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CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
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April 17, 2014

EP 724

Chairman Daniel R. Elliott III
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

ENTERED
Office of Proceedings
April 17, 2014
Part of
Public Record

Dear Chairman Elliott,

Thank you for this opportunity to offer comments regarding railroad service issues in North Dakota. I want to first express my appreciation for your recent order requiring the Burlington Northern Santa Fe (BNSF) and Canadian Pacific (CP) railroads to provide a comprehensive plan to help insure our farmers receive the necessary fertilizer to sow this season's crop. Hopefully gains and experience realized from your efforts can be reproduced to address the multitude of other problems currently facing my constituents.

As a former North Dakota Public Service Commissioner, regulating state sanctioned entities such as rail are common to me. Our Constitution and Century Code bestowed upon the North Dakota Public Service Commission (Commission) powers over a multitude of monopolies. From electricity by investor owned utilities to telecommunication service, it is the Commission's job to inject the efficiencies of competition, where there are none, in order to provide the benefits our constituent consumers enjoy from an otherwise free market. In addition to monopolies, the Commission was also charged with regulating grain storage and purchasing. It is from this experience that I draw upon in offering these remarks.

Notwithstanding the Staggers [Rail] Act and my tenure well after its enactment, rail issues continued to serve as a common topic voiced to me by my constituents while at the Commission. Now, these same constituents are reaching out to me in my new role as their U.S. Congressman. Whether meeting with farm organizations here in DC or in North Dakota, speaking with me when I am on the radio or at my town halls, or writing me correspondence, it's clearly evident how important this issue is for myself and my constituents. From the beginning our founding fathers reinforced the primacy of commerce to our nation, and the necessity of solid infrastructure for its stability and growth. And, for the last 150 years through today, rail service has been a requisite component for any economy, especially to one as developed as ours. Electricity shares this crucial role. While a grid wide electric blackout elicits more immediate end user distress than failing rail service, the national importance is similar.

The hearing and existing record clearly demonstrates the extent and seriousness of this problem. For example President Robert Wisness of the North Dakota Grain Growers Associations stated at

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least three fourths of his 2013 production is still stored in his bins, forcing him to unnecessarily borrow hundreds of thousands of dollars or, United Sugar's estimation of the to-date service failures costing their operation tens of millions of dollars. Keith Brandt of Plains Grain & Agronomy of Enderlin, also representing the North Dakota Grain Dealers Association, stated "Because of untimely and inconsistent movement on the CP, we are constantly faced with discounted bids from buyers of 5-10 cents per bushel. Oftentimes trains and other shipment sizes on the CP sit for two-three weeks after billing before being pulled away." Mr. Brandt further explained his frustrations regarding the inequity of the problem, "Many elevators go to extremes to load cars in cold weather and snow storms. They do this to reduce penalties for shipments already late and to reduce lost revenue from grain that might have gone somewhere else. But railroads can miss their commitments by weeks and suffer no consequences to their customers."

Terry Whiteside, representing groups such as the U.S. Dry Pea and Lentil Council, as well as the U.S. Dry Bean Council and various state wheat and barley groups, estimated basis points, which had previously been plus or minus 10 to 15 cents above or below futures but now average 60 cents below futures. The North Central Bean Dealers Association stated that shipment delays of 90 days are common, of particular concern due to the requirement that they be packaged from the time of harvest no longer than nine months due to color degradation. As a result, their customers have paid in excess of \$3 million dollars in extra freight costs just to get their product to market.

Many of the groups testifying discussed the potential lack of trade prestige as the result of missed commitments. As a state with significant commodity export interests, such reports are very alarming. However, the humanistic effects of the current situation should also be discussed. As the breadbasket for the world, how are such programs as US Aid affected, or food inflation on the whole. Especially in light of the troublesome reports stated above, the promise of additional rail capacity by BNSF is certainly welcome. However, other more public measures must be fostered with cooperation between this entity, and local, state, and federal agencies in order to improve rail service immediately. For example, special emergency provisions, such as hours of service and weight restriction modifications should be fully explored, realizing as President Wisness said, having to travel 150 miles one way by truck to turn your crops into cash is not a longstanding solution.

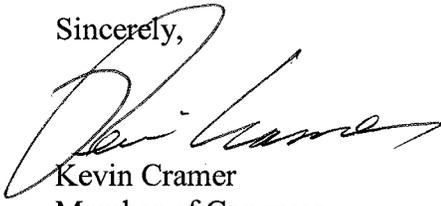
Rapid development demonstrates the inextricable link between transparency and a free market economy. Perhaps regional and/or national digital rail congestion maps could be created and openly disseminated to the public in order for stakeholders, such as our nation's farmers, to efficiently judge where best to market their product. Regional transmission organizations and their publication of locational marginal pricing could serve as a potential model. Additionally, information related to the reporting of lateness of cars could be greatly improved, especially as it relates to specialty crops.

Lastly, while oil and coal for example do not have expiration dates, undelivered grain will rot and leave body's undernourished. This is notwithstanding our nation's diminishing export reputation as a result of deliverability failures. Commodity discrimination, if any, should be exercised with caution. Yet, these factors with stories of horrible service in the face of higher costs and alleged unethical demurrage charges, advocates for more liberal, fundamental change

gain favor by the day. I can only hope promises of dramatic improvement are soon realized. Since no one ultimately gains under the present circumstances, perhaps this certainty will encourage positive reform. What can be assured is my full attention to this issue.

I look forward to working with you, stakeholders, and the Canadian government in not only improving the present situation, but providing long term reform and protection to insure North Dakota's continued prosperity. It is my hope shippers and producers of commodities competing for precious rail capacity can work together on solving the immediate crisis while the railroads invest in more infrastructure. We all look to the Surface and Transportation Board to intervene as necessary to ensure proper priorities are exercised.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Cramer", written in a cursive style.

Kevin Cramer
Member of Congress