

SURFACE TRANSPORTATION BOARD

Docket No. EP 754

OVERSIGHT HEARING ON DEMURRAGE AND ACCESSORIAL CHARGES

Decided: MAY 3, 2019

By decision served on April 8, 2019, the Board scheduled a public hearing for May 22, 2019, on railroad demurrage and accessorial charges.<sup>1</sup> **Due to the number of notices of intent to participate received, the hearing will now be held over a two-day period, on May 22-23, 2019.** The hearing will be held in the Main Hearing Room (Room 101) of the U.S. International Trade Commission, located at 500 E Street, S.W., Washington, DC, near the Board's headquarters building, and will begin each day at 9:30 a.m.

The schedule of appearances and the time provided for each party are set forth in the Appendix to this decision.<sup>2</sup> The Board will have read the written submissions in advance of the hearing. Participants should not read their written submissions at the hearing, but instead should briefly summarize their key points.

If a party wishes to use visual materials in its presentation, a projector and drop-down screen will be available for use. **Parties wishing to make visual presentations should email their materials by May 20, 2019, to MILSS@stb.gov.** The presentations will be loaded onto a Board laptop for use at the hearing. Parties using visual materials must submit for filing 10 paper copies at the hearing.

Instructions for Attendance at Hearing

All persons attending the hearing must use the main entrance to the U.S. International Trade Commission, located at 500 E Street, S.W. There will be no reserved seating, except for persons scheduled to present comments. The building will be open to the public at 8:45 a.m. There is no public parking in the building. The two closest Metro stops are Federal Center S.W. (3rd and D Streets, S.W., serving the Blue, Orange, and Silver Lines) and L'Enfant Plaza (6th and D Streets, S.W., serving the Yellow, Green, Blue, Orange, and Silver Lines).

Upon arrival, check in at the 1st floor security desk in the main lobby. Be prepared to produce valid photographic identification (driver's license or local, state, or Federal government

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<sup>1</sup> Notices of intent to participate were due on April 24, 2019. Written testimony and written comments (for those not appearing at the hearing) on specified topics are due on May 8, 2019.

<sup>2</sup> Parties that did not make a specific request for time have been allotted 5 minutes.

identification); sign in at the security desk; receive a hearing room pass (to be displayed at all times); submit to an inspection of all briefcases, handbags, etc.; and pass through a metal detector. Persons choosing to exit the building during the course of the hearing must surrender their hearing room passes to security personnel and will be subject to the above security procedures if they choose to re-enter the building. Hearing room passes will be collected from those exiting the hearing upon its conclusion. Speakers must check in with the clerk at the front of the hearing room.

Laptops and recorders may be used in the hearing room, and Wi-Fi will be available.<sup>3</sup> Cellular telephone use is not permitted in the hearing room; cell phones may be used quietly in the corridor outside the hearing room or in the building's main lobby.

Members of the media should contact Janie Sheng in the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0221 if they plan to attend the hearing.

The hearing room complies with the Americans with Disabilities Act, and persons needing such accommodations should call (202) 245-0245 by the close of business on May 20, 2019.

As stated in the April 8, 2019 notice, streaming and recording systems will not be available to the Board for this hearing.

For further information regarding the hearing, contact Sarah Fancher at (202) 245-0355. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

It is ordered:

1. The hearing will be held on May 22 and 23, 2019, at 9:30 a.m., in the Main Hearing Room (Room 101) of the U.S. International Trade Commission, located at 500 E Street, S.W., Washington, DC, near the Board's headquarters.
2. Visual presentations should be emailed to MILSS@stb.gov by May 20, 2019.
3. Time for presenting at the hearing is allotted as reflected in the Appendix to this decision.
4. This decision is effective on its service date.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.

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<sup>3</sup> The password will be available in the hearing room.

**SCHEDULE OF APPEARANCES****WEDNESDAY, MAY 22, 2019 (COMMENCING AT 9:30 A.M.)**

<b><u>Party</u></b>	<b><u>Time Allotted</u></b>
<b>Panel I</b>	
Bunge North America	15 minutes
<ul style="list-style-type: none"> <li>• Terry McDermott, Director – Supply Chain</li> </ul>	
Consolidated Scrap Resources, Inc.	10 minutes
<ul style="list-style-type: none"> <li>• Ben Abrams, President and CEO</li> </ul>	
Kinder Morgan Terminals	15 minutes
<ul style="list-style-type: none"> <li>• Joshua Etzel, Vice President Operations – Northern Area</li> </ul>	
Olin Corporation	15 minutes
<ul style="list-style-type: none"> <li>• Frank Chirumbole, Vice President of Global Integrated Supply Chain</li> </ul>	
<b>Panel II</b>	
CSX Transportation, Inc.	10 minutes
<ul style="list-style-type: none"> <li>• Arthur Adams, Vice President – Sales and Customer Engagement</li> <li>• John Patelli, Head of Regulatory and Federal Affairs, Associate General Counsel</li> </ul>	
Norfolk Southern Railway Company	15 minutes
<ul style="list-style-type: none"> <li>• Alan Shaw, Executive Vice President and Chief Marketing Officer</li> <li>• Ed Elkins, Vice President Industrial Products</li> </ul>	
Union Pacific Railroad Company	20 minutes
<ul style="list-style-type: none"> <li>• Kenny Rocker, Executive Vice President, Marketing and Sales</li> </ul>	
<b>Panel III</b>	
Brainerd Chemical Company, Inc.	5 minutes
<ul style="list-style-type: none"> <li>• Mathew A. Brainerd, Chairman</li> </ul>	
Cargill, Inc.	10 minutes
<ul style="list-style-type: none"> <li>• Brad Hildebrand, Vice President – Global Rail and Barge Lead</li> </ul>	
International Paper	10 minutes

