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May 9, 2003

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423

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207788

Re: STB Docket No. 42060, North America Freight Car Association -- Protest and Petition for Investigation -- Tariff Publications of The Burlington Northern and Santa Fe Railway Company.

Dear Secretary Williams:

On April 28, 2003, the Board served a decision in the captioned proceeding requesting additional submissions from the parties on a variety of specified issues. The due date for the requested submissions was 20 days following service of the April 28 Decision, or May 19, 2003. Replies to the initial submissions were requested 10 days thereafter, or by May 29, 2003.

Petitioner, North America Freight Car Association ("NAFCA") and Intervenor American Chemistry Council ("ACC") and National Industrial Transportation League ("NITL") hereby request an alteration to the procedural schedule established in the April 28 Decision. We request that the date for filing initial statements in response to the April 28 Decision be extended 20 days, to June 9, 2003, and that a 25-day period be established for reply statements, so that replies to the initial filings would be due on July 7, 2003.

The April 28 Decision seeks (1) comments on what constitutes a departure tariff under Section 8 of the Ex Parte No. 328 rules, (2) comments on whether the cost of operating and maintaining holding tracks for private cars prior to loading was considered by the parties to be a railroad cost in the Ex Parte No. 328 negotiations, (3) comments on the significance of the absence of storage charges on cars awaiting loading in the Ex Parte No. 328 agreement, (4) comments on the significance of the contentions (a) that the furnishing of holding tracks for empty private cars prior to loading is included in the line-haul rates paid by BNSF shippers, and (b) that the movement of private car cycles is largely within the control of BNSF, (5) information regarding the "typical duration for holding private tank cars awaiting loading and on the length of track that is used in holding these cars," (6) comments on whether the diversion charges imposed by BNSF are attributable to "switching out cars or blocks of cars that a shipper in mid-shipment diverts

to a new location," and (7) comments on "how, in today's environment, we should evaluate a charge if we find that it is a departure tariff."

NAFCA, ACC, and NITL are endeavoring to coordinate their responses to the Board's requests in order to avoid separate responses that contain duplicative facts and argument. Member companies of the organizations involved are being requested to supply a representative number of relevant facts deemed responsive to the Board's Decision. Additionally, we are undertaking a review of a large number of documents consisting of minutes and reports from the lengthy Ex Parte No. 328 negotiations in order to respond to the Board's request for comments on "whether the cost of operating and maintaining holding tracks for private cars prior to loading was considered by the parties to be a railroad cost in the Ex Parte No. 328 negotiations."

NAFCA, ACC, and NITL do not believe that the substantial challenges posed by the Board's decision can be met adequately by May 19, 2003. Pursuant to 49 C.F.R. § 1104.7(b), we are seeking a 20-day extension of time for the filing of initial comments and a 15-day extension of time for the filing of replies. This request has been discussed with counsel for BNSF, who has authorized us to state that BNSF concurs.

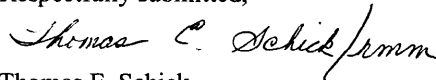
The parties accordingly request the Board to establish June 9, 2003 as the due date for opening statements in response to the April 28 Decision and July 7, 2003 as the due date for reply statements.



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Respectfully submitted,



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cc: Robert M. Jenkins, III