

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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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)

VALERO MARKETING AND SUPPLY)
COMPANY and VALERO RAIL PARTNERS,)
LLC)

vs.)

UNION PACIFIC RAILROAD)
COMPANY)

TESORO REFINING & MARKETING)
COMPANY LLC; TESORO GREAT PLAINS)
GATHERING & MARKETING LLC; and)
DAKOTA PRAIRIE REFINING, LLC)

vs.)

UNION PACIFIC RAILROAD)
COMPANY)

NOR 42144

NOR 42150

NOR 42152

ENTERED
Office of Proceedings
April 13, 2017
Part of
Public Record

BI-WEEKLY STATUS REPORT – APRIL 13, 2017

Complainants Valero Marketing and Supply Company and Valero Rail Partners, LLC (collectively, “Valero”) and Complainants Tesoro Refining & Marketing Company LLC, Tesoro Great Plains Gathering & Marketing LLC, and Dakota Prairie Refining, LLC (collectively,

“Tesoro”) submit this status report in response to the Surface Transportation Board’s order in NOR 42144 dated March 3, 2017. The March 3rd order requires four categories of information:

- a. The progress accomplished since the previous status report;
- b. Any outstanding discovery concerns that remains;
- c. Participants’ plans to address outstanding discovery; and
- d. An estimate of time required for participants to address such concerns.

Each category is addressed below.

A. Progress Since Previous Status Report

The parties in NOR 42144 filed their last bi-weekly status reports on March 30, 2017. The Board consolidated the Valero and Tesoro proceedings (NOR 42150 and NOR 42152, respectively) in an order issued on March 31, 2017. Consequently, this is the first status report submitted by Valero and Tesoro.

B. Outstanding Discovery Concerns

Discovery involving Valero and Tesoro is at early stages. Union Pacific Railroad Company (“Union Pacific”) has served one set of discovery requests to each of Valero and Tesoro. Both Valero and Tesoro are currently reviewing what information they possess and preparing full responses to Union Pacific’s discovery. Even now, however, both Valero and Tesoro have concerns about the breadth of Union Pacific’s discovery, particularly its temporal scope. Union Pacific has proposed an agreement under which Valero and Tesoro would produce information similar to that made by Cargill and the POET entities; Valero and Tesoro are currently evaluating this proposal as part of their response to discovery.

Valero and Tesoro are also each preparing their own discovery.

C. Plans to Address Discovery Concerns

After discussing procedural issues with Union Pacific's counsel on April 3, 2017, Valero and Tesoro are working diligently to respond to Union Pacific's discovery. The companies have consulted Union Pacific about the information it most prioritizes, expect to resolve some of Union Pacific's discovery requests through stipulations, and are evaluating Union Pacific's proposal to produce information.

D. Estimate of Time Required to Address Discovery Concerns

Neither Valero nor Tesoro can estimate with precision the time needed to resolve all outstanding discovery issues, but the companies expect that the process may take several months.

Respectfully submitted,

/s/ Justin A. Savage

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Refining & Marketing Company LLC, Tesoro Great
Plains Gathering & Marketing LLC, and Dakota
Prairie Refining, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 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 hand delivery on the Honorable John P. Dring, Federal Energy Regulatory Commission, Office of Administrative Law Judges, 888 First Street, N.E., Washington, DC 20426.

/s/ Houston Shaner
Houston Shaner