

217994

BEFORE THE
SURFACE TRANSPORTATION BOARD

EX PARTE No. 665
RAIL TRANSPORTATION OF GRAIN

COMMENTS OF
NATIONAL GRAIN AND FEED ASSOCIATION

For November 2, 2006 Hearing

October 30, 2006

BEFORE THE
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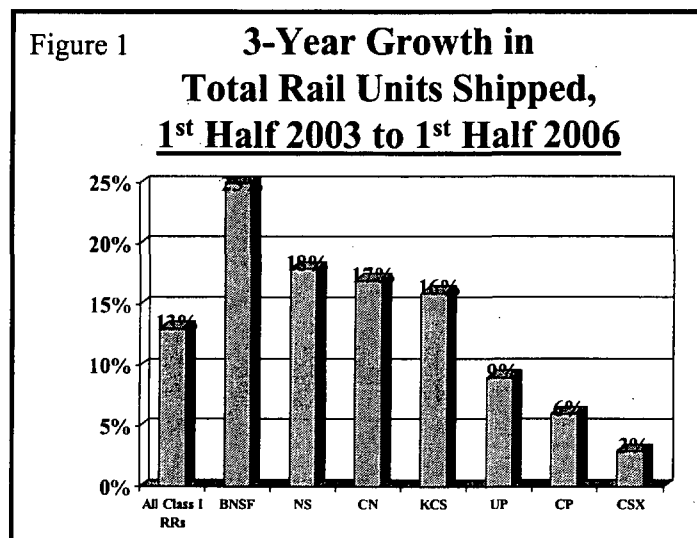
I. Introduction

National Grain and Feed Association (NGFA) is a national trade organization comprised of 900 member companies involved in country elevator operations, animal feed production, export grain operations, livestock feeding integrators, grain processing and grain and feed merchandising. We appreciate this opportunity to participate in this proceeding regarding the rail transportation of grain in North America.

On the basis of recent data, railroads carry about one-third of all commercial (off-farm) movements of whole grains and oilseeds. Barges account for roughly 20% of all grains and oilseed movements (mostly moving into export markets) and trucks account for the remainder of the commercial transportation market. While the rail modal share has declined over the last twenty-five years (in 1980 rail modal share was about 50% of total commercial movements), the rail-served markets today are generally for long-haul movements that have few, if any, competitive alternatives to rail.

Agricultural production, storage, shipping and processing locations form a network for delivery of grains, oilseeds and processed products from many points of origination to many destinations for further processing or consumption, with points of production and consumption frequently separated by distances of 500 to 1500 miles. This is the long-distance marketplace for agricultural commodities, for which there is no good substitute for reasonably reliable and competitively-priced rail service. Thus, many agricultural commodity shippers and commodity processors are highly dependent on railroads for efficient, predictable and cost-competitive rail service.

There is no doubt that in the last 3 years we have witnessed a North America-based rail industry that has gone from surplus capacity to one where capacity is strained and sometimes rationed among customers. Looking to Figure 1, comparing the first half of 2003 to the first half of 2006, there was a 13% growth in total rail units shipped on the Class I carriers, but the growth rates were very uneven, ranging from 3% on the CSX to 25% on the BNSF. What this graph does not indicate is how much additional rail business growth could have occurred had some carriers been able to accommodate additional rail service requests. (Data derived from carrier SEC filings.)



Growth in agricultural rail units for the same 3 years indicates a similar growth pattern for agricultural rail markets, as shown in Figure 2.

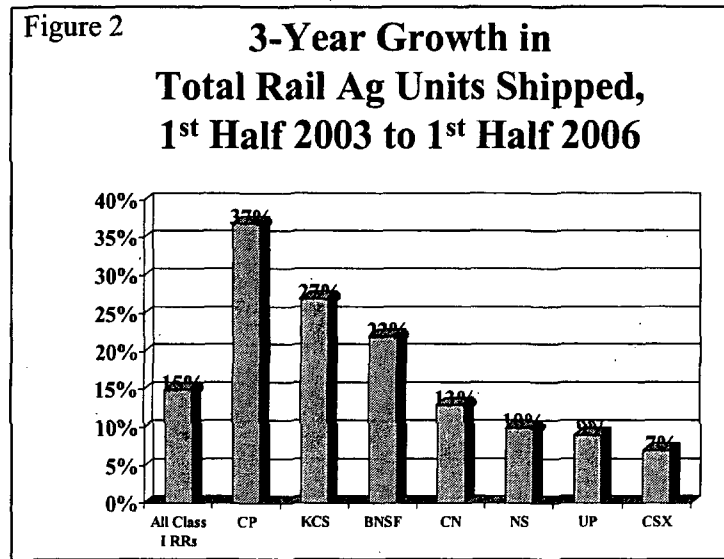


Figure 3 demonstrates that of the major classes of traffic, intermodal experienced the highest unit growth rate with a 19% increase in 3 years. And, industry-wide, agricultural shipments also experienced a healthy growth rate of 15%.