- Jeanne Sebring, Director of Logistics, NA (Retired)

Packaging Corporation of America 10 minutes

- Ross Corthell, Director of Transportation

Private Railcar Food and Beverage Association 5 minutes

- Herman J. Haksteen, President

**Panel IV**

Federal Maritime Commission 5 minutes

- Commissioner Rebecca Dye

**Panel V**

Anderson-DuBose Company 5 minutes

- Michael Boddy, Chief Operating Officer

Lhoist North America 5 minutes

- Ray Neff, Logistics Manager for Lhoist North America – Minerals Division

MHW Group 5 minutes

- Marvin H. Weiner, Chairman and President

Palmer Logistics 5 minutes

- Brett M. Mears, President

The Shippers Warehouse Co, Inc. (d/b/a The Shippers Group) 5 minutes

- Ken B. Johnson

**Panel VI**

Agricultural Retailers Association 5 minutes

- Richard D. Gupton, Senior Vice President, Public Policy and Counsel

Ag Processing, Inc. 15 minutes

- Gregory Twist, Senior Vice President – Transportation

Corn Refiners Association 15 minutes

- John Bode, President and CEO
- Jeffrey Moreno and Jason Tutrone, Counsel (Thompson Hine LLP)

- National Grain and Feed Association 20 minutes
- Randall C. Gordon, President and CEO
  - Tom Wilcox, Transportation Counsel and Principal (GKG Law PC)

**Panel VII**

- Canadian National Railway Company 10 minutes
- Derek Taylor, Vice President, Southern Region
  - Keith Courtoreille, Senior Manager, Service Delivery
  - Kathy Gainey, Counsel, United States Regulatory Affairs

- Kansas City Southern Railway Company 10 minutes
- Mike Naatz, Executive Vice President and Chief Marketing Officer

**Panel VIII**

- American Chemistry Council 15 minutes
- Jeffrey Sloan, Senior Director, Regulatory and Technical Affairs

- Auriga Polymers Inc. 10 minutes
- Barbara Hagler, Logistics Manager

- Brunk Plastic Services 15 minutes
- Larry Berkowski, President and Chief Executive Officer

- Diversified CPC International, Inc. 10 minutes
- Sandra J. Dearden, Executive Consultant for Highroad Consulting, Ltd.
  - Chad Rainey, Plant Manager – Petal, MS

- National Industrial Transportation League 10 minutes
- Bruce Ridley, Chairman of the Board and Vice President, Environmental Health and Safety and Operational Services for Packaging Corporation of America
  - Karyn Booth, Counsel (Thompson Hine LLP)

**THURSDAY, MAY 23, 2018 (COMMENCING AT 9:30 A.M.)**

<b><u>Party</u></b>	<b><u>Time Allotted</u></b>
<b>Panel IX</b>	
Barilla America, Inc.	20 minutes
<ul style="list-style-type: none"> <li>• Sandra Dearden, Executive Consultant for Highroad Consulting, Ltd.</li> <li>• Larry Covington, Plant Director – Ames</li> </ul>	
U.S. Clay Producers Traffic Association, Inc.	5 minutes
<ul style="list-style-type: none"> <li>• Adolfo A. Blassino, President</li> </ul>	
MillerCoors	10 minutes
<ul style="list-style-type: none"> <li>• David Burchett, Senior Category Director – Transportation and Logistics</li> </ul>	
Normerica	5 minutes
<ul style="list-style-type: none"> <li>• Adam Manna, General Counsel</li> </ul>	
Sims Metal Management	10 minutes
<ul style="list-style-type: none"> <li>• Steve Shinn, Vice President</li> </ul>	
<b>Panel X</b>	
International Warehouse Logistics Association	5 minutes
<ul style="list-style-type: none"> <li>• Steve DeHaan, President and Chief Executive Officer</li> </ul>	
International Liquid Terminals Association	10 minutes
<ul style="list-style-type: none"> <li>• Kathryn Clay, Ph.D., President</li> </ul>	
International Association of Refrigerated Warehouses	5 minutes
<ul style="list-style-type: none"> <li>• Lowell Randel, Vice President, Government and Legal Affairs</li> </ul>	
<b>Panel XI</b>	
BNSF Railway Company	10 minutes
<ul style="list-style-type: none"> <li>• Jill K. Mulligan, Vice President and General Counsel</li> </ul>	
Canadian Pacific Railway Company	10 minutes
<ul style="list-style-type: none"> <li>• Pam Arpin, Assistant Vice President – Customer and Corporate Services</li> </ul>	

**Panel XII**

Western Coal Traffic League	10 minutes
• Bette Whalen, President	
National Coal Transportation Association	5 minutes
• John Ward, Executive Director	
PBF Energy	10 minutes
• Kent Avery, Vice President – Commercial	
Freight Rail Customer Alliance, Arizona Electric Power Cooperative	5 minutes
• Emily Regis, Fuel Resource Administrator, Arizona Electric Power Cooperative and Vice President, Freight Rail Customer Alliance	