

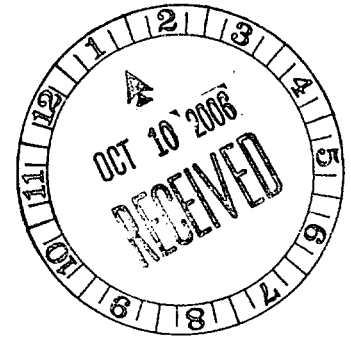
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October 10, 2006

Honorable Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Room 700
Washington, DC 20423

Office of Proceedings
OCT 10 2006
Part of
Public Record



Re: *CF Indus. Inc. v. Kaneb Pipe Line Partners, L.P. and Kaneb Pipe Line Operating Partnership, L.P.*, Docket No. NOR-42084
Joint Motion For Order Approving Settlement Agreement, Vacating Rate Prescriptions, and Prescribing New Rates

Dear Secretary Williams:

Attached for filing in the captioned docket is the Joint Motion of CF Industries, Inc., Kaneb Pipe Line Partners, L.P., and Kaneb Pipe Line Operating Partnership, L.P. for Order Approving Settlement Agreement, Vacating Rate Prescriptions, and Prescribing New Rates.

Pursuant to 49 C.F.R. § 1104.3 (2006) the Parties have included an original plus 10 copies of the public and confidential versions of this motion. In addition, the Parties request that the Board stamp the enclosed receipt copies and return them to the messenger.

Respectfully submitted,

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Operating Partnership, L.P.

**UNITED STATES OF AMERICA
BEFORE THE
SURFACE TRANSPORTATION BOARD**



CF Industries, Inc.

Complainant,

v.

Kaneb Pipe Line Partners, L.P.

and

**Kaneb Pipe Line Operating Partnership, L.P.,
Defendants.**

Docket No. NOR-42084

**JOINT MOTION OF CF INDUSTRIES, INC., KANEB PIPE LINE PARTNERS, L.P.,
AND KANEB PIPE LINE OPERATING PARTNERSHIP, L.P.
FOR ORDER APPROVING SETTLEMENT AGREEMENT,
VACATING RATE PRESCRIPTIONS, AND PRESCRIBING NEW RATES**

CF Industries, Inc. ("CFI"), Kaneb Pipe Line Partners, L.P., and Kaneb Pipe Line Operating Partnership, L.P. (collectively, "Kaneb" and together with CFI, "the Parties"), respectfully move in the captioned docket (the "Motion") to have the Surface Transportation Board ("Board") (i) approve the settlement agreement ("Settlement Agreement"), Attachment A hereto, as written and without condition, (ii) vacate the currently existing rate prescriptions, and (iii) establish the maximum rate prescriptions as described in paragraphs 2, 3, and 4 of the Settlement Agreement. The Parties are the only participants in this proceeding. Further, the Motion satisfies the Board's requirement under 49 C.F.R. § 1111.6 (2006) that the complainant file a signed statement that the defendant has satisfied the formal complaint. The Parties respectfully request that the Settlement Agreement be filed under seal pursuant to the protective order in this proceeding, as amended on July 14, 2006.

I. BACKGROUND AND MOTIONS

Kaneb owns and operates a pipeline that transports anhydrous ammonia in interstate commerce (the “Pipeline”) and from time to time posts in the public domain a Pipeline tariff including transportation rate structures as well as rules and regulations associated with shipments on the Pipeline (the “Tariff”). CFI ships anhydrous ammonia on the Pipeline subject to the Tariff and successfully asserted a claim at the Board against Kaneb that the Tariff rates applied to CFI as of April 1, 2003 were illegal and in excess of the rates prescribed for the Pipeline. In an order served on August 12, 2004,¹ the Board ordered Kaneb to reduce the rates charged to CFI to the level previously prescribed in the *Koch* Decision.² In addition, the Board ordered that the Parties submit more evidence in order to determine whether the Board should lift the existing rate prescriptions.³ As required, the Parties submitted the requested evidence as well as supplemental briefs. On April 6, 2005, the Board ordered the Parties to participate in oral arguments regarding, *inter alia*, whether the Board should lift the existing rate prescriptions.⁴ The Parties participated in oral arguments on May 11, 2005, and the Board ordered subsequent post-hearing and reply briefs,⁵ which the Parties submitted on the required dates.

¹ *CF Indus., Inc. v. Kaneb Pipe Line Partners, L.P. and Kaneb Pipe Line Operating Partnership, L.P., et al.*, STB Docket No. 42084 (Aug. 12, 2004).

