

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
February 12, 2024
Part of
Public Record

Sanimax USA LLC,

Complainant,

v.

Union Pacific Railroad Company,

Defendant.

)
) DOCKET NO. NOR 42171
)
)
)
)
)
)

 GRANTED Office of Proceedings	DECISION ID NO.: <u>52050</u>
	DECIDED DATE: <u>2/15/2024</u>
	SERVED DATE: <u>2/15/2024</u>
	APPROVED: <u><i>medair</i></u> Director
☐ _____	

**JOINT MOTION TO DISMISS THE COMPLAINT WITH PREJUDICE AND
DISCONTINUE THIS PROCEEDING**

Sanimax USA LLC (“Sanimax”) and Union Pacific Railroad Company (“Union Pacific”) submit this joint motion to dismiss the Complaint with prejudice and discontinue this proceeding. In support of their joint request, Sanimax and Union Pacific state as follows:

1. On November 6, 2020, Sanimax filed its Complaint in the above-captioned proceeding, claiming that Union Pacific’s operations at Sanimax’s South St. Paul, MN facility involved violations of 49 U.S.C. § 11101(a) (common carrier obligations), 49 U.S.C. § 11101(c) (change of common carrier terms), and 49 U.S.C. § 10702(2) (unreasonable practice). The Complaint remains pending.

2. The parties have engaged in settlement negotiations and on February 9, 2024, Sanimax and Union Pacific entered into a confidential Letter of Agreement that settles this dispute.

3. In light of these developments, the parties jointly request that the Board: (i) dismiss Sanimax’s Complaint with prejudice, with each party to bear its own costs; and (ii) discontinue this proceeding.

4. Granting this joint motion to dismiss “is consistent with the Board’s longstanding policy of encouraging the private resolution of disputes through voluntary negotiations whenever possible.” *CF Indus. Inc. v. Kanab Pipe Line Partners, L.P.*, NOR 42084 at 2 (STB served Nov. 21, 2006).

WHEREFORE, for the reasons set forth above, Sanimax and Union Pacific jointly request that the Board dismiss the Complaint with prejudice, with each party to bear its own costs, and discontinue this proceeding.

Date filed: February 12, 2024

Respectfully submitted,

/s/ Richard F. Riley, Jr.

Richard F. Riley, Jr.
R. Nicholas Englund
Foley & Lardner LLP
Washington Harbour
3000 K Street, N.W., Suite 600
Washington DC 20007-5109
Telephone 202.295.4712
Facsimile 202.672.5399
Email contact rriley@foley.com

William C. McCaughey
Foley & Lardner LLP
90 Park Ave, 37th Floor
New York, NY 10016
Telephone 212-338-3425

Attorneys for Complainant

/s/ Matthew J. Warren

Raymond A. Atkins, Esq.
Matthew J. Warren, Esq.
Morgan B. Lindsay, Esq.
Sidley Austin LLP
1501 K Street, N.W.
Washington DC 20005
ratkins @ sidley.com
mjwarren @ sidley.com
morgan.lindsay @ sidley.com

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2024, the foregoing Joint Motion To Dismiss The Complaint With Prejudice And Discontinue This Proceeding was served by email and first-class mail on Union Pacific's attorneys and on the Association of American Railroads at the following addresses:

Raymond A. Atkins, Esq.
Matthew J. Warren, Esq.
Morgan B. Lindsay, Esq.
Sidley Austin LLP
1501 K Street, N.W.
Washington DC 20005

ratkins @ sidley.com
mjwarren @ sidley.com
morgan.lindsay @ sidley.com

J. Frederick Miller Jr., Esq.
Association of American Railroads
425 3rd Street, S.W., Suite 1000
Washington DC 20024

fmler @ aar.org

/s/ Richard F. Riley, Jr.

Richard F. Riley, Jr.