THE FERTILIZER INSTITUTE

June 2, 2021

The Honorable Martin J. Oberman
Chairman
Surface Transportation Board
Washington, DC 20423

The Honorable Robert E. Primus
Vice Chairman
Surface Transportation Board
Washington, DC 20423

The Honorable Ann D. Begeman
Board Member
Surface Transportation Board
Washington, DC 20423

The Honorable Patrick J. Fuchs
Board Member
Surface Transportation Board
Washington, DC 20423

The Honorable Michelle A. Schultz
Board Member
Surface Transportation Board
Washington, DC 20423

Via Electronic Mail Re: Rail Service in North America

Dear Chairman Oberman, Vice Chairman Primus and Board Members Begeman, Fuchs, and Schultz:

I write on behalf of The Fertilizer Institute (TFI) to thank you for your interest and oversight of rail service challenges, including your May 27 letters to the Class I carriers. Rail service challenges can negatively impact TFI's members and have been particularly acute in recent months with CSX Transportation, Inc. (CSX).

TFI represents companies that are engaged in all aspects of the fertilizer supply chain in the United States. Fertilizer is a key ingredient in feeding a growing global population, which is expected to surpass 9.5 billion people by 2050. Our industry is essential to ensuring that American farmers receive the nutrients they need to enrich the soil and, in turn, grow the crops that feed our nation and the world. The fertilizer industry supports nearly 500,000 high-quality American jobs and has an economic benefit of more than $130 billion annually. Half of crop yields are attributable to fertilizer, hence its importance to farmers and food production.

Most fertilizer (56 percent) moves by rail throughout the year. For the past several months, CSX has had serious rail service problems hindering the fertilizer industry's ability to serve its farmer customers. Unfortunately, it is unclear when and if the following problems will be resolved.

General services problems

- Crew shortages
  - Appears CSX has cut too much in terms of crews. It is trying to manage by bringing back the bare minimum.

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  - CSX showcases to investors its operating ratio, which is achieved by cutting costs, including manpower, and days servicing its customer. The current service failures are the consequence of a company focused on meeting Wall Street expectations instead of its customers.
  - CSX may be ramping up to hire more, but it can take six months to fully train new operators.
- Power availability has been increasing slowly but continues to be hampered by lack of crews. Power is out of position due to the crew issue. In railroad terms, CSX is unbalanced. There are locomotives in storage, but they do not have the manpower to bring them back into service.
- Internal administrative issues have also been impacting service. Billing delays and errors resulting in delayed lifts have become a regular occurrence.
- Overall transit times are now 2-4 days longer than typical.
- Cars are ordered incorrectly, the problem gets fixed, but then a car does not depart a railyard for nearly a month.
- Sudden reductions in service from five times a week to once a week.
- Receiver with 50 cars offloaded at a river junction having to move goods by truck due to poor or non-existent rail service. CSX failed to provide scheduled rail service to pull loaded cars for more than 30 days at a CSX river terminal/origin for a CSX fertilizer receiver.
- A rail receiver of fertilizer was unable to have rail shipments from river origin 30 days.
- Lack of rail service is leading to automated demurrage bills for certain shippers who cannot fully manage the backup and bunching of cars in overloaded rail yards.

<u>State specific examples of service level impacts:</u>

- *Indiana & Ohio*
  - Routings to non-typical locations due to congestion at major points (Chicago).
  - Significant service failures due to power and crew availability.
  - Dwell increasing 2-3 days on average, up to 5-7 total.
  - Lack of service and regularly missed switches at receiver locations leading customers to not have product available for farmers.
- *Virginia & Kentucky*
  - 2-3 days additional transit due to congestion.
- *North Carolina*
  - Dwell increasing by 1-2 days.
- *Tennessee*
  - Dwell increasing by 1-2 days, now 3-4 days total.
- *Florida/Georgia*
  - Unit train moves delayed an additional 1-2 days, increasing to 3-4 days total dwell.
  - Manifest dwell increased by 1-2 days, now in the ~5-day range.
- *Alabama*
  - Dwell increases of 1-2 days, now in the ~5-day range.
  - A car shipped in January was recently (just) delivered with ruined cargo because it sat and absorbed water damage.
  - Local rail yard exercising first in last out service.
- *New Orleans/Birmingham*
  - Interchanges in New Orleans and Birmingham are a calamity with cars sitting 5-10 days.

