

## **SURFACE TRANSPORTATION BOARD ORDERS RATE RELIEF TO U.S. MAGNESIUM**

The Surface Transportation Board today directed Union Pacific Railroad Company to establish new rates for shipments of chlorine from U.S. Magnesium, LLC, finding that the railroad's rates were unreasonably high. Under the Board's rules for cases filed under its Simplified Standards for Rail Rate Cases, U.S. Magnesium could recoup up to \$1 million over five years.

At issue in the U.S. Magnesium case were two movements of chlorine by tank car from Rowley, Utah, to Eloy, Ariz., and from Rowley to Sahuarita, Ariz. Under the Board's Simplified Standards rules—which offer a streamlined and cheaper way for shippers to challenge rates but come with a monetary cap on damages—each side provides the Board with a list of what they believe are comparable rates.

However, the Board found that each party's comparison groups were flawed. Union Pacific's comparison group included a majority of examples that were re-billed movements, meaning a second railroad was involved. U.S. Magnesium's comparison group for the Eloy and Sahuarita movements included only 4 percent and 1 percent chlorine movements respectively.

After its own analysis, the Board found that U.S. Magnesium's comparison groups were more similar to the traffic at issue. However, the Board also agreed with Union Pacific that the new rates should reflect the differences between contract versus tariff rates and increased the new maximum rates by 14.8 percent. The resulting maximum lawful revenue-to-variable cost ratios are 356 percent for the Eloy movement and 346 percent for the Sahuarita movement.

Commissioner Nottingham dissented from the decision.

The Board also concluded that neither side was able to present good examples of comparable rates because of the small number of movements of TIH commodities. As a result, the Board today issued a separate ruling that would expand reporting of rail rates for TIH movements such as chlorine. The revised reporting would commence with the January 2011 Waybill Sample collection.

The full text of the Board's decision in [U.S. Magnesium, L.L.C. v. Union Pacific Railroad Company, STB Docket 42114](#), and [Waybill Data Reporting for Toxic Inhalation Hazards, STB Ex Parte No. 385 \(Sub-No. 7\)](#), can be found on the Board's Web site, [www.stb.dot.gov](http://www.stb.dot.gov).