

244861

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STB Docket Nos. NOR 42144, *et al.*
(Consolidated)

V.

Defendant.

RHONDA S. FERGUSON
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December 14, 2017

	)	
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	)	STB Docket Nos. NOR 42144, <i>et al.</i>
CARGILL INCORPORATED,	)	(Consolidated)
	)	
Complainants,	)	
	)	
v.	)	
	)	
UNION PACIFIC RAILROAD COMPANY,	)	
	)	
Defendant.	)	
	)	

Union Pacific is submitting this status report on discovery progress in connection with the portion of this consolidated proceeding relating to Arkema (STB Docket No. NOR 42153). Separately, Union Pacific, Valero, and Tesoro are jointly filing a status report relating to discovery progress in connection with STB Docket Nos. NOR 42150 and 42152.

Union Pacific completed its production of documents and other information in response to Arkema's discovery requests on November 17, 2017. Arkema experienced some difficulty accessing the material posted on Union Pacific's discovery website, but the difficulties were resolved by November 29.

Arkema made an initial production of documents on November 6, 2017. The documents, though substantial in volume, address a narrow range of issues. Arkema has not produced any documents since the initial production. Union Pacific has conferred with counsel for Arkema about Arkema's expected pace of document production. We understand Arkema may produce additional documents this week. We further understand Arkema was trying to complete its production of documents by the end of this year but could not offer a firm commitment.

Arkema was not a party to the consolidated case on October 2, 2017, when Judge Dring set deadlines in Docket Nos. NOR 42150 and 42152 for completion of document discovery and deposition discovery (on December 31, 2017, and January 31, 2018, respectively).¹ In light of the status of discovery in NOR 42153, as well as NOR 42150 (*i.e.*, Valero is addressing Union Pacific's follow-up questions and has not yet produced its privilege log) and NOR 42152 (*i.e.*, Tesoro has not yet claimed to have completed its production, so Union Pacific does not even know the extent of follow-up questions that may arise), Union Pacific doubts we will be in a position to review Arkema's document production, pursue follow-up questions, and complete depositions in NOR 42153 by January 31, 2018, even if Arkema meets its ambitious goal of nominally completing production of documents by December 31, 2017. We will continue to work cooperatively with Arkema on discovery issues as they arise and to keep the Board apprised of our progress.

¹ The Board consolidated NOR 42153 in an order served October 5, 2017.

Respectfully submitted,

/s/ Michael L. Rosenthal

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of December, 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, NOR 42150, NOR 42152, and NOR 42153.

/s/ Michael L. Rosenthal
Michael L. Rosenthal