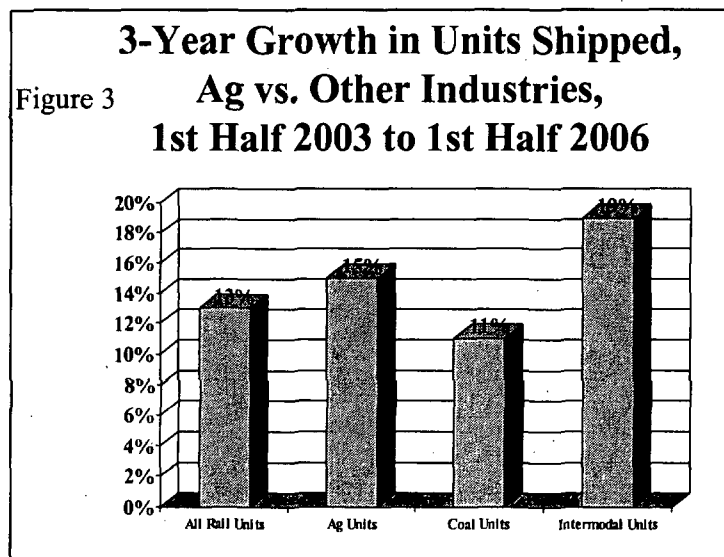
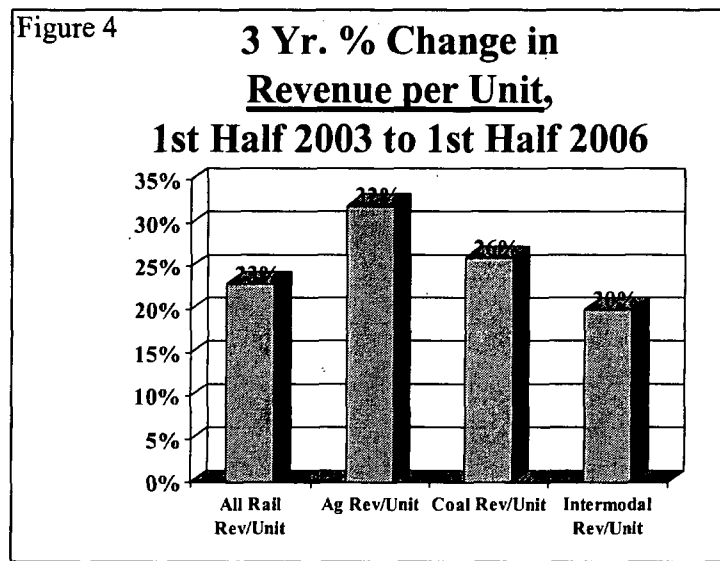


Figure 4 portrays revenue growth per unit. It shows that over the comparable time frame agriculture experienced one of the largest revenue per unit increases at some 32%. But there are some factors to keep in mind when reviewing revenue increases in Figure 4: 1) the data reflect total revenue per loaded car (or per unit in the case of intermodal), and therefore include not only the base rate but also fuel surcharge revenue increases; 2) the reported revenue does not include any of the costs of private car ownership, which have also been growing through much of this period with the tight rail capacity and higher steel prices; 3) comparing the increase in revenue for the agricultural sector with that for all rail units may be somewhat distorted by the increasing market share of intermodal which would reduce the “average unit” rail rate increase; and 4) revenue per unit may increase for reasons such as a shift in traffic from shorter to longer hauls (as conversely a shift to shorter hauls may underplay the actual rate increases that are occurring).



II. U.S. and Canadian System Differences and Rate Trends

The U.S. and Canadian rail systems have some fundamental differences that could affect both comparable rates and service levels. In Canada, carriers are subject to an overall revenue cap on some movements including some agricultural movements. This no doubt tends to temper rate adjustments. The U.S. has no such government-imposed revenue limitation on any type of traffic—agricultural or otherwise. The Canadian system also permits the use of baseball-style arbitration to resolve rate disputes, which has been used occasionally. Mandatory switching within 30 miles of a terminal is also required in Canada and may contribute to increased intramodal competition where it is effective. Figure 5 compares annual average rail rates per unit from 2000 to 2005 for the six largest Class I carriers.

Figure 5

Union Pacific		Average revenue per car/unit - (\$US)					
		2000	2001	2002	2003	2004	2005
Agriculture		1604	1660	1722	1786	1895	2233
Automotive		1450	1465	1477	1484	1496	1598
Chemicals		1752	1756	1742	1788	1839	2026
Energy		1116	1111	1083	1103	1107	1184
Industrial Products		1387	1402	1440	1476	1597	1868
Intermodal (units)		655	673	676	693	716	755

Union Pacific		Average revenue per car/unit increase year over year - (\$US)						5 year Ave.
		2000	2001	2002	2003	2004	2005	Change
Agriculture			3.5%	3.7%	3.7%	6.1%	17.8%	7.0%
Automotive			1.0%	0.8%	0.5%	0.8%	6.8%	2.0%
Chemicals			0.2%	-0.8%	2.6%	2.9%	10.2%	3.0%
Energy			-0.4%	-2.5%	1.8%	0.4%	7.0%	1.2%
Industrial Products			1.1%	2.7%	2.5%	8.2%	17.0%	6.3%
Intermodal (units)			2.7%	0.4%	2.5%	3.3%	5.4%	2.9%