² *CF Indus., Inc. v. Koch Pipeline Co.*, STB Docket No. 41685 (May 9, 2000), *aff'd sub nom., CF Indus., Inc. v. STB*, 255 F.3d 816 (D.C. Cir. 2001) (“*Koch* Decision”)

³ *Id.*

⁴ *CF Indus., Inc. v. Kaneb Pipe Line Partners, L.P. and Kaneb Pipe Line Operating Partnership, L.P., et al.*, STB Docket No. 42084 (Apr. 6, 2005).

⁵ *CF Indus., Inc. v. Kaneb Pipe Line Partners, L.P. and Kaneb Pipe Line Operating Partnership, L.P., et al.*, STB Docket No. 42084 (May 20, 2005).

While the issues in this proceeding were still pending before the Board, Valero, L.P. acquired Kaneb. On November 3, 2005, the Board directed Kaneb to submit a supplemental pleading detailing (i) the terms and conditions of Valero L.P.'s acquisition of Kaneb, including the relevant transaction documents; and (ii) the impact, if any, of that transaction on the issues and arguments in this proceeding.⁶ On November 22, 2005, Kaneb filed a supplemental brief regarding the terms and conditions of the acquisition as required by the Board but requested additional time to report on the impact of the acquisition until the final accounting report on the acquisition was complete. CFI subsequently filed its reply and a conditional motion to conduct additional discovery.

On May 30, 2006, the Board issued an order ("May 30 Order") granting CFI's conditional motion to conduct discovery and ordering Kaneb to submit its final accounting report to the Board and CFI. The May 30 Order additionally ordered that CFI submit a supplemental pleading forty-five days after the date that Kaneb submits its final accounting report and that Kaneb submit a reply fifteen days after CFI's supplemental pleading is filed with the Board. Kaneb submitted its final accounting report on July 28, 2006. The Parties submitted requests for extensions of the dates for the supplemental and reply pleadings on August 16, 2006, August 24, 2006, and September 11, 2006, all of which were granted by the Board. During that time, the Parties entered into settlement negotiations.

The Parties have now entered into the Settlement Agreement, which resolves all issues in this proceeding. Pursuant to the Settlement Agreement, the Parties move that the Board approve the Settlement Agreement as written and without condition. The Settlement Agreement, if

⁶ *CF Indus., Inc. v. Kaneb Pipe Line Partners, L.P. and Kaneb Pipe Line Operating Partnership, L.P., et al.*, STB Docket No. 42084 (Nov. 3, 2005).

approved as written and without condition, satisfies both Parties and resolves all issues in the captioned proceeding. The Settlement Agreement is conditioned upon the Board's approval of the Settlement Agreement as written, as provided in paragraph 10 of the Settlement Agreement. Pursuant to paragraph 9 of the Settlement Agreement, the Parties further move that the Board vacate the rate prescriptions now in effect in STB Docket No. 42084 and establish the maximum rate prescriptions as described in paragraphs 2, 3, and 4 of the Settlement Agreement. Pursuant to paragraph 6 of the Settlement Agreement, during the term of the Settlement Agreement the Parties will file jointly each year for new maximum rate prescriptions as described in paragraphs 2, 3, and 4 of the Settlement Agreement. The Parties respectfully request that the Board approve the Settlement Agreement no later than December 1, 2006 in accordance with paragraph 10 of the Settlement Agreement.

II. CONCLUSION

WHEREFORE, for the foregoing reasons, the Parties respectfully request that the Board (i) approve the Settlement Agreement as written and without condition no later than December 1, 2006, (ii) vacate the currently existing rate prescriptions in the captioned proceeding, and (iii) establish the maximum rate prescriptions as described in paragraphs 2, 3, and 4 of the Settlement Agreement.

Respectfully submitted,



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Partnership, L.P.

Dated: October 10, 2006

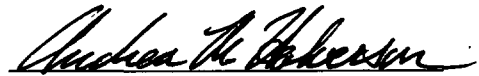
ATTACHMENT A
SETTLEMENT AGREEMENT

**CONFIDENTIAL INFORMATION
HAS BEEN REMOVED
FOR PRIVILEGED TREATMENT**

CERTIFICATE OF SERVICE

I certify that I have this day served copies of this document upon all parties of record in these proceedings by hand delivery.

Dated in Washington, D.C this 10th day of October, 2006.



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