GKG Law, P.C.

ATTORNEYS AT LAW
CANAL SQUARE 1054 THIRTY-FIRST STREET, NW WASHINGTON, DC 20007
TELEPHONE: 202.342.5200 FACSIMILE: 202.342.5219

RICHARD BAR
BRENDAN COLLINS
STEVEN JOHN FELLMAN
EDWARD D. GREENBERG
KATHARINE FOSTER MEYER
DAVID K. MONROE
TROY A. ROLF
DAVID P. STREET
KEITH G. SWIRSKY
THOMAS W. WILCOX
CHRISTOPHER B. YOUNGER *

SVETLANA V. LYUBCHENKO

ROBERT N. KHARASCHN

N OF COUNSEL
* NOT ADMITTED IN DC

MINNESOTA OFFICE:
700 TWELVE OAKS CENTER DRIVE, SUITE 700
WAYZATA, MN 55391
TELEPHONE: 952.449.8817 FACSIMILE: 952.449.0614

WRITER'S DIRECT E-MAIL ADDRESS
TWILCOX@GKGLAW.COM

WRITER'S DIRECT DIAL NUMBER
202-342-5248

233886

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Via E-Filing

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

Re: ***Docket EP 711, Petition for Rulemaking to Adopt Revised Competitive Switching Rules***

Dear Ms. Brown:

Accompanying this letter for filing in the referenced docket is the Joint Opening Submission of the National Grain and Feed Association, the Agricultural Retailers Association, National Barley Growers Association, USA Rice Federation, National Oilseed Processors Association, the National Chicken Council, the National Association of Wheat Growers, the National Council of Farmer Cooperatives, and the National Corn Growers Association.

Please note that both confidential and redacted, public, versions of this filing are being made out of an abundance of caution due to the inclusion of confidential Waybill Sample data in the Opening Verified Statement of Gerald W. Fauth III. This information is denoted in his statement by brackets [ ]. In accordance with the Board's rules, the confidential version is labeled "Highly Confidential Materials Containing Waybill Data Subject to Protective Order," and should not be placed in the public record pending a determination by the Board that the information contained does not reveal competitively sensitive data. 49 CFR §1244.9(b)(iv).

Please do not hesitate to contact the undersigned counsel for the filing parties with any questions.

Sincerely,

Thomas W. Wilcox

Thomas W. Wilcox

Andrew P. Goldstein
McCarthy, Sweeney & Harkaway, P.C.
1825 K Street, N.W., Suite 700
Washington, DC 20006
(202) 775-5560

Cc: Parties of Record

Public Version

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. EP 711

PETITION FOR RULEMAKING TO ADOPT REVISED COMPETITIVE SWITCHING RULES

JOINT OPENING SUBMISSION

OF THE
NATIONAL GRAIN AND FEED ASSOCIATION, THE AGRICULTURAL RETAILERS ASSOCIATION, NATIONAL BARLEY GROWERS ASSOCIATION, USA RICE FEDERATION, NATIONAL OILSEED PROCESSORS ASSOCIATION, THE NATIONAL CHICKEN COUNCIL, NATIONAL ASSOCIATION OF WHEAT GROWERS, NATIONAL COUNCIL OF FARMER COOPERATIVES, AND NATIONAL CORN GROWERS ASSOCIATION

Pursuant to the decision served in this proceeding on July 25, 2012 ("*Notice*"), and the decision served in this proceeding on October 25, 2012, the National Grain and Feed Association ("NGFA"), The Agricultural Retailers Association, National Barley Growers Association, USA Rice Federation, National Oilseed Processors Association, the National Chicken Council, National Association of Wheat Growers, National Council of Farmer Cooperatives, and National Corn Growers Association (all referred to herein as "Interested Agricultural Parties") file their Joint Opening Submission in this proceeding. A description of each participating organization is provided in Exhibit 1 attached hereto. In this filing, the Interested Agricultural Parties respond to the Board's requests for data and information on the potential results of implementing the proposed new rules governing requests for "competitive switching" (the "Proposal") contained in the Petition for Rulemaking ("Petition") submitted by the National Industrial Transportation League ("NITL") on July 7, 2011.

I.
INTRODUCTION

The Interested Agricultural Parties, either individually or jointly with other entities, have participated in previous Board proceedings addressing competition in the railroad industry, an issue of great concern to rail shippers of grains, oilseeds, feed, feed ingredients, biofuels and other grain products. In those proceedings, the Interested Agricultural Parties have voiced concerns over decreased rail-to-rail competition for agricultural commodities and products – nearly 75 percent of agricultural geographic areas lost rail competition between 1992 and 2007[1]. The consequences for U.S. agriculture are significant. In 2011, railroads hauled approximately 30 percent of all commercial movements of whole U.S. grains and oilseeds – most of which are shipped by Interested Agricultural Parties member companies.

Agricultural commodity shipments are influenced heavily by fluctuating domestic and export market demand, as well as seasonal and weather-related conditions. A case-in-point occurred in the fall and early winter of 2012, when historically low water conditions on the Mississippi River caused disruptions to barge traffic and necessitated increased truck and rail movements of agricultural commodities and farm supplies – some of which resulted in changes in shipping patterns. In other cases, regional and local market demand from the grain processing, biofuels and livestock/poultry sectors necessitated the movement of agricultural commodities across longer distances that required interchanges with more than one Class I railroad. Yet,

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1 U.S. Department of Agriculture and U.S. Department of Transportation, *Study of Rural Transportation Issues*(April 2010).

agricultural producers and shippers now rely primarily upon four Class 1 carriers to haul the vast majority of grain and oilseeds shipped by rail; in 2007, those four carriers originated 84 percent of grain and oilseed rail traffic compared to only 53 percent in 1980.[2]

These inherent characteristics of today's concentrated rail industry and agricultural product shipments make competitive rail switching rules essential to efficiently supplying domestic and export markets. The NGFA in a previous filing in EP 705, *Competition in the Railroad Industry* ("EP 705"), reiterated a prior recommendation that the STB consider establishing a revenue-to-variable-cost ("R/VC") threshold (such as 180%) for switch charges which, if exceeded, would shift the burden of proof to railroads to demonstrate that such charges were reasonable.[3] The NGFA noted that "in many cases," railroad-imposed switch charges had been elevated to $500 to $700 per car, which, some cases, equated to approximately five to seven times the variable cost for providing the switching service.[4] The NGFA also pointed out that switch charges may be used by carriers as a way to de-market rail traffic, which the Board should view as an unreasonable business practice.[5]

Simply put, rail carriers should not have a free hand to cut off existing access to markets through absolute closures of intersection points or by establishing switch charges beyond a reasonable level. Because switching movements are a major conduit to maintaining a national rail freight network, railroads should not have the degree of pricing freedom on switch movements that they currently are given on long-haul rates. To allow such autonomy on switching will have a negative impact on the competitive fabric of the nation's economy.

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2 *Id.*

3 EP 705, Reply Comments of the National Grain and Feed Association (May 27, 2011) at 4.

4 *Id.* at 3.

5 *Id. at 4.*

II.
SUMMARY OF THE INTERESTED AGRICULTURAL PARTIES' JOINT OPENING SUBMISSION

The Interested Agricultural Parties wholeheartedly agree with NITL that the Board can and should replace its existing rules implementing the Board's authority under 49 U.S.C. § 11102(a) to order a rail carrier to provide reciprocal switching for another railroad at facilities that are served only by the first railroad.[6] In addition, the Interested Agricultural Parties believe the Board can and should overrule past precedent applying this statutory provision and the rules to requests for such access. As the NITL Petition summarizes, a voluminous record has been developed by the Board in EP 705 and other agency proceedings that supply ample legal and commercial justifications for making this long overdue change.

The Proposal is an attempt to fashion a workable replacement to the existing rules and precedent governing reciprocal switching. In response to the Board's request in the *Notice* for data on the potential outcomes of implementing the Proposal, the NGFA obtained permission for its rail costing consultant and counsel to review the Board's Confidential Waybill Sample for 2011 for purposes of providing data responsive to the *Notice* focused on the proposal's effect on rail shippers of a wide range of raw and processed agricultural commodities and other, key agricultural commodities such as biodiesel and ethanol. These commodities (which are referred to as "NGFA Commodities" for purposes of this submission because they are mostly derived from the NGFA Arbitration Rules[7]) are listed in Appendix GWF-2 of the accompanying Opening Verified Statement of Gerald W. Fauth III, President of G.W. Fauth & Associates, Inc. ("Fauth Op. V.S."). Together, rail shipments of these commodities comprised 3,092,223 carloads, and accounted for $9,194,861,000 in total railroad freight revenues in the 2011 Waybill

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6 Petition at Part IV.
7 http://www.ngfa.org/files/misc/2012_Rail_Arbitration_Rules_for_web.pdf , page 56. May, 2012.

Sample.[8] Railroad shipments of corn and wheat comprise more than one-third of the total carloads and around 42% of the total revenues.[9]

Providing detailed, empirical evidence in response to every aspect of each information request in the *Notice* cannot be accomplished by reviewing only the Confidential Waybill Sample data, and would require burdensome, complicated and costly special studies which the Interested Agricultural Parties did not undertake. Nevertheless, this Joint Opening Submission endeavors to provide the Board with data and analysis on: (1) the estimated percentage of NGFA Commodity shipments that would meet the conclusive presumptions in the Proposal that would entitle a shipper to mandatory "competitive switching;" (2) the estimated revenues of all Class I railroads associated with such qualifying movements; and (3) the estimated economic benefits to qualifying NGFA Commodity shippers. In this Opening Submission and pursuant to the Board's request, the Interested Agricultural Parties also discuss several methods for determining an appropriate "access price" for mandatory switching. Finally, this Joint Opening Submission addresses the Board's request for information on the potential for rate increases assessed shippers of NGFA Commodities who could not qualify for competitive switching under under the Proposal.

An analysis conducted by Mr. Fauth on behalf of the Interested Agricultural Parties shows that less than 6% of the shipments of the 3,092,223 NGFA Commodity carloads in the 2011 Waybill Sample would meet the conclusive presumptions for competitive access in the Proposal as written. In addition, the NGFA's analysis shows that the number of potentially qualifying shipments of NGFA Commodities would decrease to significantly less than 4% if the

8 Table 1, *infra* page 12, Fauth Op. V.S. at 4, Table 1.

9 *Id.*

4-year average of the Class I railroads' Revenue Shortfall Allocation Method ("RSAM") values are substituted for the Proposal's ≥240% threshold, as the Board suggested in the *Notice*.[10]

Because only a small percentage of NGFA Commodity shippers would meet the conclusive presumptions for meeting two of the Proposal's requirements for mandatory switching, the estimated economic benefits accruing to shippers of NGFA Commodities as a group from the Proposal as written would not be significant. This would be the case even if it was possible to accurately estimate the savings a particular rail shipper would obtain if mandatory switching was established at its facility. The Interested Agricultural Parties believe such estimates simply cannot be provided with any certainty in today's railroad industry environment, where effective competition between rail carriers cannot be presumed. Indeed, the analysis of the 2011 Waybill Sample revealed that in instances where reciprocal switching currently exists for NGFA Commodity rail movements, the rail rates for shipments from facilities with such access actually are higher than rail rates for similar movements from captive locations.[11]

Nevertheless, the Interested Agricultural Parties have provided in this Joint Opening Submission an estimate of the possible economic benefits to the subset of qualifying NGFA Commodity shippers based on a number of criteria explained in more detail in Section III. D of this filing. Pursuant to those criteria, the Interested Agricultural Parties estimate that using an assumed maximum total of revenues associated with NGFA Commodity shipments meeting all the qualifications for competitive switching under the Proposal, the total revenue reductions for such movements would be approximately $38 million, which is 0.41% of the total NGFA

10 *Id.*
11 Fauth Op. V.S. at 17-18.

Commodity revenues. If the four-year RSAM values for each Class I railroads are substituted for the ≥240% threshold, then the amount of revenues at issue would be reduced to approximately $27.2 million, or .029% of total revenues.[12]

Because the estimated benefits to NGFA Commodity shippers as a group from the Proposal as written are small, the Interested Agricultural Parties did not believe it was necessary to undertake the burden and cost of providing detailed specific data on: (1) how much any revenue loss from NGFA Commodity movements would be offset by traffic increases or other gains; (2) any potential increases of the rates to all captive rail shippers; and (3) effects of the NITL proposal on network efficiency.[13]

The analysis by Mr. Fauth demonstrates that the Proposal, as written, will have little beneficial application to NGFA Commodity rail shippers. Rather, under the Proposal as written, over 94% of NGFA Commodity shippers would be unable to meet either of the conclusive presumptions for obtaining competitive access, and instead would be required to engage in litigation before the Board to demonstrate the required showings of market dominance and "reasonable distance," as well as the other prerequisites for relief mandated under the proposed new rules. Accordingly, the specifics of the Proposal must be significantly modified before they could provide any meaningful ability for NGFA Commodity shippers to obtain increased efficiencies in serving buyers and sellers of such commodities through mandatory switching.

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12 *Id.* at 16.
13 *Notice* at 9.

III.
Data and Information Provided in Response to the Board's Requests

A. Summary of the Proposal's Criteria for Mandatory Switching

Under the Proposal, a rail shipper seeking the establishment of "competitive switching" would be required to meet four criteria:

1. it is served by rail only by a single Class I rail carrier;
2. there is no effective inter- or intramodal competition for the movements for which competitive switching is sought;
3. there "is or can be" a "working interchange" between the landlord Class I railroad and another "carrier" within a "reasonable distance" of the shipper's facility(ies); and
4. the switching is not infeasible or unsafe, or that the presence of reciprocal switching will not unduly hamper the ability of that carrier to serve its own shippers.

The Proposal would establish a "conclusive presumption" of market dominance in item (b) if either: (i) the movement for which competitive switching is sought has an R/VC ratio equal to or greater than 240%; or (ii) the landlord railroad has handled 75% or more of the freight volume transported for a movement for which competitive switching is sought in the 12 months prior to the petition seeking switching. As explained by the *Notice*, the market dominance presumptions are deemed necessary "because, without such presumptions, the complexity, costs and time-consuming nature of litigating competitive switching would deter shippers from bringing meritorious cases."[14] The Petition provides several justifications for the presumptions proffered under the Proposal, but they are, in the end, arbitrary and could be modified by the Board in a final rule.

The Proposal also would establish two conclusive presumptions to determine whether the requirements of item (c) have been met. First, the Proposal would have the Board conclusively

[14] *Notice* at 4.

presume a "workable interchange" exists where a shipper's facilities are within the geographic boundaries of a terminal established by the landlord Class I railroad, and cars are regularly switched between that carrier and the proposed alternative carrier. The second conclusive presumption would be that the interchange is within a "reasonable distance" if the interchange is located within 30 miles of the shipper's facilities, and the interchange is one where the landlord and the proposed alternative regularly interchange traffic.[15]

B. Summary of Information Sought by the Board Included in the Interested Agricultural Parties' Analysis

In the *Notice* the Board sought an extremely broad and comprehensive amount of "hard facts and rigorous data" from interested parties.[16] As referenced previously, this Opening Submission does not attempt to respond to all of the Board's requests, each of which the Board recommended that commenters "should fully address and quantify, to the extent practicable."[17] However, the Interested Agricultural Parties do provide data for and comments on the following three categories:

1. An estimate of the number of NGFA Commodity shipments[18] that would be entitled to competitive switching under the Proposal by virtue of meeting the conclusive presumptions previously discussed, and the amount of revenues currently earned by each of the Class I railroads on those shipments based upon the 2011 Confidential Waybill Sample;
2. The access price to be paid landlord railroads for competitive switching services; and

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15 Petition at 65.