Source: UP 2000-2005 Annual Reports

Figure 5 (Continued)

BNSF		Average revenue per car/unit - (\$US)						
	2000	2001	2002	2003	2004	2005		
Agriculture	1844	1849	1773	1757	1969	2326		
Industrial Products	1408	1442	1442	1497	1568	1836		
Coal	1053	995	988	989	1028	1094		
Consumer Products (units)	884	894	864	843	874	972		
BNSF		Average revenue per car/unit increase year over year - (\$US)						5 year Ave.
	2000	2001	2002	2003	2004	2005	Change	
Agriculture		0.3%	-4.1%	-0.9%	12.1%	18.1%	5.1%	
Industrial Products		2.4%	0.0%	3.8%	4.7%	17.1%	5.6%	
Coal		-5.5%	-0.7%	0.1%	3.9%	6.4%	0.9%	
Consumer Products (units)		1.1%	-3.4%	-2.4%	3.7%	11.2%	2.0%	

Source: BNSF 2000-2005 Annual Reports

Source: BNSF 2000-2005 Annual Reports

Canadian Pacific		Average revenue per car/unit - (\$CDN)						
	2000	2001	2002	2003	2004	2005		
Agriculture	2150	2186	2169	2087	2152	2320		
Automotive	1747	1829	1866	1717	1680	1773		
Industrial Products	1531	1559	1552	1540	1509	1685		
Coal	1233	1250	1258	1235	1342	2069		
Intermodal (units)	865	876	877	889	924	1019		
Forest Products	2041	2065	2068	2002	2009	2172		
Fertilizer and Sulphur	2308	2239	2301	2208	2172	2216		
Canadian Pacific		Average revenue per car/unit increase year over year - (\$CDN)						5 year Ave.
	2000	2001	2002	2003	2004	2005	Change	
Agriculture		1.7%	-0.8%	-3.8%	3.1%	7.8%	1.6%	
Automotive		4.7%	2.0%	-8.0%	-2.2%	5.5%	0.4%	
Industrial Products		1.8%	-0.4%	-0.8%	-2.0%	2.0%	0.1%	
Coal		1.4%	0.6%	-1.8%	8.7%	54.2%	12.6%	
Intermodal (units)		1.3%	0.1%	1.4%	3.9%	10.3%	3.4%	
Forest Products		1.2%	0.1%	-3.2%	0.3%	8.1%	1.3%	
Fertilizer and Sulphur		-3.0%	2.8%	-4.0%	-1.6%	2.0%	-0.8%	

Source: CP 2000-2005 Annual Reports

Source: CP 2000-2005 Annual Reports

CN Railroad	Average revenue per car/unit - (\$CDN)					
	2000	2001	2002	2003	2004	2005
Agriculture (Grain and Fert)	2004	1968	1843	1716	1842	1977
Automotive	1715	1711	1858	1823	1729	1842
Metals and Minerals	1531	1596	1343	1331	891	842
Coal	621	654	653	643	662	739
Intermodal (units)	820	879	850	863	929	1018
Forest Products	2074	2172	2205	2136	2220	2441
Petro and Chemical	1746	1778	1877	1796	1777	1845

CN Railroad	Average revenue per car/unit increase year over year - (\$CDN)						5 year Ave.
	2000	2001	2002	2003	2004	2005	Change
Agriculture		-1.8%	-6.4%	-6.9%	7.3%	7.3%	-0.1%
Automotive		-0.2%	8.6%	-1.9%	-5.2%	6.5%	1.6%
Industrial Products		4.2%	-15.9%	-0.9%	-33.1%	3.8%	-8.3%
Coal		5.3%	-0.2%	-1.5%	3.0%	11.6%	3.6%
Intermodal (units)		7.2%	-3.3%	1.5%	7.6%	9.6%	4.5%
Forest Products		4.7%	1.5%	-3.1%	3.9%	10.0%	3.4%
Fertilizer and Sulphur		1.8%	5.6%	-4.3%	-1.1%	3.8%	1.2%

Source: CN 2000-2005 Annual Reports

Source: CN 2000-2005 Annual Reports

Figure 5 (Continued)

CSX		Average revenue per car/unit - (\$US)					
		2000	2001	2002	2003	2004	2005
Agricultural Products		1337	1346	1366	1444	1438	1541
Metals		1183	1238	1257	1250	1345	1579
Phosphates and Fertilizers		650	693	699	715	724	791
Chemicals		1763	1770	1814	1825	1895	2043
Food and Consumer		1312	1337	1339	1444	1539	1759
Coal		931	970	971	983	1033	1154
Automotive		1483	1539	1571	1612	1647	1730
Paper and Forest		1256	1387	1335	1334	1465	1633
CSX		Average revenue per car/unit increase year over year - (\$US)					
		2000	2001	2002	2003	2004	2005
Agricultural Products			0.7%	1.5%	5.7%	-0.4%	7.2%
Metals			4.6%	1.5%	-0.6%	7.6%	17.4%
Phosphates and Fertilizers			6.6%	0.9%	2.3%	1.3%	9.3%
Chemicals			0.4%	2.5%	0.6%	3.8%	7.8%
Food and Consumer			1.9%	0.1%	7.8%	8.6%	14.3%
Coal			4.2%	0.1%	1.2%	5.1%	11.7%
Automotive			3.8%	2.1%	2.6%	2.2%	5.0%
Paper and Forest			10.4%	-3.7%	-0.1%	9.8%	11.5%
							5 year Ave. Change
							2.9%
							6.1%
							4.1%
							3.0%
							6.2%
							4.5%
							3.1%
							5.6%

