

**SURFACE TRANSPORTATION BOARD DISMISSES PETITION FOR RECONSIDERATION OF ITS PRIOR DECISION
FINDING RAIL RATES UNREASONABLY HIGH**

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has terminated its consideration of a petition filed by the Union Pacific Railroad Company (UP) asking the Board to reconsider its May 12, 2000 decision in the case entitled *FMC Wyoming Corp. and FMC Corp. v. Union Pacific Railroad Co.*, STB Docket No. 42022, after the parties reached a negotiated settlement.

In its May 12 decision, the Board found that UP has market dominance over the traffic shipped by the FMC Wyoming Corporation and the FMC Corporation (collectively, FMC) to and/or from FMC facilities at Westvaco, Wyoming and Don and Dry Valley, Idaho. The Board further concluded that, based upon a stand-alone cost (SAC) analysis, [FOOTNOTE 1: The SAC test seeks to determine the lowest cost at which a hypothetical, efficient railroad could provide the transportation services needed by a group of shippers. Under the SAC test, a complaining shipper hypothesizes a new, optimally efficient railroad specifically tailored to serve a traffic group designated by the shipper. The costs of building and operating such an efficient railroad are then compared to the revenues that such a system could be expected to earn. If, as in this case, the shipper demonstrates that the stand-alone railroad would earn more than necessary to cover all of its costs (including a reasonable return), the shipper is entitled to rate relief.] the rates charged by UP for transporting various commodities for FMC are unreasonably high. The Board accordingly ordered UP to reduce those rates and to pay reparations to FMC.

FMC filed a petition for judicial review of the Board's May 12 decision in the United States Court of Appeals for the District of Columbia Circuit, while UP sought administrative reconsideration of that decision before the Board. In its petition, UP disputed certain components of the Board's variable cost determinations and SAC calculations. To permit the Board to rule first on UP's petition for reconsideration, the Court of Appeals held FMC's petition for review in abeyance.

In a letter filed with the Board on December 12, 2000, UP informed the Board that it had entered into a settlement agreement with FMC and asked that its petition for reconsideration be dismissed. Furthermore, UP stated that, under the settlement's terms, neither it nor FMC would pursue judicial review of the May 12 decision. The parties' privately negotiated settlement thus ends all litigation of the rate dispute between UP and FMC.

The Board's decision was issued today in *FMC Wyoming Corp. and FMC Corp. v. Union Pacific Railroad Company*, STB Docket No. 42022. A printed copy of the decision is available for a fee by contacting: **D~To-D~ Office Solutions, Room 405, 1925 K Street, N.W., Washington, DC 20006, telephone (202) 466-5530**. Today's decision is also available for viewing and downloading via the Board's Website at <http://www.stb.dot.gov>

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