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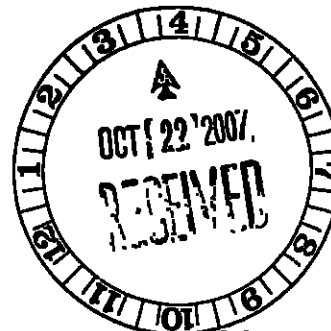
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October 22, 2007

VIA HAND DELIVERY

The Honorable Vernon A. Williams
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 Williams

Enclosed for filing in the above-referenced proceeding please find an original and twenty (20) copies of the Joint Petition to Correct Technical and Computational Errors of Complainants Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc., and Defendant BNSF Railway Co.

Please date stamp the extra copy of this cover letter and the enclosed filing and return them to our messenger. Thank you for your attention to this matter.

Respectfully submitted,

John H. LeSeur
An Attorney for Complainants

Enclosures

cc: Counsel for Defendant BNSF Railway Co

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BEFORE THE
SURFACE TRANSPORTATION BOARD

WESTERN FUELS ASSOCIATION, INC.
and BASIN ELECTRIC POWER
COOPERATIVE, INC.

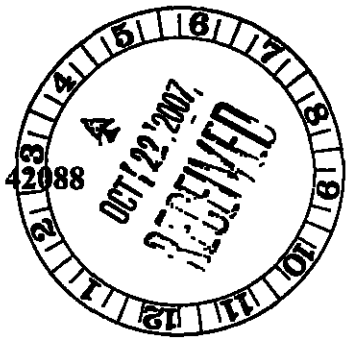
Complainants,

v.

BNSF RAILWAY COMPANY

Defendant.

Docket No. 42088



JOINT PETITION TO
CORRECT TECHNICAL AND COMPUTATIONAL ERRORS

Complainants Western Fuels Association, Inc and Basin Electric Power Cooperative, Inc ("WFA/Basin") and defendant BNSF Railway Company ("BNSF") hereby jointly petition the Board to correct certain technical and computational errors in its decision in this docket served September 10, 2007 ("Decision") This joint petition is submitted pursuant to the Board's directive in footnote 28 on page 25 of the Decision ¹

The parties have conferred and have identified certain technical and computational errors related to the application of the Board's DCF model, the calculation of SARR revenues, the calculation of SARR investment costs, and the calculation of SARR

¹ By decision served September 26, 2007, the Board extended the 20-day reconsideration period described in footnote 28 to October 22, 2007

operating costs The errors, and the corrections needed to address each of the errors, are set forth in Tables 1 and 2 attached hereto Table 1 reflects cost overstatements and revenue understatements Table 2 reflects cost understatements

There are a few items in Table 1 where the parties do not agree on the existence of a technical error or the extent of the technical correction that is needed The parties' positions on these issues are set out in the footnotes to the Table It should also be noted that each item in both Tables has been calculated separately and is expressed in nominal dollars, and that the parties have not attempted to calculate the cumulative impact of the corrections

Respectfully submitted,

BNSF RAILWAY
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Table 1 WFA/Basin v BNSF Technical Errors in STB Workpapers Cost Overstatements/Revenue Understatements			
Item	Reason	Amount	Location of Error
A. DCF Model			
1 Future Interest Amortization	¹	\$234.7 million	²
2 Operating Expense Annualization	³	\$9.7 million	⁴
B. SARR Revenues			
1 Revenues are understated	⁵	\$191.3 million	⁶
C. Investment			
1 Roadbed Preparation			
a Track miles	⁷	\$1,287,560	⁸

¹ When amortizing debt over 20 years the STB failed to adjust the Investment SAC level to eliminate future interest, as a result the Federal Income tax are overstated. Correction of this error results in a reduction of the SAC requirement by \$234.7 million over the 20 year model life.

