

CENTRAL VALLEY AG GRINDING, INC.	)	246075
AND CENTRAL VALLEY AG TRANSPORT	)	
INC.	)	ENTERED
5509 Langworth Road	)	Office of Proceedings
Oakdale, CA 95361	)	July 13, 2018
	)	Part of
	)	Public Record
Complainants	)	
	)	Docket No. NOR 42159
v.	)	
	)	
MODESTO AND EMPIRE TRACTION	)	
COMPANY	)	
530 11 th Street	)	
Modesto, CA 95354	)	
	)	
Defendant.	)	
	)	

Pursuant to 49 C.F.R. § 1109.2, Complainant Central Valley Ag Grinding, Inc. and Central Valley Ag Transport, Inc. (individually and collectively, “CVAG”) and Defendant Modesto and Empire Traction Company (“MET”) request that the Surface Transportation Board (“Board”) commence voluntary mediation in the above-captioned proceeding. In support hereof, the parties state as follows:

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“Application and Petition”). MET responded to elements of the Application and Petition on May 8, 2018, May 14, 2018, and May 21, 2018. The Board issued a decision addressing the Petition and Application on June 12, 2018.

2. On May 31, 2018, MET filed its Answer to the Complaint, along with a Motion to Dismiss. CVAG filed its Reply to MET’s Motion to Dismiss on June 20, 2018.

3. On June 19, 2018, the parties filed a proposed procedural schedule pursuant to 49 C.F.R. § 1111.10(a).

4. The parties have agreed to request Board-sponsored mediation pursuant to 49 C.F.R. § 1109 in an effort to resolve the dispute underlying the Complaint.

5. This proceeding involves matters that are eligible for mediation under 49 C.F.R. § 1109.1.

6. Under 49 C.F.R. § 1109.3(e), “[w]here one or both parties to mediation do not voluntarily consent to mediation, the Board will not hold the underlying proceeding in abeyance.” The parties do not believe this proceeding should be held in abeyance at this time, and CVAG, for its part, would not consent to mediation if the proceeding were to be held in abeyance. However, CVAG is agreeable to revisiting the issue of abeyance at a later time, if and as warranted.

7. The parties request that the Board appoint a staff member(s) as the mediator. Pursuant to 49 C.F.R. § 1109.3(c), each party will make an appropriate principal(s) available to attend mediation sessions at times mutually convenient to the Board and the parties.

8. The parties have consulted on schedules, and request that the Board make available the staff mediator(s) to convene the first session on either August 9 (preferably) or August 10, 2018.

WHEREFORE, CVAG and MET jointly request that the Board commence mediation under the parameters set forth above.

Respectfully submitted,

CENTRAL VALLEY AG GRINDING,
INC. and CENTRAL VALLEY AG
TRANSPORT INC.

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Dated: July 13, 2018

MODESTO AND EMPIRE TRACTION
COMPANY

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I have this 13th day of July, 2018 caused a copy of the foregoing filing to be served by U.S. Mail, postage prepaid or by more expedited means upon all counsel of record.

/s/ Katherine F. Waring
Katherine F. Waring
An Attorney for Complainants