

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

238851

ENTERED  
Office of Proceedings  
July 20, 2015  
Part of  
Public Record

**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 )****

**Docket No. NOR 42144**

**SECOND REPORT SUBMITTED PURSUANT TO 49 C.F.R. § 1111.10(a)**

The Complainants in this proceeding, through counsel, hereby submit the following Second Report to the Board Pursuant to 49 C.F.R. § 1111.10(a)("Second Report"). The undersigned submit that counsel for Defendant Union Pacific Railroad Company ("UP") has authorized them to represent that UP concurs with the contents of this Second Report.

On May 8, 2015, the parties submitted their first Report pursuant to 49 C.F.R. § 1111.10(a) after meeting in person on May 1, 2015 to discuss discovery and procedural schedule issues. In the report, the parties explained that the Association Complainants and UP agreed to notify each other by May 8, 2015, of the categories of documents and information responsive to each other's initial requests that they are prepared to produce initially. Second, the parties agreed to serve written responses and objections to each other's initial discovery requests on June 11. Counsel for the parties also agreed to hold another "meet and confer" session to

discuss discovery and procedural schedule issues within a week to 10 days after June 11. Finally, the parties informed the Board that they contemplated issuing another report to the Board on the discovery and procedural aspects of the case before the end of June. Report at 2. Accordingly, the parties state the following in this Second Report:

By mutual agreement to extend the June 11 due date, the parties served their respective responses and objections to each other's first discovery requests on or around June 23, 2015.<sup>1</sup> Counsel for the parties subsequently held a second meet and confer session via conference call on July 10, 2015 to discuss the status of discovery in light of the responses and objections, and whether to submit a proposed procedural schedule to the Board. During the conference call, the parties identified several areas of potential dispute with each other's initial discovery requests, and they have agreed to attempt to mutually resolve the differences, or at least narrow and/or refine them, before seeking Board involvement. The parties agreed that they would exchange letters outlining their respective positions on discovery the week of July 27, 2015. Finally the parties mutually agreed that the potential discovery disputes and pending discussions over them precluded the parties from proposing a procedural schedule at this time.

The parties anticipate submitting another report to the Board sometime after the exchange of letters the week of July 27, 2015, and any further discussions between them resulting from that correspondence.

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<sup>1</sup> UP agreed to extend the due date for one complainant to June 29, 2015.

Respectfully submitted,



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Thomas W. Wilcox, Esq.  
David K. Monroe, Esq.  
Svetlana Lyubchenko, Esq.  
GKG Law, P.C.  
The Foundry Building  
1055 Thomas Jefferson Street NW  
Suite 500  
Washington, DC 20007  
(202) 342-5248

*Counsel for North America  
Freight Car Association; Ethanol Products,  
LLC d/b/a POET Ethanol Products;  
POET Nutrition, Inc., and Cargill  
Incorporated*



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Justin A. Savage, Esq.  
Hogan Lovells US LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington, DC 20004  
(202) 637-5558

*Counsel for American Fuel &  
Petrochemical Manufacturers*



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Paul M. Donovan, Esq.  
LaRoe, Winn, Moerman & Donovan  
1250 Connecticut Avenue, N.W., Suite 200  
Washington, DC 20036  
(202) 298-8100

*Counsel for The Chlorine Institute*



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Jeffrey O. Moreno, Esq.  
Thompson Hine LLP  
1919 M Street, NW Suite 700  
Washington, DC 20036  
(202) 263-4107

*Counsel for The Fertilizer Institute and the  
American Chemistry Council*

July 20, 2015

**CERTIFICATE OF SERVICE**

I do hereby certify that on this 20<sup>th</sup> day of July 2015, I have served a copy of the foregoing Second Report Submitted Pursuant to 49 C.F.R. § 1111.10(a) via electronic mail and regular mail to counsel for Defendant at the following address:

Michael Rosenthal  
Carolyn F. Corwin  
Covington & Burling, LLP  
One CityCenter  
850 10th Street, NW  
Washington, DC 20001

  
Thomas W. Wilcox