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August 18, 2015

Via E-Filing

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
August 18, 2015
Part of
Public Record

Re: *Sherwin Alumina Company, LLC v. Union Pacific Railroad, Co., Docket No. 42143*

Dear Ms. Brown:

On August 4, 2015, the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers ("SMART-TD") filed its unauthorized "Comments" in the above entitled proceeding. As SMART-TD had no authorization from the Board to file its Comments, the Board should summarily reject the filing. Moreover, as Sherwin Alumina Company, LLC ("Sherwin") predicted, SMART-TD's filing, just like the prior unauthorized filing from the Brotherhood of Locomotive Engineers and Trainmen ("BLET"), largely rehashes portions of the legal arguments that Union Pacific Railroad Company ("UP") already raised in its Reply of May 5, 2015 – arguments which Sherwin demonstrated rested on inapplicable or overturned cases – while impermissibly broadening the scope of the proceeding, in contravention of 49 C.F.R. § 1112.4. For example, SMART-TD broadens the scope by raising red herring arguments, such as the unsupported notion that Gregory, TX is a small town where everybody knows each other and anyone serving the Sherwin Plant will be closely watched. In fact, Gregory is located in a busy area of San Patricio County which is part of the Corpus Christi metropolitan statistical area where more than 425,000 people live; where one of the largest ports in the United States is located; and where some of the largest companies in the world operate major industrial facilities, including Citgo, Valero, DuPont, and OxyChem (directly adjacent to Sherwin).

Sherwin is deeply concerned about the delay that SMART-TD's and BLET's filings have already caused given the time-sensitive nature of Sherwin's Petition. Just as with the BLET filing, SMART-TD does not even deny that it sat idly by for months nor does it offer any defense for its tardiness. As such, Sherwin urges the Board to act swiftly and reject SMART-TD's filing. Furthermore, to prevent further delay, Sherwin does not intend to file a reply to SMART-TD's unauthorized filing unless the Board advises Sherwin that it intends to consider SMART-TD's Comments.

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Respectfully submitted,

A handwritten signature in black ink that reads "Daniel Jaffe". The signature is written in a cursive style with a large, prominent initial "D".

Daniel M. Jaffe
An Attorney for Sherwin Alumina Company, LLC

cc:Michael L. Rosenthal, Esq.
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