16 *Notice* at 9.

17 *Id.*

18 Interested Agricultural Parties concluded that the analysis of grain *shipments* versus individual grain *shippers* was a more appropriate analysis, given the nature of the Waybill Sample data, combined with the high cost and extensive resources it would have to commit to supply the data on an individual shipper basis.

3. An estimate of the level to which the rates for NGFA Commodity shipments meeting the conclusive presumptions would be reduced by the introduction of competitive switching; and

4. The potential economic and regulatory impacts on captive NGFA Commodity shippers who could not meet the conclusive presumptions of the Proposal.

Because the percentage of NGFA Commodity shipments that would qualify for competitive switching is so small, this Opening Submission does ***not*** quantify the following items in the *Notice*:

1. The existing terminals and all NGFA Commodity shippers located within the boundaries of those terminals.

2. How much revenue loss of the Class I railroads for NGFA Commodity shippers would be offset by traffic increases or other gains.

3. How Class I network efficiency would be affected by implementation of the Proposal as written.

C. Analysis of 2011 Confidential Waybill Data

As stated above, the NGFA retained the economic consulting firm of G.W. Fauth & Associates, Inc., to analyze the 2011 Confidential Waybill Sample data and other materials to provide data specific to NGFA Commodities in response to the Board's request. This section of this Joint Opening Submission summarizes that analysis.

1. Study Criteria and Assumptions

The starting point of the analysis is the subset of movements included in the 2011 Waybill Sample consisting of all NGFA Commodity movements subject to the Board's jurisdiction by any of the Class I railroads. As such, the analysis also includes NGFA Commodity shipments made by the Canadian Pacific Railway ("CP") and the Canadian National

Railway ("CN") because these two railroads transport a significant amount of NGFA Commodities each year.

The NGFA Commodities listed in Exhibit 1 and Appendix GWF-2 include all of the commodities and associated Standard Transportation Commodity Codes (STCC) included in NGFA's Rail Arbitration Rules, plus biodiesel (STCC 28-994), which has grown in importance to NGFA members and other rail shippers in recent years. The following table summarizes the carloads, tons, revenues and average rates associated with these NGFA Commodities included in the 2011 Waybill Sample:

Table 1

Summary of NGFA Commodities
Included in the STB's 2011 Waybill Sample[19]

Item	Amount
Total Carloads	3,092,223
Total Tons	274,933,076
Total Freight Charges (000)	$9,194,861
Average Revenue Per Carload	$2,793.54
Average Revenue Per Ton	$33.44

In order to arrive at the subset of NGFA Commodity shipments that could potentially qualify for competitive access under the Proposal the total carload figure above was first reduced by:

a. Shipments where the R/VC ratio for the movement was below the jurisdictional threshold of 180%;

b. Joint-line Class I railroad movements and "rebilled" movements;

[19] Source: Fauth Op. V.S. at 4, Table 1.

c. TOFC/COFC movements;

d. Movements with Canadian origins;

e. Movements where it was evident from the Waybill Sample or other information that transportation at origin or destination was not provided by a Class I railroad, but rather a short line railroad; and

f. Movements where reciprocal switching already exists for NGFA Commodity movements.[20]

This exercise produced a total number of potential qualifying NGFA Commodity Shipments in the 2011 Waybill Sample (denominate by Mr. Fauth as "Single-Line Class I $R/VC_{>180}$") of 636,693 carloads, which is 20.59% of the total NGFA Commodity shipments.[21] The aggregate revenues associated with this category of NGFA Commodity shipments were calculated to be $1,972,883, or 21.46% of NGFA Commodity revenues.[22]

Mr. Fauth then determined the number of shipments in the category above that had R/VC ratios that equaled or exceeded 240% ("Single-Line Class I $R/VC_{\geq 240\%}$"). When this analysis was performed, the number of potentially qualifying NGFA Commodity shipments dropped to 6.34%, and the revenues associated with such shipments was reduced to approximately $504 million,[23] or 5.48% of all NGFA Commodity revenues.

With one exception, the foregoing analysis of Single-Line Class I $R/VC_{\geq 240\%}$ shipments does not incorporate the additional qualifying criteria that the shipper's facility must either be within an existing terminal used by the incumbent railroad or be located within 30 miles of a "working interchange," and thus the analysis overstates the total number of NGFA Commodity

20 Fauth Op. V.S. at 5-6.

21 *Id.* at 7, Table 2; Appendix GWF-3.

22 *Id.*

23 *Id.* at 8, Table 3; Appendix GWF-3.

shippers who could qualify for competitive access under the Proposal.[24] To refine the analysis to include a detailed quantification of such data for all NGFA Commodity shipments in the 2011 Waybill Sample would have required a special study the Interested Agricultural Parties did not have the time or resources to conduct.[25] However, for the reasons discussed in Mr. Fauth's Opening Verified Statement, all wheat and barley rail shipments in the State of Montana in the Single-Line Class I R/VC$_{\geq 240}$% group were excluded from the analysis.[26] This adjustment resulted in a slight reduction in qualifying shipments, but the analysis still significantly overstates the actual number of qualifying NGFA Commodity shippers. See Fauth Op. V.S. at 10-11.

3. Effect on the Results if Applying Four-year RSAM Averages

In the *Notice*, the STB stated, "While R/VC$_{\geq 240}$ is a core limitation to NITL's proposal, one might conclude that the R/VC threshold should be related to the revenue needs of the carrier and the amount of demand-based differential pricing that the carrier needs to earn a reasonable

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24 *Id.* at 9-10.

25 For similar reasons, Mr. Fauth did not attempt to quantify the number of NGFA Commodity shipments that would meet the alternative Proposal conclusive market dominance presumption of "the Class I carrier serving the shipper's facilities for which switching is sought has handled 75% or more of the transported volumes of the movements at issue for the 12-month period prior to the petition requesting that the Board order switching." Petition at 65; *Notice* at 4. In the first place, this analysis also would have required the Interested Agricultural Parties to undertake a very expensive and time-consuming special study. But, more importantly, the nature of the agricultural industry and markets are such that very few shipments of like commodities are transported from a single origin to only one destination in a given year. On the contrary, shipments of most NGFA Commodities are transported to multiple destinations and are sometimes diverted in transit for market-based reasons explained previously. In addition, wheat is one of the few NGFA Commodities that might meet this alternative presumption in certain parts of the country; but as referenced above, the originating facilities are located well beyond 30 miles from the nearest interchange point. Fauth Op. V.S. at 11-12. Thus, the percentage of jurisdictional NGFA Commodity shipments meeting the alternative presumption for market dominance would have a negligible impact on the number of shipments qualifying under the R/VC presumption.

26 *Id.* at 9-10.

return on its investments. Thus, an alternative approach might be to limit any competitive access relief to shippers for which their R/VC ratio exceeds the 4-year average RSAM benchmark published annually by the Board for the carrier in question, or some other reasonable R/VC threshold."[27]

Mr. Fauth's analysis demonstrates that if the R/VC ratio threshold was raised to the "the 4-year average RSAM benchmark published annually by the Board for the carrier in question," as suggested by the Board in the *Notice,* then the percentage of NGFA Commodity shipments in aggregate that could meet the R/VC conclusive presumption would drop to significantly less than 4%.[28] In addition, a significant amount of NGFA Commodities are transported by CP and CN, whose latest 4-year RSAM values are 343% and 320% respectively. Thus, using RSAM values to establish a conclusive presumption of market dominance for purposes of qualifying the competitive switching effectively could effectively preclude ***all*** NGFA Commodity shippers captive to CP or CN from obtaining such relief.

D. Detailed Evidence of Benefits to Qualifying Grain Shippers Cannot be Provided because Rail-to-Rail Competition that Ensures Reasonable Rates and Service Cannot be Presumed

1. The Board's Presumption that Switching will Result in Competition in all Cases is Misplaced

The NITL and the Board cited potential benefits to rail shippers that met the conclusive presumption tests and meeting the other requirements for obtaining competitive switching as being "more choices, better service, and lower rates."[29] In addition, the Board surmised that in the event switching was mandated because the conclusive presumptions were met, "there may be no market dominance, and hence the Board may not regulate the reasonableness of" the rates of

27 *Notice* at 10.
28 Fauth Op. V.S. at 12-14.
29 *Notice* at 4.

the switching railroad and the alternative railroad from the interchange point to the destination (assuming switching took place at origin).[30] Further, the Board speculated that "[u]nder the assumption that competition between Railroad 1 and Railroad 2 would ensure reasonable rates and service between Origin and Destination, we could focus our resources on the access price for the first 30 miles of the movement under NITL's proposal."[31] *Id.*

The Interested Agricultural Parties do not disagree that the *potential* benefits of reciprocal switching at a formerly captive location include more choices, better service and lower rates. However, the Board need look no further than the recent extensive record in EP 705 for a reminder that it should not *conclusively presume* that access to an alternative Class I railroad via mandatory switching will result in effective competition between the Class I railroad conducting switching and the alternative Class I railroad in all cases, or that any competition that occurs "would ensure reasonable rates and service." To the contrary, the record in EP 705 is replete with evidence and argument from the NGFA and many other rail shippers and shipper interests informing the Board that in today's concentrated railroad "marketplace" the longstanding, fundamental assumption upon which the Staggers Rail Act of 1980 was premised – that competition would suffice to "regulate" rail rates – is no longer supportable.[32] Rather, the consolidation of the Class I railroads into essentially four rail carriers who control more than

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30 *Id.* at 6.

31 *See also, Id.*, "An additional benefit of NITL's proposal is that it would reduce governmental intervention by limiting regulation to the access price and relying on demand and the marketplace to set rates and judge the service provided by the railroads."

32 Joint Comments of the NGFA and numerous other industry organizations ("*Interested Party Comments*"), filed April 12, 2011.

90% of the rail revenues collected in the United States every year has resulted in a dramatic reduction in competition, even where shippers have access to more than one railroad.[33]

Evidence submitted in EP 705 of the lack of competition, even where more than one railroad can provide service, included the following examples: (1) M&G Polymers USA, LLC, which noted that the two major eastern railroads – CSXT and NS – tended to quote similar, high rates and charges to locations that were served by both;[34] (2) Ameren Corporation, which observed that in every instance from 2004 to 2010, when Ameren issued bids for rail rate quotes for its UP and BNSF competitive rail-supplied plants, none of the plants primarily using Powder River Basin coal at the time changed carriers as a result of these requests for new rates, and in each case, the non-incumbent railroad quoted a rate, on average, that was 43% higher than the rate of the incumbent railroad;[35] and (3) Omaha Public Power District, The AES Corporation, Oklahoma Gas & Electric Co. and Colorado Springs Utilities, which all complained of the disappearance of rail-to-rail competition at their respective electric generating facilities beginning in 2004.[36]

2. The 2011 Waybill Data Indicates a Lack of Competition for NGFA Commodity Movements Where Reciprocal Switching or Dual Access Presently Exists

The Interested Agricultural Parties' member companies are therefore uncertain whether, in today's consolidated railroad industry, the establishment of access to two railroads to their

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33 See *Interested Party Comments* at 8 ("The relatively short-lived period of apparent railroad rivalry following the mergers and during the merger oversight proceedings has been replaced by a dramatic reduction in competition and a corresponding dramatic increase in rail rates over the past seven years").

34 Opening Comments of M&G Polymers USA, LLC, filed April 12, 2011 at 3-4.

35 Comments of Ameren Corporation, filed April 13, 2011 at 3-5.

36 Joint Initial Comments of Omaha Public Power District, The AES Corporation, Oklahoma Gas & Electric Co. and Colorado Springs Utilities, filed April 12, 2011.

facilities will, in all cases, result in effective competition that ensures more choices, lower rates and better service. In fact, the 2011 Waybill Sample data discloses that, in some instances where more than one Class I railroad may serve a NGFA Commodity shipper via dual access or an existing reciprocal switching arrangement, the rates of the two railroads who can provide the rail service can beare actually *higher* than rates to captive NGFA Commodity shippers with similar transportation needs.[37] This behavior does not support an assumption that establishment of new competitive switching arrangements will always result in competition that results in lower rail rates or lower revenues to carriers.

3. Adoption of Mandatory Switching Rules Should Have no Effect on the Determination of Whether the Board has Jurisdiction over the Reasonableness of the Line-Haul Rates.

The foregoing examples lend support to an overarching concern of the Interested Agricultural Parties that it would be unrealistic and imprudent for the Board to presume that the establishment of a rail transportation alternative via mandatory switching would typically result in reasonable rates and service terms established by competition between the two Class I railroads involved. For this reason, the Interested Agricultural Parties maintain as a threshold matter that adoption of *any* conclusive presumptions that the incumbent railroad has market dominance over the transportation covered by the *switch movement* at issue should have no bearing on whether market dominance exists over the *origin-to-destination transportation* provided by either railroad.[38] To take the contrary view would wrongly ignore the structure of the current railroad industry and evidence presented to the Board in EP 705. Moreover, to conclude that no market dominance existed for line-haul movements in cases where the incumbent's origin to destination rate is $\geq$ 240% of its variable costs also would violate the

37 Fauth Opening V.S. at 16-18.
38 See *Notice* at 2.

express terms of 49 U.S.C. §10707, which establishes the quantitative threshold for market dominance at 180% of the railroad's variable costs.

E. Potential Access Prices for Consideration by the Board

A critical component of a mandatory switching policy and applicable rules is the amount of the charge to be paid for performing the switching service between the shipper facility and the interchange point. The Proposal does not contain a suggested "access fee." Unless the access fee is established at a level that makes it economically feasible to use the alternative railroad, rules that create a right to competitive switching will have little practical use to rail shippers. In addition, without clearly established rules on resolving disputes over the appropriate access price level, an additional deterrent to regulatory relief will exist in the form of uncertain, time consuming and expensive litigation.

Several possible methods for deriving an assumed access price are summarized below.

Trackage Rights. The Interested Agricultural Parties first reviewed the traditional trackage rights approach, e.g., *Arkansas and Missouri Railroad Company v. Missouri Pacific Railroad Company*, 6 I.C.C. 2nd 619 (1990), where one railroad was awarded trackage rights over another as an outgrowth of a dispute that could not be settled voluntarily, as most trackage rights disputes are. It is the Interested Agricultural Parties' judgment that this type of approach to compensation for competitive switching is not appropriate where the instigating party is a shipper as opposed to a railroad. Shippers do not necessarily make use of trackage rights with the same frequency as do carriers, making it a different proposition to apportion costs between landlord and tenant. Trackage rights involve an evaluation of assets, a costly process which is inappropriate where only small volumes of traffic may move over the landlord's line. Moreover, unlike traditional trackage rights where the relationship is between one railroad and another, there may be several individual shippers who, from time to time, require "competitive switching" under different circumstances.

The Canadian Model. Several parties have suggested that the Board adopt the Canadian model of inter-switching, with its zoned pricing system. The Interested Agricultural Parties believe there is more to be learned and understood about this system and its applicability to the U.S. rail system prior to it being given further credence. For example, it is difficult to determine the rationale underlying establishment of the mileage inter-switching blocks and rates. Perhaps the Board could utilize its comity with the Canadian Transportation Board to elicit more details about the Canadian system, in addition to information submitted as evidence by parties in response to this *Notice*. The NGFA does not advocate the Canadian system, but commends it for thorough study by the Board.