² Worksheet "STB DCF.xls," tab "Investment SAC," cell H145

³ 4Q04 operating expenses were calculated by applying the ratio of 92/366 to 2004 annual operating expenses because 2004 was a leap year. In moving to 2005 the STB adopted WFA/Basin's rebuttal evidence which continued to assume a 366 day year even though 2005 is not a leap year and has only 365 days. Correction of this error in WFA/Basin's rebuttal workpapers and the STB's corresponding worksheet results in a reduction of the SAC requirement by \$9.7 million over the 20 year model life. BNSF does not believe this amounts to a technical error that may be corrected here because it resulted from the Board's acceptance of calculations submitted by WFA/Basin.

⁴ WFA/Basin Rebuttal electronic workpaper "Exhibit III_H_1.xls," tab "Operating SAC," cells F15, F17, F19, F21, F23, F25, F27, F29, F31, F33, F37, replicated in STB Worksheet "STB DCF.xls," tab "Operating SAC," Cells F15, F17, F19, F21, F23, F25, F27, F29, F31, F33, F37

⁵ The STB revenues are incorrect for the following reasons: 1) Actual tariff rates for the issue traffic were not used for 2006 and 2007, 2) Fuel surcharges were not applied to the issue traffic in 2004 and 2006 through 2024, 3) for 2008 through 2024 the STB applied the RCAF-U rather than BNSF's forecasting procedure of RCAF-U without fuel, plus a fuel surcharge, 4) the STB calculated incorrect revenues for Wood River in 2005, 5) the STB miscalculated the revenue for the Daniel traffic, 6) the STB calculated the wrong rate for 2005 for traffic moving to Big Stone, Corlette, Daniel, Fort Martin, Holcomb, Kingston, Leland Olds, Nelson and Sammis, 7) the STB calculated an incorrect rate for every year for traffic to Gibbons Creek and Pawnee, and 8) the STB calculated an incorrect rate for 2006 for traffic to Springerville. In aggregate these errors result in an understatement of \$191.3 million in revenues over the 20 year model life.

⁶ See "STB LRR Traffic and Revenues.xls", sheet "ProjTonRev", cells AA50, AD18, AD25, AD31, AD39, AD45, AD50, AD52, AD61, AD62, AD72, AF28, AE90, AH34, AH50, AH67, AH67, AI50, AL50, AM50, AP50, AP50, AQ50, AT50, AU50, AX50, AY50, BB50, BC50, BF50, BG50, BJ50, BK50, BN50, BO50, BR50, BS50, BV50, BW50, BZ50, CA50, CD50, CE50, CH50, CI50, CL50, CM50, CP50, CQ50, CT50, CU50, CX50, CY50, DB50 and DC50, sheet "SARR Traffic_2005", cells AH115 and AH195

⁷ The STB overstated track miles used for grading.

⁸ In Table A-1 of the STB's Decision, the STB increased WFA/Basin's track miles for "Setout, Interchange & Helper Track" by 0.34 track miles. The increase of 65 feet in length for 28 setout tracks (STB's 925 feet minus WFA/Basin's 860 feet, STB Decision at 25) equals the 0.34 miles added by the STB. In "STB Track Summary Restatement for Grading.xls", the STB improperly increased the passing siding/interchange track miles in cells G54, G57, G59 and G60, these figures should remain the same as the figures in the corresponding cells in WFA/Basin's 7/14/06 Supplemental Rebuttal workpaper file "Track

Table 1
WFA/Basin v BNSF
Technical Errors in STB Workpapers
Cost Overstatements/Revenue Understatements

<u>Item</u>	<u>Reason</u>	<u>Amount</u>	<u>Location of Error</u>
b Roadbed width	⁹	\$3,098,707	¹⁰
2 Track Construction			
a Rail transportation	¹¹	\$174,549	¹²
b Unit cost	¹³	\$4,720,049	¹⁴
3 Yard Fencing Cost	¹⁵	\$3,194,274	¹⁶

