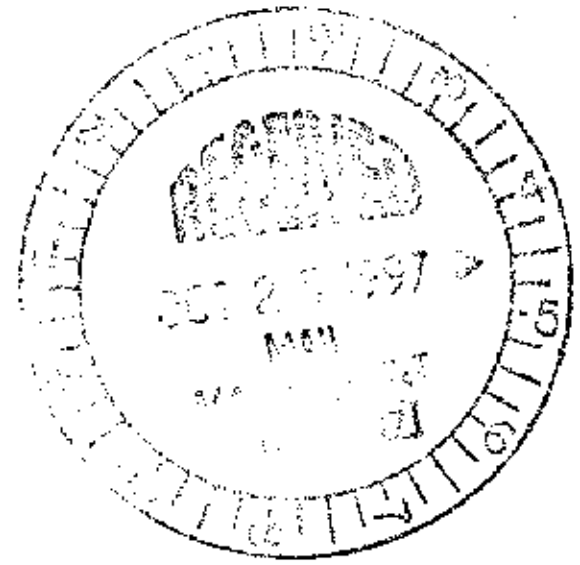




BEFORE THE
SURFACE TRANSPORTATION BOARD

STB EX PARTE NO. 573
RAIL SERVICE IN THE WESTERN UNITED STATES

REMARKS DURING OPEN HEARING
BY THE
ASSISTANT SECRETARY OF AGRICULTURE
FOR MARKETING AND REGULATORY PROGRAMS

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Thank you for the opportunity to participate in this forum examining rail service problems in the Western part of the United States. We intend to report on what the United States Department of Agriculture (USDA) has learned about the rail service problems currently being experienced by agricultural shippers and rural communities and how the USDA is responding to these rail problems. We also have some specific suggestions relative to the current operating problems of the Western U.S. railroads.

Authority and Interest

I am presenting my remarks on behalf of the Secretary of Agriculture. The Secretary is charged with the responsibility under the Agricultural Adjustment Act of 1938 and the Agricultural Marketing Act of 1946 to represent the interests of agricultural shippers and producers in improving transportation services and facilities by, among other things, initiating and participating in Surface Transportation Board (STB) proceedings involving rates, charges, tariffs, practices, and services.

USDA filed comments on three separate occasions during the Union Pacific and Southern Pacific (UP/SP) merger proceeding. In those comments we pointed out that rail service is critical to the economic well-being of this Nation's agricultural and rural economies. Moreover, agricultural shippers generally have limited access to alternative providers of transportation services because many shippers are located beyond effective trucking distances from their markets and from available waterway transportation. We highlighted the importance of competitive rail service for agricultural producers and shippers and the entire rural economy. We expressed concern over the significantly increasing concentration in the U.S. rail industry and the

potentially adverse effects on U.S. agriculture of this continuing consolidation and concentration.

Because of our concern with the level of competition in this market, USDA suggested the need for a third major railroad to operate in the important corridor that connects the grain producing regions of the Lower Plains with ports along the Gulf of Mexico, and with key gateways along the U.S.-Mexico border. We supported the Department of Justice's conclusion that rail competition in many western markets would be substantially reduced if the UP/SP merger were approved. We also asked STB to consider the need for a third major railroad to operate in the Central Corridor between Kansas City and the West Coast.

Our general concern with the UP/SP and other railroad mergers has been based on the decline in the number of major U.S. railroads from 33 in the early 1980's to just 7 more recently, and the resulting increased overall levels of concentration in the railroad industry. Whereas the top 5 U.S. railroads handled 44 percent of all railroad freight in 1982, the top 5 railroads handled 87 percent of all rail freight in 1995. Although the top 5 railroads originated 57 percent of all rail grain traffic in 1982, the top 5 railroads originated over 90 percent of rail grain traffic in 1995.

When our principal concerns regarding decreased competitiveness had not been resolved because no rail lines had been divested to additional Class I carriers, USDA opposed the UP/SP merger. With its inadequate mitigating measures, USDA said that a UP/SP merger would likely result in increased rates and could reduce the quality of service for many shippers in a large part of the United States. Unfortunately, we proved to be correct as the STB has demonstrated in calling this hearing.