Source: CSX 2000-2005 Annual Reports

Norfolk Southern		Average revenue per car/unit - (\$US)					
		2000	2001	2002	2003	2004	2005
Agricultural Products		1160	1185	1228	1238	1278	1455
Coal		850	897	895	929	1022	1219
Automotive		1331	1423	1450	1450	1503	1620
Metals		1160	1185	1228	984	1048	1231
Chemicals		1668	1742	1773	1815	1927	2176
Forest Products		1285	1357	1378	1431	1524	1729
Intermodal (units)		499	507	502	502	531	579
Norfolk Southern		Average revenue per car/unit increase year over year - (\$US)					
		2000	2001	2002	2003	2004	2005
Agricultural Products			2.2%	3.6%	0.8%	3.2%	13.8%
Coal			5.5%	-0.2%	3.8%	10.0%	19.3%
Automotive			6.9%	1.9%	0.0%	3.7%	9.0%
Metals			2.2%	3.6%	-19.9%	6.5%	17.5%
Chemicals			4.4%	1.8%	2.4%	6.2%	12.9%
Forest Products			5.6%	1.5%	3.8%	6.5%	13.5%
Intermodal (units)			1.6%	-1.0%	0.0%	5.8%	9.0%
							5 year Ave. Change
							4.7%
							7.7%
							4.3%
							2.0%
							5.5%
							6.2%
							3.1%

Source: NS 2000-2005 Annual Reports

- The average annual rate change (denominated in Canadian dollars) for agricultural products was in fact lower for the more regulated Canadian Carriers, CN (-0.1%) and the CP (1.6%) than for U.S. based railroads: UP (7.0%), BNSF (5.1%), CSX (2.9%), and NS (4.7%).
- Rate increases across all carriers were modest in 2000-2002, and rate declines were not unusual. Beginning in 2003, both rates and fuel surcharges began contributing to escalating revenues on many carriers, with double digit annual changes occurring with some frequency.
- Agricultural traffic is highest in volume on western U.S.-based carriers, BNSF and UP. Rate increases for agricultural traffic over this period on those two carriers tended to be among the highest across the various classes of service. Are these trends continuing in 2006? Comparing financial reports for the first 9 months of 2006 vs. 2005, revenue per agricultural unit on the BNSF is up 9% on agricultural products compared with an average of 10% revenue increase for all traffic. For the UP, revenue per agricultural unit is up 17%, compared with a 12% increase for the average unit across all traffic. Agricultural volume handled in the same most recent 9-month period is 4.6% higher for the UP and 6.5% for the BNSF, compared with the first 9 months of 2005.

III. The Trends Observed by GAO Continued for Agricultural Products Through 2005

Pursuant to a request for confidential waybill data, our outside cost consultant and counsel have examined the 2005 confidential waybill file released by the Board for the purpose of this proceeding. The information that follows is derived from that sample,

aggregated to the three shipper level as required by the Board's rules. Where there was any doubt about whether the waybill sample contained sufficient records to meet the three shipper aggregation requirements, the questionable data has been excluded from the study. Further, it should be noted that the waybill data made available to us may not be congruous with that relied upon by GAO, as it is our understanding that GAO had access to unmasked data whereas NGFA's consultant did not.

