

BEFORE THE
SURFACE TRANSPORTATION BOARD

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UNITES STATES RAIL SERVICE ISSUES

ORAL TESTIMONY OUTLINE OF TERRY WHITESIDE

ALLIANCE FOR RAIL COMPETITION

MONTANA WHEAT & BARLEY COMMITTEE

COLORADO WHEAT ADMINISTRATIVE COMMITTEE

IDAHO BARLEY COMMISSION

IDAHO WHEAT COMMISSION

IDAHO GRAIN PRODUCERS ASSOCIATION

NEBRASKA WHEAT BOARD

OKLAHOMA WHEAT COMMISSION

OREGON WHEAT COMMISSION

SOUTH DAKOTA WHEAT COMMISSION

TEXAS WHEAT PRODUCERS BOARD

WASHINGTON GRAIN COMMISSION

WYOMING WHEAT MARKETING COMMISSION

U.S. DRY PEA AND LENTIL COUNCIL, INC.

U.S. DRY BEAN COUNCIL

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Dated: April 10, 2014

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SURFACE TRANSPORTATION BOARD

I. INTRODUCTION

The above listed parties, collectively known as the Alliance for Rail Competition and Agricultural Commissions and Organizations (ARCACO), by and through their representative, submit this Oral Testimony Outline in STB Docket EP 724, *U.S. Rail Service Issues*, and the Board's inquiry into the current state of rail transportation service issues. ARCACO welcomes the opportunity to provide these Comments. This hearing was called by the Board on short notice after continuing service issues that originated last summer on the northern plains. The effects of the service meltdowns continue to focus on the BNSF and CP but are starting to be seen on the rest of the Big 4 railroads.

It is important for rail shippers to be here, present at this hearing, but testifying at an STB hearing will be difficult for most shippers for fear of retaliation. Here is the reality – which we deal with every day.

- ★ Rail shippers must compete in their marketplace.
- ★ Most rail dependent shippers, large and small cannot risk alienating the railroad that services their facility no matter how bad the service is.

★ This Board may not comprehend the reality of this market but I live with it every day in our market transactions with the railroads. It isn't a matter of being "brave"; it is a matter of trying to survive in the competitive market.

★ At times, I get the feeling that Board personnel do not take the danger of railroad retaliation against shippers as seriously as they should.

★ I compliment all of the shippers that did show up for this hearing.

★ Personally, I have held phone conferences and meetings in the northern plains together with the STB Office of Public Assistance, Governmental Affairs and Compliance (OPAGAC), to assist them by providing information directly from the shippers (most of which wanted to remain anonymous) about the effects of the service meltdown on their business.

★ We have conducted phone surveys, hosted by myself, conversations and reviews with multiple groups of grain shippers from multiple states. These conversations have been coordinated with North Dakota Grain Dealers Association, many various Montana growers and grain dealers, the Montana State Government, Montana Wheat and Barley Committee and growers and grain dealers in South Dakota. Additionally we have interviewed a number of ARC members including shippers of coal, agricultural commodities, and manufactured goods. Lastly, we have been working with the STB Office of Public Assistance, Governmental Affairs and Compliance to clarify and provide factual predicate about the service meltdown being experienced by rail shippers.

Results of Phone Conferences – Here I will summarize using verbatim quotes from many of the shippers that participated in the phone confer-

ences, while protecting the identities of the shippers. Sources are a phone conference that took place in March and meetings in Fargo, ND in late May.

A continuing theme in the conferences: How do we stay in business with these service disruptions that we having to pay for? Two main topics: the continuing worsening and lengthening of the rail service crisis and the BNSF “48 car marriage rule” and its effects on smaller, non-shuttle elevators in MT and ND.

Purpose of the conference call: Education of farmers/shippers including the STB OPAGAC staff.

