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April 14, 2011

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Surface Transportation Board  
Attn: STB Docket Number EP 707

Dear STB Members:

My name is Trudy McCleary and I have been employed at Freeport Logistics, Inc., a 3PL warehouse in Phoenix, AZ since 1971. I have personally dealt with both the Union Pacific and Burlington Northern Santa Fe Railroads for almost forty years.

It was brought to my attention that the Supreme Court has assigned the issue of rail demurrage to the STB. Before making your ruling, I would like to tell you, from my perspective, how Freeport Logistics, Inc. views this issue.

Being a 3PL, third party logistics rail served distribution warehouse, we do not buy or sell any of the goods we handle for our customers. We operate from 6:00 AM to 9:00 PM Monday through Friday. For those customers shipping their goods into our warehouse via truck or container, we require that the carrier make a receiving appointment. This serves several purposes; 1., to make sure we have the appropriate labor to handle the unloading and put away process, 2., to assure we are prepared with the proper space to store what is expected to be received and 3., to get the driver unloaded in a timely manner, so detention is not an issue. We make sure all the incoming bills of lading are consigned to our customer in care of Freeport Logistics, Inc. If not, we instruct the driver to change the paperwork and to contact their superior telling them what they are doing. In the event a driver will not cooperate, we will refuse the load and alert our customer immediately. Sometimes our customer has to send the carrier a revised bill of lading, changing the consignee from our name to theirs in care of us. Our contract with all of our customers, regardless of how they send in their merchandise, states that the ship to consignee has to be in their name C/O Freeport. We explain that since we hold no title or interest in their property, we cannot accept their merchandise if it is consigned to Freeport.

With inbound rail shipments, the situation is completely different. We have always asked our clients to send us advance notices of what they are shipping. We, again, have to make sure we have the space and that the expected inventory items are set up in our warehouse management data base before arrival of the goods. We get daily in route notices from both the UP and BNSF. We never see the prepared rail way bill/bill of lading so we don't know if they are consigned to Freeport or our customer, as they should be. Many times we are not even aware of who the shipper of origin may be, since our contracted customer may purchase their goods from various vendors, so the only person with whom we can communicate about proper documentation, is our customer.

We are not a large company, so we try extra hard to service our customers to the best of our ability. We have two shifts in order to unload all the railcars that have arrived that day. We have been in a position of demurrage over the years. In some instances this was caused by bunching by the railroads. We know this because when we go back to our customer, telling them they need to stop sending in so many cars at once, they tell us they are not. They have even sent us their shipping documents showing the dates of departure, yet the cars get held up by the railroad so they can place more cars on their train to economize their expense, so then we, as the receiving agent for our customers, get hit with more cars than we, or anyone in our situation, can handle. We cannot regulate the volume of cars sent into us.

We meet with and discuss these types of situations with our local railroad representative and sometimes even try and catch the switch crews. There have been instances of the crews not taking empties from our tracks, even though they have been released through the proper channels, and not giving us spots, when we have them available and we know cars are in town.

We know all good business relationships are a give and take, and most times the issues between Freeport and the railroads are resolved in an equitable manner.

The main reason for my letter is to ask that the members of the STB take both sides into account over the demurrage issue. Freeport cannot control bunching; we cannot control the amount of cars sent into us; we cannot control the named consignee on a way bill we don't see; and we have paid our fair amount of demurrage over the years when we have been at fault.

Thank you for your time in allowing me to voice my concerns.

Sincerely,

Trudy McCleary  
Manager of Business Development

*"Exceeding Customers' Logistics Needs"*