U.S. Switching Rates. There already are numerous terminal switching rates that might serve as a benchmark for an access price for mandatory switching. Terminal switching is performed in many places, including St. Louis (Freight Tariff TRRA 3023-N), Chicago (Freight Tariff CTM 8000-A and Chicago Freight Tariff CRL 815-H). These and other terminal switching railroads provide competitive switching of traffic between a shipping facility and a line-haul carrier. Depending upon the size of the terminal switching line, other services, such as car storage, may be offered. But the main reason for these switching lines is to foster the fluid movement of cars between railroads and shippers. Their purpose is not significantly different than the concept of "competitive switching" in the Proposal.

Existing U.S. terminal switching rates appear, for the most part, to be higher than the Canadian rates. But the effect of the U.S. switching rates on through shipments cannot be determined absent a review of the extent to which each switching rate is absorbed by a line-haul carrier. The Interested Agricultural Parties are not in a position to undertake such a comprehensive project.

F. Estimated Affected Railroad Revenues and Potential Rate Reductions

For the reasons set forth above, the Interested Agricultural Parties believe that the potential benefits to qualifying NGFA Commodity shippers in the form of rate reductions would not significantly impact the Class I railroads. This is first, because the estimated qualifying shipments and affected revenues are necessarily overstated due to the imprecision of the analysis undertaken. This is also due to the uncertainty over the level of competition shippers can expect in the event the opportunity to compete is created via competitive switching. Assuming, for purposes of this discussion however, that 75% of the NGFA Commodity Single-Line Class I $RVC_{\geq 240}$ shipments met all of the qualifications for competitive switching, the total amount of "at risk" railroad revenues would be approximately $378 million per year using 2011 data.[39] If the rates associated with these revenues were reduced by a net of 10% (rate reduction net of an appropriate access price), this would result in an aggregate reduction in revenues of only $37.8 million per year, or 0.41% of all NGFA Commodity revenues. Substitution of the four-year RSAM values for the >240% threshold in the foregoing scenario would result in the overall revenue reduction dropping to $27.2 million per year, or 0.29% of all NGFA Commodity revenues.[40] The Interested Agricultural Parties submit that the amount of "at risk" revenues

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39 Fauth Op. V.S. at 16.
40 *Id.*

from NGFA Commodity shippers created by adoption of the Proposal as written would be insignificant.

G. Potential Increases in Rates Charged to NGFA Commodity Shippers Resulting from the Proposal

In the Notice, the Board asked parties to quantify and provide evidence on "the economic impacts of NITL's proposal on the captive shippers served by the incumbent Class I rail carrier or carriers included in the study that would not be covered by the NITL's proposal."[41] Specifically, the Board inquired as to these shippers: "Would their rates increase, and, if so, by how much, to offset the reduced rates of others."[42] Since it would appear that more than 94% of the rail shipments of NGFA Commodities would not meet the qualifications for competitive access under the Proposal as written, the potential negative impacts of the pricing behavior the Board has identified are of real concern to NGFA Commodity shippers.

The Interested Agricultural Parties have not provided detailed evidence on this point in this Opening Submission. However, the extent to which reductions in rail rates charged to qualifying rail shippers could be shifted to captive shippers who could not qualify for competitive switching can be demonstated from the data in Mr. Fauth's analysis. Specifically, NGFA Commodity Single-Line Class I $R/VC_{\geq 180\% < 240\%}$ traffic has a total revenue of $1.36 billion and an average R/VC percentage of 201%.[43] If this average R/VC percentage for traffic is increased from 201% to 239% (i.e, one percent below the threshold) through rate increases to offset revenue losses resulting from the establishment of competitive switching for qualifying NGFA Commodity shippers or other qualifying rail shippers, then the total revenue for this

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41 *Notice* at 9.

42 *Id.*

43 Fauth Op. V.S. at 19, Table 7.

group would increase to $1.74 billion, which would represent rate increases totaling $270 million.[44]

These rate increases would far exceed any potential benefits to NGFA Commodity shippers as a group from the Proposal. Specifically, the analysis calculated total revenues associated with NGFA Commodity Single-Line Class I $R/VC_{\geq 240\%}$ traffic to be approximately $504 million, with an average R/VC of 291%.[45] Assuming, for the sake of discussion, that all of the other qualifications for competitive switching were met for all movements in this category (which cannot be the case for the reasons previously discussed), if this average R/VC percentage is reduced from 291% to 239% (i.e, one percent below the presumption threshold), the total revenue for the $R/VC_{\geq 240\%}$ group would be reduced from $504 million to $413 million, which represents a maximum reduction of $91 million.[46]

In summary, because a very small minority of NGFA Commodity shipments could meet the qualifications for competitive switching in the Proposal, NGFA Commodity shippers as a group are vulnerable to rate increases imposed by Class I railroads on their captive shippers to offset any losses in revenues resulting from the establishment of competitive switching for those shippers who meet the Proposal's qualifications. Looked at in the aggregate, this behavior would result in the Proposal being a net negative to NGFA Commodity shippers as a group.

IV
CONCLUSION

In conclusion, the Interested Agricultural Parties join NITL in wholly supporting the replacement of the current Board rules concerning reciprocal switching, as well as a decision by

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44 *Id.*

45 *Id.*

46 *Id.*

the Board to overrule the prior precedent applying those rules and 40 U.S.C. §11102 to requests for such relief. However, the analysis conducted by the Interested Agricultural Parties on the impact of the Proposal on NGFA Commodity rail shipments reveals that the proposed rules, as written, would result less than 6% of such shipments meeting the proposed conclusive presumptions. Accordingly, adoption of the Proposal, as written, would result in facilities shipping more than 94% of NGFA Commodities having to incur the cost and expense of litigation before the STB on the market dominance and "reasonable-distance" components of the new rules, in addition to litigation over the other aspects of the test. Because such a small percentage of NGFA Commodity shipments would meet the conclusive presumptions, the estimated relief for NGFA Commodity shippers as a whole would be minimal, as would the corresponding revenue and other impacts on the Class I railroads and their systems. On the other hand, the fact that so few NGFA Commodity shippers could qualify for competitive switching could expose the NGFA Commodity shippers as a class to rate increases imposed to offset the reductions obtained by other rail shippers who did meet the Proposal's qualifications and who obtained rate reductions as a result of the establishment of competitive switching for their facilities.

Accordingly, the Interested Agricultural Parties urge that the components of the Proposal, and related Board policies, be modified to make the new rules useful and meaningful to NGFA Commodity shippers. At a minimum, this should entail lowering the R/VC conclusive presumption for market dominance to the 180% jurisdictional threshold.[47] In addition, the

[47] An indication of the impact of lowering the threshold to 180% is shown in the discussion at page 11, *supra*, and Table 2 in Mr. Fauth's Opening Verified Statement. Specifically, the maximum railroad revenues "at risk" would be $1.973 million, which is only 21.46% of all revenues for NGFA Commodity shipments. For the reasons discussed hereinabove, however,

Interested Agricultural Parties recommend that the Board adopt a more liberal, case-by-case determination of when a shipper facility is a "reasonable distance" from a working interchange point. Finally, the Interested Agricultural Parties reiterate that adoption of new rules for reciprocal switching that entail conclusive presumptions concerning whether "effective competition" exists at a particular location for switching purposes should have absolutely no bearing on whether there is effective competition between railroads for the transportation covered by the line-haul rates associated with such switching.

The Interested Agricultural Parties appreciate the Board's consideration of the information, data and views in this Joint Opening Submission, and they look forward to the Board continuing to focus on this competitive switching proceeding and broader rail competition matters important to agricultural shippers.

Respectfully submitted,

Thomas W. Wilcox

Thomas W. Wilcox
GKG Law, P.C.
1054 Thirty-First Street, NW, Suite 200
Washington, DC 20007
(202) 342-5248

Andrew P. Goldstein/TWW

Andrew P. Goldstein
McCarthy, Sweeney & Harkaway, P.C.
1825 K Street, N.W., Suite 700
Washington, DC 20006
(202) 775-5560

Attorneys for the Interested Agricultural Parties

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this amount overstates the actual railroad revenues subject to potential reduction due to the introduction of competitive switching.

EXHIBIT 1

DESCRIPTION OF THE PARTICIPATING ORGANIZATIONS

The National Grain and Feed Association

The NGFA is a U.S.-based nonprofit trade association, established in 1896, that consists of more than 1,050-member companies from all sectors of the grain elevator, animal feed and feed ingredient manufacturing, integrated livestock and poultry, grain processing, biofuels and exporting business. NGFA-member companies operate about 7,000 facilities nationwide that handle more than 70 percent of all U.S. grains and oilseeds. The NGFA also consists of 26 affiliated State and Regional Grain and Feed Associations, has a joint operating and services agreement with the North American Export Grain Association, and has a strategic alliance with the Pet Food Institute.

The Agricultural Retailers Association

The Agricultural Retailers Association is a national non-profit trade organization for agricultural retailers and distributors of agronomic crop inputs with members covering virtually all of the 50 states and representing over 70 percent of all crop input materials sold to America's farmers. These inputs are used to nourish and protect a wide variety of crops, from major row crop commodities to specialty crops. Members not only sell agronomic crop inputs but actually apply with their own equipment basic crop nutrients and crop protection products; over half of our members custom apply fertilizer for their customers on about 45% of their total acres served. ARA membership is diverse, from small family-run businesses of 10 employees to farmer cooperatives with one thousand or more employees and large corporations with thousands of employees and multiple branches. Suppliers of the products sold by retailers are also members of the association.

National Barley Growers Association

The National Barley Growers Association is a national barley advocacy organization whose mission is to advance the national and international interests of US barley producers in the major barley-producing states of Idaho, Minnesota, Montana, North Dakota, Oregon, Washington, and Maryland. The NBGA works closely with federal policymakers, congressional offices and regulatory agencies to ensure our barley producers' concerns are considered.

USA Rice Federation

The USA Rice Federation is the global advocate for all segments of the U.S. rice industry with a mission to promote and protect the interests of producers, millers, merchants and allied businesses.

National Oilseed Processors Association

Established in 1929, NOPA's mission is to assist the U.S. soybean, canola, flaxseed, sunflower seed and safflower seed processing industries to be the most competitive and efficient in the world by utilizing the combined expertise, knowledge and resources of its members to foster market- and science-based policies. NOPA represents 12 member companies who process over 1.6 billion bushels of oilseeds annually at 62 plants in 19 states.

National Chicken Council

The National Chicken Council represents in Washington, D.C. companies that produce and process over 95 percent of the chicken in the United States. Chicken processors are among the largest users of rail services to transport grain, oilseed, and other commodity feed ingredients.

National Association of Wheat Growers

NAWG is the primary representative for wheat before the federal government. NAWG and its 22 member states work to coordinate and implement policy in the following areas: farm policy, conservation, energy, research, trade, transportation and others.

National Council of Farmer Cooperatives

NCFC is a national association representing America's farmer cooperatives. There are nearly 3,000 farmer cooperatives across the U.S. whose members include a majority of our nation's more than 2 million farmers, ranchers and growers. These farmer cooperative businesses handle, process, and market agricultural commodities and related products; furnish farm supplies; and provide credit and associated financial services. Earnings from these activities are returned to their members on a patronage basis. Farmer cooperatives also provide jobs for nearly 250,000 Americans, many in rural areas, with a combined payroll of over $8 billion.

National Corn Growers Association

Founded in 1957, the National Corn Growers Association represents more than 38,000 dues-paying corn farmers nationwide and the interests of more than 300,000 growers who contribute through corn checkoff programs in their states. NCGA and its 48 affiliated state associations and checkoff organizations work together to create and increase opportunities for their members and their industry.

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. EP 711

PETITION FOR RULEMAKING TO ADOPT REVISED COMPETITIVE SWITCHING RULES

JOINT OPENING SUBMISSION

OF THE
NATIONAL GRAIN AND FEED ASSOCIATION, THE AGRICULTURAL RETAILERS ASSOCIATION, NATIONAL BARLEY GROWERS ASSOCIATION, USA RICE FEDERATION, NATIONAL OILSEED PROCESSORS ASSOCIATION, THE NATIONAL CHICKEN COUNCIL, NATIONAL ASSOCIATION OF WHEAT GROWERS, NATIONAL COUNCIL OF FARMER COOPERATIVES, AND NATIONAL CORN GROWERS ASSOCIATION

OPENING VERIFIED STATEMENT OF GERALD W. FAUTH III

PUBLIC VERSION

BEFORE THE

SURFACE TRANSPORTATION BOARD

STB DOCKET NO. EP 711

PETITION FOR RULEMAKING TO ADOPT REVISED

COMPETITIVE SWITCHING RULES

OPENING VERIFIED STATEMENT

OF

GERALD W. FAUTH III

My name is Gerald W. Fauth III. I am President of G. W. Fauth & Associates, Inc., an economic consulting firm with offices at 116 South Royal Street, Alexandria, Virginia 22314. A statement describing my background, experience and qualifications is attached hereto as Appendix GWF-1.

I have been asked by the National Grain and Feed Association (NGFA) and others to submit these comments in this Surface Transportation Board (STB or Board) proceeding which concerns a proposal submitted by The National Industrial Transportation League (NITL) to replace the current rules governing reciprocal switching with proposed new regulations. Under NITL's proposal, certain shippers located in terminal areas that lack effective competitive transportation alternatives would be granted access to an alternative railroad through competitive switching, if certain criteria were demonstrated. The STB is seeking "empirical information about the impact of the proposal, if it were to be adopted."[1]

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[1] STB Docket No. EP 711, served July 25, 2012, page 1.

Specifically, the Board is seeking data and analysis on the "proposal's impact on rail shippers' rates and service, including shippers that would not benefit under NITL's proposal; the proposal's impact on the rail industry, including its financial condition and network efficiencies; and methodologies for the access price that would be used in conjunction with competitive switching."[2] In this Opening Verified Statement I describe the analysis I undertook to develop data responsive to the Board's request specific to the impact of the proposal on agricultural commodity rail shippers.

I. <u>Selection of Commodities</u>

In order to assist interested parties in formulating responses to the Board's request for data, the STB provided NGFA and other parties access to the Confidential Waybill Sample. NGFA obtained access to the 2011 Waybill Sample, which was the most current Waybill Sample data available from the STB, and I have used this 2011 data to perform various economic and traffic analyses associated with railroad movements which concern NGFA and other associations and their members.

As a basis for my analyses, I selected a group of agricultural commodities and associated Standard Transportation Commodity Codes (STCC) included in NGFA's Rail Arbitration Rules.[3] A list of these commodities is attached hereto as Appendix GWF-2. In addition to these commodities, I included bio-diesel (STCC 28-994), which has grown in importance to NGFA members in recent years. For purposes of this analysis, these commodities are referred to as "NGFA Commodity" groups.

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[2] *Ibid.*

[3] http://www.ngfa.org/files/misc/2012_Rail_Arbitration_Rules_for_web.pdf, page 56. May, 2012.

The STB's 2011 Confidential Waybill Sample includes over 44,000 individual records of NGFA Commodity shipments. These individual shipment records identify the origin and destination Standard Point Location Codes (SPLC) for each shipment records. For example, a shipment from Chicago, Illinois is assigned a SPLC number "380000." The Waybill Sample, however, does not identify the individual shipper in Chicago. The STB has requested information concerning the potential impact on "captive shippers." Although individual captive shippers can sometimes be identified in cases where there is only one shipper moving railroad traffic from or to a specific SPLC, I have not attempted to identify individual the captive shippers associated with NGFA Commodity movements in the Waybill Sample data.