Quotes from the Conference Call:

- ★ Elevators expressed that BNSF local personnel, operating in oil field areas, have stated that servicing grain traffic (that has been moving in these areas for 100 years) is ‘annoying’
- ★ Several elevators talk about the real fear of railroads ‘retaliation’ if they or their company talk to regulators. Fact: many local elevators are muzzled by their parent or financing elevator companies from appearing and testifying. Intimidation and retaliation are real.
- ★ Many elevator operators are showing 60 to 90+ days behind on getting cars
- ★ One SD shuttle elevator put the number at over 2,000 cars behind last week
- ★ Oil shipments have taken away capacity and are being prioritized over grain
- ★ “Loads of wheat trains are just sitting there.” Some grain shippers talked about the late deliveries of empty grain trains to the elevators, the slow pick up

of loaded cars from the elevators (sometimes taking weeks), the delay in local yards with the shipment of loaded grain trains, “loads of wheat trains are just sitting there”

★ “Working more and more with durum and peas and less wheat, due to struggling with getting cars”, “BNSF does not seem to be prioritizing shipments of non-oil products”

★ “Farmers are paying for this” was a comment heard throughout the conference calls by farm producers

★ “Pea and Lentil cars delivered this week (April 7th) in NE Montana were cars that were ordered to be delivered January 1.”

★ “Shuttle train spotting seems to be easing while less-than-shuttle cars are falling farther and farther behind,” still way behind

★ “We sense favoritism, the delivery of sand and gravel cars gets access within 9 days, but 30+ days on grain cars on the same line and now 90+ days and counting”

★ “Basis points which normally run between +10 to +15 cents/bushel over futures to -10 to -15 under are running -60 cents/bushel – based upon the elevators having to price for the ‘premiums’ they are having to pay on rail cars.”

★ “Less than shuttle rates have taken us out the business of handling wheat”

★ “As the shuttle cars become available, the less-than-shuttle cars will not be available”

★ “ increasing delays for grains, struggling in MT, ND and MN - trying to be a squeaky wheel, but not a big shipper, thus where we can (and can’t at all loca-

tions) moving to trucking and changing business practice which affects our bottom line”

★ From a specialty grain elevator: “markets to Europe, 3 weeks now to Chicago, missing contracts with breeders in Europe, can’t continue to operate like this”

★ “Our plea to STB – we need more cars”

★ One of the major grain companies, “we are backed up for months due to lack of trains, falling back on the farmers”

★ From pea and lentil shippers – “shipments are being delayed so much, that the 30 day phyto-sanitary certificates issued for the trip to the PNW are running out before the shipments can make Portland and port”

★ “ The BNSF problems seem to be self-imposed – insufficient manpower, not enough rail cars, and not enough locomotives, Bakken oil shipment have increased by 3,000% since 2005 and six fold since 2011”

★ In North Dakota, CP service may be “worse than BNSF”

How long will these service delays go on?

- MT lumber shippers were being told in summer of 2013 that they should expect service delays (that they were incurring in summer of 2013) for the next 3-5 years as BNSF repairs and increases capacity along the BNSF Hi-Line
- In August 2013, BNSF blamed service problems on rail construction and upgrades

