

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

244395

244396

244397

ENTERED

Office of Proceedings

September 21, 2017

Part of

Public Record

**NORTH AMERICA FREIGHT CAR
ASSOCIATION; AMERICAN FUEL &
PETROCHEMICAL MANUFACTURERS;
THE CHLORINE INSTITUTE; THE
FERTILIZER INSTITUTE; AMERICAN
CHEMISTRY COUNCIL; ETHANOL
PRODUCTS, LLC D/B/A POET ETHANOL
PRODUCTS; POET NUTRITION, INC.; and
CARGILL INCORPORATED**

NOR 42144, 42150, 42152

vs.

**UNION PACIFIC RAILROAD
COMPANY**

JOINT WEEKLY STATUS REPORT – SEPTEMBER 21, 2017

Complainants Valero Marketing and Supply Company and Valero Rail Partners, LLC, Tesoro Refining & Marketing Company LLC, Tesoro Great Plains Gathering & Marketing LLC, and Dakota Prairie Refining, LLC (collectively, “Complainants”), and Defendant Union Pacific Railroad Company (“Union Pacific”) submit this status report on discovery progress as requested by Administrative Law Judge Dring at a status conference on April 19, 2017.

1. Valero Marketing and Supply Company and Valero Rail Partners, LLC proposed to Union Pacific a compromise position on pending discovery issues. The parties conferred on this proposal via telephone on Monday, July 10, 2017. The Valero entities have reviewed revised stipulations from Union Pacific and, on September 5, 2017, the Valero entities relayed proposed edits to those stipulations. The parties have exchanged emails regarding the proposed edits and intend to continue conferring about the stipulations.

2. Tesoro Refining & Marketing Company LLC, Tesoro Great Plains Gathering & Marketing LLC, and Dakota Prairie Refining, LLC proposed to Union Pacific a compromise position on pending discovery issues. Union Pacific provided proposed stipulations in response to these proposals on August 22, 2017. The Tesoro entities are reviewing these stipulations.

3. On August 16, 2017, the Tesoro entities served their second set of discovery requests to Union Pacific. Union Pacific served its responses to these discovery requests on August 31, 2017. The parties met and conferred on these responses on September 12, 2017. In that conference, the Tesoro entities provided proposals and information intended to refine the scope of the requests and assist with Union Pacific's searches for responsive documents. Union Pacific is reviewing these proposals.

4. The Tesoro and Valero entities are continuing to review documents to make additional productions to Union Pacific. The Valero entities anticipate producing an estimated 2,300 files to Union Pacific this week or early next week; the Tesoro entities estimate that they will produce 600 files in the same time frame.

Dated September 21, 2017

Respectfully submitted,

/s/ Michael L. Rosenthal (w/ permission
JHS)

Michael L. Rosenthal
Kavita Pillai
Covington & Burling LLP
One CityCenter
850 Tenth Street, N.W.
Washington, D.C. 20001

Rhonda S. Ferguson
Craig V. Richardson
Danielle E. Bode
Union Pacific Railroad Company
1400 Douglas Street
Omaha, NE 68179

*Attorneys for Union Pacific Railroad
Company*

/s/ Peter Whitfield

Peter Whitfield
Houston Shaner
Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004

*Attorneys for Valero Marketing and
Supply Company, Valero Rail Partners,
LLC, Tesoro Refining & Marketing
Company LLC, Tesoro Great Plains
Gathering & Marketing LLC, and Dakota
Prairie Refining, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on September 21, 2017, I have caused a copy of the foregoing to be served by hand, email, or first-class mail on counsel for the parties of record for NOR 42144, NOR 42150, and NOR 42152. I further certify that I have caused a copy of the foregoing to be served by email on the Honorable John P. Dring of the Federal Energy Regulatory Commission.

/s/ Houston Shaner
Houston Shaner