Figure 6

**SUMMARY OF RAILROAD MOVEMENTS OF
REGULATED FARM PRODUCTS (STCC 01)
INCLUDED IN THE 2005 WAYBILL SAMPLE**

<u>Item</u>	<u>Tons</u>	<u>Average Miles</u>	<u>Revenue</u>	<u>% Total Revenue</u>	<u>R/VC</u>
Wheat >300% R/VC	4,684,505	554.8	\$140,900,154	3.89%	356.41%
<u>Wheat >180% to <300% R/VC</u>	<u>23,907,813</u>	<u>810.7</u>	<u>\$617,470,437</u>	<u>17.05%</u>	<u>227.78%</u>
Wheat >180% R/VC	28,592,318	768.8	\$758,370,591	20.94%	244.15%
 Corn >300% R/VC	 4,499,360	 367.1	 \$95,744,319	 2.64%	 365.28%
<u>Corn >180% to <300% R/VC</u>	<u>19,541,866</u>	<u>809.5</u>	<u>\$494,666,939</u>	<u>13.66%</u>	<u>218.53%</u>
Corn >180% R/VC	24,041,226	726.7	\$590,411,258	16.30%	233.76%
 Soybeans >300% R/VC	 785,705	 712.9	 \$30,075,247	 0.83%	 375.00%
<u>Soybeans >180% to <300% R/VC</u>	<u>4,239,463</u>	<u>959.0</u>	<u>\$113,254,968</u>	<u>3.13%</u>	<u>210.69%</u>
Soybeans >180% R/VC	5,025,168	920.5	\$143,330,215	3.96%	232.02%
 Barley >300% R/VC	 297,364	 78.5	 \$4,194,632	 0.12%	 411.75%
<u>Barley >180% to <300% R/VC</u>	<u>1,498,380</u>	<u>431.0</u>	<u>\$30,527,372</u>	<u>0.84%</u>	<u>222.48%</u>
Barley >180% R/VC	1,795,744	372.6	\$34,722,004	0.96%	235.57%
 Sorghum >300% R/VC	 194,754	 393.8	 \$3,433,082	 0.09%	 364.48%
<u>Sorghum >180% to <300% R/VC</u>	<u>1,163,435</u>	<u>775.6</u>	<u>\$23,330,899</u>	<u>0.64%</u>	<u>210.71%</u>
Sorghum >180% R/VC	1,358,189	720.9	\$26,763,981	0.74%	222.76%
 Oats >300% R/VC	 32,332	 276.9	 \$582,977	 0.02%	 336.45%
<u>Oats >180% to <300% R/VC</u>	<u>98,688</u>	<u>273.9</u>	<u>\$1,663,160</u>	<u>0.05%</u>	<u>216.55%</u>
Oats >180% R/VC	131,020	274.6	\$2,246,137	0.06%	238.62%
 Sunflower Seeds >180% R/VC	 31,424	 677.9	 \$1,986,036	 0.05%	 230.15%
Grain NEC >180% R/VC	134,812	156.4	\$1,664,796	0.05%	214.39%
Rice >180% R/VC	22,212	686.4	\$656,172	0.02%	200.99%
<u>Rye >180% R/VC</u>	<u>22,804</u>	<u>62.3</u>	<u>\$130,180</u>	<u>0.00%</u>	<u>227.16%</u>
Other Farm Products >180% R/VC	211,252	279.5	\$4,437,184	0.12%	219.31%
 Total Reg. STCC 01 >300% R/VC	 10,494,020	 468.8	 \$274,930,411	 7.59%	 362.23%
<u>Total Reg. STCC 01 >180% to <300%</u>	<u>50,660,897</u>	<u>807.4</u>	<u>\$1,285,350,959</u>	<u>35.49%</u>	<u>222.08%</u>
Total Reg. STCC 01 >180% R/VC	61,154,917	749.3	\$1,560,281,370	43.08%	238.33%
 Total Reg. STCC 01 <180% R/VC	 92,579,025	 1,135.1	 \$2,061,779,174	 56.92%	 133.33%
 Total US to US Reg. STCC 01 Traffic	 153,733,942	 981.6	 \$3,622,060,544	 100.00%	 164.56%

* Prepared by G.W. Fauth & Associates, Inc. based on the STB's 2005 Waybill Sample
Regulated STCC 01 Commodities include: Barley (STCC 01-131), Corn (STCC 01-132)

Oats (STCC 01-133), Rice (STCC 01-134) Rye (STCC 01-135), Sorghum (STCC 01-136), Wheat (STCC 01-137),
Grain, NEC (STCC 01-139), Soybeans (STCC 01-144) and Sunflower Seeds (STCC 01-149-40).
Excludes STCC 01 Intermodal, Box Car, Exempted Commodities and movements to and from Canada and Mexico

The term “regulated” in the caption of Figure 6 means that the commodities captured from the 2005 waybill sample are those that have not been exempted from direct STB regulation. The captions of most of the columns should be self-evident, with the possible exception of the column entitled “% Total Revenue,” which refers to the percentage of total revenue, regulated and unregulated. For example, wheat moving at rates that are greater than 300 percent of variable costs accounts for 3.89 percent of all grain revenue.

Because NGFA does not have access to the waybill data for the same period of time reviewed by GAO, NGFA cannot do more than suggest that the 2005 waybill data supports GAO’s conclusion that grain rates continue to be high and continue to demonstrate a high incidence of revenue to variable cost ratios over 180 percent. 43.08 percent on a revenue basis of all grain movements are over 180 percent of variable cost. Wheat and corn produce the highest percentage of traffic falling into that category. Regulated farm products moving at rates in excess of 180 percent of variable costs produced \$1.56 billion in revenue. Over seven percent of farm product revenue was in excess of 300 percent of variable cost.

Figure 7 performs the same type of analysis as found in Table 6 on major grain products.

