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SEC

SERVICE DATE - APRIL 12, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42062

THE CHLORINE INSTITUTE, INC. — PROTEST AND
PETITION FOR INVESTIGATION — TARIFF PUBLICATIONS OF
UNION PACIFIC RAILROAD COMPANY

STB Docket No. 42060

NORTH AMERICA FREIGHT CAR ASSOCIATION — PROTEST AND
PETITION FOR INVESTIGATION — TARIFF PUBLICATIONS OF THE
BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

STB Docket No. 42063

RAILWAY PROGRESS INSTITUTE COMMITTEE ON TANK CARS
PETITION FOR INVESTIGATION AND PROTEST PURSUANT TO EX PARTE NO. 328

STB Docket No. 42064

E. I. DUPONT DE NEMOURS AND COMPANY —
PROTEST AND PETITION FOR INVESTIGATION

Decided: April 11, 2002

In a decision served October 18, 2001 (October 18 decision), the Board ordered that these proceedings be put on hold while parties and interested individuals and organizations negotiate concerning the storage and diversion issues raised relating to the 1986 Agreement prescribed in Investigation of Tank Car Systems, 3 I.C.C.2d 196 (1986).¹ The parties were directed to give the Board a written report on the progress of the negotiations. In decisions served on November 20, 2001, January 8, 2002, and February 22, 2002, the Board held the October 18 decision in abeyance until January 4, 2002, February 19, 2002, and April 5, 2002, respectively.

¹ Railway Progress Institute Committee on Tank Cars Petition for Investigation and Protest Pursuant to Ex Parte No. 328, STB Docket No. 42061, had also been held in abeyance in the October 18 decision. In a decision served on March 20, 2002, that proceeding was discontinued.

Two letters relating to these proceedings have recently been filed with the Board. On April 2, 2002, in STB Docket No. 42062, the Chlorine Institute, Inc. (Chlorine Institute) and the Union Pacific Railroad Company (UP) filed a joint statement indicating that they had voluntarily negotiated a resolution of their dispute. Establishing a process within UP for negotiations, UP has pledged to negotiate in good faith with the Chlorine Institute's individual members. For its part, the Chlorine Institute seeks to withdraw its Protest and Request for Investigation. This request will be granted.

In a letter filed on April 4, 2002, parties in the remaining three proceedings request that the Board extend for an additional 45 days, or until May 20, 2002, the effectiveness of the earlier decisions holding these proceedings in abeyance.

In STB Docket No. 42060, the North America Freight Car Association (NAFCA) has a meeting scheduled for May 1, 2002, to consider new tariff actions taken by The Burlington Northern and Santa Fe Railway Company (BNSF). At the end of the meeting, NAFCA and other parties will determine future courses of action. Moreover, the U.S. Clay Producers Traffic Association (USCPTA) has reached a tentative agreement with BNSF and expects to withdraw its petition to intervene when the agreement is finalized. NAFCA, certain other shipper parties, and USCPTA seek an extension of the effective date to May 20, 2002. While not joining in the extension request, BNSF does not object to it.

In STB Docket No. 42063, the Railway Progress Institute Committee on Tank Cars (RPI) has reached a tentative agreement with the UP, and it expects to withdraw its petition when the agreement is finalized. In the interim, UP and RPI seek a 45-day extension to conclude their agreement.

In STB Docket No. 42064, E.I. du Pont de Nemours and Company and other parties seek a 45-day extension to determine the prospects of further negotiation with the UP and to consider continuing the proceeding before the Board. UP does not oppose or support the request.

The requests for extensions in STB Docket Nos. 42060, 42063, and 42064 are reasonable and will be granted.

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

It is ordered:

1. In STB Docket No. 42062, the Chlorine Institute's request to withdraw its Protest and Request for Investigation is granted, and the proceeding is discontinued.
2. In STB Docket Nos. 42060, 42063, and 42064, the October 18 decision will be held in abeyance until May 20, 2002. Parties shall inform the Board if they cannot reach a resolution.

3. The time for filing petitions for reconsideration or clarification of the October 18 decision is extended to 20 days after the end of the negotiations.

4. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary