel for BNSF asking that BNSF produce a copy of the supporting workpapers.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John H. LeSeur". The signature is written in a cursive, flowing style.

John H. LeSeur
An Attorney for WFA/Basin

JHL:cef
cc: BNSF Counsel