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Oral Statement

of the

National Grain and Feed Association

Presented at

Surface Transportation Board

Public Hearing on Rail Service Issues

STB Docket No. EP 724

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Good afternoon, Chairman Elliott and Vice Chairman Begeman.

My name is Kevin Thompson, and I am assistant vice president and transportation lead for the Grain and Oilseed Businesses of Cargill Incorporated, Minneapolis, Minnesota. I appear today on behalf of the National Grain and Feed Association (NGFA), where I serve as chairman of its Rail Shipper/Receiver Committee. The NGFA consists of more than 1,000 grain, feed, processing and grain-related companies that operate approximately 7,000 facilities that handle about 70 percent of all U.S. grains and oilseeds.

I also wish to note that this statement is supported by the Agricultural Retailers Association, Corn Refiners Association, National Chicken Council, National Council of Farmer Cooperatives, National Oilseed Processors Association and North American Millers Association.

The NGFA commends the Board for conducting this public hearing, and appreciates the opportunity to speak on behalf of shippers and receivers of grain, oilseeds and grain products concerning the serious rail service disruptions that plagued our industry since last fall.

The NGFA first would like to provide several real-world examples of the impact – in terms of market impacts and costs – that rail service disruptions have had on our member companies and the producer-customers we serve. Second, we want to share some observations resulting from the ongoing dialogue the NGFA has been having with several affected Class I rail carriers. I'll conclude with several specific recommendations on the types of actions we believe the Board can and should take to improve the relevance, timeliness and transparency of service-related metrics and information that would be useful to rail customers to assist in planning logistics during what we anticipate will be a long, slow restoration of service – particularly in the Western United States.

Rail service disruptions, which began well before the onset of harsh winter weather, have been widespread and severe. In the West, shippers served by the BNSF Railway and Canadian Pacific have been particularly hard hit – especially in areas like North and South Dakota, Montana and parts of Minnesota where there are few, if any, viable alternatives to rail for moving grain, grain products and fertilizer.

Meanwhile, in the East, NGFA-member companies served by the Norfolk Southern and the CSX have reported service disruptions. In the case of the NS, they also have expressed concerns over the lack of adequate, consistent and timely information that could have been used to make adjustments in logistics where possible.

The NGFA's strong preference is to have individual rail customers resolve service-related issues directly through one-on-one discussions with their respective carriers in a commercial business setting. But since early January when the impacts began being felt industry-wide, the NGFA has taken on a greater role in addressing service-related issues directly with rail carriers on behalf of its member companies.

The sheer gravity, magnitude and scope of rail service disruptions now being experienced are unprecedented, and have rippled through all sectors of grain-based agriculture. As a result:

- Country elevators and other originators of grain and grain products are extremely hesitant to price and book forward sales from farmers or commercial elevators because they cannot count on predictable rail service or reflect the current level of freight costs in their bids.

- Grain processors and export elevators have idled or significantly reduced operating capacity because of an inability to predictably source sufficient quantities of grains and oilseeds.

- Millers in the upper and central Midwest are facing facility shut-downs because they're running out of raw commodities, including oats and certain classes of wheat.

- Still other grain processing and animal feeding operations, particularly in the Eastern United States, are shifting to comparatively inefficient and much more costly long-haul truck movements in an attempt to obtain sufficient quantities of grains and oilseeds. Still others are switching rail origination to other carriers in the limited instances where that is possible.

- And for the first time in a long time, the United States' hard-earned reputation as the world's most reliable supplier of grains, oilseeds and grain products to export markets has been put at risk.

Some specific examples of economic harm caused by rail service disruptions have been provided to NGFA by member companies in response to our request.

In the West, the Canadian Pacific has been 60 days late or later in providing 100-car unit trains, and up to four months late on non-shuttles. Meanwhile, the BNSF only now is starting to provide certificate of transportation – or COT – trains that shippers had paid to have delivered in late January and early February. The NGFA also has received repeated reports of locomotives being de-linked from trains and cars sitting loaded – but idled – at grain facilities for weeks on end.

In the East, there have been sharply reduced turn times on unit trains for both domestic and export service, increasing car costs, reducing capacity and causing repeated functional shut-downs of feed mills dependent upon rail deliveries. Likewise, single car shipments of ingredients for feed in both the East and West have been delayed.

Freight delays have caused grain, feed and grain processing firms to alter commitments to farmers and commercial customers alike. Grain and feed ingredient contracts have been renegotiated and re-priced – often at a significant penalty – as they were under-filled or rolled forward to future delivery dates because they could not be executed within the contractual time commitment.

Another fallout is illustrated by the values paid in the secondary rail car freight market, where the majority of secondary freight has traded at values of approximately $4,000 per car, equating to $1 per bushel.

One NGFA-member company provided the following actual case involving a unit train shipment of soybeans from North Dakota to the Pacific Northwest in March, in which the tariff rate was approximately $5,000 per car and the expense to secure the necessary rail freight from the secondary market amounted to another $4,000 per car. After adding the fuel surcharge, the actual cost translated to $2.60 per bushel, with transportation alone representing 40 percent of the total cost.

For a time, our industry absorbed most of these additional expenses. But since early March, such escalating costs attributable to service disruptions have been reflected in lower price bids to farmers in several regions of the country. Our written statement includes charts that illustrate the precipitous decline in grain price bids offered to farmers in Montana, and North and South Dakota.

Additional costs also have been incurred by those shippers and receivers that operate privately owned hopper car fleets. One NGFA-member company in the Eastern United States reported that the number of "turns" it got in its private-hopper car fleet declined to such an extent since March that it effectively increased its fleet cost and decreased its carrying capacity by 60 percent.

Cost impacts on individual grain, feed, grain processing and export facilities obviously vary. But several NGFA-member companies have reported that the costs to their individual firms have ranged from $10 million to $20 million during the October to March period.

