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BEFORE THE SURFACE TRANSPORTATION BOARD

STB Ex Parte 677 (Sub-No. 1)

COMMON CARRIER OBLIGATION OF RAILROADS

TRANSPORTATION OF HAZARDOUS MATERIALS

**SUBMISSION OF LEE FRANKEL ON BEHALF OF UNITED POTATO
GROWERS OF AMERICA**

August 21, 2008

**Surface Transportation Board
Attn STB Ex Parte No 677 (Sub-No. 1)
395 E Street, S.W
Washington, D C 20423-0001**

Dear Sir/Madam

The United Potato Growers of America (UPGA) submits these comments in response to the notice of public hearing in Ex Parte 677 (Sub-No 1), Common Carrier Obligation of Railroads – Transportation of Hazardous Materials, July 22

UPGA was created under the provisions of the Capper-Volstead Act that was enacted in 1922 by Congress to allow growers to work collectively to market their products. At this time, UPGA members are in California, Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, Texas, Washington and Wisconsin

We are concerned over the railroads' desire to be relieved of their common carrier obligation because of materials they transport that are toxic-by-inhalation such as anhydrous ammonia. Anhydrous ammonia is a vital and essential plant nutrient that is critical to the nation's food supply. Rail is the safest and most efficient method for transporting this critical agricultural product.

The railroads' common carrier obligation, codified by Congress in the Interstate Commerce Act in 1967 and reaffirmed by Congress in the Staggers Act, clearly shows that Congress intended to keep the railroads from picking and choosing which shippers to serve and which commodities to transport based purely upon their self interest. While the STB may have an advisory role in making recommendations to Congress on railroad common carrier obligation, only Congress has the authority to change this obligation

Anhydrous ammonia is an essential agricultural nutrient used to grow our nation's food supply. With increased concern over escalating food prices, as well as food shortages around the world, it is critical that American potato growers have anhydrous ammonia when and where they need it. Without anhydrous ammonia, U S farmers would be unable to produce the amount, or quality of food the world has come to rely on. Anhydrous ammonia is the least costly and most effective

source of nitrogen fertilizer for U S farmers. In addition to its direct application as a fertilizer, anhydrous ammonia is the primary ingredient in all other nitrogen fertilizers and is also used to produce phosphate fertilizers

Agricultural infrastructure in many parts of the country was built around the use of anhydrous ammonia. It has taken many years of careful planning and development to create a safe and sophisticated infrastructure to deliver anhydrous ammonia to the most rural areas and farms in the U S. Today's infrastructure, and in turn our nation's food production system, simply would not be able to handle a shift of anhydrous ammonia away from rail.

Rail is often the only alternative to trucks for the overland transportation of anhydrous ammonia. One tank car can transport as much anhydrous ammonia as four trucks. Rail transportation is not only more efficient than truck transportation; it also takes a highly hazardous commodity off our nation's highways where the potential for accidents and public release are many times greater.

Thank you for considering our comments.

Respectfully submitted,

Lee Frankel
President
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