

Surface Transportation Board Announces Series of Settlements in Disputes Between Railroads and Private Tank Car Owners

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today a third settlement in a dispute between tank car owners and The Burlington Northern and Santa Fe Railway Company (BNSF) and the Union Pacific Railroad Company (UP) concerning certain charges levied by those carriers. The Board had directed the parties, in a decision issued to the public on October 18, 2001 (October 18 decision), to try to settle privately the controversy involving five related proceedings. More detailed information can be found in Surface Transportation Board "News" Release No. 01-50, issued October 18, 2001. With this settlement, only two of the original cases remain pending. Further rulings will be made in the cases that are still pending, in the event that they do not also settle.

Last year, the North America Freight Car Association (NAFCA), the Railway Progress Institute's Committee on Tank Cars (RPI-CTC), The Chlorine Institute, Inc. (CI) and E.I DuPont de Nemours and Company (DuPont) asked the Board to declare that certain charges for storing cars or diverting them from their original destinations are improper departures from allowances that had been agreed to for use of the cars, because they apply to services that allegedly are already covered by the tank car allowance formula.

In its October 18 decision, the Board expressed its willingness to resolve this matter, but concluded that, at the time, it would be more productive if the parties attempted to settle the issue privately. Therefore, it ordered the railroads to work on a resolution with other affected parties and to provide the Board with a progress report, originally by January 14, 2002.

At the request of the parties, the October 18 decision has been held in abeyance several times to allow the parties more time to negotiate. The October 18 decision is presently on hold until May 20, 2002. During this time, settlements have been reached between RPI-CTC and BNSF in STB Docket No. 42061 (decision issued March 20, 2002) and between CI and UP in STB Docket No. 42062 (decision issued April 12, 2002). As reflected in the decision issued today in STB Docket No. 42063, RPI-CTC and UP now have reached a settlement. All three proceedings have been discontinued. Also, CI and BNSF have negotiated a resolution of their dispute in STB Docket No. 42060, resulting in CI's withdrawal from that proceeding (decision issued March 20, 2002). Thus, only two of the five proceedings encompassed in the agency's October 18 decision remain pending: STB Docket No. 42060, involving NAFCA and BNSF, and STB Docket No. 42064, involving DuPont and UP.

The Board's decision was issued today in *Railway Progress Institute Committee on Tank Cars Petition for Investigation and Protest Pursuant to Ex Parte No. 328*, STB Docket No. 42063. A printed copy of the decision is available for a fee by contacting **D~ 2 D~ Legal Copy Service, Suite 405, 1925 K Street, N.W., Washington, DC 20006, telephone (202) 293-7776**, or via da2dalegal@earthlink.net. The decision also is available for viewing and downloading via the Board's website at <http://www.stb.dot.gov>.

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