

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42102

RAILROAD SALVAGE & RESTORATION, INC.—PETITION FOR  
DECLARATORY ORDER—REASONABLENESS OF DEMURRAGE CHARGES

STB Docket No. 42103

G.F. WIEDEMAN INTERNATIONAL, INC.—PETITION FOR  
DECLARATORY ORDER—REASONABLENESS OF DEMURRAGE CHARGES

Decided: September 18, 2008

On October 5, 2007, Railroad Salvage & Restoration, Inc. (Railroad Salvage), filed a petition seeking a declaratory order to resolve a dispute over demurrage charges assessed by Missouri & Northern Arkansas Railroad Company, Inc. (MNA). On October 29, 2007, G.F. Wiedeman International, Inc. (Wiedeman), also filed a petition seeking a declaratory order to resolve a similar dispute over demurrage charges assessed by MNA. Wiedeman also requested that these proceedings be consolidated.

In a decision served on December 20, 2007, the Board instituted and consolidated the requested declaratory order proceedings and adopted a procedural schedule. That procedural schedule was postponed at the request of the parties in a decision served on February 29, 2008, to give them additional time to negotiate a settlement.

In decisions served on April 10 and 11, 2008, respectively, the Board, at the parties' request, reinstated the procedural schedule and modified it to extend the discovery completion date to April 30, 2008, and the date for Railroad Salvage and Wiedeman (petitioners) to file their opening statements to June 3, 2008. At petitioners' request, the Board, in a decision served on May 7, 2008, extended the due dates for petitioners' opening statements to June 19, 2008, for MNA's reply statements to September 3, 2008, and for petitioners' rebuttal statements to September 18, 2008. The Board, at petitioners' request, granted in part a further extension of the procedural schedule in a decision served on June 10, 2008. The due date for petitioners' opening statements was extended to July 7, 2008, and the due dates for MNA's reply statements and petitioners' rebuttal statements were extended to September 18 and October 3, 2008, respectively. Petitioners filed their opening statement on July 7, 2008.

In a letter filed on September 17, 2008, MNA reports that the parties have reengaged in serious settlement negotiations and now believe that a 4-week extension of the procedural schedule may result in a settlement of all of the outstanding issues in these complaints. MNA

requests that the due date for its reply and petitioners' rebuttal statements be extended to October 16, 2008, and October 31, 2008, respectively, and states that petitioners join in the request.

The Board has a longstanding preference for private-sector negotiation and resolution of disputes. Therefore, the extension request will be granted.

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 for 4-week extension of the procedural schedule in these consolidated proceedings is granted. The due date for MNA's reply statements is extended to October 16, 2008, and the due date for petitioners' rebuttal statements is extended to October 31, 2008.

2. This decision is effective on its service date.

3. Copies of this decision will be mailed to:

The Honorable Dean Whipple  
United States District Court for the Western District of Missouri Southwestern  
Division  
400 E 9<sup>th</sup> Street  
Kansas, MO 64106

RE: No. 07-5017-CV-SE-DW

and

The Honorable David C. Dally  
Circuit Court of Jasper County  
Jasper County Courthouse  
Carthage, MO 64836

RE: No. 07AO-CC00112

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

Anne K. Quinlan  
Acting Secretary