summary Rebuttal.xls" as the STB accepted WFA/Basin's track configuration for these tracks. The STB also improperly increased the "Setouts/Helper" miles in cells K57, K58 and K60 of "STB Track Summary Restatement for Grading.xls" as the increase in setout track miles should have been allocated to all setout tracks affecting the setout track miles of all segments. To include the correct increase in setout track miles, open both STB files "STB Track Summary Restatement for Grading.xls" and "STB Restated Grading.xls" and make the following modifications to "STB Track Summary for Grading.xls": First, remove the STB's additives to the formulas in cells G54, G57, G59, G60, K57, K58 and K60. Next, increase the track miles for each set out track by 0.012 miles (65 feet – 5,280 feet) in cells K12-K15, K17-K32, K36-K41 and K46-K47. This will result in the track miles for grading equaling the track miles shown in Table A-1 of the Decision and roadbed preparation costs totaling \$163,062,487 ("STB Restated Grading.xls", tab "IIIF Summary", cell E33 after corrections), or a reduction of \$1,287,560 from the STB's original total of \$164,350,047. Note that this reduction does not include the corresponding reduction in mobilization, engineering and contingency costs.

⁹ The STB used BNSF roadbed width of 28 feet in grading calculations when Decision accepted 24 feet.

¹⁰ Begin with the STB's worksheet file "STB Restated Grading.xls" as modified to correct the track mile errors identified above. On tab "IIIF_3R CY Grad", change cells E12, E14, E15 and E16 from 28 to 24. Then change the formula in cell F12 from "=-'IIIF_9 EB EW'!I29" to "=-'IIIF_9 EB EW'!I54". Next, make the following two corrections on tab "IIIF_9 Orin EW". First, change cell N49 from "=-28 (2*10)" to "=-24+(2*10)". Next, change cell N60 from "=-28 -15+(2*10)" to "=-24+15+(2*10)". (See W1 A/Basin's 7/14/06 Supplemental Rebuttal worksheet file "LRR GRADING Rebuttal.xls", tab "IIIF_9 Orin EW", cells N49 and N60.) These changes result in revised roadbed preparation costs totaling \$159,963,780 ("STB Restated Grading.xls", tab "IIIF Summary", cell E33 after corrections), or a reduction of \$3,098,707 from the revised total of \$163,062,487 identified in footnote 8 above after correcting the track mile overstatement. Note that this reduction does not include the corresponding reduction in mobilization, engineering and contingency costs.

¹¹ The STB used the wrong miles from Pueblo to Bridger Jet in the calculation of rail transportation costs for 136# standard rail.

¹² See "STB Rail Worksheet.xls", sheet "BNSF Routings", cell C18 and change the formula from "=-1054 7-667 4" to "=-443 8" (The source of the 443 8 is BNSF 6/15/06 Supplemental Reply worksheet file "III F LRR Construction_6-15-06 Reply.xls", tab "Rail Unit Price", cell C16.) Correct the links in file "STB III – F TOTAL.xls", sheet "Material Unit Cost", cells H9, H10 and H11 to access STB worksheet file "STB Rail Worksheet.xls", tab "Rail Cost Summary", cells K32, K31 and K33, respectively. Note that this reduction does not include the corresponding reduction in mobilization, engineering and contingency costs.

¹³ The STB indexed 2004 rail costs as if they were 2003 costs.

¹⁴ See "STB III – F TOTAL.xls", sheet "Material Unit Cost", cells I9, I10 and I11, change 2003 to 2004. Next change the formulas in cells J9, J10 and J11 to reference STB worksheet file "Historical Factors Worksheet.xls", tab "Historical Factor", cell D9 instead of cell D8. Note that this reduction does not include the corresponding reduction in mobilization, engineering and contingency costs.

¹⁵ The STB modified a spreadsheet causing a link to reference an incorrect cell for the fencing unit cost.

¹⁶ See "STB Buildings and Sites.xls", tab "Total Building Costs", cells K26, K28 and K30 and change to reference STB worksheet file "STB III – F TOTAL.xls", tab "Material Unit Cost", cell J47. Note that this reduction does not include the corresponding reduction in mobilization, engineering and contingency costs.

