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February 3, 2010

By e-filing

Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

ENTERED
Office of Proceedings
FEB - 3 2010
Part of
Public Record

Re: Docket No. NOR-42102, *Railroad Salvage & Restoration, Inc.* -- *Petition for Declaratory Order -- Reasonableness of Demurrage Charges*

~~Docket No. NOR-42103, *G.F. Wiedeman International, Inc.* -- *Petition for Declaratory Order -- Reasonableness of Demurrage Charges*~~

Dear Section of Administration Chief:

Hereby transmitted is a Petition For Leave To Withdraw Petition For Declaratory Order In Docket No. NOR-42102 for filing with the Board.

Very truly yours,

Tom McFarland

Thomas F. McFarland
Attorney for Petitioner

TMcF:kl:enc. wp8.0\1262\efSTB2

BEFORE THE
SURFACE TRANSPORTATION BOARD

RAILROAD SALVAGE &	)	
RESTORATION, INC. -- PETITION	)	DOCKET NO.
FOR DECLARATORY ORDER --	)	NOR-42102
REASONABLENESS OF	)	
DEMURRAGE CHARGES	)	
	)	
G.F. WIEDEMAN INTERNATIONAL,	)	
INC. -- PETITION FOR	)	DOCKET NO.
DECLARATORY ORDER --	)	NOR-42103
REASONABLENESS OF	)	
DEMURRAGE CHARGES	)	

PETITION FOR LEAVE TO WITHDRAW PETITION FOR
DECLARATORY ORDER IN DOCKET NO. NOR-42102

RAILROAD SALVAGE & RESTORATION, INC.
1710 Joplin Street
Joplin, MO 64804

Petitioner

THOMAS F. McFARLAND
THOMAS F. MCFARLAND, P.C.
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Attorney for Petitioner

DATE FILED: February 3, 2010

BEFORE THE
SURFACE TRANSPORTATION BOARD

RAILROAD SALVAGE &	)	
RESTORATION, INC. -- PETITION	)	DOCKET NO.
FOR DECLARATORY ORDER --	)	NOR-42102
REASONABLENESS OF	)	
DEMURRAGE CHARGES	)	
	)	
G.F. WIEDEMAN INTERNATIONAL,	)	
INC. -- PETITION FOR	)	DOCKET NO.
DECLARATORY ORDER --	)	NOR-42103
REASONABLENESS OF	)	
DEMURRAGE CHARGES	)	

**PETITION FOR LEAVE TO WITHDRAW PETITION FOR
DECLARATORY ORDER IN DOCKET NO. NOR-42102**

Petitioner in Docket No. NOR-42102, RAILROAD SALVAGE & RESTORATION, INC. (RSR), hereby petitions for leave to voluntarily withdraw, with prejudice, the Petition for Declaratory Order that it filed in that Docket on October 5, 2007.

RSR's Petition for Declaratory Order was filed in furtherance of an order of the United States District Court for the Western District of Missouri, Southwestern Division, entered on September 27, 2007 in No. 07-5017-CV-DW, *Missouri & No. Ark. R. Co., Inc. v. Railroad Salvage & Restor., Inc.*, that referred several issues to the Board bearing on whether collection of the demurrage charges involved in that matter would be an unreasonable practice in violation of 49 U.S.C. § 10702(2).

Voluntary withdrawal of RSR's Petition for Declaratory Order is justified because the Court has dismissed that case with prejudice and, in the absence of a timely appeal that dismissal

has become final and unappealable. The Court's dismissal of that case moots the Court's referral of issues to the Board. Accordingly, inasmuch as no case or controversy between the parties remains in the Court, the underlying Petition for Declaratory Order that implemented the Court's referral of issues should be withdrawn.

Attached to this Petition as Appendix 1 is a copy of the Court's order entered on December 30, 2009 that dismissed the judicial case with prejudice. Pursuant to FRAP 4(a)(1)(A), any notice of appeal from that order was required to be filed with the Clerk of the District Court within 30 days after entry of that order, i.e., by January 29, 2010. No such notice of appeal was filed. In the absence of a timely appeal, the order dismissing the case with prejudice became final and unappealable at the close of business on January 29, 2010.

WHEREFORE, the Petition for Declaratory Order in Docket No. NOR-42102 should be withdrawn.

Respectfully submitted,

RAILROAD SALVAGE & RESTORATION, INC.
1710 Joplin Street
Joplin, MO 64804

Petitioner

Thomas F. McFarland

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DATE FILED: February 3, 2010

APPENDIX 1

From: ecfMOW.notification@mow.uscourts.gov
To: cmecf_atynotifications@mow.uscourts.gov
Subject: Activity in Case 3:07-cv-05017-DW Missouri & Northern Arkansas Railroad Company, Inc. v. Railroad Salvage & Restoration, Inc. Order of Dismissal
Date: Wed, Dec 30, 2009 3:22 pm

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

Western District of Missouri

Notice of Electronic Filing

The following transaction was entered on 12/30/2009 at 3:20 PM CST and filed on 12/30/2009

Case Name: Missouri & Northern Arkansas Railroad Company, Inc. v. Railroad Salvage & Restoration, Inc.

Case Number: 3:07-cv-05017-DW

Filer:

WARNING: CASE CLOSED on 12/30/2009

Document Number: 37

Docket Text:

Order of Dismissal - On December 1, 2009, this Court ordered the parties to show cause within twenty (20) days as to why the case should not be dismissed for failure to prosecute. More than twenty days have passed, and neither party has responded to the Courts Order to Show Cause (Doc. 36). As the parties have failed to respond to the Courts most recent Orders (Docs. 35 & 36), this case is hereby **DISMISSED** with prejudice for failure to prosecute. Signed by District Judge Dean Whipple on 12/30/09. (Willis, Kathy)

3:07-cv-05017-DW Notice has been electronically mailed to:

Karl W. Blanchard, Jr blanchardjr@brmclaw.com

Daniel D. Whitworth ddwhitworth@sbcglobal.net

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3:07-cv-05017-DW It is the filer's responsibility for noticing the following parties by other means:

The following document(s) are associated with this transaction:

Document description:Main Document

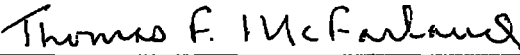
Original filename:n/a

Electronic document Stamp:

[STAMP MOWDStamp_ID=875558776 [Date=12/30/2009] [FileNumber=2942894-0]
[1266ca70786c819c02cee217d1c645191c1381de29642fa3087e0b4e855b72a85e89
891c9e6ac2859b4890b2124e8e3c4e8d0e22eac20ebb0fb1b454997dbb5]]

CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2010, I served the foregoing document, Petition For Leave To Withdraw Petition For Declaratory Order In Docket No. NOR-42102, on the attorneys for Missouri & Northern Arkansas Railroad Company, Inc., i.e., Louis E. Gitomer, Esq., *lou_gitomer@verison.net*, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, and Karl W. Blanchard, Jr., *blanchardjr@brmclaw.com* and Merl Lynn Stanley, Esq., *stanley@brmclaw.com*, Blanchard, Robertson, Mitchell & Carter, P.C., 320 West 4th Street, P.O. Box 1626, Joplin, MO 64802, by e-mail and first-class U.S. mail, postage prepaid.


Thomas F. McFarland
Thomas F. McFarland