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August 17, 2010

Cynthia T. Brown,
Chief, Section of Administration Office of Proceedings
Service Transportation Board
395 E Street, S.W.
Washington DC 20423-0001

Re: State of Montana v. BNSF Railway Company, STB Docket No. 42124

Dear Ms. Brown:

1. As the parties were unable to reach agreement on a proposed procedural schedule to govern this proceeding, this letter sets forth Defendant BNSF Railway Company's separate report, pursuant to 49 C.F.R. § 1111.10(a).

2. Montana filed its complaint in this proceeding on July 9, 2010 and BNSF answered on July 29, 2010. The complaint involves allegations by Montana of purported unreasonable practice claims pursuant to 49 U.S.C. § 10702 arising from BNSF's cancellation of 52-car wheat rates from Montana and substitution of 48-car wheat rates. BNSF denies that Montana has stated any claims for violation of ICCTA or that relief should be granted.

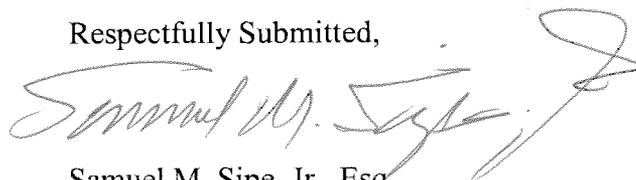
3. On August 9, 2010, the parties conferred regarding discovery and other procedural matters, as required by 49 C.F.R. § 1111.10(a). Subsequently, further conversations were held between counsel for the parties. BNSF has informed Montana that BNSF intends to file by August 23, 2010 a motion to dismiss the complaint or, alternatively, to hold the proceeding in abeyance (hereafter "BNSF's Motion"). To avoid the unnecessary expenditure of resources on discovery and/or preparation of evidence while the Board considers BNSF's Motion, the Board should refrain from adopting a procedural schedule unless and until BNSF's Motion is denied. If the Board denies BNSF's Motion, BNSF believes that the following schedule should be adopted and commence upon (1) the denial of BNSF's Motion or (2) the expiration of any stay of this proceeding:

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Period of Discovery:	90 days
Complainant's Opening Statement of Fact and Argument:	45 days after completion of Discovery
Defendant's Reply Statement of Fact and Argument:	60 days after the filing of Complainant's Opening Statement
Complainant's Rebuttal:	30 days after Defendant's Reply

4. BNSF urges the Board to decide BNSF's Motion expeditiously.

Respectfully Submitted,



Samuel M. Sipe, Jr., Esq.
 Linda S. Stein, Esq.

Attorneys for BNSF Railway Company

cc: Andrew P. Goldstein, Esq.
 John M. Cutler, Jr., Esq.