

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42106

AMEROPAN OIL CORPORATION—PETITION FOR DECLARATORY ORDER—
REASONABLENESS OF DEMURRAGE CHARGES

Decided: April 15, 2009

On March 19, 2008, Ameropan Oil Corporation (AOC) filed a petition for declaratory order to resolve a dispute over demurrage charges assessed by Illinois Central Railroad Company (IC), as referred to the Board by the United States District Court for the Northern District of Illinois, on March 13, 2008, in Illinois Central Railroad Company v. Ameropan Oil Corporation, No. 1:07-CV-03833. By decision served on May 29, 2008, the Board adopted a procedural schedule under the Board's modified procedure provisions at 49 CFR part 1112.

On July 11, 2008, IC requested that the Board mediate this dispute and hold this matter in abeyance for a 90-day period, to which IC agreed in writing.¹ By decision served on July 22, 2008 (July 2008 decision), the Board provided a 90-day period for non-binding mediation and indicated that the Board would designate a staff member to serve as mediator. The July 2008 decision also held the procedural schedule in abeyance for 90 days, until October 20, 2008, while the parties pursued a mediated agreement. By decisions served on November 12, and December 22, 2008, the time for mediation was extended until December 19, 2008, and March 19, 2009, respectively, and the procedural schedule was held in abeyance during those times. Most recently, by decision served on March 23, 2009, at the joint request of the parties, the time for mediation was extended for an additional 90 days, until April 20, 2009, and the procedural schedule was held in abeyance during that time.

On April 9, 2009, both parties filed a request to extend the time to mediate until June 1, 2009. The parties state that they have made progress in negotiations and believe that there is a reasonable prospect of settlement if the mediation period is extended. The parties state that, on March 17, 2009, IC submitted a detailed offer of settlement to AOC that AOC rejected, but the offer narrowed the issues enough that the parties have agreed to meet again and involve senior personnel in an effort to resolve the remaining issues. The parties explain that the meeting with senior personnel may not occur until mid to late May and that the parties will need some

¹ The Board's regulations provide for the use of alternative dispute resolution (ADR), including mediation, in cases such as this upon the mutual consent of the parties. See 49 CFR 1109.1.

additional time to evaluate the positions expressed at the meeting. The parties also indicate that the extension request is not opposed by the Board's mediators.

The request is reasonable and will be granted. Accordingly, the time for mediation will be extended until June 1, 2009, and the procedural schedule will be held in abeyance until then.

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

It is ordered:

1. The request to extend the time to mediate is extended until June 1, 2009.
2. The procedural schedule is held in abeyance until June 1, 2009, while ADR procedures are ongoing.
3. This decision is effective on the date of its service.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan
Acting Secretary