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February 25, 2019

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

247191

ENTERED
Office of Proceedings
February 25, 2019
Part of
Public Record

Re: **Docket No. NOR 42161**
Ameropan Oil Corporation v.
Canadian National Railway Company

Dear Ms. Brown:

On February 6, 2019, complainant Ameropan Oil Corporation petitioned for leave to amend its complaint in the above-captioned matter to dismiss originally named defendant Canadian National Railway Company ("CNR") with prejudice and to name CNR's indirect subsidiary Illinois Central Railroad Company ("IC") as the defendant. IC and CNR do not object to Ameropan's petition.

Even as amended, Ameropan's complaint alleges no matter within the Board's jurisdiction. Ameropan has conceded the existence of a transportation contract between the parties in its Reply in Opposition to IC's Motion to Dismiss. Ameropan suggests that the Board retains jurisdiction to address transportation governed by a contract so long as the subject matter of the customer's specific request for relief is not directly addressed in the contract. But a party to a rail transportation contract "shall have no duty in connection with services provided under such contract other than those duties specified by the terms of the contract." 49 U.S.C. § 10709(b). The statute thus dictates "that a contract entered into between two parties contains all the duties to which the parties are required to adhere . . . [and] prohibits other duties beyond the contract" *Entergy Services, Inc. v. Union Pac. R. Co.*, 99 F. Supp. 2d 1080, 1089 (D. Neb. 2000).

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Ameropan's amended complaint must be dismissed.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "TJL", written over the words "Respectfully submitted,".

Thomas J. Litwiler
Attorney for Illinois Central Railroad Company
and Canadian National Railway Company

TJL:bjs

cc: Thomas F. McFarland, Esq.