Table 1 WFA/Basin v BNSF Technical Errors in STB Workpapers Cost Overstatements/Revenue Understatements			
Item	Reason	Overstatement Amount	Location of Error
D. Operating Cost			
1 Train crew personnel	¹⁷	\$1,152,583 or \$856,276	¹⁸
2 Training and recruiting expense	¹⁹	\$250,100 or \$175,070	²⁰
3 Maintenance of Way			
a Small tools additive	²¹	\$296,452	²²
b Equipment maintenance	²³	\$246,599	²⁴
c Building maintenance	²⁵	\$38,130	²⁶

¹⁷ WFA/Basin believe the STB overstated T&E personnel for three reasons (1) the STB indicated it accepts BNSF's determination of road train personnel, yet it uses 185 road train crew personnel rather than BNSF's calculation of 183 road crew members, (2) the STB accepted WFA's switch crew count of 6 crew members and used BNSF's count of 11 crew members and (3) the STB indicated that it accepts BNSF's inclusion of work train personnel as a part of the road crew count, yet it added two work crew personnel. BNSF agrees that items (2) and (3) are technical errors, but disagrees that item (1) is a technical error. Regarding item (1) the STB accepted BNSF's calculation methodology for train crew personnel which includes a re-crewing factor for crews serving the mines. BNSF believes the increase of two road train personnel is a function of the STB's acceptance of WFA's train counts and BNSF's re-crew factor, and is not based on acceptance of a particular train crew personnel number, which means the STB's workpapers calculate the correct train crew personnel number. Assuming WFA/Basin's position is correct, the overstatement amount for items (1), (2) and (3) is \$1,152,883. Assuming the STB's workpapers are correct, the correct overstatement amount is \$856,276 for items (2) and (3) only (Year 2005).

¹⁸ "STB Operating Statistics8-9.xls", sheet "Peak to Base", cells T11 and T21

¹⁹ Training and recruitment expense is reduced due to the overstatement in T&E personnel. Different amounts are shown depending on how the Board resolves the issue in part D 1 (see footnote 17 above) (4Q of 2004 + 1Q through 3Q of 2005)

²⁰ See "STB Operating Expense8-9.xls", sheet "Training", cell G3

²¹ The STB indicates it accepts BNSF's small tool additive, yet it uses WFA's additive, which when applied to the individual expenses accepted by the STB results in an overstatement of \$296,452

²² "STB Spot Maint Rebuttal.xls", sheet "MOW Personnel", cell J20 J47

²³ The STB accepted BNSF's MOW equipment expense, which included maintenance of equipment component and rejected WFA's equipment expense which had a separate maintenance component. The STB then added WFA's maintenance component to BNSF's equipment expense resulting in a \$246,599 overstatement in expense

²⁴ "STB Spot Maint Rebuttal.xls", sheet "Spot Maintenance Summary", cell C21

²⁵ The STB failed to recalculate building maintenance based on its revised building construction cost resulting in a \$38,130 overstatement in operating cost

²⁶ "STB Spot Maint Rebuttal.xls", Sheet "Spot Maintenance Summary", cell C23, sheet "Contract Work" cell E21, sheet "Unit costs", cell B14

Table 2
WFA/Basin v BNSF
Technical Errors in STB Workpapers
Cost Understatement

Item	Reason	Amount	Location of Error
A. DCF Model			
1 Cost of Capital	¹	\$90.8 million	²
2 Operating Expense Inflation	³	\$115.3 million	⁴
3 Operating Expense Training & Startup Costs	⁵	⁶	⁷
B. Investment			
1 Independently Controlled Switches	⁸	\$6,780,800	⁹
3 Yard Lighting	¹⁰	\$2,100,953	¹¹

¹ In the September 7, 2007 decision, the Board stated that it up-dated the Discounted Cash Flow (DCF) model to reflect the 2005 cost of equity that became available after the record was closed. The Board did not follow through on this statement. The DCF does not use or contain 2005 cost of capital information from the Board's Ex Parte No. 558 (sub No. 9) – Railroad Cost of Capital decision. Inclusion of the 2005 cost of capital increases the revenue requirement by \$90.8 million (nominal) over the 20-year life.

