

**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)

NOR 42144, 42150, 42152, 42153

ENTERED
Office of Proceedings
December 28, 2017
Part of
Public Record

JOINT WEEKLY STATUS REPORT – DECEMBER 28, 2017

Complainants Valero Marketing and Supply Company and Valero Rail Partners, LLC, Tesoro Refining & Marketing Company LLC, Tesoro Great Plains Gathering & Marketing LLC, and Dakota Prairie Refining, LLC (collectively, “Complainants”), and Defendant Union Pacific Railroad Company (“Union Pacific”) submit this status report on discovery progress as requested by Administrative Law Judge Dring at a status conference on April 19, 2017.

1. Valero Marketing and Supply Company and Valero Rail Partners, LLC proposed to Union Pacific a compromise position on pending discovery issues. The parties conferred on this proposal via telephone on Monday, July 10, 2017. The Valero entities have reviewed revised stipulations from Union Pacific and, on September 5, 2017, the Valero entities relayed proposed edits to those stipulations. The Valero entities sent their further revisions to these stipulations on October 18, 2017.

2. Tesoro Refining & Marketing Company LLC, Tesoro Great Plains Gathering & Marketing LLC, and Dakota Prairie Refining, LLC proposed to Union Pacific a compromise position on pending discovery issues. Union Pacific provided proposed stipulations in response to these proposals on August 22, 2017. The Tesoro entities sent their proposed revisions to these stipulations on October 18, 2017.

3. On October 31, 2017, Union Pacific served its second set of discovery requests on the Valero and Tesoro entities. The Tesoro entities served their responses and objections to these requests on November 15, 2017. The Valero entities served their responses and objections to these requests on November 20, 2017.

4. On August 16, 2017, the Tesoro entities served their second set of discovery requests to Union Pacific. Union Pacific served its responses to these discovery requests on August 31, 2017. The parties met and conferred on these responses on September 12, 2017. In that conference, the Tesoro entities provided proposals and information intended to refine the scope of the requests and assist with Union Pacific's searches for responsive documents. On October 4, 2017, Union Pacific relayed its own proposal on these discovery requests. The Tesoro entities responded to this proposal on October 20, 2017. Union Pacific made its production in response to these discovery requests on December 22, 2017.

5. The Valero entities have completed their primary document production. On October 24, 2017, Union Pacific relayed several questions about the Valero entities' production. The Valero entities have now responded to these questions and made supplemental productions of approximately 137 files related to those responses on November 7 and 9, 2017. On November 8 and 15, 2107, Union Pacific relayed additional questions about the Valero entities' past productions, and the Valero entities responded to some of these questions on December 12,

2017. On December 8 and 20, 2017, Union Pacific provided further questions on the past productions. The Valero entities responded to some of these questions on December 27, 2017 and expect to respond to the remainder today or tomorrow. The Valero entities also expect to make any supplemental productions in support of those responses today or tomorrow.

6. The Tesoro entities produced approximately 37 files and 32 files to Union Pacific on December 21, 2017 and December 28, 2017, respectively. The Tesoro entities have completed their primary document production. Union Pacific has relayed several questions about Tesoro's productions, and the Tesoro entities have responded to at least some aspects of these questions. The parties have primarily discussed aspects of Tesoro's movement data as it relates to shop moves.

7. The Valero and Tesoro entities anticipate producing their respective privilege logs Union Pacific today or tomorrow.

8. On December 27, 2017, Union Pacific served a notice of deposition on the Valero entities. That deposition is scheduled to occur on January 17, 2018 in San Antonio, Texas.

Dated December 28, 2017

Respectfully submitted,

/s/ Michael L. Rosenthal (w/ permission
JHS)

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CERTIFICATE OF SERVICE

I hereby certify that on December 28, 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, NOR 42152, and NOR 42153. I further certify that I have caused a copy of the foregoing to be served by email on the Honorable John P. Dring of the Federal Energy Regulatory Commission.

/s/ Houston Shaner _____
Houston Shaner