

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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NORTH AMERICA FREIGHT CAR
ASSOCIATION; AMERICAN FUEL &
PETROCHEMICALS 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,

Complainants,

v.

UNION PACIFIC RAILROAD COMPANY,

Defendant.

ENTERED
Office of Proceedings
March 30, 2017
Part of
Public Record

NOR 42144

UNION PACIFIC'S SECOND BI-WEEKLY STATUS REPORT

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March 30, 2017

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In accordance with the March 3, 2017, order of Administrative Law Judge John P. Dring, Union Pacific submits the following discovery status report.

A. Document Production from Individual Complainants

Union Pacific and POET Ethanol continue to communicate regarding information that POET Ethanol produced in discovery. On March 17, Union Pacific requested clarification of information POET Ethanol had provided regarding certain data files in its production. POET Ethanol responded on March 22. Union Pacific may have additional questions about POET Ethanol's discovery responses as it continues to review those responses in preparation for depositions.

On March 24, Union Pacific requested additional information regarding lease agreements produced by POET Nutrition and identified additional documents that appeared to be missing from POET Nutrition's productions. On March 28, POET Nutrition agreed to provide some of the missing information and agreed to look into related matters raised in a March 28 follow-up request from Union Pacific. Union Pacific anticipates it will have additional questions about POET Nutrition's discovery responses as it continues to review those responses in preparation for depositions.

Cargill still has not completed its production of documents nor indicated to Union Pacific the extent of the remaining documents or data to be produced.

B. Document Production By Union Pacific

As stated in the prior status report, Union Pacific believes it has completed its production of documents and other information.

C. Depositions

Union Pacific, POET Ethanol, and POET Nutrition have finalized dates for depositions of POET Ethanol and POET Nutrition representatives. The depositions will take place April 27-28.

Cargill still has not responded to Union Pacific's January 19 deposition notice.

D. Tank Car Owner ("TCO") Discovery

Union Pacific is continuing to work with the non-party TCOs to develop manageable search terms. On March 28, Trinity Industries, Inc. proposed certain revised search terms to Union Pacific. Union Pacific responded that it was willing to work with Trinity to refine the search parameters as it did with Union Tank Car and requested certain additional information from Trinity. Union Pacific is continuing to engage in discussions with GATX Corporation regarding document productions and stipulations. No TCO has yet produced any documents.

Union Pacific received TCO-related data from Railinc on March 17. Pursuant to Union Pacific's agreement with the TCOs that Complainants would process the data and provide each TCO only the data pertaining to that particular TCO, Union Pacific provided a copy of the data to Complainants' counsel on March 24.

E. Privilege Logs

Union Pacific is preparing its privilege log and anticipates producing it by May 15 in accordance with the parties' negotiated "Protocol for the Production of Electronically-Stored Information and Paper Documents." On March 22, North America Freight Car Association produced its privilege log, which Union Pacific is reviewing. (NAFCA also stated it has identified emails that were mistakenly withheld as privileged and that will be produced to Union Pacific "in due course.") Union Pacific still has not received privilege logs from Cargill, POET Nutrition, POET Ethanol, or American Fuel & Petrochemical Manufacturers.

Respectfully submitted,

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March 30, 2017

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of March, 2017, I caused a copy of the foregoing document to be served by first-class mail, postage prepaid, or a more expeditious manner of delivery, on all of the parties of record in NOR 42144.

I also caused a copy of the foregoing document to be served by hand on Administrative Law Judge John P. Dring, Federal Energy Regulatory Commission Office of Administrative Law Judges, 888 First Street, N.E., Washington DC 20426.

/s/ Michael L. Rosenthal
Michael L. Rosenthal