

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AGRIUM INC. and)	
AGRIUM U.S. INC.)	
)	
Complainants,)	
)	
v.)	Docket No. NOR 42145
)	
CANADIAN PACIFIC RAILWAY)	
COMPANY)	
)	
Defendant.)	
)	

**JOINT PETITION TO DISMISS THE COMPLAINT WITHOUT PREJUDICE
AND DISCONTINUE THIS PROCEEDING**

Complainants Agrium Inc. and Agrium U.S. Inc. ("Agrium") and Defendant Canadian Pacific Railway Company ("CP") (collectively the "Parties") submit this Joint Petition, and in support hereof state as follows:

(1) On May 15, 2015, Agrium filed a Complaint (the "Complaint") in the above-captioned proceeding under 49 U.S.C. §§ 10702, 10704, and 11701, seeking injunctive relief and a determination from the Board pertaining to certain common carrier tariffs and rules issued by CP.

(2) By decisions served September 15, 2015; December 14, 2015; February 4, 2016; and March 21, 2016, the Board adopted a procedural schedule (as amended) governing this proceeding. This proceeding is currently in the discovery phase.

 GRANTED Office of Proceedings	DECISION ID NO.: <u>45184</u>
	DECIDED DATE: <u>5/5/16</u>
	SERVICE DATE: <u>5/6/16</u>
	APPROVED: <u>Rachel Campbell</u> Director
	<input type="checkbox"/>

(3) The Parties recently entered into commercial discussions, culminating in the development and execution of confidential rail transportation agreements governing CP rail service for certain of Agrium's traffic (including the traffic that is the subject of the Complaint).

(4) As a result of the Parties' entering into new rail transportation agreements, the issues involved with respect to the transportation at issue in this proceeding have been rendered moot at this time, and the Parties no longer desire the Board to hold further proceedings in this docket.

(5) Under the circumstances and in light of these developments, the Parties jointly request that the Board: (i) dismiss Agrium's complaint without prejudice; and (ii) discontinue this proceeding.

(6) Granting this Joint Petition to Dismiss "is consistent with the Board's longstanding policy of encouraging the private resolution of disputes through voluntary negotiations whenever possible." *CF Indus. Inc. v. Kaneb Pipe Line Partners, L.P.*, Docket No. 42084 (STB served Nov. 21, 2006) slip op. at 2. It is also consistent with prior Board decisions in other similar circumstances. *See, e.g., Brampton Enters., LLC v. Norfolk S. Ry. Co.*, Docket No. 42118 (STB served Sept. 29, 2011) (granting motion to dismiss, without prejudice); *Ashbro, Inc. – Petition for Declaratory Order – Wilson Spur Track in Denham Springs, LA*, Finance Docket No. 35171 (STB served Feb. 22, 2010) (same).

WHEREFORE, for the reasons set forth above, Agrium and CP jointly request that the Board dismiss, in its entirety, this proceeding without prejudice.

Respectfully submitted,

CANADIAN PACIFIC RAILWAY
COMPANY

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Dated: May 2, 2016