Instead, my analysis focuses on the Waybill Sample records associated with captive carload shipments, which are made by captive shippers. Specifically, my analysis primarily focuses on Waybill Sample records with revenue-to-variable cost (R/VC) ratios equal to or greater than 180% ($R/VC_{\geq 180\%}$), which could potentially be subject to STB jurisdiction.

II. <u>NGFA Commodity Shipments Included in The 2011 Waybill Sample</u>

The carloads, tons, revenues and other information associated with the identified NGFA Commodity STCC numbers included in the 2011 Waybill Sample are listed and summarized in Appendix GWF-3. The following table summarizes the major NGFA Commodity STCC groups, which I have defined as those STCC codes with over $100 million in annual railroad revenue:

Table 1

Summary of 2011 NGFA Commodity Railroad Shipments

STCC	Commodity	Carloads	Tons	Revenue (000)	% of Total Rev.
01-132	Corn	728,455	75,030,739	$2,202,911	23.96%
01-137	Wheat	471,998	48,436,049	$1,709,864	18.60%
01-144	Soybeans	218,345	22,072,065	$722,956	7.86%
20-923	Soybean Meal	177,232	19,621,017	$568,565	6.18%
20-461	Corn Syrup	146,830	14,277,665	$454,657	4.94%
28-184	Alcohols (Includes Ethanol)	105,493	9,885,837	$349,576	3.80%
20-859	Distillers By-Products	90,482	8,461,362	$345,743	3.76%
37-422	Freight Cars MOW	225,064	5,778,848	$291,417	3.17%
20-421	Prepared Feeds	102,726	9,903,031	$252,158	2.69%
20-939	Oil Seed Meals and By-Products	43,962	4,142,208	$221,699	2.41%
01-139	Grain, NEC	166,036	4,800,940	$199,338	2.17%
20-921	Soybean Oil	70,984	6,632,992	$194,496	2.12%
20-933	Nut or Vegetable Oils	58,152	5,253,648	$190,776	2.07%
20-831	Malt	39,400	3,349,352	$164,523	1.79%
20-411	Wheat Flour	59,724	5,785,128	$164,400	1.79%
28-994	Fatty Acids (Includes Bio-Fuels)	28,132	2,460,648	$112,567	1.22%
	Total with Revenue > $100 Million	2,733,015	245,891,529	$8,145,646	88.59%
	All Other NGFA Commodities	359,208	29,041,547	$1,054,193	11.47%
TOTAL NGFA COMMODITIES		**3,092,223**	**274,933,076**	**$9,194,861**	**100.00%**

As can be seen, NGFA Commodity rail traffic is a large and significant market for the Class I railroads, accounting for over $9 billion in railroad freight charges, which is equivalent in size to CSX ($10.182 billion) and NS ($9.516 billion), and larger than CN ($8.056 billion), CP ($4.836 billion) and KCS ($1.016 billion).[4] Railroad shipments of corn (STCC 01-132) and wheat (STCC 01-137) are by far the largest NGFA Commodities included in the 2011 Waybill Data. These two NGFA commodities alone represent over 1.2 million annual railroad carloads, over 123 million annual tons and nearly $4 billion in annual railroad revenue. Railroad

[4] http://www.aar.org/~/media/aar/Industry%20Info/AAR-Stats-2011-1108.ashx

shipments of soybeans, soybean meal, corn syrup, ethanol and distillers by-products are also significant railroad commodities.

III. Identification of Qualifying NGFA Commodity Shipments

After identifying, segregating and summarizing over 44,000 Confidential Waybill Sample records associated with the NGFA Commodity STCC groups, I went through a series of steps to exclude "non-issue" traffic in order to identify the pool of NGFA Commodity shipment records that: (1) were potentially subject to the Board's jurisdiction and (2) could potentially qualify for competitive switching under the proposal.

First, I eliminated NGFA Commodity shipment records which generated revenue-to-variable cost (R/VC) ratios of less than 180 percent and records with zero ($0) variable cost. The resulting group of records with R/VC ratios equal to or greater than 180% ($R/VC_{\geq 180\%}$) could potentially be subject to STB jurisdiction. NITL refers to this $R/VC_{\geq 180\%}$ traffic as "potentially captive traffic."[5] Approximately 26% of the NGFA Commodity carloads (792,273 out of 3,092,223 carloads[6]) fall in to this $R/VC_{\geq 180\%}$ group, which represents over $2.463 billion in railroad revenue.[7]

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[5] STB Docket No. EP 711, served July 25, 2012, page 4.

[6] It should be noted that a railroad shipment could have a single carload or multiple carloads per shipment. The NGFA Commodity study group includes 44,255 individual sampled shipment records, which are expanded using different expansion factors (e.g., a single car shipment may be expanded to represent 40 cars or a 50 car shipment may be expanded to represent 200 cars). The NGFA Commodity study group represents a total of 3,092,223 expanded carloads, which represents an average of approximately 70 expanded carloads per shipment record. However, the actual average shipment size would likely be lower.

[7] The actual percentages of STB jurisdictional traffic for which the STB could evaluate the reasonableness of the rate would be lower. For example, the STB issued a decision in STB Docket No. NOR 42123, M&G Polymers USA, LLC v. CSX Transportation, Inc., served September 27, 2012, (M&G Polymers) in which the STB concluded that CSXT possessed market dominance with respect to only 36 of the 42 challenged $R/VC_{\geq 180\%}$ rates.

For each NGFA Commodity STCC group of $R/VC_{\geq 180\%}$ records, the following shipment records were eliminated:

- records which originated or terminated on a shortline railroad
- records which involved a joint-line railroad movement;
- records which were coded as "Rebill" records;
- records of TOFC/COFC movements,
- records with Canadian origins, and/or
- records which indicated an origin was already open for reciprocal switching.

I refer to the resulting data sets as "Single-Line Class I $R/VC_{\geq 180\%}$." Approximately 20 percent of the NGFA Commodity carloads (636,693 carloads) and revenues ($1.973 billion) are included in this Single Line Class I $R/VC_{\geq 180\%}$ group. Appendix GWF-3 also shows the number of carloads and tons and the amount of revenue for each NGFA Commodity STCC code in this Single Line Class I $R/VC_{\geq 180\%}$ group. The following table shows the total 2011 railroad carloads and revenues for the major NGFA Commodities and the percentages by commodity:

Table 2

Summary of 2011 NGFA Commodity
Single-Line Class I R/VC>180% Carloads and Revenues

STCC	Commodity	NGFA Commodity 2011 Total		NGFA Commodity Single-Line Class I R/VC≥180% 2011 Shipments			
		Carloads	Revenue (000)	Carloads		Revenue (000)	
				Total	%	Total	%
01-132	Corn	728,455	$2,202,911	152,563	20.94%	$426,026	19.34%
01-137	Wheat	471,998	$1,709,864	163,176	34.57%	$571,607	33.43%
01-144	Soybeans	218,345	$722,956	50,856	23.29%	$171,238	23.69%
20-923	Soybean Meal	177,232	$568,565	24,863	14.03%	$88,620	15.59%
20-461	Corn Syrup	146,830	$454,657	26,463	18.02%	$79,922	17.58%
28-184	Alcohols (Includes Ethanol)	105,493	$349,576	19,709	18.68%	$70,995	20.31%
20-859	Distillers By-Products	90,482	$345,743	25,722	28.43%	$99,119	28.67%
37-422	Freight Cars MOW	225,064	$291,417	42,270	18.78%	$51,602	17.71%
20-421	Prepared Feeds	102,726	$252,158	23,980	23.34%	$75,457	29.92%
20-939	Oil Seed Meals and By-Products	43,962	$221,699	3,086	7.02%	$10,460	4.72%
01-139	Grain, NEC	166,036	$199,338	1,000	0.60%	$1,128	0.57%
20-921	Soybean Oil	70,984	$194,496	11,476	16.17%	$24,677	12.69%
20-933	Nut or Vegetable Oils	58,152	$190,776	7,360	12.66%	$17,614	9.23%
20-831	Malt	39,400	$164,523	12,768	32.41%	$65,164	39.61%
20-411	Wheat Flour	59,724	$164,400	9,368	15.69%	$22,161	13.48%
28-994	Fatty Acids (Includes Bio-Fuels)	28,132	$112,567	8,820	31.35%	$30,897	27.45%
	Total with Rev. > $100 Mill.	2,733,015	$8,145,646	583,480	21.35%	$1,806,687	22.18%
	All Other NGFA Commodities	359,208	$1,049,215	53,213	14.81%	$166,196	15.84%
TOTAL NGFA COMMODITIES		**3,092,223**	**$9,194,861**	**636,693**	**20.59%**	**$1,972,883**	**21.46%**

IV. Single-Line Class I R/VC>240% Shipments

Under NITL's proposal, the STB would "find conclusively that a shipper lacks effective intermodal or intramodal competition where the rate for the movement for which switching is sought has a revenue-to-variable cost ratio of 240% or more (R/VC$_{\geq 240\%}$)." [8] Appendix GWF-3 also shows the number of carloads and tons and the amount of revenue for each NGFA Commodity STCC code in this Single-Line Class I R/VC$_{\geq 240\%}$ group.

[8] STB Docket No. EP 711, served July 25, 2012, page 4.

The following table shows the total 2011 Single-Line Class I R/VC$_{\geq 240\%}$ carloads and revenues for the major NGFA Commodities:

Table 3

Summary of 2011 NGFA Commodity
Single-Line Class I R/VC>240% Carloads and Revenues

		NGFA Commodity 2011 Total		NGFA Commodity Single-Line Class I R/VC≥240% 2011 Shipments			
				Carloads		Revenue (000)	
STCC	Commodity	Carloads	Revenue (000)	Total	%	Total	%
01-132	Corn	728,455	$2,202,911	51,053	7.01%	$115,927	5.26%
01-137	Wheat	471,998	$1,709,864	48,269	10.23%	$147,515	8.63%
01-144	Soybeans	218,345	$722,956	14,230	6.52%	$26,663	3.69%
20-923	Soybean Meal	177,232	$568,565	3,290	1.86%	$10,676	1.88%
20-461	Corn Syrup	146,830	$454,657	6,359	4.33%	$19,130	4.21%
28-184	Alcohols (Includes Ethanol)	105,493	$349,576	6,715	6.37%	$26,662	7.63%
20-859	Distillers By-Products	90,482	$345,743	6,756	7.47%	$22,287	6.45%
37-422	Freight Cars MOW	225,064	$291,417	21,527	9.56%	$23,689	8.13%
20-421	Prepared Feeds	102,726	$252,158	8,697	8.47%	$23,950	9.50%
20-939	Oil Seed Meals and By-Products	43,962	$221,699	544	1.24%	$2,412	1.09%
01-139	Grain, NEC	166,036	$199,338	1,000	0.60%	$1,128	0.57%
20-921	Soybean Oil	70,984	$194,496	2,276	3.21%	$5,333	2.74%
20-933	Nut or Vegetable Oils	58,152	$190,776	1,188	2.04%	$2,465	1.29%
20-831	Malt	39,400	$164,523	2,436	6.18%	$10,059	6.11%
20-411	Wheat Flour	59,724	$164,400	1,784	2.99%	$4,174	2.54%
28-994	Fatty Acids (Includes Bio-Fuels)	28,132	$112,567	3,204	11.39%	$8,523	7.57%
	Total with Rev. > $100 Mill.	2,733,015	$8,145,646	179,328	6.56%	$450,592	5.53%
	All Other NGFA Commodities	359,208	$1,049,215	16,868	4.70%	$53,076	5.06%
TOTAL NGFA COMMODITIES		**3,092,223**	**$9,194,861**	**196,196**	**6.34%**	**$503,669**	**5.48%**

As can be seen, applying the study criteria results in less than 200,000 carloads (196,196) and approximately $504 million in revenues falling within this Single-Line Class I R/VC$_{\geq 240\%}$ group. This would represent only 6.34% of the total NGFA Commodity shipments and 5.48% of the total railroad revenues for NGFA Commodity transportation.

These amounts, however, overstate the number of NGFA Commodity shipments which would actually be eligible for competitive switching under the NITL proposal. First, under the proposal, in addition to meeting the 240% threshold, a captive shipper's facility must be located in an existing switching terminal or within 30 miles of a "working" Class I interchange. However, many NGFA Commodity shippers are not located in terminal areas and not within 30 miles (or even 100 miles) of a working Class I interchange point. The Single-Line Class I $R/VC_{\geq 240\%}$ shipment group includes hundreds of individual railroad movements involving hundreds of origins and destinations, but time and available resources did not permit individual evaluations of these additional criteria for each movement.[9] The STB's Waybill Sample data also does not include distances to the closest Class I working interchange, meaning such determinations would require a special study of each location or special computer programming combined with additional data, which was not undertaken for this statement.[10] As result, the calculated amounts of Single-Line Class I $R/VC_{\geq 240\%}$ qualifying shipments reflected in Table 3 are overstated.

However, my analysis does reflect one adjustment in this regard. Specifically, all wheat and barley records from Montana were excluded from the Single-Line Class I $R/VC_{\geq 240\%}$ group. This reduced the total carloads in this group by 2,028 carloads. Montana is a major wheat and barley production area. BNSF dominates wheat shipments from Montana, where BNSF operates 1,809 miles compared to only 125 miles for Union Pacific (UP). The only Class I interchange

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[9] NGFA requested to the 2011 Confidential Waybill Sample on December 28, 2012 and received STB approval on January 7, 2013. However, NGFA was not provided the data until February 11, 2103, which was more than a month after NGFA received STB approval. The STB indicated that the delay was caused by a "quality assurance check."

[10] The STB may want to consider modifying the Waybill Sample to include distances to the closet working interchanges from each origin or destination. Such information could aid the STB in evaluating future studies and proposals.

points between BNSF and UP are Silver Bow and Butte, Montana, which are in southwestern Montana and far away from most BNSF Montana wheat origins. Moreover, UP would have to use the lines of Montana Rail Link (MRL) and/or an out-of-service BNSF line to reach most of the Montana wheat shippers.[11] CP has a line which reaches the U.S./Canadian border and interchanges with BNSF near Sweet Grass, Montana and could be utilized for export shipments from Pacific North West export grain terminals. However, the closest BNSF shuttle origin is located near Shelby, Montana, which is 39 miles from Sweet Grass. As a result, there are effectively no working Class I interchanges in Montana and, therefore, I excluded wheat and barley records from Montana.

The Single-Line Class I $R/VC_{\geq 240\%}$ group also undoubtedly includes some shipment records which indicate that a movement is a single-line Class I movement (e.g., BNSF-direct), however, in some cases a shortline railroad may actually originate or terminate the shipment. Identification and elimination of such shortline movements would be difficult and time-consuming. The inclusion of these records results in an overstatement.

The Single-Line Class I $R/VC_{\geq 240\%}$ group also includes movements which move under contract and thus may not be eligible to seek competitive switching. The amount of contract traffic varies by commodity. For example, the 2011 Confidential Waybill Sample indicates that approximately 21% of the Single-Line Class I $R/VC_{\geq 240\%}$ barley revenues move under contract whereas less than 4% of wheat revenues move under contract.[12] Although the Waybill Sample identifies many contract movements, I have not excluded these movement records from Table 3 since many agricultural transportation contracts are short-term agreements.