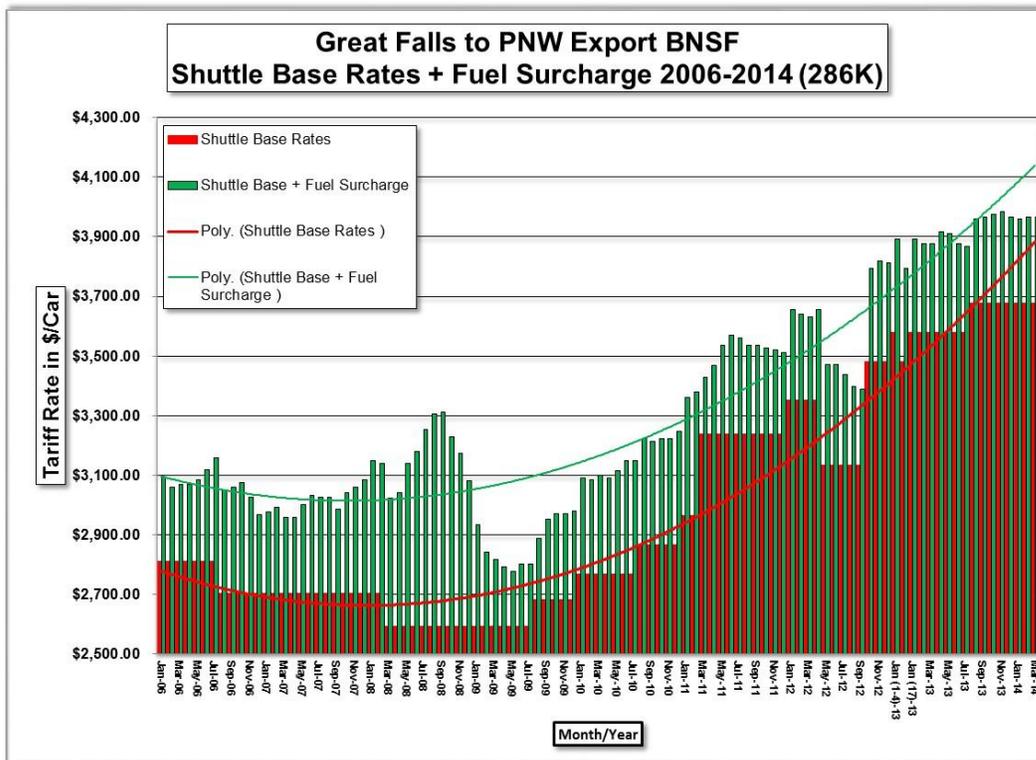
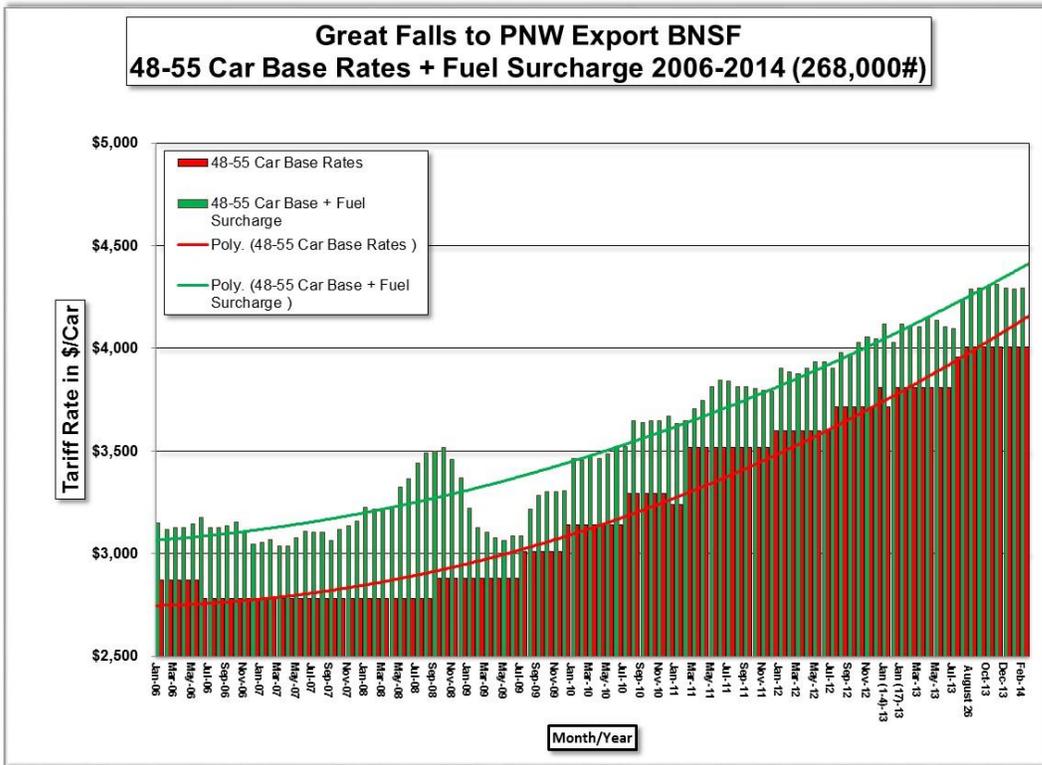
- In September 2013– as service issues continued to escalate -- BNSF told STB by letter and at the Car Supply meeting that it did not see any problems handling this year's business
- In October 2013 – as service issues continued to escalate – BNSF stated that the wheat harvest (which comes every year) was straining the system
- In November 2013– as service issues continued to escalate – BNSF started to talk about service issues causing locomotive/power issues while also publicly stating they are gearing up to move up to 1,000,000 barrels/day from Bakken oil fields.
- In November and December 2013 – as service issues continued to escalate – BNSF, blaming a greater than normal corn crop, stated that service issues may continue until late spring, while other experts were predicting a multi-year problems
- In January 2014 – as service issues continued to escalate – BNSF, blaming cold weather, stated that service problems may continue into summer
- In March 2013 - as service issues continued to escalate – BNSF said look for service disruptions to continue through 2014.
- Analysis of Export Coal and Domestic Oil movements westbound outlined in Heavy Traffic Still Ahead (www.heavytrafficahead.org) , as testified to in the Montana Farmers Union testimony, verify capacity issues for the

