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ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. 42079

AG PROCESSING INC

v.

NORFOLK SOUTHERN RAILWAY COMPANY

ENTERED
Office of Proceedings

JUN 22 2004

Part of
Public Record

MOTION FOR LEAVE TO WITHDRAW COMPLAINT
WITHOUT PREJUDICE

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Attorney for
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Dated: June 22, 2004

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**MOTION FOR LEAVE TO WITHDRAW COMPLAINT
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In this proceeding, Ag Processing Inc ("AGP") complained of and sought injunctive relief against new tariff schedules of Norfolk Southern Railway Company ("Norfolk Southern") making the use of order bills of lading, or order notify bills of lading, unavailable on shipments via Norfolk Southern. An answer was filed by Norfolk Southern, denying that such tariff provisions were in any respect unlawful.

When the Board failed to respond in a timely fashion to AGP's request for injunctive relief, AGP then withdrew its injunction request and requested that these proceedings be held in abeyance to allow it to determine whether intervening events were rendering moot any need for a decision on the merits. It has since developed that the specific sales circumstances causing AGP to require the prior payment assurances of an order bill of lading have been obviated by the sale of the AGP customer prompting credit-worthiness concerns to a more financially stable company. There is, accordingly,

no present need for AGP to utilize order bills of lading on Norfolk Southern or pursue its complaint against Norfolk Southern's cancellation of order bills of lading.

AGP accordingly moves the Board to dismiss this complaint without prejudice. Counsel for Norfolk Southern has authorized AGP to state that Norfolk Southern has no objection to this request.

Respectfully submitted,

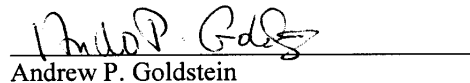


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Attorney for
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CERTIFICATE OF SERVICE

I hereby certify that I have, this 22nd day of June, 2004 served copies of the foregoing on counsel for Norfolk Southern Railway Company, by first class mail, postage prepaid.


Andrew P. Goldstein