Figure 7

SUMMARY OF RAILROAD MOVEMENTS OF
SELECTED REGULATED RELATED PRODUCTS *
INCLUDED IN THE 2005 WAYBILL SAMPLE

<u>Item</u>	<u>Tons</u>	<u>Average Miles</u>	<u>Railroad Revenue</u>	<u>% Total Revenue</u>	<u>R/VC</u>
<u>Grain Mill Products</u>					
Grain Mill Products >300% R/VC	1,758,230	327.7	\$56,724,891	6.85%	370.27%
<u>Grain Mill Product >180% to <300%</u>	<u>7,013,663</u>	<u>587.1</u>	<u>\$200,166,851</u>	<u>24.18%</u>	<u>221.15%</u>
Grain Mill Products >180% R/VC	8,771,893	535.1	\$256,891,742	31.03%	242.74%
Grain Mill < 180% R/VC	27,955,877	851.4	\$570,858,751	68.97%	117.94%
Total Grain Mill Products	36,727,770	775.9	\$827,750,493	100.00%	140.33%
<u>Soybean Oil and Products</u>					
Soybean Oil and Products >300% R/VC	760,092	258.0	\$17,891,696	2.82%	353.84%
<u>Soybean Oil & Prod. >180% to <300%</u>	<u>5,285,680</u>	<u>664.9</u>	<u>\$160,645,635</u>	<u>25.36%</u>	<u>216.91%</u>
Soybean Oil & Prod. >180% R/VC	6,045,772	613.7	\$178,537,331	28.19%	225.66%
Soybean Oil and Products <180% R/VC	19,617,659	934.2	\$454,807,695	71.81%	124.48%
Total Soybean Oil and Products	25,663,431	858.7	\$633,345,026	100.00%	142.49%
<u>Ethanol</u>					
Ethanol >300% R/VC	506,085	365.3	\$16,345,251	6.55%	382.76%
<u>Ethanol >180% to <300% R/VC</u>	<u>2,442,806</u>	<u>716.4</u>	<u>\$81,393,911</u>	<u>32.63%</u>	<u>218.99%</u>
Ethanol >180% R/VC	2,948,891	656.2	\$97,739,162	39.18%	235.87%
Ethanol <180% R/VC	4,570,281	1,390.3	\$151,691,758	60.82%	129.20%
Total Ethanol	7,519,172	1,102.4	\$249,430,920	100.00%	157.03%

* Prepared by G.W. Fauth & Associates, Inc. based on the STB's 2005 Waybill Sample

Regulated Related Products include: Grain Mill Products (STCC 20-4),

Soybean Oil or By Products (STCC 20-92), and

Ethanol (STCC's 28-189-19, 28-184-45 and 28-184-46)

Excludes Intermodal, Box Car, Exempted Commodities and movements to and from Canada and Mexico

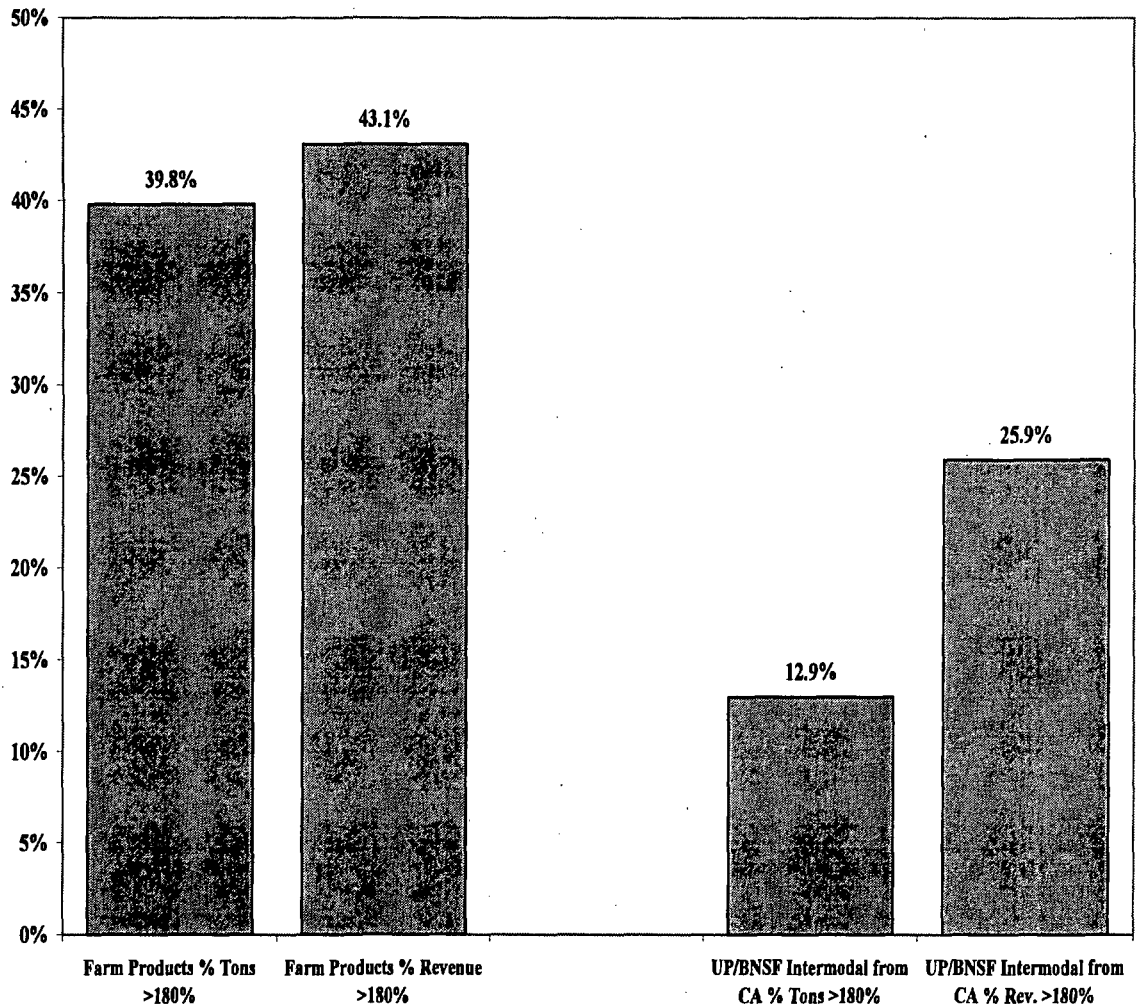
Of the major grain products shipped by rail, significant percentages yield revenues in excess of 180 percent of variable costs: 31 percent for grain mill products, which includes corn syrup, 28 percent for soybean oil and products, including soybean

