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March 18, 2010

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

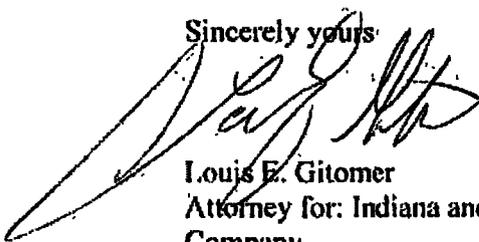
RE: Docket No. 42117, *Cargill, Inc., et al. v. Aberdeen and Rockfish Railroad Company, et al.*

Dear Ms. Brown:

Enclosed for e-filing is the Response of the Indiana and Ohio Railway Company to the Petition for Mediation filed by Cargill, Inc., Exxon Mobil Corporation, Jones-Hamilton Co., PPG Industries, Inc., and Reagent Chemical and Research, Inc. in the above-entitled proceeding.

Thank you for your assistance. If you have any questions please call or email me.

Sincerely yours



Louis E. Gitomer
Attorney for: Indiana and Ohio Railway
Company

Enclosure

ENTERED
Office of Proceedings
MAR 18 2010
Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. 42117

CARGILL, INC., et al.

v.

ABERDEEN AND ROCKFISH RAILROAD COMPANY, et al.

RESPONSE OF INDIANA AND OHIO RAILWAY COMPANY
TO PETITION FOR MEDIATION OF CARGILL, INC., ET AL.

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Attorneys for: INDIANA AND OHIO RAILWAY
COMPANY

Dated: March 18, 2010

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. 42117

CARGILL, INC., et al.
v.
ABERDEEN AND ROCKFISH RAILROAD COMPANY, et al.

RESPONSE OF INDIANA AND OHIO RAILWAY COMPANY
TO PETITION FOR MEDIATION OF CARGILL, INC., ET AL.

Indiana and Ohio Railway Company ("IORY"), a Class III railroad, responds to the Petition for Mediation filed on January 29, 2010 (the "Petition") by Cargill, Inc., Exxon Mobil Corporation, Jones-Hamilton Co., PPG Industries, Inc., and Reagent Chemical and Research, Inc. ("Complainants").

As a general principal, IORY does not oppose voluntary mediation. IORY believes that mediation is a valuable efficiency tool. However, in this proceeding, IORY believes that IORY will only incur costs as a result of mediation, with no offsetting benefit.

IORY has not violated Freight Tariff RIC 6007, Item 187 and Item 190. Nor has IORY violated the provisions of *Investigation of Tank Car Systems*, 3 I.C.C.2d 196 (1986). IORY has contacted Railinc and been advised that the empty return mileage for tank cars moving on IORY has not exceeded the loaded tank car movement by 106%. Therefore, IORY will not be liable for any monetary reparations based on its operations.

IORY believes that mediation would require IORY to incur unrecoverable costs, with no offsetting benefit. Mediation will be a complex process, as Complainants, at page 3 of the Petition explain that:

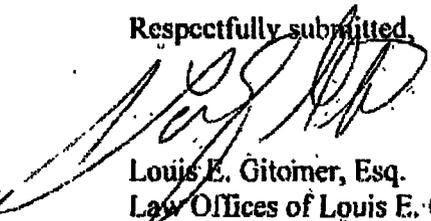
This Complaint involves numerous defendants, including all of the nation's Class I railroads, several Class II and III railroads, their agents designated in the Tariff, Railinc and the AAR, for administration and application of the Tariff. This Complaint involves substantial past and growing amounts of money for the Complainants on an ongoing basis potentially over many years, resulting from charges levied by the railroads through Tariff.... the number of entities involved made it difficult to discuss this matter in a comprehensive or structured manner.

To participate in mediation under the Petition, IORY would be required to provide a person with decision-making ability to participate in the mediation, and most likely counsel. IORY is a short line railroad with limited "decision-making" personnel. Based upon the parties identified in the First Amended Complaint, there will be 35 parties, each with at least one decision-maker, and most likely counsel, mainly discussing the movement of tank cars over Class I railroads. It seems to IORY that its participation would range from limited to non-existent in the mediation proposed by the Complainants.

IORY does not oppose mediation proceeding without IORY's participation, particularly in light of the Complainants' Motion to Stay Proceeding Against Class II and III Rail Carriers filed on March 16, 2010 (the "Stay Request"). The Stay Request proposes to absolve IORY from liability for any monetary damages as the result of a settlement. Consistent with the position espoused by the Complainants in the Stay Request, IORY respectfully requests that the Board not require IORY to participate.

Respectfully submitted,

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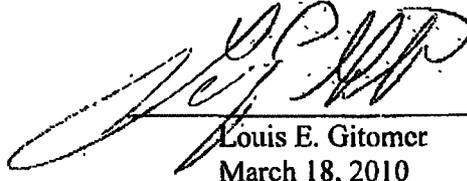

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Attorneys for: INDIANA AND OHIO RAILWAY
COMPANY

Dated: March 18, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing document to be served upon counsel for parties of record in this proceeding by first class mail postage pre-paid, or electronic service.



Louis E. Gitomer
March 18, 2010