

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

244815
244816
244817
244818

ENTERED
Office of Proceedings
December 7, 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)
)
)
vs.)
)
UNION PACIFIC RAILROAD)
COMPANY)

NOR 42144, 42150, 42152, 42153

JOINT WEEKLY STATUS REPORT – DECEMBER 7, 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 Valero entities sent their further revisions to these stipulations on October 18, 2017.

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 sent their proposed revisions to these stipulations on October 18, 2017.

3. On October 31, 2017, Union Pacific served its second set of discovery requests on the Valero and Tesoro entities. The Tesoro entities served their responses and objections to these requests on November 15, 2017. The Valero entities served their responses and objections to these requests on November 20, 2017.

4. 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. On October 4, 2017, Union Pacific relayed its own proposal on these discovery requests. The Tesoro entities responded to this proposal on October 20, 2017. The parties have now reached agreement on the scope of information to be collected in response to these requests.

5. The Valero entities have completed their primary document production and are working on their privilege log. On October 24, 2017, Union Pacific relayed several questions about the Valero entities' production. The Valero entities have now responded to these questions and made supplemental productions of approximately 137 files related to those responses on November 7 and 9, 2017. On November 8 and 15, 2107, Union Pacific relayed additional

questions about the Valero entities' past productions, and the Valero entities are reviewing these questions.

6. On Friday, October 27, 2017, the Tesoro entities produced approximately 15,000 files to Union Pacific. The Tesoro entities anticipate making their next production this week.

Dated December 7, 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

/s/ Houston Shaner

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

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

Attorney 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 December 7, 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, NOR 42152, and NOR 42153. 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