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SERVICE DATE – LATE RELEASE JULY 19, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42120

CARGILL, INCORPORATED v. BNSF RAILWAY COMPANY

Decided: July 18, 2011

In connection with a complaint filed under 49 U.S.C. § 11701(b), Cargill, Incorporated (Cargill), on March 31, 2011, filed a motion to compel discovery from defendant, BNSF Railway Company (BNSF). On April 11, 2011, BNSF replied in opposition, and, at the Board's request, Cargill filed a response on April 15, 2011. Pursuant to 49 C.F.R. § 1114.31(a)(3), Board staff held a conference with Cargill and BNSF on April 26, 2011, to assist them in resolving these discovery matters. Following the conference, the parties engaged in further discussions and resolved the remaining issues in the motion to compel. In a decision served on June 24, 2011, the Board granted Cargill's motion to withdraw its motion to compel discovery without prejudice.

On July 12, 2011, Cargill and BNSF filed a modified joint motion to revise the procedural schedule that was adopted by the Board in a decision served on January 4, 2011, and was the subject of a joint motion to revise that was filed on April 13, 2011. They request that the procedural schedule be modified as follows:

June 24, 2011—End of Discovery
August 25, 2011— Cargill Opening Statement
October 24, 2011— BNSF Reply Statement
November 23, 2011—Cargill Rebuttal Statement

Cargill and BNSF both reserve the right under the modified proposed procedural schedule to seek follow-up on discovery served on or before June 24, 2011, and to object to any such follow-up requests. The revised procedural schedule is reasonable and will be adopted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Cargill's and BNSF's modified joint motion to revise the procedural schedule is granted. The procedural schedule set forth above is adopted.

2. This decision is effective on the date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.