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[11] According the BNSF's mileage tariff, Silver Bow is 189 miles from Great Falls and 332 miles from Billings.

[12] The STB's Waybill Sample contains a calculated rate flag which indicates if a movements is under contract.

Finally, the total 196,196 carloads in the Single-Line Class I R/VC$_{\geq 240\%}$ group includes 3,738 carloads of NGFA Commodities which are currently exempt from STB rate regulation 49 CFR § 1039.10 or 49 CFR § 1039.11. If these exempt NGFA Commodity groups are excluded from the total, the NGFA Commodity R/VC$_{\geq 240\%}$ revenues would be reduced by approximately $11 million.

For these reasons, the shipments included in the NGFA Commodity Single-Line Class I RVC$_{>240\%}$ group overstate the shipments that would qualify under NITL's competitive switching proposal's conclusive presumptions and represents a *maximum* number. I believe that the actual qualifying shipments would be significantly lower than 196,196 carloads.

V. Alternative Conclusive Presumption of Market Dominance

NITL has proposed that "a shipper would be conclusively presumed to lack effective intermodal and intramodal competition where a Class I carrier serving the shipper's facilities for which switching is sought has handled 75% or more of the transported volumes of the movements at issue for the twelve-month period prior to the petition requesting that the Board order switching."[13] The 75% threshold cannot be determined from the STB's Waybill Sample data, which only reflects railroad shipments. Accordingly, my analysis does not attempt to quantify the number of NGFA Commodity shipments that would meet this 75% conclusive presumption threshold.

However, in order to provide the Board with some indication of the usefulness of this alternative presumption to NGFA Commodity shippers, I have compared the wheat and corn production levels by origin state published by the U.S. Department of Agriculture (USDA) with the STB's 2010 Waybill Sample data sorted and summarized by origin state. This analysis is

[13] STB Docket No. EP 711, served July 25, 2012, page 4.

attached hereto as Appendix GWF-4. This comparison shows there are no states in which any Class I railroad originates 75% of the corn volumes produced. The highest railroad percentage for corn is only [%] for North Dakota. Thus, it is doubtful that any corn shippers could meet the proposed 75% threshold.

For wheat shippers, however, the overall railroad wheat tonnage is 72% of the total production and there are several states with railroad tonnage which exceed the 75% level.[14] For example, the data indicates that railroads originate over [%] of the wheat produced from two of the largest wheat producing states, i.e., North Dakota [(%)] and Montana [(%)]. However, the higher wheat percentages would not translate into these shippers qualifying for competitive access under NITL's proposal's conclusive presumptions, since many of the wheat origins are not within existing terminal areas or within 30 miles of a working Class I interchange.

VI. Substitution of R/VC>RSAM for R/VC>240%

In its July 25, 2012 decision in Ex Parte No. 711, the STB also suggested that parties quantify the effects of substituting the 4-year average RSAM values ($R/VC_{\geq RSAM}$) for the $R/VC_{\geq 240\%}$ threshold. The following table lists the most current RSAM percentages published by the STB.[15]

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[14] The rail origin data for Illinois is incorrect because of the significant amount of "Rebill" traffic, most of which originates from different states, but "rebilled" through Chicago, IL. This rebill problem impacts other data as well.

[15] See STB Docket No. EP 689 (Sub-No. 3), Simplified Standards For Rail Rate Cases - 2011 RSAM and R/VC>180 Calculations, served February 11, 2013, page 3.

Table 4

STB's Current RSAM Percentages (4-Year Average)

Class I Railroad	RSAM
BNSF	257%
CSXT	284%
CN (GTC)	320%
KCS	317%
NS	275%
CP (SOO)	343%
UP	241%

Since the STB's current RSAM percentages are all higher than 240%, the number of qualifying NGFA Commodity shippers (or any qualifying shipper) would obviously decrease under a $R/VC_{\geq RSAM}$ threshold. Appendix GWF-3 also shows the number of carloads and tons and the amount of revenue for each NGFA Commodity STCC code in this Single Line Class I $R/VC_{\geq RSAM}$ group. The following table (Table 5) shows how the substitution of RSAM for the proposed 240% threshold would affect the potentially qualifying NGFA Commodity shipments for the major NGFA Commodity STCC groups:

Table 5

Summary of 2011 NGFA Commodity
Single-Line Class I R/VC>RSAM Carloads and Revenues

STCC	Commodity	NGFA Commodity 2011 Total		NGFA Commodity Single-Line Class I R/VC≥RSAM 2011 Shipments			
		Carloads	Revenue (000)	Carloads		Revenue (000)	
				Total	%	Total	%
01-132	Corn	728,455	$2,202,911	38,628	5.30%	$96,262	4.37%
01-137	Wheat	471,998	$1,709,864	33,640	7.13%	$101,910	5.96%
01-144	Soybeans	218,345	$722,956	9,446	4.33%	$20,156	2.79%
20-923	Soybean Meal	177,232	$568,565	1,766	1.00%	$5,971	1.05%
20-461	Corn Syrup	146,830	$454,657	4,083	2.78%	$11,630	2.56%
28-184	Alcohols (Includes Ethanol)	105,493	$349,576	4,631	4.39%	$17,941	5.13%
20-859	Distillers By-Products	90,482	$345,743	4,096	4.53%	$17,211	4.98%
37-422	Freight Cars MOW	225,064	$291,417	18,135	8.06%	$20,178	6.92%
20-421	Prepared Feeds	102,726	$252,158	7,625	7.42%	$21,259	8.43%
20-939	Oil Seed Meals and By-Products	43,962	$221,699	264	0.60%	$1,595	0.72%
01-139	Grain, NEC	166,036	$199,338	200	0.12%	$362	0.18%
20-921	Soybean Oil	70,984	$194,496	1,148	1.62%	$2,506	1.29%
20-933	Nut or Vegetable Oils	58,152	$190,776	788	1.36%	$1,729	0.91%
20-831	Malt	39,400	$164,523	796	2.02%	$2,928	1.78%
20-411	Wheat Flour	59,724	$164,400	1,200	2.01%	$3,148	1.91%
28-994	Fatty Acids (Includes Bio-Fuels)	28,132	$112,567	2,244	7.98%	$5,797	5.15%
	Total with Rev. > $100 Mill.	2,733,015	$8,145,646	128,690	4.71%	$330,582	4.06%
	All Other NGFA Commodities	359,208	$1,049,215	9,720	2.71%	$30,395	2.90%
TOTAL NGFA COMMODITIES		**3,092,223**	**$9,194,861**	**138,410**	**4.48%**	**$360,978**	**3.93%**

As can be seen, the potentially qualifying NGFA Commodity shipments would decrease from 196,196 carloads under the $R/VC_{\geq 240\%}$ threshold to only 138,410 carloads under $R/VC_{\geq RSAM}$. These figures, however, are overstated for the same reasons that the Single-Line Class I $R/VC_{\geq 240\%}$ shipments are overstated (e.g., inclusion of >30 mile records, shortline records, contract records, etc.). In my view, this analysis demonstrates that use of the RSAM values would virtually eliminate any NGFA Commodity shippers from qualifying for competitive switching under the NITL proposal.[16]

In summary, my analysis shows that adoption of either threshold will result in very few NGFA Commodity shippers qualifying for competitive switching relief and that use of RSAM as the threshold would virtually preclude most NGFA Commodity captive shippers from qualifying.

It should be noted that, on February 4, 2013, the STB issued a decision in STB Docket No. EP 431 (Sub-No. 4), *Review of the General Purpose Costing System*, served February 4, 2013, which proposed several changes to the way that URCS allocates costs to various shipment sizes. This new Uniform Railroad Costing System (URCS) proceeding could also have a significant impact on the potential impact associated with NITL's proposal.[17]

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[16] In this regard, it should be noted that in M&G Polymers, the STB adopted a new subjective market dominance standard which it calls "limit price R/VC ratio." The STB stated: ". . . We will refer to the ratio of the limit price over variable costs as the "limit price R/VC ratio." If the limit price R/VC ratio exceeds CSXT's most recent RSAM figure, we preliminarily conclude that the alternative cannot exert competitive sufficient to constrain rates effectively. If, in contrast, the limit price R/VC ratio falls below this RSAM figure, we will preliminary conclude that the competitive alternative effectively constrains that rate at issue." How the STB's apparent adoption of this new market dominance test would affect the NITL's proposed $R/VC_{\geq 240\%}$ threshold has not yet been addressed by the Board. (M&G Polymers, page 14)

[17] Specifically, in this proceeding the STB has requested information concerning rail shipments that would meet the conclusive presumption for market dominance from having rates with R/VC ratios that are 240% or higher. If the STB adopts the URCS changes proposed in Ex Parte No. 431, it is very possible, indeed likely, that the amount of NGFA Commodity traffic subject to STB jurisdiction ($RVC_{\geq 180\%}$) and the NGFA Commodity shipments that are in the $R/VC_{\geq 240\%}$ group will be reduced. For example, one the STB's proposed changes is to the definition of a trainload shipment from 50 cars or more (which has been used by the STB and ICC for decades) to 80 or more cars. Over 25% of corn rail shipments range from 50 to 79 cars per shipment. As a result of the STB's proposed change in the definition of a trainload from 50 to 80 cars, more URCS costs will likely be allocated to this 50 to 79 car traffic group and more NGFA Commodity shipments will likely fall in the $R/VC_{<180\%}$ group and thus outside STB jurisdiction. The STB's RSAM calculations will also likely change based on the STB new proposed changes to URCS.

VII. <u>Estimate of Revenue Impact for Qualifying NGFA Commodity Shippers</u>

As indicated herein, my analysis has determined that substantially less than 6% of the NGFA Commodity shipments would qualify for competitive switching under the proposed $R/VC_{\geq 240\%}$ threshold and substantially less than 4% would qualify under a $R/VC_{\geq RSAM}$ threshold. Accordingly, for those NGFA Commodity captive shippers who may qualify, the overall potential reduction in railroad revenues would very small and would certainly not have an adverse impact on the Class I railroad revenues.

For example, if one very conservatively assumes that 75% of the NGFA Commodity Single-Line Class I $R/VC_{\geq 240\%}$ shipments met all the qualifications for competitive switching, this would equate to approximately $378 million ($504 million x 75%) in "*at risk*" railroad revenues. If these at risk revenues are reduced by 10% (through rate reductions less an access price), this would result in annual rate reductions of only $37.8 million per year, which represents only 0.41% of the total NGFA Commodity revenues. Similarly, if the Board were to adopt the $R/VC_{\geq RSAM}$ threshold and 75% of the NGFA Commodity Single-Line Class I $R/VC_{\geq RSAM}$ shipments met all the qualifications for competitive switching, the at risk revenue would be $272 million ($361 million x 75%) and a 10% reduction would result in an annual rate reductions of only $27.2 million per year, which represents only 0.29% of the total NGFA Commodity revenues.

In order to evaluate the potential impact on railroad revenues that may result from the establishment of competitive switching where reciprocal switching does not presently exist, I studied wheat movement records included in the 2011 Confidential Waybill Sample from points which are already open to reciprocal switching and compared those records to single-served Class I origins. In many cases, the R/VC percentages from these competitive points were equal to or higher points than R/VC percentage from captive areas, such as Montana. The following table compares the total Single-Line Class I wheat revenues and R/VC percentages with revenues and R/VC percentages from Montana and from three points which are currently open to reciprocal switching (Altus, OK, Enid, OK and Ft. Worth, TX):[18]

Table 6

Comparison of Single-Line Class I Wheat Revenue and R/VC Percentages With Wheat Revenue and R/VC Percentages From Montana and <u>Three Selected Reciprocal Switching Points</u>

Item	Revenue (000)	% of Total R/VC≥180% Revenue	Average R/VC
Single-Line Class Wheat R/VC≥180%	$571,607	100.00%	223%
Single-Line Class Wheat R/VC≥180%<240%	$424,092	74.19%	207%
Single Line Class I Wheat R/VC≥240%	$147,515	25.81%	286%
Single-Line Class I Wheat R/VC≥RSAM	$101,910	17.83%	304%
Montana Wheat R/VC≥180%	[ ]	100.00%	215%
Montana Wheat R/VC≥180%<240%	[ ]	93.35%	212%
Montana Wheat R/VC≥240%	[ ]	6.65%	246%
Montana Wheat R/VC>RSAM	[ ]	2.39%	322%
BNSF/UP Reciprocal Switching Points R/VC≥180%	[ ]	100.00%	269%
BNSF/UP Reciprocal Switching Points R/VC≥180%<240%	[ ]	9.96%	217%
BNSF/UP Reciprocal Switching Points R/VC≥240%	[ ]	90.04%	276%
BNSF/UP Reciprocal Switching Points R/VC≥RSAM	[ ]	80.30%	280%

As can be seen, the majority of the Montana R/VC$_{>180\%}$ revenues are below 240%. Montana is one of the most captive rail states with BNSF handling the vast majority of the wheat shipments. However, a relatively small percentage of Montana wheat is above 240% or above

[18] Reciprocal switching points included in BNSF Switching Book 8005-C.

RSAM (6.65% and 2.39%, respectively). For points which are already open to reciprocal switching between BNSF and UP (i.e., competitive rather than captive points), however, the percentages are reversed and the vast majority of the $R/VC_{\geq 180\%}$ wheat traffic is above 240% and above RSAM (i.e., 90% and 80%, respectively).

This analysis seems to indicate that existence of competition through reciprocal switching may not necessarily translate into significant rate reductions (and could even result in rate increases!). One possible explanation of this apparent anomaly may be that in truly captive situations, such as BNSF's domination of the Montana wheat market, rate levels are limited because of the risk of potential STB rate intervention, whereas, in competitive situations, such as the selected reciprocal switching points, the railroads are free from potential STB intervention because of the apparent lack of market dominance under the Board's precedent.

Moreover, the railroads could (and, in my opinion, likely would) compensate for any revenue losses that may result from competitive switching with rate increases on captive traffic which cannot qualify under the proposal's presumptions. A simplistic example is provided based on the data in this statement, using the prior data that NGFA Commodity shipments has a maximum at risk revenue of \$504 million (i.e., Single-Line Class I $R/VC_{\geq 240\%}$ revenue per Table 3) and that this traffic has an average R/VC of 291%. If this average R/VC percentage is reduced from 291% to 239% (i.e., one percent below the threshold), the total revenue for the $R/VC_{\geq 240\%}$ group would be reduced from \$504 million to \$413 million, which represents a reduction of \$91 million. However, the railroads could compensate for this revenue reduction by increasing rates on NGFA Commodity shipments which are above 180% and below 240%. This is demonstrated in the following table:

Table 7

Example of Estimated Potential
Net Adverse Impact on NGFA Commodity
Single-Line Class I R/VC>180% Shipments

Ln.	Item	Amount
	NGFA Commodity Single-Line Class R/VC≥240% Shipments	
1	Carloads	196,196
2	Revenue (000)	$503,669
3	Variable Cost (000)	$172,845
4	Average R/VC (L.2/L.3)	291%
5	Revenue at R/VC 239% (L.3 x 2.39)	$413,099
6	Potential Revenue Reduction at R/VC 239% (L.2 minus L.5)	$90,570
	NGFA Commodity Single-Line Class R/VC≥180% and <240% Shipments	
7	Carloads	440,497
8	Revenue (000)	$1,469,214
9	Variable Cost (000)	$727,823
10	Average R/VC (L.8 / L.9)	202%
11	Revenue at R/VC 239% (L.9 x 2.39)	$1,739,497
12	Potential Revenue Increase at R/VC 239% (L.11 minus L.8)	$270,283
	NGFA Commodity Single-Line Class R/VC≥180% Shipments	
13	Net Adverse Impact on NGFA Commodity Revenue (000) (L.12-L.6)	$179,713

As shown, NGFA Commodity Single-Line Class I R/VC$_{\geq 180\% < 240\%}$ traffic has a total revenue of $1.47 billion (L.8) and an average R/VC percentage of 202% (L.10). If this average R/VC percentage of this traffic is increased from 202% to 239% (i.e., one percent below the threshold), the total revenue for this group would increase to $1.74 billion (L.11), which would represent a rate increase of $270 million (L.12). Therefore, under this example, the $91 million rate reduction (L.6) could be offset by $270 million (L.12) in rate increases and the net adverse impact for NGFA Commodity shippers would be approximately $180 million (L.13 - $179,713).

