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THOMAS F. MCFARLAND

December 16, 2010

By e-filing

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: STB Finance Docket No. 35302, *Bell Oil Terminal, Inc. v. BNSF Railway Company*

Dear Ms. Brown:

By decision served June 4, 2010, the Board granted a request of the parties for non-binding mediation and held the proceeding in abeyance for 60 days while the parties pursued a mediated agreement. The period for mediation and abeyance was extended on two occasions. The most recent extension, in a decision served November 10, 2010, was to December 1, 2010.

Despite the best efforts of the parties and excellent mediation services provided by Board representatives Lawrence Herzig and Brian O'Boyle, the parties were unable to arrive at a mediated agreement.

In behalf of Complainant Bell Oil Terminal, Inc., this is to respectfully request that the Board return the proceeding to the Board's active docket. In that respect, the Board is respectfully requested to rule on an expedited basis on a Motion to Dismiss the Complaint, which was filed by Defendant BNSF Railway Company. That Motion had been pending at the Board for seven months before the parties sought mediation. Disposition of that Motion is necessary in order to determine whether consideration of the Complaint will go forward.

Respectfully Submitted,



Thomas F. McFarland
One of the Attorneys for Complainant

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cc: *(by e-mail)*

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