

**Department of Energy**

Washington, DC 20585

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August 22, 2023

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20420-0001

RE: Docket Nos. NOR 38302S and NOR 38376S

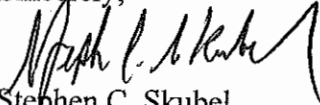
Dear Ms. Brown:

In a decision served on June 28, 2017, the Surface Transportation Board (the Board) approved a settlement agreement in this proceeding between the U.S. Departments of Defense and Energy (the Government) and Norfolk Southern Railway Company. That decision followed an order in these dockets, served August 26, 2013, approving the Government's settlement agreement with BNSF Railway Company, and an order in these proceedings, served August 2, 2005, approving the Government's settlement agreement with Union Pacific Railroad Company.

In a decision served on August 31, 2017, the Board noted that "these dockets remain open, consistent with the Government's request that the proceedings continue to be held in abeyance pending further settlement negotiations." The Board reduced the Government's reporting requirement on the progress of future settlement negotiations with the remaining railroad defendants from the prior quarterly reports that had been in effect since the approval of the Union Pacific settlement to an annual reporting requirement. The Board set September 4, 2018, as the due date for the first such report, with subsequent reports to be due on or about the first day of September thereafter.

This will update our most recent prior report of August 31, 2022. Since that report, we have continued discussions and exchanges of information with CSX Transportation, Inc., aimed at reaching a settlement in this matter. The parties believe these exchanges have been productive and are continuing their discussions.

Sincerely,



Stephen C. Skubel
Assistant General Counsel
For Litigation
(202) 586-5579

cc: All Parties of Record, Docket Nos. NOR 38302S and NOR 38376S
John Patelli, Jason Marques, CSX Transportation, Inc.