meal, and 39 percent for ethanol. Two of these groups approach grains with respect to the percentage of traffic producing yields in excess of 300 percent of variable costs.

Because our industry increasingly is faced with demarketing efforts by railroads, and because there sometimes appears to be a battle for capacity between agricultural traffic and intermodal traffic, we thought it appropriate to make some comparisons between agricultural traffic and intermodal traffic. Figure 8 below shows 2005 characteristics of intermodal traffic that can be used for comparison purposes. Because of the volume of intermodal data in the waybill file, we selected just California originations for the comparison.

Figure 8

**COMPARISON OF PERCENT TONS AND REVENUE EXCEEDING 180%
FOR REGULATED FARM PRODUCTS (STCC 01)
AND UP AND BNSF INTERMODAL TRAFFIC FROM CALIFORNIA**



The waybill data strongly suggests that a greater percentage of grain traffic is in the high yield per unit category than intermodal traffic, whether viewed on a tonnage or revenue basis.

IV. Rail Rates vs. Service

While the common carrier obligation of railroads requires the carriers to provide reasonable service on reasonable request, there are distinct differences in the types of service that different rail customers receive. When rail capacity is in tight supply, agricultural commodity and processed product interests sometimes find that rail service suffers more than for other priority sectors, such as coal and intermodal. How do grain rates and service levels compare with other sectors?

One measure of service is train speed. Figure 9 compares train speeds and rail rates for various railroads and customer segments. While the data are not fully comparable because of some logistical differences for each carrier and class of service, it is typical among Class I western carriers for grain unit trains to move about the same rate of speed as coal (which tends to move at lower per car rates than grain) and substantially below the speed of intermodal trains. While it is understood that railroads must provide timely service to intermodal traffic to build that part of their business, it does raise some critical questions regarding congestion, rail performance, and the continued ability of carriers to truly meet their common carrier obligations to various segments of their business.

Figure 9

	UP		BNSF		CP	
	Train Speed MPH 9/06	2005 Rate per unit	Train Speed MPH 9/06	2005 Rate per unit	Train Speed MPH 9/06	2005 Rate per unit
Intermodal	25.1	755	33.5	972	29.9	1,019
Manifest	19.8	n/a	22.2	n/a	23.3	n/a
Coal Unit	20.0	1,184	18.3	1,094	22.3	2,069
Grain Unit	19.9	2,233	23.0	2,326	21.6	2,320

	NS		CSX	
	Train Speed MPH 9/06	2005 Rate per unit	Train Speed MPH 9/06	2005 Rate per unit
Intermodal	27.6	579	28.3	629
Manifest	21.1	n/a	19.9	n/a
Coal Unit	15.5	1,219	15.5	1,154
Grain Unit	19.2	1,455	18.8	1,541

Rail rate increases for intermodal business in the last several years have not kept pace with rate increases for agricultural shipments and for some other sectors, yet intermodal business has had the fastest growth in physical units handled. Is the intermodal traffic contributing to the congestion that causes service declines in other sectors? If intermodal is a primary cause for capacity constraints, is intermodal contributing a "fair" share to the revenues that will allow the carriers to expand capacity in the future to better serve all sectors? What are the carriers' obligations to balance the business drive for greater profitability with traditional obligations to provide reasonable service across all customer segments?

V. The Hidden Costs of Rail Transportation

The Staggers Rail Act of 1980 has by and large been a very positive influence on the marketplace, and there is no doubt that the railroads have gained substantial efficiencies in their operations. Railroads also have incentives to try to manage their

costs as they do confront competition in at least a portion of their businesses from either trucks, barges or other railroads.

However, a review of simple trends in rail rates does not tell the whole story regarding overall cost trends in rail freight service. While rail rates have declined over much of the time frame since 1980, other trends have added costs to rail customers. Figure 10 shows the current inventory of car types on Class I carriers and the proportion of those cars under private ownership or lease. When Staggers was passed, private cars made up a substantially lower part of the total fleet for private hopper cars, the most typical car used for dry bulk commodities, and for tank cars used to transport vegetable oil, corn syrup, ethanol and other liquid processed agricultural products. Today, private equipment dominates those fleets. Monthly lease rates for such equipment are in the \$500 to \$800 range, depending on car type. Assuming that equipment can achieve about two round turns per month, car lease costs may add another 10 to 20% to the overall cost of freight.

