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SEC

Service Date-December 2, 1996

SURFACE TRANSPORTATION BOARD'

DECISION

Section 10706(a) (5) (A) Application NO. 11

CARBON BLACK PRODUCERS POOLING AGREEMENT

Decided: November 25, 1996

By notice filed on November 15, 1996, Degussa Corp. and Columbian Chemical Corp. (applicants), seek to withdraw their application for approval of a shipper agreement filed on December 27, 1995, under 49 U.S.C. 10706(a) (5) (A) .¹The application was supplemented on May 23, 1996, in response to a Board decision served April 3, 1996. A procedural schedule calling for comments by September 16, 1996, was subsequently adopted by the Board in a decision served and published in the Federal Register on August 16, 1996 (61 FR 42676).²³In lieu of the application, applicants state that, under 28 CFR 50.6, they plan to seek a business review letter from the United States Department of Justice to permit them to achieve the benefits available through the proposed pooling arrangement.

Applicants notified the other potentially interested parties of their withdrawal, and no comments have been filed to date. Under the circumstances, applicants, request for leave to withdraw their application will be granted without prejudice.

It is ordered:

- 1.Applicants may withdraw their application without prejudice.
2. This proceeding is discontinued..

Section 10706 (a) (5) (A) Application No. 11

¹The ICC Termination Act of 1995, Pub. L. NO. 104-88.109 Stat. 803 (ICCTA), Which was enacted on December 29, 1995. And took effect on January 1, 1996. Abolished the Interstate Commerce commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204 (b) (1) of the ICCTA provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the ICCTA.this decision relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10706. Therefore, this decision applies the law in effect prior to the ICCTA, and all citations are to the former section of the statute unless otherwise indicated.

²Under the proposed agreement, applicants and any other participating carbon black producers would have been permitted: (1) to discuss among themselves issues relating to the compensation railroads pay for use of producer-owned or leased cars, and to the producers' cost of car ownership and operation, and (2) to pool the freight cars they use to transport carbon black.

³At the request of the Association of American Railroads, the comment due date was extended to November 15, 1996.

4. A copy of this decision will be mailed to:

Department of Justice Antitrust Division

Room 3109 10th street & Constitution Avenue, NW

Washington, CD 20530.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams

Secretary

At: the request of the Association of American Railroads,
-he comment: due date was extended to November 15, 1996.

Section **10706(a)(5)(A)** Application No. **11**

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Vernon A. Williams
Secretary