

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

	)	
CENTRAL VALLEY AG GRINDING, INC.	)	245959
AND CENTRAL VALLEY AG TRANSPORT	)	
INC.	)	
	)	ENTERED
	)	Office of Proceedings
	)	June 19, 2018
Complainants	)	Part of
	)	Public Record
	)	Docket No. NOR 42159
v.	)	
	)	
MODESTO AND EMPIRE TRACTION	)	
COMPANY	)	
	)	
Defendant.	)	
	)	

**JOINT REPORT ON THE PARTIES' CONFERENCE AND
REQUEST TO ADOPT A PROPOSED PROCEDURAL SCHEDULE**

Pursuant to 49 C.F.R. § 1111.10(a), Complainant Central Valley Ag Grinding, Inc. and Central Valley Ag Transport, Inc. (individually and collectively, "CVAG") and Defendant Modesto and Empire Traction Company ("MET") file this joint report on the parties' conference and request that the Board adopt the procedural schedule set forth in *Attachment 1*. In support hereof the parties state as follows:

1. CVAG filed its Complaint initiating this proceeding on May 1, 2018. Defendant MET filed its Answer on May 31, 2018.
2. The Board's Rules of Practice ("Rules") call for the parties in this case to "meet, or discuss by telephone, discovery and procedural matters within 12 days after an answer to a complaint is filed." 49 C.F.R. § 1111.10(a). As called for by the

Rules, the parties discussed procedural and discovery matters by telephone on June 12, 2018.

3. One matter discussed by the parties was the need for a protective order to govern the exchange and use of confidential and highly confidential information in this proceeding. The parties have agreed to consult on an appropriate protective order and do not anticipate that this will be a contentious issue. One or both of the parties will file a motion proposing a protective order.

4. The Board's Rules also provide that "[w]ithin 19 days after an answer to a complaint is filed, the parties, either jointly or separately, shall file a report with the Board setting forth a proposed procedural schedule to govern future activities and deadlines in the case." 49 C.F.R. § 1111.10(a).

5. The parties request that the Board adopt the proposed procedural schedule set forth in *Attachment 1*. The proposed schedule calls for a discovery period continuing 90 days following the issuance of a procedural schedule, followed by evidentiary filings to be completed over the next 150 days. The parties agree that if the discovery period is modified, then all deadlines will be shifted accordingly in order to preserve the time allotted for the opening statement, the reply statement, and the rebuttal statement. This schedule is consistent with the procedural schedules adopted in recent unreasonable practice cases.¹ The parties reserve the right to ask the Board to amend the

¹ See, e.g., *CF Indus. Sales, LLC v. Canadian National Ry. Co.*, NOR 42151 (STB served Feb. 27, 2017) at 1; *Agrium Inc. v. Canadian Pacific Ry. Co.*, NOR 42145 (STB served Sept. 15, 2015) at 3; *Cargill, Inc. v. BNSF Ry. Co.*, NOR 42120 (STB served Jan. 4, 2011) at 6-7.

schedule if it becomes necessary in order for either party to properly develop or present its case to the Board.

WHEREFORE, for the reasons set forth above, CVAG and MET jointly request that the Board accept this report on the parties' conference and that the Board issue an order adopting the procedural schedule set forth in *Attachment 1*.

Respectfully submitted,

CENTRAL VALLEY AG GRINDING,
INC. and CENTRAL VALLEY AG
TRANSPORT INC.

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Dated: June 19, 2018

MODESTO AND EMPIRE TRACTION
COMPANY

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Attorneys for Defendant

**PROPOSED PROCEDURAL SCHEDULE
FOR STB DOCKET NO. 42159**

Day	Event
0	Board Serves Procedural Schedule
0+90	Discovery Ends*
0+150	CVAG Opening Statement
0+210	MET Reply Statement
0+240	CVAG Rebuttal Statement

* If the Discovery period is extended, all deadlines will be extended by the same number of days in order to preserve the time allotted to prepare the Opening Statement, the Reply Statement, and the Rebuttal Statement.

CERTIFICATE OF SERVICE

I hereby certify that I have this 19th day of June, 2018, caused a copy of the foregoing filing to be served by U.S. Mail, postage prepaid or by more expedited means upon all counsel of record.

/s/ Katherine F. Waring
Katherine F. Waring
An Attorney for Complainant