

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

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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,	)	Docket No. NOR 42144
	)	
Complainants,	)	
	)	
v.	)	
	)	
UNION PACIFIC RAILROAD COMPANY,	)	
	)	
Defendant.	)	

STATUS REPORT OF NON-PARTY TANK CAR OWNERS FOR APRIL 13, 2017

Union Tank Car Company (“UTC”), GATX Corporation (“GATX”), Trinity Industries, Inc. (“Trinity”), and American Railcar Industries, Inc. (“ARI”) (individually, “Tank Car Owner” or “Owner,” and collectively, “Tank Car Owners” or “Owners”), non-parties to the above-captioned matter, hereby submit this status report in response to the order of Administrative Law Judge Dring served March 3, 2017.

UTC made its full document production to UP on April 6, 2017. The other Tank Car Owners have been working to compile and prepare discovery materials for production to Defendant Union Pacific Railroad Company (“UP”) in accordance with the order served October 13, 2016.

An issue has arising regarding the data that UP had obtained from Railinc, with the Tank Car Owners' authorization. Tank Car Owners are informed that the data includes some car marks for which they did not provide authorization. In at least some cases, the discrepancies may involve typographical errors. Tank Car Owners are hopeful that the Complainants and UP may be able to resolve the issue, at which point each Tank Car Owner can receive its individual data, as per previous agreement.

On April 3, 2017, Trinity and UP reached agreement on a modified search string for RFP 6 that makes the ESI search feasible. On April 6, 2017, UP agreed to extend that modified search string to ARI. GATX and UP are engaged in discussions regarding document production issues.

On April 10, 2017, UP provided ARI with information that ARI had requested from UP regarding the level of Item 55-C charges to ARI. ARI had requested the information to help in its search for responsive information. In ARI's view, the information suggests that the UP's discovery requests impose a burden that is disproportionate to the charges.

ARI, GATX, and Trinity also continue to advance their compilation of non-ESI information and documents. They hope to be able to complete some or all of their production within the next month.

Respectfully submitted,

Peter A. Pfohl
/s/ Robert D. Rosenberg
Katherine F. Waring
Slover & Loftus LLP
1224 Seventeenth Street, N.W.
Washington, DC 20036
(202) 347-7170

*Counsel for American Railcar
Industries, Inc.*

Jennifer A. Kenedy
Matthew J. Kalas
Locke Lord LLP
111 South Wacker Drive
Chicago, IL 60606
(312) 443-0377

Counsel for Trinity Industries, Inc.

Dated: April 13, 2017

Reed W. Neuman
Anna W. Stolarz
Nossaman LLP
1666 K Street, NW, Suite 500
Washington, DC 20006
(202) 887-1400

Counsel for GATX Corporation

Marc J. Goldstein
Michael F. Vitris
Beveridge & Diamond, P.C.
15 Walnut Street, Suite 400
Wellesley, MA 02841
(781) 416-5700

Counsel for Union Tank Car Company

CERTIFICATE OF SERVICE

I hereby certify that this 13th day of April, 2017, I have caused copies of the forgoing to be served via first-class mail, postage prepaid, or by more expeditious means, upon all parties of record to this proceeding.

In addition, I have caused a copy of the foregoing 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/ Robert D. Rosenberg