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SERVICE DATE – MARCH 19, 2020

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36369

ASSOCIATION OF AMERICAN RAILROADS—PETITION FOR DECLARATORY ORDER

Decided: March 18, 2020

On November 27, 2019, the Association of American Railroads (AAR) filed a petition for declaratory order requesting that the Board find that 49 U.S.C. § 10501(b) preempts the Clean Water Act's (CWA) discharge prohibition and National Pollutant Discharge Elimination System permitting regime as applied to discharges incidental to the normal operation of rail cars in transit. In the alternative, AAR asked that the Board institute a proceeding to consider the issue.

On February 19, 2020, the Board instituted a proceeding and set deadlines of March 20, 2020 and April 9, 2020 for the filing of comments and replies, respectively. On March 17, 2020, a group of environmental organizations¹ jointly filed a request to extend the comment deadline to April 24, 2020, and the reply deadline to May 22, 2020. The environmental organizations state that they conferred with AAR and that AAR takes no position with respect to the extension request. The unopposed extension request will be granted.

It is ordered:

1. The request to extend the deadline to file comments and replies is granted. Comments on the petition will be due April 24, 2020, and replies will be due May 22, 2020.
2. This decision will be effective on its date of service.

By the Board, Allison C. Davis, Director, Office of Proceedings.

¹ The organizations are the Sierra Club, Natural Resources Defense Council, Columbia Riverkeeper, Friends of the Columbia Gorge, Spokane Riverkeeper, RESources for Sustainable Communities, Puget Soundkeeper, and Yakama Nation.