

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42117

CARGILL, INC.; E.I. DU PONT DE NEMOURS AND COMPANY; EXXON MOBIL CORPORATION; JONES-HAMILTON CO.; PPG INDUSTRIES, INC.; REAGENT CHEMICAL AND RESEARCH, INC.; TAMINCO METHYLAMINES, INC.¹

v.

ABERDEEN AND ROCKFISH RAILROAD COMPANY; BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD COMPANY; BNSF RAILWAY COMPANY; BOSTON AND MAINE CORPORATION; BUFFALO AND PITTSBURGH RAILROAD, INC.; CANADIAN NATIONAL RAILWAY; CANADIAN PACIFIC RAILWAY; CEDAR RAPIDS AND IOWA CITY RAILWAY COMPANY; CENTRAL WASHINGTON RAILROAD COMPANY; CSX TRANSPORTATION INC.; ELGIN, JOLIET AND EASTERN RAILWAY COMPANY; GARY RAILWAY COMPANY; INDIANA & OHIO RAILWAY COMPANY; IOWA, CHICAGO & EASTERN RAILROAD CORPORATION; IOWA NORTHERN RAILWAY COMPANY; KANSAS CITY SOUTHERN RAILWAY COMPANY; MAINE CENTRAL RAILROAD COMPANY; MONTANA RAIL LINK, INC.; NEW YORK, SUSQUEHANNA AND WESTERN RAILWAY CORP.; NORFOLK SOUTHERN RAILWAY COMPANY; PAN AM RAILWAYS INC.; PORTLAND TERMINAL COMPANY; ROCHESTER AND SOUTHERN RAILROAD, INC.; SANDERSVILLE RAILROAD COMPANY; SPRINGFIELD TERMINAL RAILWAY CO.; UNION PACIFIC RAILROAD COMPANY; ASSOCIATION OF AMERICAN RAILROADS; RAILINC

Decided: March 17, 2010

On January 29, 2010, Cargill, Inc., Exxon Mobil Corporation, Jones-Hamilton Co., PPG Industries, Inc., and Reagent Chemical and Research, Inc. (collectively, Complainants) filed a complaint against numerous railroad defendants (collectively, Defendants).² Complainants

¹ Complainants filed an amended complaint on February 17, 2010, in order to add two new complainants, E.I. du Pont de Nemours and Company and Taminco Methylamines, Inc.

² Aberdeen and Rockfish Railroad Company; Baltimore and Ohio Chicago Terminal Railroad Company; BNSF Railway Company; Boston and Maine Corporation; Buffalo and Pittsburgh Railroad, Inc.; Canadian National Railway; Canadian Pacific Railway; Cedar Rapids and Iowa City Railway Company; Central Washington Railroad Company; CSX Transportation Inc.; Elgin, Joliet and Eastern Railway Company; Gary Railway Company; Indiana & Ohio Railway Company; Iowa, Chicago & Eastern Railroad Corporation; Iowa Northern Railway Company; Kansas City Southern Railway Company; Maine Central Railroad Company;

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request that, pursuant to 49 U.S.C. 10702, 10704, 11121, 11122, 11701, and 11704, the Board determine the reasonableness of certain rail practices and prescribe reasonable rail practices for the future. Complainants also filed a petition for mediation simultaneously with their complaint.

On February 17, 2010, the Board granted the Association of American Railroads' (AAR) request to extend the time to answer the complaint and petition for mediation until March 18, 2010. On February 24, 2010, AAR, on behalf of 12 of the named Defendants (AAR Defendants),³ filed a reply to the petition for mediation. On February 26, 2010, the North America Freight Car Association (NAFCA) filed a petition to intervene in this proceeding in support of Complainants. NAFCA seeks to participate in any mediation process and to participate as a full party to this proceeding. NAFCA argues that its request for relief will not broaden the issues in this proceeding. On March 1, 2010, Complainants filed a reply to the AAR Defendants' reply to the petition for mediation.

On March 16, 2010, Complainants filed a motion to stay this proceeding as to the Class II and Class III rail carrier defendants. Complainants seek expedited consideration of this motion. Replies to the motion to stay will be due on Monday, March 22, 2010. The deadline for replies to the petition for mediation and the petition to intervene remains Thursday, March 18, 2010. The Board expects all Defendants to file a reply to the petition for mediation. The deadline for filing answers to the complaint will be stayed pending further order of the Board.

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

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Montana Rail Link, Inc.; New York, Susquehanna and Western Railway Corp.; Norfolk Southern Railway Company; Pan Am Railways Inc.; Portland Terminal Company; Rochester and Southern Railroad, Inc.; Sandersville Railroad Company; Springfield Terminal Railway Co.; Union Pacific Railroad Company; Association of American Railroads (AAR); and Railinc.

³ The AAR Defendants are: AAR; Railinc; BNSF Railway Company; Buffalo & Pittsburgh Railroad, Inc.; Canadian National Railway; Canadian Pacific Railway; CSX Transportation Inc.; Gary Railway Company; Norfolk Southern Railway Company; Rochester & Southern Railroad, Inc.; Kansas City Southern Railway Company; and Union Pacific Railroad Company.

It is ordered:

1. Replies to the motion to stay will be due by March 22, 2010.
2. The deadline for answers to the complaint will be stayed pending further order of the Board.
3. This decision is effective on its service date.

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