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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 35219

MOTION FOR EXTENSION OF TIME TO REPLY TO PETITION OF UNION PACIFIC
RAILROAD COMPANY FOR DECLARATORY ORDER

submitted by

AMERICAN CHEMISTRY COUNCIL
THE FERTILIZER INSTITUTE
THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE

Scott Stone
Patton, Boggs and Blow
2550 M St. N.W
Washington, D.C. 20037

Attorney for the American Chemistry Council

Nicholas J. DiMichael
Jeffery O. Moreno
Karyn A. Booth
Thompson Hine LLP
1920 N St., N.W
Washington, DC 20036
Telephone: (202) 263-4103

*Attorneys for The Fertilizer Institute and The
National Industrial Transportation League*

Dated: March 2, 2009

EXPEDITED HANDLING REQUESTED

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THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE**

The American Chemistry Council ("ACC"), The Fertilizer Institute ("TFI") and The National Industrial Transportation League ("NITL") (collectively, "Movants") respectfully submit this Motion for Extension of Time to Reply To Petition for Declaratory Order. ACC represents the leading companies engaged in the business of chemistry ACC membership and receive chlorine and other hazardous materials by rail. TFI is the national association of the fertilizer industry whose membership consists of fertilizer producers, importers, retailers, wholesalers and others involved in the business of fertilizer. The mission of TFI is to represent, promote, and protect the fertilizer industry. The NITL is the nation's oldest and largest association of companies interested in transportation. Many members of the League ship via rail, and members of the League transport hazardous materials potentially affected in this proceeding.

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On February 18, 2009, the Union Pacific Railroad Company ("UP") filed a Petition for a Declaratory Order in this proceeding ("Petition"). UP's Petition discusses a request that it has received to quote rates for certain movements of chlorine, and asks the Board for a declaratory order to "clarify" the extent of its common carrier obligation for these and, by direct implication, other movements of TIHs. In making that request, UP urges the Board to consult with two other federal agencies, the Transportation Safety Administration ("TSA") and the Federal Railroad Administration ("FRA"), before ruling on its Petition, because the chlorine rate requests allegedly "counteract" TSA and FRA efforts.

The UP filed two versions of its Petition, one containing information that UP deemed to be "Highly Confidential," and the other a "Redacted" version, to be placed on the public file. TFI has access only to the redacted version of UP's Petition, which has been placed on the Board's website. Also on February 18, UP filed a Motion for a Protective Order, which asked the Board to issue a Protective Order similar to orders that the Board has routinely issued in a wide variety of cases, in order to "permit UP to submit to the Board proprietary and highly sensitive information . . ." UP Motion for Protective Order, p. 1. The grant of UP's Motion for Protective Order would permit other parties, including counsel for the Movants, to obtain access to the information redacted by UP, under strict conditions to preserve necessary confidentiality. The Movants do not oppose UP's Motion for Protective Order.

Under the Board's rules, a reply to UP's Petition for Declaratory Order is now due on March 10, 2009. The Movants have serious concerns about UP's Petition, since on its face the Petition seeks a broad rule, based upon a very narrow and partially redacted set of alleged facts, that could have important and significantly adverse implications for the transportation of a wide variety of commodities, including anhydrous ammonia and other TIH commodities, and

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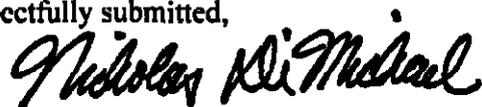
potentially other hazardous materials as well. Even more importantly, UP's Petition appears to tread directly on the exclusive jurisdiction of other federal agencies. Indeed, by asking the Board to consult with TSA and FRA, UP's Petition implicitly concedes the ground-breaking nature, broad implications, and wide potential scope of its request.

However, it is not possible for the Movants to adequately evaluate and respond to UP's Petition without access to its full contents, which include facts redacted by UP and that form the basis for its request for a declaratory order. The Movants believe that, particularly in light of the potentially broad implications of UP's Petition, it would be contrary to law and highly inappropriate for the Board to grant UP's Petition without permitting other parties access to the full contents of the Petition. Indeed, by filing a Motion for a Protective Order, UP also implicitly concedes that other parties should have access to the facts now solely at UP's disposal.

Therefore, the Movants request that the Board extend the current March 10 due date for a reply to UP's Petition, to 20 days following the Board's grant of UP's Motion for Protective Order. This would permit other parties to review and address the full contents of UP's Petition in any replies to the Board. In view of the timeframes involved, the Movants respectfully request expedited treatment of this request.

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Respectfully submitted,



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Dated: March 2, 2009

Certificate of Service

I hereby certify that I have on this 2nd day of March 2009 served a copy of the foregoing Motion for Extension of Time on J Michael Hemmer and Tonya W Conley, Union Pacific Railroad Company, 1400 Douglas Street, Omaha, Nebraska 68179, via first class mail and to Tonya Conley via email at twconley@up.com.

