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ENVIR. APPEALS BOARD

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San Francisco, CA
94104-1435
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September 19, 2011

VIA FEDERAL EXPRESS

Clerk of the Environmental Appeals Board
U.S. Environmental Protection Agency
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

Re: *In the Matter of Brown & Bryant, Inc. Site*
CERCLA Section 106(b)
Petition No. 94-12

Dear Sir or Madam:

Enclosed please find an original and five copies of the *Twentieth Joint Status Report* submitted by Petitioners and EPA Region IX in the referenced action. If you would please "file-stamp" these pleadings, I have enclosed one extra copy to be returned to me in the self-addressed, stamped envelope.

If you have any questions, please call me at 415.228.5400. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Marc Zeppetello".

Marc A. Zeppetello

MAZ/fmc
Enclosures

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BEFORE THE ENVIRONMENTAL APPEALS BOARD U.S. E.P.A.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C.

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In the Matter of,
BROWN & BRYANT, INC. SITE
600 South Derby Road
Arvin, California

SOUTHERN PACIFIC
TRANSPORTATION COMPANY

and

THE ATCHISON, TOPEKA & SANTA FE
RAILWAY,

Petitioners.

CERCLA Section 106(b)
Petition No. 94-12

TWENTIETH JOINT STATUS REPORT

Nancy J. Marvel
Regional Counsel
Region IX

Joshua Wirschafter
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94107
Telephone: (415) 972-3912

COUNSEL FOR REGION IX

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John F. Barg, Esq.
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San Francisco, CA 94104-1435
Telephone: (415) 228-5400
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Counsel for UNION PACIFIC RAILROAD
COMPANY, as successor to SOUTHERN
PACIFIC TRANSPORTATION COMPANY

and

Counsel for BNSF RAILWAY COMPANY, as
successor to THE ATCHISON, TOPEKA &
SANTA FE RAILWAY COMPANY

1 On April 15, 2004, the Environmental Appeals Board ("Board") issued an Order Continuing
2 Stay Of Proceedings ("Order") for this CERCLA § 106(b) Petition. By that Order, the Board
3 requested semi-annual status reports on the progress of the Brown & Bryant Arvin Superfund Site
4 case in federal court. On July 18, 2011, EPA Region IX and Petitioners BNSF Railway Company
5 and Union Pacific Railroad Company ("the Railroads") submitted their Nineteenth Joint Status
6 Report; in that report, the parties noted that they are engaged in settlement discussions, jointly
7 requested that the Board continue to stay this proceeding to allow them additional time to discuss
8 settlement, and proposed to submit another status report in sixty days, or by September 19, 2011.

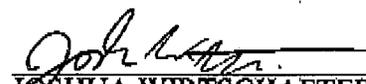
9 This is to advise EAB that Region IX and the Railroads have reached a settlement-in-
10 principle regarding certain response costs incurred at the Arvin site which, among other matters,
11 would resolve the Railroads' pending petition for reimbursement in this administrative proceeding.
12 The proposed Settlement Agreement for Response Costs, which is being entered into pursuant to
13 CERCLA Section 122(h)(1), 42 U.S.C. § 9622(h)(1), has been executed by the Railroads and is
14 undergoing review by Region IX management.

15 If the Settlement Agreement is executed by all parties, and certain conditions set forth in the
16 Settlement Agreement are satisfied, the Railroads will submit a letter to EAB withdrawing with
17 prejudice their petition for reimbursement in this proceeding. It is anticipated that the conditions
18 precedent established by the Settlement Agreement will be met, and the Railroads will submit such
19 a letter to EAB, within approximately 30 days. If for some reason the Railroads' petition is not
20 withdrawn within sixty days, the parties will submit another joint status report by no later than
21 November 18, 2011.

22 Respectfully submitted,

23 DATED: September 19, 2011

NANCY J. MARVEL
Regional Counsel

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27 JOSHUA WIRTSCHAFTER
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region IX
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DATED: September 19, 2011

BARG COFFIN LEWIS & TRAPP, LLP

By: 
MARC A. ZEPPELLO

Counsel for BNSF Railway Company and
Union Pacific Railroad Company

1 **CERTIFICATE OF SERVICE**

2 I certify that I served the foregoing **Twentieth Joint Status Report** by Federal
3 Express to the following on September 19, 2011:

4
5 U.S. Environmental Protection Agency
6 Clerk of the Environmental Appeals Board
7 1341 G Street, N.W., Suite 600
8 Washington, DC 20005
9 Fax No. (202) 233-0121
(Original and five copies)

10 and by first class U.S. mail to the following on September 19, 2011:

11 Joshua Wirtschafter
12 Assistant Regional Counsel
13 Office of Regional Counsel
14 U.S. EPA Region IX
15 75 Hawthorne Street
16 San Francisco, CA 94105
17 Fax No. (415) 947-3570

18 Dated: September 19, 2011

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Fran Chiappetta