

*Surface Transportation Board
Washington, D.C. 20423-0001*

Office of Economics

June 24, 2020

Mr. Owen Wagner
North Carolina Soybean Producers Association
211 E Six Forks Rd.
Suite 102
Raleigh, N.C. 27609

Re: Waybill Request WB20-23

Dear Mr. Wagner:

This letter responds to your request under 49 C.F.R. § 1244.9(c) of May 28, 2020 on behalf of the North Carolina Soybean Producers Association (NC Soybean) for access to the unmasked Confidential Carload Waybill Samples (CCWS). Specifically, you requested data with Standard Transportation Commodity Codes beginning with 011 and 209 from the years 1990-2018, limited to movements terminating in Virginia, North Carolina, and South Carolina. You requested the data “[t]o accurately determine what grain basis in the state [North Carolina] should look like.” Notice of your request was published in the Federal Register on June 3, 2020. The Association of American Railroads (AAR) filed an objection to this request on June 17, 2020 arguing that NC Soybean has not provided a reasonable explanation for the need for this information.

Having carefully considered your letter and AAR’s objections, I am denying your request. The Surface Transportation Board (Board) and its predecessor, the Interstate Commerce Commission, have long been sensitive to the potential harm to both shippers and railroads that could arise from disclosure of confidential data contained in the Waybill Sample. Confidential contract rate information contained in the Waybill Sample is considered particularly competitively sensitive by shippers and railroads alike, as the Board’s governing statute generally proscribes the release of contract, rate, and other information “that may be used to the detriment of the shipper . . . or may disclose improperly, to a competitor, the business transactions of the shipper.” 49 U.S.C. § 11904(b) (providing that such information may not be released by railroads or Board employees except as specifically authorized). Indeed, as AAR points out, the Board’s procedures for making available summaries of agricultural transportation contracts do not require the public disclosure of agricultural contract rates. See 49 U.S.C. § 10709(d)(1); 49 C.F.R. Part 1313.

Your request, on behalf of an organization representing North Carolina soybean growers, seeks disclosure of confidential rail contract, rate, and other information for competing growers of soybeans located in other states. You appear to be seeking confidential information on the costs incurred by soybean growers who compete with your members so that your members will be able to use that information in setting their own prices or otherwise participating in the commercial market. The potential for competitive harm to these other growers from the disclosure of their confidential business information to a group of competing North Carolina growers is significant. Therefore, I conclude that release of the requested data to NC Soybean for your stated purpose could compromise competitively sensitive data.

Pursuant to 49 CFR § 1244.9 (d)(4)(iii), you may appeal this determination within 10 days of the date of this letter.

Waybill Request WB20-23

Sincerely,

William Brennan

William Brennan
Director
Office of Economics