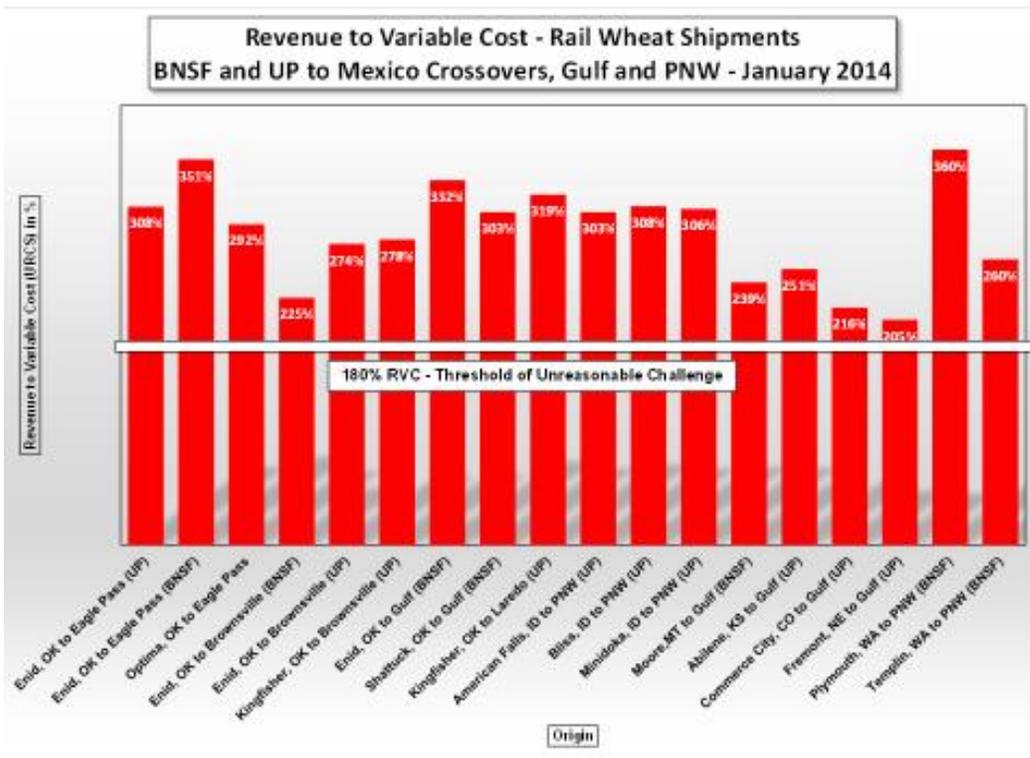
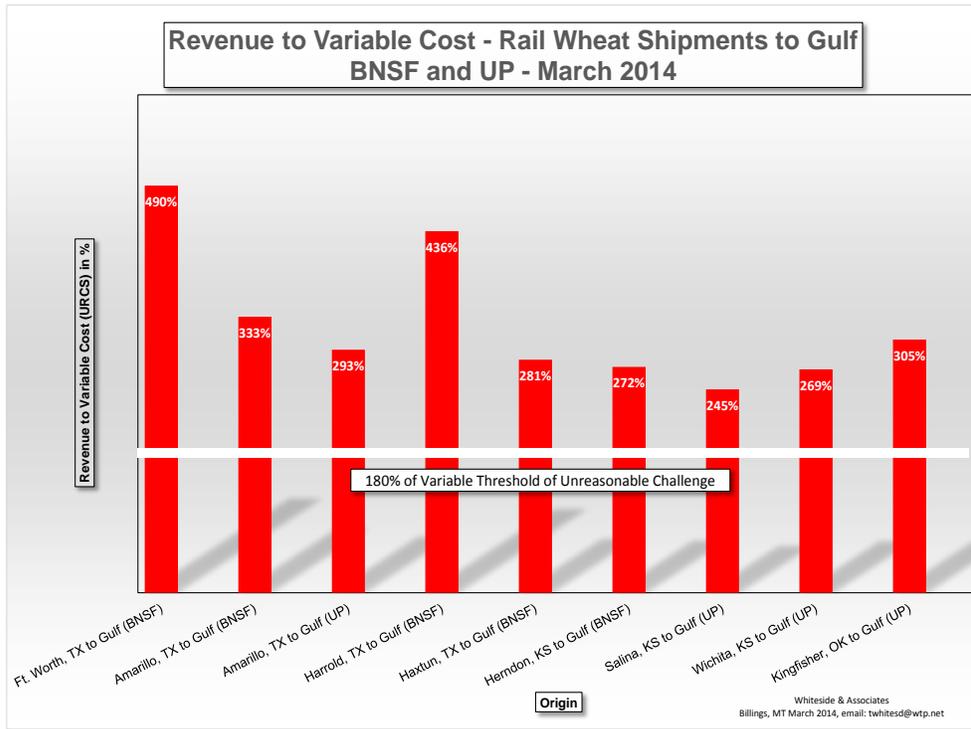
next 5-10 years as the BNSF ramps up to handle large increases in Coal and Oil westbound.