Over the past 15 years, the U.S. grain handling, processing and export industry and its producer-customers have made extensive private capital investments – including greatly expanded grain handling and loading capacity, private car fleets and additional track capacity – to further enhance efficiency. Some of that investment was made at the behest of rail carriers seeking improved economies-of-scale.

But despite these investments, our industry has found itself unable to serve customers efficiently or reliably during the most recent harvest season because of the precipitous decline and unpredictability in service from several Class I carriers.

Even during periods not characterized by the type of severe service disruptions being experienced currently, ag rail users often find that when rail capacity is in tight supply, rail service appears to suffer more for our sector than other sectors that may be viewed as "higher-priority" by railroads, such as coal, energy and intermodal.

This raises a core question we believe the Board needs to assess carefully. Namely, to what extent do Class I rail carriers in this highly concentrated rail market have a common-carrier obligation to provide reasonable service on reasonable request? At what point is a railroad's decision to skew its allocation of resources and service toward certain products that maximize its profits inconsistent with its statutory common-carrier obligation to rail users? What are rail carriers' obligations to balance their business desire for greater volumes and greater profitability with the traditional, statutory obligation to provide reasonable service across all customer segments?

Concerning current service disruptions, the NGFA and its member companies have been in active discussions with several affected rail carriers on the causes, as well as each carrier's recovery plans for restoring service.

There clearly were root causes not attributable to weather, such as a misreading of the volume of business that would be generated by agriculture, coal, energy and other sectors; inadequate locomotive power and crews; and operations-related issues, such as the continuation of maintenance-of-way projects during the peak harvest period.

The NGFA has encouraged each affected carrier to provide more information on when measurable improvements in rail service realistically can be expected, and to ramp up their ongoing communications with customers to provide timely and frequent information if their service commitments cannot be attained. This information is critical for our industry to be able to adjust business plans and attempt to minimize the economic harm to operations and revenues, and to serve customers. We're pleased, in particular, that the BNSF has responded with increased, ongoing communications with our Association and its member companies, as well as agricultural producers and other customers. We believe this positive dialogue with the BNSF will continue.

However, the NGFA believes the current situation warrants increased monitoring and collection of data on service metrics by the Board. We believe the Board should require affected Class I rail carriers to report – and subsequently should make publicly available to rail customers – the following types of specific service-related metrics. This information would assist rail users in making logistics plans and enhance the Board's ability to monitor service.

- Real-time information on train velocity and cycle times, as well as realistic projections restoring service.

- Weekly car loadings by product and state.

- Weekly average dwell times for trains hauling grain and grain products, coal and crude oil from January 2012 onward.

- Weekly averages for miles-per-day transited for grain, coal and crude oil since January 2012 going forward.

- The level of capacity utilization by rail corridors, particularly in the heavy grain corridors of the Pacific Northwest and Texas Gulf. For example, if a Class I carrier's capacity is 40 trains per day within the Pacific Northwest corridor, what percentage of that capacity currently is being utilized and what is the product mix?

- Real-time data on the number of grain/oilseed, coal and crude oil sets transported by quarter starting in January 2012 and into the future.

- Breakouts of capital spending by Class I carriers. The NGFA commends rail carriers for investing in their infrastructure. But we believe it would be advisable for carriers to report the share of capital spending being directed to new infrastructure capacity, such as new track, versus replacement of existing infrastructure. The NGFA also recommends that the STB require carriers to report on a quarterly basis **net** crew and locomotive changes so rail users can better assess these barometers of potential service improvement.

In addition, the NGFA recommends that the Board obtain and make available publicly the following information for each Class I carrier:

- First, what plans, if any, do each of the Class I carriers now experiencing service disruptions have to take on additional business before current service issues are resolved? For instance, will carriers award power and crews on a first-come, first-served basis during this period of severe service disruption?

- Second, what plans do Class I carriers have for reducing operations-related service disruptions that occurred last fall – including maintenance-of-way restrictions. Specifically, we believe the Board should require Class I carriers to provide rail customers with advance information on the precise location and duration of specific service disruptions caused by infrastructure projects.

Finally, we believe that during this period of service disruption, the Board should require affected Class I rail carriers to provide consistent, web-based communications and e-blasts to all of their rail customers on the status of their service and train orders. Some Class I railroads are doing a commendable job in such communications with their customers – the BNSF and CSX, in particular. But others clearly are not, relying more on word-of-mouth or calls to specific, but not all, customers. Rail users need more consistency in communications across-the-board.

At this stage, the NGFA does not believe it is advisable for the Board to take actions in the United States similar to those implemented by the Canadian government.
We fear such measures likely would further exacerbate and slow the recovery and restoration in U.S. rail service. Thus, we are not at this time asking the Board for directed-service orders that would create preferences for agricultural shipments. But

the NGFA is asking the Board to exercise very vigilant oversight during his period of service disruption to prevent rail carriers from allocating limited available capacity to serve new business from non-agricultural sectors, such as coal and energy, to the detriment of agricultural customers.

We also believe the current rail environment points to the importance of the Board's proceeding on competitive switching rules under Ex Parte No. 711. The rail service disruptions experienced by agricultural shippers are tangible examples of why captive rail shippers and receivers need enhanced access to the lines of other carriers wherever possible to keep facilities open and operating, and markets served.

The NGFA also believes strongly that these rail service disruptions point to the urgency of the United States adopting a comprehensive, "all-of-the-above" transportation infrastructure policy that supports all modes – including inland waterways, harbors and ports, and trucks. We need all transportation modes if we're going to "move this nation."

The NGFA appreciates the opportunity to express its views and recommendations during this critically important public hearing, and I would be pleased to respond to any questions the Board may have.