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SERVICE DATE – MAY 26, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35324

TECK METALS LTD. – PETITION FOR DECLARATORY ORDER – PRACTICES OF
WHEELING & LAKE ERIE RAILWAY COMPANY

Decided: May 25, 2010

On November 17, 2009, Teck Metals Ltd. (Teck) filed a petition for declaratory order to resolve a dispute over demurrage charges assessed by Wheeling & Lake Erie Railway Company (W&LE). This matter was referred to the Board by the United States District Court for the Northern District of Ohio, Eastern Division, on October 29, 2009, in Wheeling & Lake Erie Railway v. Teck Cominco Metals, Ltd., No. 5:09-CV-01184. By decision served on January 22, 2010, the Board instituted the instant proceeding and adopted a procedural schedule.

On May 24, 2010, Teck filed a petition to hold the proceeding in abeyance. Teck states that it has reached an agreement in principle with W&LE to settle all matters at issue in this proceeding, that the parties will execute a settlement agreement in the very near future disposing of all matters at issue, and that Teck will move to dismiss this proceeding. Teck also states that W&LE concurs in the relief requested.

The petition to hold this proceeding in abeyance is unopposed, and it is reasonable and consistent with the Board's policy of facilitating private-sector negotiation and resolution of disputes. Therefore, the petition will be granted, and the proceeding will be held in abeyance pending further order of the Board.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Teck's petition to hold the proceeding in abeyance is granted.
2. This proceeding is held in abeyance pending further order of the Board.
3. This decision is effective on its service date.

4. Copies of this decision will be mailed to:

The Honorable John R. Adams
United States District Court for the Northern District of Ohio
Eastern Division
510 United States Courthouse
Two South Main Street
Akron, Ohio 44308-1813

RE: No. 5:09-CV-1184

By the Board, Rachel D. Campbell, Director, Office of Proceedings.