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21484  
Before the

SURFACE TRANSPORTATION BOARD



Finance Docket No. 32760 (Sub-No. 42)

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY,  
AND MISSOURI PACIFIC RAILROAD COMPANY  
--CONTROL AND MERGER--SOUTHERN PACIFIC RAIL CORPORATION,  
SOUTHERN PACIFIC TRANSPORTATION COMPANY,  
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY, SPCSL CORP., AND  
THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

(Arbitration Review)

REPLY TO MOTION FOR EXTENSION OF TIME

Petitioner, John E. Grother (Grother), submits this reply to the motion by Union Pacific Railroad Company (UP), filed March 3, 2005, wherein UP seeks an extension of time within which to respond to petitioner's appeal from the decision of an arbitration committee. The Grother appeal was filed January 10, as supplemented February 22, 2005.

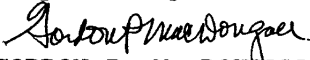
Grother takes no position as to whether UP's motion should be granted, in whole or in part. This response is made to correct certain misstatements in UP's motion, which bear on the matter being appealed by Grother, and the date of the final arbitration decision.<sup>1/</sup> Grother, at this time, does not deal with UP's incorrect characterization of Mr. Grother's actions, the arbitration claims, or decision of the arbitration committee on the merits.

<sup>1/</sup> The Secretary's decision served January 13, 2005, indicated the STB will construe the arbitration decision to have become final on January 6, 2005, unless otherwise shown by the parties. (Decision, 1/13/05, 1 n.1).

1. This is an appeal (petition for review) of the award of an arbitration committee, consisting of three members, in which UP is a signatory member of the award, and Grother is a dissenting member; it is not an appeal from the arbitration award of a single member, Arbitrator Lynette Ross, although she is a Neutral committee member.

2. Arbitrator Ross did not "issue" an award on December 21, 2004; rather, Ms. Ross signed and dated a draft of the award on December 21, 2004, but the award was not final until January 4, 2005, at the earliest, when signed by the UP committee member, and not issued until January 6, 2005, when the dissent was signed by member Grother. Arguably, the award was not final until January 6, 2005.<sup>2/</sup> Attached hereto is a two-page letter, dated December 26, 2004, from the Neutral member, transmitting a corrected page 34, which points to January 6, 2005 as the date for finality.

Respectfully submitted,

  
GORDON P. MacDOUGALL  
1025 Connecticut Ave., N.W.  
Washington DC 20036

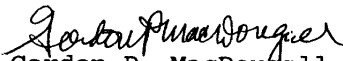
March 4, 2005

Attorney for John E. Grother

Certificate of Service

I hereby certify I have served a copy of the foregoing upon all parties of record by first class mail postage-prepaid.

Washington DC

  
Gordon P. MacDougall

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<sup>2/</sup> The "effective date" of the award is governed by para. F of the arbitration agreement, which is of record. (Supp. to Pet. for Rev., 2/22/05; Appendix 5, Ex. E-16, 3; Appendix 8, Ex. 19, 3).

Lynette A. Ross  
Arbitrator

1220 Fairway Drive  
Lawrenceburg, KY 40342-9706

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(502) 859-9004 (fax)  
E-mail: lynetteross@hotmail.com

December 26, 2004

Mr. John E. Grother  
1718 Rustic Park Drive  
Kingwood, TX 77339

Mr. William E. Loomis  
General Director  
Employee Relations Planning  
Union Pacific Railroad Company  
1400 Douglas St., Stop 0710  
Omaha, NE 68179-0710

Mr. Gordon P. MacDougall, Esq.  
Representative for John E. Grother  
Suite 410  
1025 Connecticut Avenue, NW  
Washington, DC 20036

**Re: New York Dock Arbitration: John Grother and  
the Union Pacific Railroad Company**

Gentlemen:

Enclosed for your signature is a corrected page 34 of the Award in the above-captioned case, showing John E. Grother as the Grother Member, in accordance with John E. Grother's November 22, 2004 letter re-designating himself as the Grother Member of the Committee.

I would appreciate it if the Grother Member and Carrier Member would kindly send me a signed copy of page 34 for my records and so that I may transmit a signed copy of the Award to the National Mediation Board.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

*Lynette A. Ross*

Lynette A. Ross

With Enclosure; p. 34 of Award

2. Is John E. Grother's claim for a displacement allowance pursuant to New York Dock barred under the doctrine of Laches? **Yes.**

**VII. AWARD**

For the reasons set forth above and incorporated herein as if fully rewritten, the subject claim is hereby denied in its entirety.

  
\_\_\_\_\_  
Lynette A. Ross  
Neutral Member

\_\_\_\_\_  
John E. Grother  
Grother Member

\_\_\_\_\_  
William E. Loomis  
Carrier Member

Dated: December 21, 2004