In summary, for the very limited number of captive NGFA Commodity shippers who may qualify under NITL's proposal, the potential for rate relief is likely to be limited and these shippers could see offsetting rate increases on other traffic.

VERIFICATION

ALEXANDRIA, VIRGINIA) SS.

I, Gerald W. Fauth III, verify that: I have read the foregoing statement; I know the contents thereof; and those contents are true and correct as stated.

Gerald W. Fauth III

Subscribed and sworn to me this 1th day of March, 2013

Notary Public

Howard Spratt
NOTARY PUBLIC
Commonwealth of Virginia
Reg. # 362921
My Commission Expires 7/31/2013

My Commission expires:
07-31-13

STATEMENT
OF
BACKGROUND, QUALIFICATIONS AND EXPERIENCE
OF
GERALD W. FAUTH III

My name is Gerald W. Fauth III. I am President of G. W. Fauth & Associates, Inc. (**GWF**), an economic consulting firm with offices at 116 S. Royal Street, Alexandria, Virginia 22314. I a recognized expert on transportation issues with over 30 years experience in the private sector and in the Federal government.

This statement generally describes my background, qualifications and experience. The majority of experience has involved economic, regulatory, public policy and legislative issues primarily associated with, or related to, the U. S. railroad industry. Most of my work has involved regulatory proceedings and related projects before, or related to, the U.S. Surface Transportation Board (STB) and its predecessor, the Interstate Commerce Commission (ICC).

I have extensive experience in working in regulatory and other proceedings and projects involving railroad mergers, transactions, acquisitions, rail line construction, rail line abandonments, rate reasonableness and other railroad related issues. These matters have involved railroad issues on a nation-wide, system-wide and individual railroad line basis.

GWF has been engaged in the economic consulting business for over 50 years. My part time affiliation with GWF began in 1972. I began working for GWF on a full-time basis on May 15, 1978 and was employed by GWF continuously until November 1, 1999 at which time I took a leave of absence in order to take a position with the STB.

At the STB, I served as Chief of Staff for one of the three Board Members appointed by the President, Vice Chairman Wayne O. Burkes. I returned to GWF and consulting work effective June 23, 2003 after Mr. Burkes resigned his position to run for a political office.

Over the years, I have submitted expert testimony before ICC, STB, state regulatory commissions, courts and arbitration panels on a wide-variety of issues in numerous proceedings. In addition, I worked for 3½ years at the STB where I reviewed, analyzed and made recommendations on over 600 written formal decisions that were decided by the entire Board. These proceedings and decisions involved all matters of STB jurisdiction and had an impact on the transportation industry and the national economy.

Railroad transactions have long been the subject of ICC and STB regulatory proceedings and other matters involving: railroad merger and acquisition approval and oversight proceedings; railroad line abandonment proceedings; line sales; feeder line application proceedings; and other railroad transaction-related proceedings. I have been involved in numerous such proceedings and projects as an expert witness and as an STB staff advisor.

For example, I was an expert witness in the last two major Class I railroad merger proceedings: STB Finance Docket No. 32760, Union Pacific Corporation, et al. – Control and Merger – Southern Pacific Rail Corporation, et al. and STB Finance Docket No. 33388, CSX Corporation, et al., Norfolk Southern Corporation, et al. – Control and Operating Leases / Agreements – Conrail, Inc., et al.. My testimony in these major merger proceedings concerned the potential adverse competitive impact of these mergers on two key areas.

In addition to my work in major railroad merger proceedings, I have submitted expert testimony in other railroad finance docket and abandonment proceedings before the ICC and STB. In these proceeding, I have developed and submitted evidence relating to the impacted railroad traffic and the valuation and economics of the railroad line at issue (such as: going concern and net liquidation values; freight revenues and traffic; operating costs; maintenance costs: right-of-way valuation; etc).

In addition to my testimony in railroad mergers and other rail finance and transaction proceedings, I served as an original member of the Conrail Transaction Council, which was established by the Board in Finance Docket No. 33388. This council consisted of representatives of the CSX, NS and shipper organization and provided a forum for timely and efficient communication of information and problems concerning the transaction. I was one of the original members of the Conrail Transaction Council and attended every meeting of the council until my employment with the Board.

During my time at the Board, I was actively involved in the STB merger oversight proceedings associated with the UP/SP and Conrail transactions. Perhaps the most significant merger-related proceedings that I was involved in during my time at the Board were STB Ex Parte No. 582, Public Views on Major Rail Consolidations and STB Ex Parte No. 582 (Sub-No.1), Major Rail Consolidation Procedures. These STB major rulemaking proceedings involved extensive oral hearings and written testimony from hundreds of witnesses.

The Board concluded that its existing rules governing railroad mergers and consolidations, which had been developed nearly 20 years earlier, were not adequate for addressing the broad concerns expressed and initiated a major rulemaking proceeding which resulted in a major revision to the Board's railroad merger rules.

I have a significant amount of experience in issues involving railroad rate reasonableness. I was actively involved in the initial ICC regulatory proceedings over 30 years ago in which the ICC first proposed and established guidelines which have since evolved into the STB's current railroad rate reasonableness guidelines. I was actively involved in several of the first cases to test the ICC's then proposed guidelines. For example, I was the primary expert witness in ICC Docket No. 40073, South-West Railroad. Car Parts Co. v. Missouri. Pacific Railroad, which was the *first* case to test the ICC's proposed simplified guidelines, which have since evolved into STB's Three-Benchmark approach.

More recently, I submitted extensive written and oral testimony in STB Ex Parte No. 646 (Sub-No. 1), Simplified Standards For Rail Rate Cases, on behalf of a group of 30 major stakeholders and my testimony was cited by the Board in its decision served September 5, 2007. My work and testimony in these ICC/STB proceedings has helped shape the STB's current railroad rate reasonableness guidelines.

Many of our projects have involved the development of railroad variable cost analyses based on the application of URCS and its predecessor, Rail Form A (RFA). URCS is used to determine STB jurisdiction and is an integral component of the STB's Full-SAC method, new Simplified-SAC standard and recently modified Three-Benchmark approach. I have an extensive working knowledge of the development and application of URCS and RFA. I have prepared URCS cost analyses for thousands of individual railroad movements. I also submitted expert testimony in ICC Ex Parte No. 431 (Sub-No.1), Adoption of the Uniform Railroad Costing System as a General Purpose Costing System for Regulatory Costing Purposes and more recently in STB Ex Parte No. 431 (Sub-No. 3), Review of the Surface Transportation Board's General Costing System.

Proceedings before the Board often involve traffic and market analyses using the Board's Waybill Sample, which is a computer database of approximately 600,000 records of sampled railroad movements. I am extremely familiar with this railroad traffic database. Over the years, I have performed hundreds of analyses using this data which has been used as evidence in merger and other proceedings before the Board.

I am a 1978 graduate of Hampden-Sydney College in Hampden-Sydney, Virginia where I earned a Bachelor of Arts degree. My major areas of study were history and government. My senior paper in college dealt with the History of Railroad Deregulation. I am a 1974 graduate of St. Stephen's School for Boys (now St. Stephen's and St. Agnes School), located in Alexandria, Virginia. My senior project and paper in high school dealt with the ICC and the Energy Crisis of 1973.

My professional memberships included the Transportation Research Forum and the Association of Transportation Law Professionals.

NGFA Rail Arbitration Rules

such a case based upon the express terms of such sidetrack agreement between the parties unless the arbitrators find that the relevant liability provision(s) in such agreement is/are commercially unreasonable. In that event, the arbitrators may decide the case based upon what they find to be commercially reasonable under the facts of the particular case.

10(A) Except as provided in (B), specific railroad-rail user disputes involving the reasonableness of a railroad's published rules and practices as applied in the particular circumstances of the dispute on matters related to transportation or service (including demurrage), that otherwise would be subject to the unreasonable practice jurisdiction of the Federal Surface Transportation Board under 49 U.S.C. § 10702(2).

(B) Disputes involving the following are not subject to arbitration hereunder: (i) a railroad's rates or charges, including rate levels and rate spreads, (ii) whether an industry or station is or should be open or closed to reciprocal switching, (iii) a railroad's credit terms, or (iv) a railroad's car allocation/distribution rules or practices.

(C) In determining whether the application of a particular rule or practice is reasonable, the arbitrators should consider, among other things, (i) the practical effects on the operation of both the railroad and rail user involved, and (ii) whether the rule or practice, or its absence, has a disparate negative impact on either the rail user or the railroad.

(c) The disputes for which a party to the "Agreement on Predispute Consent to NGFA Arbitration" is obligated to arbitrate under subsection (b) above shall be limited to those involving grain, feedstuffs and/or grain products, which shall be deemed to include commodities designated by the following Standard Transportation Commodity Code (STCC) definitions:

STCC	Description	STCC	Description
01-131	Barley	20-465	Corn oil
01-132	Corn	20-466	Other starch
01-133	Oats	20-467	Wet process corn or similar mill by-products
01-135	Rye	20-469	Wet process corn milling or by-products
01-136	Sorghum Grains	20-471	Bird Food or Seed, Domestic
01-137	Wheat	20-511	Bakery Products
01-139	Grain, NEC	20-619	Beet Pulp Pellets
01-141	Cottonseeds	20-823	Spent Grains
01-142	Flaxseeds	20-831	Malt
01-144	Soybeans	20-839	Malt Products
01-149	Oil Kernals, nuts or seeds	20-859	Distillers By-Products
01-152	Popcorn	20-914	Cottonseed Meal or By-Products
01-159	Seeds	20-921	Soybean oil
01-191	Fodder Hay or Roughage	20-923	Soybean meal and hulls
01-341	Beans, Dry Ripe	20-933	Nut or Vegetable Oils
01-342	Peas, Dry	20-939	Oil Seed Meals and By-Products, NEC
01-343	Cowpeas, Lentils or Lupines	20-942	Fish Meal
01-992	Alfalfa Meal	20-144	Animal Protein Products
20-143	Grease/inedible tallow	01-134	Rough Rice
20-411	Wheat Flour	20-449	Milled Rice, Rice By-Products, etc.
20-412	Wheat bran, middlings	20-442	Rice Flour
20-413	Corn meal or flour	20-933	Rice Oil
20-414	Rye flour	20-442	Rice Bran
20-415	Oat flour	37-422	Freight cars moving on own-wheels
20-418	Grain mill by-products	28-184.45	Ethanol
20-419	Flour or other grain mill products, NEC		
20-421	Prepared Feeds		
20-461	Corn syrup		
20-462	Corn starch		
20-463	Corn sugar		
20-464	Dextrine, corn, tapioca or other		

SUMMARY OF 2011 NGFA COMMODITY RAILROAD MOVEMENTS

(Based on 2011 Confidential Waybill Sample and Commodities Listed in NGFA Rail Arbitration Rules)

COMMODITY	STCC	GROUP	WB RECORDS	AVG. MILES	CARLOADS		TONS		REVENUE (000)		AVG. R/VC
					TOTAL	%	TOTAL	%	TOTAL (000)	%	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Barley	01-131	Total (All 2011 Waybill Sample Records)									
Barley	01-131	Total STB Jurisdictional Traffic (R/VC≥180%)									
Barley	01-131	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Barley	01-131	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Barley	01-131	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Barley	01-131	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Corn	01-132	Total (All 2011 Waybill Sample Records)									
Corn	01-132	Total STB Jurisdictional Traffic (R/VC≥180%)									
Corn	01-132	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Corn	01-132	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Corn	01-132	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Corn	01-132	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Oats	01-133	Total (All 2011 Waybill Sample Records)									
Oats	01-133	Total STB Jurisdictional Traffic (R/VC≥180%)									
Oats	01-133	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Oats	01-133	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Oats	01-133	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Oats	01-133	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Rough Rice	01-134	Total (All 2011 Waybill Sample Records)									
Rough Rice	01-134	Total STB Jurisdictional Traffic (R/VC≥180%)									
Rough Rice	01-134	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Rough Rice	01-134	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Rough Rice	01-134	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Rough Rice	01-134	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Rye	01-135	Total (All 2011 Waybill Sample Records)									
Rye	01-135	Total STB Jurisdictional Traffic (R/VC≥180%)									
Rye	01-135	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Rye	01-135	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Rye	01-135	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Rye	01-135	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Sorghum Grains	01-136	Total (All 2011 Waybill Sample Records)									
Sorghum Grains	01-136	Total STB Jurisdictional Traffic (R/VC≥180%)									
Sorghum Grains	01-136	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Sorghum Grains	01-136	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Sorghum Grains	01-136	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Sorghum Grains	01-136	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Wheat	01-137	Total (All 2011 Waybill Sample Records)									
Wheat	01-137	Total STB Jurisdictional Traffic (R/VC≥180%)									
Wheat	01-137	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Wheat	01-137	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Wheat	01-137	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Wheat	01-137	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Grain, NEC	01-139	Total (All 2011 Waybill Sample Records)									
Grain, NEC	01-139	Total STB Jurisdictional Traffic (R/VC≥180%)									
Grain, NEC	01-139	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Grain, NEC	01-139	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Grain, NEC	01-139	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Grain, NEC	01-139	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									

SUMMARY OF 2011 NGFA COMMODITY RAILROAD MOVEMENTS

(Based on 2011 Confidential Waybill Sample and Commodities Listed in NGFA Rail Arbitration Rules)