² "STB DCF.xls", tab "Cost of Capital" requires the following modifications: 1) Cell K17 needs to be populated with year 2005 cost of equity information from the Board's Ex Parte No. 558 (sub No. 9) – Railroad Cost of Capital decision; 2) The literal contents of cells Q16 should be copied to cell Q17 and a formula to calculate the average of cells Q14 through Q17 should be placed in cell Q18.

³ When building its hybrid RCAF / RCAF-A index to escalate operating expenses, the STB relied upon the third quarter 2005 Global Insight forecast used in WFA's 2005 Rebuttal evidence. However, in its 2006 Supplemental Rebuttal evidence, WFA replaced this forecast with the first quarter 2006 Global Insight forecast, which the STB relied upon to escalate SARR revenues. The Board failed to use this same forecast to develop its hybrid RCAF index used to inflate operating expenses.

⁴ "STB DCF.xls", tab "Inflation Index," column "G" which is linked to work paper "STB Rebuttal Exhibit III-G-1.xls."

⁵ When adding Training and Startup costs to operating expenses in the "Operating SAC" tab of the DCF, the Board omitted expenses for the years 2006 through 2024 from the operating expenses carried forward to columns BF through BX. This omission affects only the DCF results summarized in the "Tables" tab of the DCF spreadsheet and does not affect any of the results carried forward to the "Netting" tab. Therefore, no correction to the Board's underlying DCF calculations is required because of this omission.

⁶ Correcting this omission increases operating expenses summarized in the "Tables" tab of the STB-DCF spreadsheet by \$11,648,297 over 20-year DCF period, makes those operating expenses consistent with those in the "Netting" tab, and has no impact on the Board's underlying DCF calculations.

⁷ "STB-DCF.xls", Tab "Operating SAC," Cells BF16:BX16

⁸ The Board understated the investment for signals by \$6,780,800 because of a spreadsheet error for the calculation of independently controlled switches. In the decision, the Board accepted BNSF's use of the switches.

⁹ Calculation for the switches must be carried to cells R26, S26, T26 and U26 of tab "Components & Tabulations" in "STB Rebuttal Laramie River CS Spreadsheet.xls."

¹⁰ The Board understated the yard lighting cost by \$2,100,953. The Board did not include the square foot quantities for the yards at Guernsey, South Logan and Donkey Creek in its yard lighting cost formula and therefore excluded the lighting investment for these yards.

Table 2 WFA/Basin v BNSF Technical Errors in STB Workpapers Cost Understatement			
Item	Reason	Amount	Location of Error
4 Building Site Development	¹²	\$10,261,080	¹³
5 Overpasses	¹⁴	\$5,335,747	¹⁵

¹¹ Cells C42, C31 and C31 in tabs "Donkey Creek Yard, Guernsey Yard and South Logan Yards" respectively in "STB Track Miles Worksheet.xls" should be populated with the yard square footage

¹² The Board understated the investment for site development costs for buildings by \$10,261,080. The Board failed to include the square footage that is used to calculate drainage costs and therefore excluded this cost from the building site development investment.

¹³ Cells C42, C31 and C31 in tabs "Donkey Creek Yard, Guernsey Yard and South Logan Yards" respectively in "STB Track Miles Worksheet.xls" should be populated with the yard square footage

¹⁴ The Board understated the bridge investment by \$5,335,747. In the decision, the Board accepted BNSF's bridge lengths but the Board's workpapers do not reflect BNSF's lengths.

¹⁵ The BNSF bridge lengths from cells P2 through P20 in tab "Crossings, RR Under" of BNSI's electronic workpaper "Overpasses_6-15-06 Reply.xls" should be substituted for the lengths that appear in cells P2 through P20 of tab "Crossings, RR Under" in "STB LRR Overpasses Costs.xls."