- ***New Orleans/Florida***
    - Service delays from New Orleans to Florida.
- ***New Orleans (Michoud, LA)***
    - Car delivery times went for 12-14 days to 21 or more. Possibly related to work crews furloughed and not returning to work.

The fertilizer industry has positive working relationships with the rail industry. We rely upon the rail industry year-round to feed the crops that feed the world. With limited competitive shipping options and approximately two-thirds of all railway stations served by one railroad, the fertilizer industry increasingly relies on the Surface Transportation Board's (STB or Board) oversight. In the aftermath of wide-spread implementation of Precision Scheduled Railroading (PSR), it may be that the rail industry is trying to do too much with too little. CSX -- like other Class I carriers -- has reduced its operating costs through a series of measures, including reductions in staff, such as train crews. We have all had some surprises in the past year, but a rebound of shipping volumes should not be one of them.

TFI continues to advocate for a system where railroads are encouraged to proactively work to prevent service disruptions before they happen. But in addition, railroads must be discouraged from implementing cost-cutting measures that lead to service disruptions and/or impair their ability to recover from such disruptions by being held accountable for their decisions. Along these lines, TFI suggests the following:

- Enhanced oversight of CSX: While we understand CSX is trying to fix its network, *TFI urges the Board to conduct enhanced oversight to ensure it is successfully done as quickly as possible*.

- Better service through enhanced competition: *TFI urges the Board to consider measures that minimize government oversight by promoting competition*. When there is competition in the transportation sector, these types of service problems are addressed through normal market conditions because shippers have options to switch to another carrier than can fulfill their transportation needs. Less government intervention would be required if there was more rail-to-rail competition. This will benefit the rail marketplace and the American businesses and workers who depend on a safe and efficient transportation network.

- Accountability for common carrier rail service obligations: Unfortunately, the lack of competition in the rail sector, which is unique, requires government oversight. Currently, however, there are few consequences to a railroad when service failures occur; instead, captive rail customers bear the brunt of those failures with little or no remedies. Unless and until the STB imposes clear and unequivocal responsibility upon railroads for their service failures, those railroads remain free to adopt operating plans that increase the potential for adverse service consequences with little to no risk to them. TFI acknowledges that the Board cannot regulate contracts; but how the Board deals with common carrier service failures would establish a baseline for future contract service terms. Therefore, *TFI asks the Board to establish threshold common carrier service standards below which railroads are presumptively liable for damages that shippers incur due to service failures*.

Finally, as a general concern, CSX's recent service challenges follows concerns expressed by the Board and U.S. Department of Transportation regarding anticipated increases to freight volumes to which CSX assured regulators that service was and would remain strong. This most recent service meltdown increasingly normalizes poor rail service for rail customers across the country. If we do not promote greater competition and accountability, this could become a new "normal." Rail carriers should be subject to punitive damages when they fail to meet acceptable service obligations.

Thank you again for your ongoing oversight of rail service challenges. For more information, please reach out to Justin Louchheim of my staff at jlouchheim@tfi.org or 202-515-2718.

Sincerely,

Corey Rosenbusch
President and CEO
The Fertilizer Institute

Cc: The Honorable Pete Buttigieg, Secretary, U.S. Department of Transportation
The Honorable Tom Vilsack, Secretary, U.S. Department of Agriculture
Senate Committee on Commerce, Science, and Transportation
House Committee on Transportation and Infrastructure