COMMODITY	STCC	GROUP	WB RECORDS	AVG. MILES	CARLOADS TOTAL	CARLOADS %	TONS TOTAL	TONS %	REVENUE (000) TOTAL (000)	REVENUE (000) %	AVG. R/VC
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Total NGFA Grain	01-13	Total (All 2011 Waybill Sample Records)									
Total NGFA Grain	01-13	Total STB Jurisdictional Traffic (R/VC≥180%)									
Total NGFA Grain	01-13	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Total NGFA Grain	01-13	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Total NGFA Grain	01-13	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Total NGFA Grain	01-13	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Cottonseeds *	01-141*	Total (All 2011 Waybill Sample Records)									
Cottonseeds *	01-141*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Cottonseeds *	01-141*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Cottonseeds *	01-141*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Cottonseeds *	01-141*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Cottonseeds *	01-141*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Flaxseeds *	01-142*	Total (All 2011 Waybill Sample Records)									
Flaxseeds *	01-142*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Flaxseeds *	01-142*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Flaxseeds *	01-142*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Flaxseeds *	01-142*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Flaxseeds *	01-142*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Soybeans	01-144	Total (All 2011 Waybill Sample Records)									
Soybeans	01-144	Total STB Jurisdictional Traffic (R/VC≥180%)									
Soybeans	01-144	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Soybeans	01-144	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Soybeans	01-144	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Soybeans	01-144	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Sunflower Seeds	01-149-40	Total (All 2011 Waybill Sample Records)									
Sunflower Seeds	01-149-40	Total STB Jurisdictional Traffic (R/VC≥180%)									
Sunflower Seeds	01-149-40	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Sunflower Seeds	01-149-40	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Sunflower Seeds	01-149-40	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Sunflower Seeds	01-149-40	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Other Oil Kernals *	01-149 Other	Total (All 2011 Waybill Sample Records)									
Other Oil Kernals *	01-149 Other	Total STB Jurisdictional Traffic (R/VC≥180%)									
Other Oil Kernals *	01-149 Other	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Other Oil Kernals *	01-149 Other	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Other Oil Kernals *	01-149 Other	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Other Oil Kernals *	01-149 Other	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Total NGFA Oil Kernals, Nuts or Seeds	01-14	Total (All 2011 Waybill Sample Records)									
Total NGFA Oil Kernals, Nuts or Seeds	01-14	Total STB Jurisdictional Traffic (R/VC≥180%)									
Total NGFA Oil Kernals, Nuts or Seeds	01-14	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Total NGFA Oil Kernals, Nuts or Seeds	01-14	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Total NGFA Oil Kernals, Nuts or Seeds	01-14	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Total NGFA Oil Kernals, Nuts or Seeds	01-14	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Popcorn *	01-152*	Total (All 2011 Waybill Sample Records)									
Popcorn *	01-152*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Popcorn *	01-152*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Popcorn *	01-152*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Popcorn *	01-152*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Popcorn *	01-152*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									

PUBLIC VERSION

SUMMARY OF 2011 NGFA COMMODITY RAILROAD MOVEMENTS

(Based on 2011 Confidential Waybill Sample and Commodities Listed in NGFA Rail Arbitration Rules)

COMMODITY	STCC	GROUP	WB RECORDS	AVG. MILES	CARLOADS TOTAL	CARLOADS %	TONS TOTAL	TONS %	REVENUE (000) TOTAL (000)	REVENUE (000) %	AVG. R/VC
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Field Seeds *	01-159*	Total (All 2011 Waybill Sample Records)									
Field Seeds *	01-159*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Field Seeds *	01-159*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Field Seeds *	01-159*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Field Seeds *	01-159*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Field Seeds *	01-159*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Total NGFA Field Seeds *	01-15*	Total (All 2011 Waybill Sample Records)									
Total NGFA Field Seeds *	01-15*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Total NGFA Field Seeds *	01-15*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Total NGFA Field Seeds *	01-15*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Total NGFA Field Seeds *	01-15*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Total NGFA Field Seeds *	01-15*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Fodder Hay or Roughage *	01-191*	Total (All 2011 Waybill Sample Records)									
Fodder Hay or Roughage *	01-191*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Fodder Hay or Roughage *	01-191*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Fodder Hay or Roughage *	01-191*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Fodder Hay or Roughage *	01-191*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Fodder Hay or Roughage *	01-191*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Total NGFA Misc. Field Crops*	01-19*	Total (All 2011 Waybill Sample Records)									
Total NGFA Misc. Field Crops*	01-19*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Total NGFA Misc. Field Crops*	01-19*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Total NGFA Misc. Field Crops*	01-19*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Total NGFA Misc. Field Crops*	01-19*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Total NGFA Misc. Field Crops*	01-19*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Beans, Dry Ripe *	01-341*	Total (All 2011 Waybill Sample Records)									
Beans, Dry Ripe *	01-341*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Beans, Dry Ripe *	01-341*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Beans, Dry Ripe *	01-341*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Beans, Dry Ripe *	01-341*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Beans, Dry Ripe *	01-341*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Peas, Dry *	01-342*	Total (All 2011 Waybill Sample Records)									
Peas, Dry *	01-342*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Peas, Dry *	01-342*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Peas, Dry *	01-342*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Peas, Dry *	01-342*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Peas, Dry *	01-342*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Cowpeas, Lentils or Lupines *	01-343*	Total (All 2011 Waybill Sample Records)									
Cowpeas, Lentils or Lupines *	01-343*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Cowpeas, Lentils or Lupines *	01-343*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Cowpeas, Lentils or Lupines *	01-343*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Cowpeas, Lentils or Lupines *	01-343*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Cowpeas, Lentils or Lupines *	01-343*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Total NGFA Fresh Vegetables *	01-3*	Total (All 2011 Waybill Sample Records)									
Total NGFA Fresh Vegetables *	01-3*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Total NGFA Fresh Vegetables *	01-3*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Total NGFA Fresh Vegetables *	01-3*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Total NGFA Fresh Vegetables *	01-3*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Total NGFA Fresh Vegetables *	01-3*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									

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SUMMARY OF 2011 NGFA COMMODITY RAILROAD MOVEMENTS

(Based on 2011 Confidential Waybill Sample and Commodities Listed in NGFA Rail Arbitration Rules)

COMMODITY	STCC	GROUP	WB RECORDS	AVG. MILES	CARLOADS TOTAL	CARLOADS %	TONS TOTAL	TONS %	REVENUE (000) TOTAL (000)	REVENUE (000) %	AVG. R/VC
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Chopped, Ground or Pulverized Alfalfa *	01-992*	Total (All 2011 Waybill Sample Records)									
Chopped, Ground or Pulverized Alfalfa *	01-992*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Chopped, Ground or Pulverized Alfalfa *	01-992*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Chopped, Ground or Pulverized Alfalfa *	01-992*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Chopped, Ground or Pulverized Alfalfa *	01-992*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Chopped, Ground or Pulverized Alfalfa *	01-992*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Total NGFA Misc. Farm Products *	01-9*	Total (All 2011 Waybill Sample Records)									
Total NGFA Misc. Farm Products *	01-9*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Total NGFA Misc. Farm Products *	01-9*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Total NGFA Misc. Farm Products *	01-9*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Total NGFA Misc. Farm Products *	01-9*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Total NGFA Misc. Farm Products *	01-9*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Total NGFA Farm Products	**01**	**Total (All 2011 Waybill Sample Records)**									
Total NGFA Farm Products	**01**	**Total STB Jurisdictional Traffic (R/VC≥180%)**									
Total NGFA Farm Products	**01**	**Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%**									
Total NGFA Farm Products	**01**	**Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%**									
Total NGFA Farm Products	**01**	**Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%**									
Total NGFA Farm Products	**01**	**Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)**									
Grease/Inedible Tallow *	20-143 *	Total (All 2011 Waybill Sample Records)									
Grease/Inedible Tallow *	20-143 *	Total STB Jurisdictional Traffic (R/VC≥180%)									
Grease/Inedible Tallow *	20-143 *	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Grease/Inedible Tallow *	20-143 *	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Grease/Inedible Tallow *	20-143 *	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Grease/Inedible Tallow *	20-143 *	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Animal Protein Products *	20-144 *	Total (All 2011 Waybill Sample Records)									
Animal Protein Products *	20-144 *	Total STB Jurisdictional Traffic (R/VC≥180%)									
Animal Protein Products *	20-144 *	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Animal Protein Products *	20-144 *	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Animal Protein Products *	20-144 *	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Animal Protein Products *	20-144 *	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Total NGFA Animal By-Products, Inedible	20-14	Total (All 2011 Waybill Sample Records)									
Total NGFA Animal By-Products, Inedible	20-14	Total STB Jurisdictional Traffic (R/VC≥180%)									
Total NGFA Animal By-Products, Inedible	20-14	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Total NGFA Animal By-Products, Inedible	20-14	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Total NGFA Animal By-Products, Inedible	20-14	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Total NGFA Animal By-Products, Inedible	20-14	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Wheat Flour	20-411	Total (All 2011 Waybill Sample Records)									
Wheat Flour	20-411	Total STB Jurisdictional Traffic (R/VC≥180%)									
Wheat Flour	20-411	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Wheat Flour	20-411	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Wheat Flour	20-411	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Wheat Flour	20-411	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Wheat Bran, Middlings	20-412	Total (All 2011 Waybill Sample Records)									
Wheat Bran, Middlings	20-412	Total STB Jurisdictional Traffic (R/VC≥180%)									
Wheat Bran, Middlings	20-412	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Wheat Bran, Middlings	20-412	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Wheat Bran, Middlings	20-412	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Wheat Bran, Middlings	20-412	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									

SUMMARY OF 2011 NGFA COMMODITY RAILROAD MOVEMENTS

(Based on 2011 Confidential Waybill Sample and Commodities Listed in NGFA Rail Arbitration Rules)

COMMODITY	STCC	GROUP	WB RECORDS	AVG. MILES	CARLOADS		TONS		REVENUE (000)		AVG. R/VC
					TOTAL	%	TOTAL	%	TOTAL (000)	%	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Corn Meal or Flour	20-413	Total (All 2011 Waybill Sample Records)									
Corn Meal or Flour	20-413	Total STB Jurisdictional Traffic (R/VC≥180%)									
Corn Meal or Flour	20-413	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Corn Meal or Flour	20-413	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Corn Meal or Flour	20-413	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Corn Meal or Flour	20-413	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Rye Flour	20-414	Total (All 2011 Waybill Sample Records)									
Rye Flour	20-414	Total STB Jurisdictional Traffic (R/VC≥180%)									
Rye Flour	20-414	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Rye Flour	20-414	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Rye Flour	20-414	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Rye Flour	20-414	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Oat Flour	20-415	Total (All 2011 Waybill Sample Records)									
Oat Flour	20-415	Total STB Jurisdictional Traffic (R/VC≥180%)									
Oat Flour	20-415	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Oat Flour	20-415	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Oat Flour	20-415	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Oat Flour	20-415	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Grain Mill By-Products	20-418	Total (All 2011 Waybill Sample Records)									
Grain Mill By-Products	20-418	Total STB Jurisdictional Traffic (R/VC≥180%)									
Grain Mill By-Products	20-418	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Grain Mill By-Products	20-418	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Grain Mill By-Products	20-418	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Grain Mill By-Products	20-418	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Flour or Other Grain Mill Products, NEC	20-419	Total (All 2011 Waybill Sample Records)									
Flour or Other Grain Mill Products, NEC	20-419	Total STB Jurisdictional Traffic (R/VC≥180%)									
Flour or Other Grain Mill Products, NEC	20-419	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Flour or Other Grain Mill Products, NEC	20-419	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Flour or Other Grain Mill Products, NEC	20-419	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Flour or Other Grain Mill Products, NEC	20-419	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Flour or Other Grain Mill Products	20-41	Total (All 2011 Waybill Sample Records)									
Flour or Other Grain Mill Products	20-41	Total STB Jurisdictional Traffic (R/VC≥180%)									
Flour or Other Grain Mill Products	20-41	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Flour or Other Grain Mill Products	20-41	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Flour or Other Grain Mill Products	20-41	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Flour or Other Grain Mill Products	20-41	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Citrus Pomace *	20-421-27	Total (All 2011 Waybill Sample Records)									
Citrus Pomace *	20-421-27	Total STB Jurisdictional Traffic (R/VC≥180%)									
Citrus Pomace *	20-421-27	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Citrus Pomace *	20-421-27	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Citrus Pomace *	20-421-27	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Citrus Pomace *	20-421-27	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Prepared Feeds - Other	20-421 Other	Total (All 2011 Waybill Sample Records)									
Prepared Feeds - Other	20-421 Other	Total STB Jurisdictional Traffic (R/VC≥180%)									
Prepared Feeds - Other	20-421 Other	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Prepared Feeds - Other	20-421 Other	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Prepared Feeds - Other	20-421 Other	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Prepared Feeds - Other	20-421 Other	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									

SUMMARY OF 2011 NGFA COMMODITY RAILROAD MOVEMENTS

(Based on 2011 Confidential Waybill Sample and Commodities Listed in NGFA Rail Arbitration Rules)

COMMODITY	STCC	GROUP	WB RECORDS	AVG. MILES	CARLOADS TOTAL	CARLOADS %	TONS TOTAL	TONS %	REVENUE (000) TOTAL (000)	REVENUE (000) %	AVG. R/VC
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Total NGFA Prepared Feed	20-42	Total (All 2011 Waybill Sample Records)									
Total NGFA Prepared Feed	20-42	Total STB Jurisdictional Traffic (R/VC≥180%)									
Total NGFA Prepared Feed	20-42	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Total NGFA Prepared Feed	20-42	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Total NGFA Prepared Feed	20-42	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Total NGFA Prepared Feed	20-42	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Rice Flour	20-442	Total (All 2011 Waybill Sample Records)									
Rice Flour	20-442	Total STB Jurisdictional Traffic (R/VC≥180%)									
Rice Flour	20-442	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Rice Flour	20-442	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Rice Flour	20-442	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Rice Flour	20-442	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Milled Rice	20-449	Total (All 2011 Waybill Sample Records)									
Milled Rice	20-449	Total STB Jurisdictional Traffic (R/VC≥180%)									
Milled Rice	20-449	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Milled Rice	20-449	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Milled Rice	20-449	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Milled Rice	20-449	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Total NGFA Milled Rice Flour or Meal	20-44	Total (All 2011 Waybill Sample Records)									
Total NGFA Milled Rice Flour or Meal	20-44	Total STB Jurisdictional Traffic (R/VC≥180%)									
Total NGFA Milled Rice Flour or Meal	20-44	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Total NGFA Milled Rice Flour or Meal	20-44	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Total NGFA Milled Rice Flour or Meal	20-44	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Total NGFA Milled Rice Flour or Meal	20-44	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Corn Syrup	20-461	Total (All 2011 Waybill Sample Records)									
Corn Syrup	20-461	Total STB Jurisdictional Traffic (R/VC≥180%)									
Corn Syrup	20-461	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Corn Syrup	20-461	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Corn Syrup	20-461	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Corn Syrup	20-461	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Corn Strarch	20-462	Total (All 2011 Waybill Sample Records)									
Corn Strarch	20-462	Total STB Jurisdictional Traffic (R/VC≥180%)									
Corn Strarch	20-462	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Corn Strarch	20-462	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Corn Strarch	20-462	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Corn Strarch	20-462	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Corn Sugar	20-463	Total (All 2011 Waybill Sample Records)									
Corn Sugar	20-463	Total STB Jurisdictional Traffic (R/VC≥180%)									
Corn Sugar	20-463	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Corn Sugar	20-463	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Corn Sugar	20-463	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Corn Sugar	20-463	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Dextrine, Corn, Tapioca or Other	20-464	Total (All 2011 Waybill Sample Records)									
Dextrine, Corn, Tapioca or Other	20-464	Total STB Jurisdictional Traffic (R/VC≥180%)									
Dextrine, Corn, Tapioca or Other	20-464	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Dextrine, Corn, Tapioca or Other	20-464	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Dextrine, Corn, Tapioca or Other	20-464	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Dextrine, Corn, Tapioca or Other	20-464	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									

SUMMARY OF 2011 NGFA COMMODITY RAILROAD MOVEMENTS

(Based on 2011 Confidential Waybill Sample and Commodities Listed in NGFA Rail Arbitration Rules)