48 Car Marriage Rule - August 26, 2014 – BNSF issued a rule requiring all 48-55 car shippers of wheat to contact their competitors and identify another 48-55 car shipment going to the same location at the same to ‘marry’ up with their shipments. The alternative is to be charged single-car rates for 48-55 car trainloads.

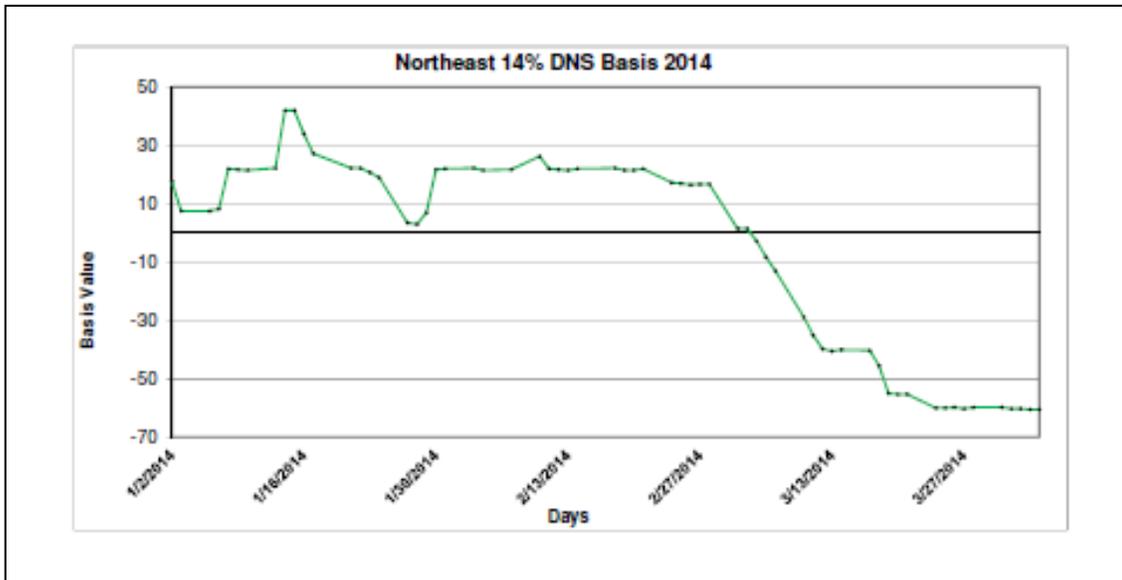
The effect is to arbitrarily cut off the ability of smaller (non-shuttle) elevators to utilize the 48-55 car rates or to require them to coordinate with their long-time competitors to ship to the same locations at exactly the same time.

Rail Rates on Grain at All-Time Highs





Basis on Wheat in Montana has continue
to widen consistently during this crisis



Source: Montana Wheat and Barley Committee

Coal Companies:

- ★ BNSF is dictating to coal companies how much inventory they can keep at their individual generating stations – “Unless your numbers (inventory or dead piles) are in single digit days, don’t bother ordering more trains.”
- ★ Coal shippers continue to see the rail service meltdown as negatively affecting their operations of producing power – many power plants are faced with trying to save their stockpiles for the upcoming heavy power usage months of the summer, by reducing current generation and trying to make up shortfall power needs through purchases on the grid.