Figure 10

U.S. Freight Cars by Type - As of January 2006				
<u>Car Type</u>		<u># Cars</u>	<u>% of Ownership</u>	<u>Ave Age</u>
Box Car	Railroad	147,362	85.90	23.6
	Private	24,186	14.10	20.3
Covered Hopper	Railroad	150,554	34.53	23
	Private	285,479	65.47	17.3
Open Hopper	Railroad	90,446	54.14	26.5
	Private	76,614	45.86	15.3
Gondolas	Railroad	139,718	60.32	21.5
	Private	91,903	39.68	15.6
Flat Cars	Railroad	70,891	34.48	12.9
	Private	134,701	65.52	16.2
Refrigerated	Railroad	22,926	89.72	24.9
	Private	2,626	10.28	21.7
Tank Cars	Railroad	525	0.20	30.2
	Private	259,823	99.80	16.9
All Others	Railroad	3,598	54.35	32.1
	Private	3,022	45.65	21.5
Total	Railroad	626,020	41.61	22.3
	Private	878,354	58.39	16.8
Source: AAR/Umler as reported by Railway Age, May 2006				
Railroad car data reflects equipment owned or leased by 6 largest Class I carriers.				

Another major cost for shippers and receivers is the infrastructure investment cost required of rail customers. As railroads have priced rail service for high volume movements to make it attractive for agricultural shippers to move more product from one location, agricultural facilities have had no alternative but to invest multi-million dollar amounts to be able to meet the rapid-loading requirements incorporated into the railroad service and rate structures. It should also be recognized that the railroads have

participated in some of this industrial development (through direct investment or incentives to the customers), and in the purchase of additional engine capacity. While investments in shipper/receiver facility capacity have contributed to the overall efficiency of the sector, the infrastructure investment costs are not an insignificant portion of the overall cost of rail transportation to both shippers and receivers.

Finally, railroads have increasingly moved toward component pricing systems for what are generally referred to as “accessorial charges.” Such charges include assessments for: 1) shipper’s refusal to issue bills of lading electronically or correction of clerical errors; 2) paper invoices; 3) loss and damage claims; 4) late payment; 5) demurrage; 6) private car storage; 7) weighing cars; 8) car cleaning; 9) car diversion; 10) car switching; and many other items. While some of these items are clearly cost-based for which assessments are reasonable, others are a nuisance, contribute to railroad billing inefficiencies, and create unnecessary costs for customers. Requirements that shippers issue bills of lading, and do so electronically and error free, are particularly vexing since the Carmack Amendment requires railroads to issue receipts and bills of lading. As railroads require payment 15 days after an invoice is sent, rail customers have been forced to absorb additional manpower costs to audit railroad billing----a tedious chore that must be accomplished immediately upon receipt of the invoice to avoid late charges. This has added to the costs of rail service for the customer, that are likewise not captured in the freight rate.

VI. Conclusions

We commend the STB for conducting this hearing. Both rail rate and service issues have become much more of a concern in the past 3 years and deserve attention by

the agency. Moving forward, there are some things the STB could do as a regulator that would be helpful to agricultural shippers and other rail customers:

1. The railroads are beginning to invest in infrastructure and locomotives in an effort to make net additions to capacity for providing rail freight service. However, it is difficult to obtain investment information that is consistent across the carriers to determine the net impact of the new infrastructure and locomotive investment, and how much capacity is really being added versus just replacement of existing infrastructure, locomotives and cars. We face a critical time in the rail-served industries in the next 5 years to determine if the minimally-regulated rail industry can successfully add to its capacity to meet what appears to be secular growth in demand for rail services. The STB could provide a much needed public service by monitoring the nature and extent of net new infrastructure investment by rail carriers and reporting that data to the public and to Congress. It would be most unfortunate if, after telling the Board and their customers that more revenue is necessary for infrastructure, the railroads failed to make needed investments to improve the service for those customers paying the highest rates.

2. The STB has made an important step in the revival of Ex Parte 646, regarding small rate cases. Because of tight rail capacity, the pricing power of carriers is much more obvious in the marketplace today, and certainly the carriers need revenue to be able to invest. But importantly, this increased pricing power can be subject to abuse in this kind of business environment in particular, and these conditions underscore the importance of the STB, in timely fashion, providing shippers that have smaller volumes some reasonable access to rate relief, if that proves to be necessary. Lowering the “bar” to make rate dispute resolution more accessible would in itself tend to create more disciplined pricing in the rail marketplace, and if done properly would likely lead to more

reasonable rate dialogue between railroads and customers, not necessarily more actual litigation over rates.

3. Finally, we would recommend that the STB do everything feasible to expedite unreasonable practice complaints brought before the Board. Some proceedings have taken multiple years which adds to costs (and sometimes makes the issue moot if situations change during the period of litigation). We view this as a major factor discouraging rail customers from bringing legitimate issues before the STB, and such delays may also have the effect of impeding private negotiation of disputes that could resolve matters without litigation. We urge the STB to seek the proper balance in applying its regulatory authority and to make decisions as timely as possible.