COMMODITY	STCC	GROUP	WB RECORDS	AVG. MILES	CARLOADS		TONS		REVENUE (000)		AVG. R/VC
					TOTAL	%	TOTAL	%	TOTAL (000)	%	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Corn Oil	20-465	Total (All 2011 Waybill Sample Records)									
Corn Oil	20-465	Total STB Jurisdictional Traffic (R/VC$\geq$180%)									
Corn Oil	20-465	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180%									
Corn Oil	20-465	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180% and <240%									
Corn Oil	20-465	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$240%									
Corn Oil	20-465	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$RSAM (4-Year)									
Other Starch	20-466	Total (All 2011 Waybill Sample Records)									
Other Starch	20-466	Total STB Jurisdictional Traffic (R/VC$\geq$180%)									
Other Starch	20-466	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180%									
Other Starch	20-466	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180% and <240%									
Other Starch	20-466	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$240%									
Other Starch	20-466	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$RSAM (4-Year)									
Wet Process Corn Mill By-Products	20-467	Total (All 2011 Waybill Sample Records)									
Wet Process Corn Mill By-Products	20-467	Total STB Jurisdictional Traffic (R/VC$\geq$180%)									
Wet Process Corn Mill By-Products	20-467	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180%									
Wet Process Corn Mill By-Products	20-467	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180% and <240%									
Wet Process Corn Mill By-Products	20-467	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$240%									
Wet Process Corn Mill By-Products	20-467	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$RSAM (4-Year)									
Wet Process Corn Milling or By-Products	20-469	Total (All 2011 Waybill Sample Records)									
Wet Process Corn Milling or By-Products	20-469	Total STB Jurisdictional Traffic (R/VC$\geq$180%)									
Wet Process Corn Milling or By-Products	20-469	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180%									
Wet Process Corn Milling or By-Products	20-469	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180% and <240%									
Wet Process Corn Milling or By-Products	20-469	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$240%									
Wet Process Corn Milling or By-Products	20-469	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$RSAM (4-Year)									
Total NGFA Wet Corn Milling Products	20-46	Total (All 2011 Waybill Sample Records)									
Total NGFA Wet Corn Milling Products	20-46	Total STB Jurisdictional Traffic (R/VC$\geq$180%)									
Total NGFA Wet Corn Milling Products	20-46	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180%									
Total NGFA Wet Corn Milling Products	20-46	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180% and <240%									
Total NGFA Wet Corn Milling Products	20-46	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$240%									
Total NGFA Wet Corn Milling Products	20-46	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$RSAM (4-Year)									
Bird Food or Seed, Domestic	20-471	Total (All 2011 Waybill Sample Records)									
Bird Food or Seed, Domestic	20-471	Total STB Jurisdictional Traffic (R/VC$\geq$180%)									
Bird Food or Seed, Domestic	20-471	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180%									
Bird Food or Seed, Domestic	20-471	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180% and <240%									
Bird Food or Seed, Domestic	20-471	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$240%									
Bird Food or Seed, Domestic	20-471	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$RSAM (4-Year)									
Bakery Products *	20-511 *	Total (All 2011 Waybill Sample Records)									
Bakery Products *	20-511 *	Total STB Jurisdictional Traffic (R/VC$\geq$180%)									
Bakery Products *	20-511 *	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180%									
Bakery Products *	20-511 *	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180% and <240%									
Bakery Products *	20-511 *	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$240%									
Bakery Products *	20-511 *	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$RSAM (4-Year)									
Beet Pulp Pellets	20-619	Total (All 2011 Waybill Sample Records)									
Beet Pulp Pellets	20-619	Total STB Jurisdictional Traffic (R/VC$\geq$180%)									
Beet Pulp Pellets	20-619	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180%									
Beet Pulp Pellets	20-619	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$180% and <240%									
Beet Pulp Pellets	20-619	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$240%									
Beet Pulp Pellets	20-619	Single-Line Class I STB Jurisdictional Traffic with R/VC$\geq$RSAM (4-Year)									

SUMMARY OF 2011 NGFA COMMODITY RAILROAD MOVEMENTS

(Based on 2011 Confidential Waybill Sample and Commodities Listed in NGFA Rail Arbitration Rules)

COMMODITY	STCC	GROUP	WB RECORDS	AVG. MILES	CARLOADS TOTAL	CARLOADS %	TONS TOTAL	TONS %	REVENUE (000) TOTAL (000)	REVENUE (000) %	AVG. R/VC
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Malt Extracts or Brewers Spent Grains	20-823	Total (All 2011 Waybill Sample Records)									
Malt Extracts or Brewers Spent Grains	20-823	Total STB Jurisdictional Traffic (R/VC≥180%)									
Malt Extracts or Brewers Spent Grains	20-823	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Malt Extracts or Brewers Spent Grains	20-823	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Malt Extracts or Brewers Spent Grains	20-823	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Malt Extracts or Brewers Spent Grains	20-823	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Malt	20-831	Total (All 2011 Waybill Sample Records)									
Malt	20-831	Total STB Jurisdictional Traffic (R/VC≥180%)									
Malt	20-831	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Malt	20-831	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Malt	20-831	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Malt	20-831	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Distillers By-Products	20-839	Total (All 2011 Waybill Sample Records)									
Distillers By-Products	20-839	Total STB Jurisdictional Traffic (R/VC≥180%)									
Distillers By-Products	20-839	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Distillers By-Products	20-839	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Distillers By-Products	20-839	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Distillers By-Products	20-839	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Total NGFA Malt Products	20-83	Total (All 2011 Waybill Sample Records)									
Total NGFA Malt Products	20-83	Total STB Jurisdictional Traffic (R/VC≥180%)									
Total NGFA Malt Products	20-83	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Total NGFA Malt Products	20-83	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Total NGFA Malt Products	20-83	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Total NGFA Malt Products	20-83	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Distillers By-Products	20-859	Total (All 2011 Waybill Sample Records)									
Distillers By-Products	20-859	Total STB Jurisdictional Traffic (R/VC≥180%)									
Distillers By-Products	20-859	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Distillers By-Products	20-859	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Distillers By-Products	20-859	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Distillers By-Products	20-859	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Cottonseed Meal	20-914	Total (All 2011 Waybill Sample Records)									
Cottonseed Meal	20-914	Total STB Jurisdictional Traffic (R/VC≥180%)									
Cottonseed Meal	20-914	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Cottonseed Meal	20-914	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Cottonseed Meal	20-914	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Cottonseed Meal	20-914	Single-Line Class I STB Jurisdictional Traffic with R/VC>RSAM (4-Year)									
Soybean Oil	20-921	Total (All 2011 Waybill Sample Records)									
Soybean Oil	20-921	Total STB Jurisdictional Traffic (R/VC≥180%)									
Soybean Oil	20-921	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Soybean Oil	20-921	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Soybean Oil	20-921	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Soybean Oil	20-921	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Soybean Meal	20-923	Total (All 2011 Waybill Sample Records)									
Soybean Meal	20-923	Total STB Jurisdictional Traffic (R/VC≥180%)									
Soybean Meal	20-923	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Soybean Meal	20-923	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Soybean Meal	20-923	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Soybean Meal	20-923	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									

SUMMARY OF 2011 NGFA COMMODITY RAILROAD MOVEMENTS

(Based on 2011 Confidential Waybill Sample and Commodities Listed in NGFA Rail Arbitration Rules)

COMMODITY	STCC	GROUP	WB RECORDS	AVG. MILES	CARLOADS TOTAL	CARLOADS %	TONS TOTAL	TONS %	REVENUE (000) TOTAL (000)	REVENUE (000) %	AVG. R/VC
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Total NGFA Soybeal Oil or By-Products	20-92	Total (All 2011 Waybill Sample Records)									
Total NGFA Soybeal Oil or By-Products	20-92	Total STB Jurisdictional Traffic (R/VC≥180%)									
Total NGFA Soybeal Oil or By-Products	20-92	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Total NGFA Soybeal Oil or By-Products	20-92	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Total NGFA Soybeal Oil or By-Products	20-92	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Total NGFA Soybeal Oil or By-Products	20-92	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Nut or Vegetable Oils	20-933	Total (All 2011 Waybill Sample Records)									
Nut or Vegetable Oils	20-933	Total STB Jurisdictional Traffic (R/VC≥180%)									
Nut or Vegetable Oils	20-933	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Nut or Vegetable Oils	20-933	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Nut or Vegetable Oils	20-933	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Nut or Vegetable Oils	20-933	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Oil Seed Meals and By-Products, NEC	20-939	Total (All 2011 Waybill Sample Records)									
Oil Seed Meals and By-Products, NEC	20-939	Total STB Jurisdictional Traffic (R/VC≥180%)									
Oil Seed Meals and By-Products, NEC	20-939	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Oil Seed Meals and By-Products, NEC	20-939	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Oil Seed Meals and By-Products, NEC	20-939	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Oil Seed Meals and By-Products, NEC	20-939	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Total NGFA Nut or Vegetable Oils or By Products	20-93	Total (All 2011 Waybill Sample Records)									
Total NGFA Nut or Vegetable Oils or By Products	20-93	Total STB Jurisdictional Traffic (R/VC≥180%)									
Total NGFA Nut or Vegetable Oils or By Products	20-93	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Total NGFA Nut or Vegetable Oils or By Products	20-93	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Total NGFA Nut or Vegetable Oils or By Products	20-93	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Total NGFA Nut or Vegetable Oils or By Products	20-93	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Fish Meal *	20-942*	Total (All 2011 Waybill Sample Records)									
Fish Meal *	20-942*	Total STB Jurisdictional Traffic (R/VC≥180%)									
Fish Meal *	20-942*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Fish Meal *	20-942*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Fish Meal *	20-942*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Fish Meal *	20-942*	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Total NGFA Food Products	**20**	**Total (All 2011 Waybill Sample Records)**									
Total NGFA Food Products	**20**	**Total STB Jurisdictional Traffic (R/VC≥180%)**									
Total NGFA Food Products	**20**	**Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%**									
Total NGFA Food Products	**20**	**Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%**									
Total NGFA Food Products	**20**	**Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%**									
Total NGFA Food Products	**20**	**Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)**									
Alcohols (Includes Ethanol)	28-184	Total (All 2011 Waybill Sample Records)									
Alcohols (Includes Ethanol)	28-184	Total STB Jurisdictional Traffic (R/VC≥180%)									
Alcohols (Includes Ethanol)	28-184	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Alcohols (Includes Ethanol)	28-184	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Alcohols (Includes Ethanol)	28-184	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Alcohols (Includes Ethanol)	28-184	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Fatty Acids (Includes Bio-Fuels)	28-994	Total (All 2011 Waybill Sample Records)									
Fatty Acids (Includes Bio-Fuels)	28-994	Total STB Jurisdictional Traffic (R/VC≥180%)									
Fatty Acids (Includes Bio-Fuels)	28-994	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Fatty Acids (Includes Bio-Fuels)	28-994	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Fatty Acids (Includes Bio-Fuels)	28-994	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Fatty Acids (Includes Bio-Fuels)	28-994	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									

SUMMARY OF 2011 NGFA COMMODITY RAILROAD MOVEMENTS

(Based on 2011 Confidential Waybill Sample and Commodities Listed in NGFA Rail Arbitration Rules)

COMMODITY	STCC	GROUP	WB RECORDS	AVG. MILES	CARLOADS		TONS		REVENUE (000)		AVG. R/VC
					TOTAL	%	TOTAL	%	TOTAL (000)	%	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Freight Cars Moving on Own Wheels	37-422	Total (All 2011 Waybill Sample Records)									
Freight Cars Moving on Own Wheels	37-422	Total STB Jurisdictional Traffic (R/VC≥180%)									
Freight Cars Moving on Own Wheels	37-422	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%									
Freight Cars Moving on Own Wheels	37-422	Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%									
Freight Cars Moving on Own Wheels	37-422	Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%									
Freight Cars Moving on Own Wheels	37-422	Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)									
Total NGFA Commodities	**All**	**Total (All 2011 Waybill Sample Records)**	**44,255**	**962.9**	**3,092,223**	**100.00%**	**274,933,076**	**100.00%**	**$9,194,861**	**100.00%**	**145%**
Total NGFA Commodities	**All**	**Total STB Jurisdictional Traffic (R/VC≥180%)**	**7,863**	**703.8**	**792,273**	**25.62%**	**74,306,023**	**27.03%**	**$2,463,158**	**26.79%**	**220%**
Total NGFA Commodities	**All**	**Single-Line Class I STB Jurisdictional Traffic with R/VC≥180%**	**6,316**	**715.0**	**636,693**	**20.59%**	**59,811,506**	**21.75%**	**$1,972,883**	**21.46%**	**219%**
Total NGFA Commodities	**All**	**Single-Line Class I STB Jurisdictional Traffic with R/VC≥180% and <240%**	**4,542**	**828.7**	**440,497**	**14.25%**	**42,984,615**	**15.63%**	**$1,469,214**	**15.98%**	**202%**
Total NGFA Commodities	**All**	**Single-Line Class I STB Jurisdictional Traffic with R/VC≥240%**	**1,774**	**424.7**	**196,196**	**6.34%**	**16,826,891**	**6.12%**	**$503,669**	**5.48%**	**291%**
		Single-Line Class I STB Jurisdictional Traffic with R/VC≥RSAM (4-Year)	**1,138**	**429.4**	**138,410**	**4.48%**	**11,322,091**	**4.12%**	**$360,978**	**3.93%**	**308%**

** Commodity Exempt from STB Regulation Under 49 CFR § 1039.10 or 1039.11*

PUBLIC VERSION

COMPARISON OF USDA WHEAT AND CORN TONS PRODUCED WITH RAILROAD TONS ORIGINATED BY STATE

State	Wheat			Corn		
	Production Tons	Railroad Tons	Railroad %	Production Tons	Railroad Tons	Railroad %
Alabama	189,750			812,000		
Arizona	286,050			129,360		
Arkansas	243,000			1,596,000		
California	1,177,500			982,800		
Colorado	3,247,020			5,115,880		
Delaware	78,300			557,060		
Florida	8,400			73,500		
Georgia	146,400			994,700		
Idaho	3,222,300			554,400		
Illinois	495,600			54,510,400		
Indiana	414,000			25,145,120		
Iowa	13,800			60,291,000		
Kansas	10,800,000			16,275,000		
Kentucky	495,000			4,270,560		
Louisiana	165,000			1,960,000		
Maryland	243,000			1,276,240		
Massachusetts	0			0		
Michigan	1,071,000			8,820,000		
Minnesota	2,642,100			36,178,800		
Mississippi	141,000			2,551,360		
Missouri	378,000			10,332,000		
Montana	6,460,800			128,520		
Nebraska	1,922,100			41,134,800		
Nevada	38,100			0		
New Jersey	33,810			226,632		
New Mexico	243,600			332,640		
New York	201,000			2,478,000		
North Carolina	421,800			2,140,320		
North Dakota	10,846,500			6,948,480		
Ohio	1,372,500			14,924,280		
Oklahoma	3,627,000			1,237,600		
Oregon	1,907,580			212,800		
Pennsylvania	265,500			3,261,440		
South Carolina	140,400			853,580		
South Dakota	3,704,250			15,951,600		
Tennessee	286,200			2,096,640		
Texas	3,825,000			8,444,800		
Utah	191,370			110,768		
Virginia	237,150			581,560		
Washington	4,436,700			717,500		
West Virginia	8,100			73,080		
Wisconsin	441,600			14,061,600		
Wyoming	139,200			169,400		
Total U.S. Tons	66,207,480	47,626,748	72%	348,512,220	79,249,151	23%