Ethanol Companies

- ★ Conversations with SD ethanol companies show that several ethanol producers are days away from closing, or already have shut down due to lack of rail transportation of the ethanol they produce
- ★ Midwest ethanol producers — who often can store no more than 10 days' worth of production on site — are finding their tanks full as railroad pickups slow.

Canadian Situation:

- ★ As of March 25, the Canadian railways were 70,000 cars behind and there were 39 vessels waiting for grain at the West Coast — 28 in Vancouver and 11 at Prince Rupert
- ★ Canadian wheat farmers had a better than expected wheat harvest
- ★ Real possibility that 2013-2014 crop will not be moved before the 2015. That is very disconcerting to wheat farmers - carryover estimates run as high as 28+ million bushels
- ★ Shipper issues: Falling grain prices, widening basis, creating cash flow crunch, driving the spreads apart, storage bins are full
- ★ Grain company issues: widening basis, paying vessel demurrage on late rail deliveries to port, paying contract extension costs, lost opportunities
- ★ Vessels days in Vancouver are up 47% (6.6 days in 2011-2012 to 9.7 days in 2012-2013)

★ Rail Company issues: Enhanced revenue, focus on revenue entitlement, long term capacity, other commodities have priorities, cold weather issues with train operations, railroads resist regulatory moves to increase shipments

★ Canadian wheat producers are starting to move Canadian grain to BNSF Hi-Line – creating more capacity problems on U.S. side

★ Provincial Task Force on Grain Transportation March 12 action focused on making sure Manitoba farmers get their fair share of rail cars.

★ CP Rail head Hunter Harrison confirmed what grain shippers have long feared — the railroads view grain as something they can move now or move later.

Speaking to a Wall Street audience March 12, 2014, Harrison said bulk shipments, including grain, were “modestly” affected by the severe winter, but his railway did well moving container traffic.

“Because that’s one commodity that we’re sensitive to,” the Globe and Mail quoted Harrison as saying. “If you miss, you miss. It’s not like grain or it’s not like coal, (where) if you’re a little bit late you’re still going to haul it. If that (intermodal) trailer comes in Friday night and you’re not able to handle it, it’s probably not going to be there Monday.”

★ Canadian government officials have instituted mandatory delivery quotas of 11,000 cars per week on CP/CN (5,500 cars per railroad), backed up by fines of \$100,000 cdn per day. Appear to be working on further solutions

SUMMARY

On March 21st BNSF was 16,671 cars behind – 23.4 days. The states of greatest backlog are North Dakota, Montana, South Dakota and Minnesota – areas where the BNSF has the greatest market power to dominate the rail traffic.

Outlook – 2015 and Beyond

★ It is probably too early to tell if the 2013-2014 crops will be moved or carried over to the time the 2014-2015 crops need to be put in the bins but all indications are that a large amount of the 2013-2014 crop will be carried over to 2015..

★ Estimated PNW new traffic of export coal and domestic oil will add between 116 million to 166 million tons of freight into the PNW – which is above the current capacity of the rail systems (50 million tons coal + 66 million tons of oil up to 100 million tons of coal + 66 million tons of oil within 5 to 10 years)

★ This growth in traffic and the associated necessary rail expansion will lead to continuing capacity issues for the next 5 to 10 years.

REQUEST:

★ Shippers need to be treated fairly – captive and non-captive. Railroads are not like other private companies. Rather, they have a federally granted franchise that is greatly affected with the public interest and railroads are required to serve all customers fairly with under their statutory common carrier obligation.

★ We need the STB to issue service orders to **ensure fairness in the allocation of cars and locomotive power** throughout the BNSF service area. We need to have transparency in this process and above all the shippers need a Department of Straight Answers at the railroads.

★ Consideration should be given to opening up the constricted systems to increased access by other rail carriers to provide the power and cars to move product

★ We respectfully request that this STB keep the record open for several days in order to allow the filing of comments by interested parties who could not attend this hearing.

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Respectfully submitted,



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