Current Rail Service in the Western United States

The STB has expressed its intention to concentrate more on operational, resource, and customer service matters than on legal issues in this proceeding in an effort to obtain an immediate resolution of the current rail service problems in the Western United States. Towards this end, we are submitting information on the current level of service being provided by the Western railroads to agricultural shippers and on the expected near-term demand by agricultural shippers for railroad services.

Almost daily over the past six weeks, news accounts have documented the seriousness of the railroad service problems currently being experienced by agricultural shippers in the Western United States. These accounts have indicated that recently-harvested grain in many states in the Midwest and the Pacific Northwest regions of the United States is being stored on the ground because of Western railroad transportation problems; that UP/SP service problems are causing delayed deliveries to some meat and poultry processors; that Texas farmers cannot ship their grain and are at risk of losing their crops because of railroad service problems; that elevator operators are generally frustrated by the inability of railroads to move the grain crop; and that agricultural shippers are concerned about the ability of U.S. farmers to satisfy global demand because of railroad service problems. Other news accounts have indicated that grain shippers are currently facing one of the worst railcar shortages ever, that the railcar shortages will worsen as the grain harvest progresses, and that crop storage is running out across many areas of the

¹ AGNews reports for the period October 9 through October 20, 1997 citing news accounts in the Bridge News, Reuters, Associated Press, Spokesman-Review, and the Journal of Commerce.

Midwest because of the rail service problems.²

Beyond the public record of the difficulties being experienced by agricultural shippers as established by these press accounts, the USDA has been receiving information on the severity of the Western railroad services problems which is being reported by agricultural shippers. The USDA can stay in close contact with rural agricultural shippers on railroad service problems because it maintains a widespread network of offices in most counties in the United States, and information about local crop and marketing conditions is often forwarded to USDA headquarters. Over the past two months, the USDA has been contacted frequently by agricultural shippers and community officials from the West and Midwest with complaints about poor rail service and the lack of an adequate supply of rail cars.

The USDA has also been actively engaged in soliciting and receiving input from agricultural shippers about the impact of recent rail mergers and the effects of the current UP/SP operating problems. On August 1, 1997, Agriculture Secretary Dan Glickman announced that USDA would hold a series of public hearings to gather information on the impact of recent railroad mergers on agricultural and rural shippers. The general objective of the hearings was to gather information on the level of railroad services being provided to agricultural shippers after the most recent round of railroad mergers. We held the initial set of these hearings in Dodge City and Wichita, Kansas, on August 7 and 8, 1997. We conducted the hearings in "listening session" format to give agricultural and rural shippers and local officials the opportunity to present information on the adequacy of rail service since this recent wave of rail mergers began. At both sessions, shippers focused on the poor service from the UP/SP and the lack of effective alternate

² See generally previous AGNews cites.

rail competition. The major complaints included a lack of adequate railcar supply, the unwillingness of UP/SP to allow country grain elevators to co-load their shipments to take advantage of lower freight rates, as had been previous UP/SP policy, and the reluctance of UP/SP to provide grain cars for less than full trainload shipments. USDA incorporated this information into comments we filed in the STB's UP/SP merger oversight proceeding in August, 1997..

On October 9, 1997, USDA invited representatives of major agricultural associations and farm groups with an interest in the broad range of railroad issues that affect agricultural shippers to meet. The attendees' concern was that agricultural interests be represented at this hearing. With UP/SP's Third Quarter Progress Report indicating that UP/SP must temporarily reduce service in order to recover from its current operating difficulties, agricultural shippers presently experiencing reduced levels of UP/SP service are naturally fearful of further reductions. Attendees noted that the significant rail service problems in the West primarily involved the UP/SP, but also included the recent service and price changes announced by the Burlington Northern Santa Fe (BNSF).

USDA has also conducted internal analyses of the nature of the railroad service problems in the Western United States which indicate that service disruptions on the Western railroads have substantially reduced the amount of grain that these railroads have moved this harvest. Grain car loading data from recent weeks show the seriousness of these problems and the extent to which the service disruptions on the Western railroads have adversely affected grain shippers in the Western United States. Since September the western railroads—Burlington Northern Santa Fe (BNSF), Union Pacific Southern Pacific (UP/SP), and Kansas City Southern (KCS)—have averaged just over 16,273 car loadings of grain per week. During the 1995 grain

car shortage problems, these carriers, and the other western railroads now merged into their operations, averaged 20,691 car loadings of grain per week. Of the three remaining western Class I railroads, only the Kansas City Southern (KCS) has shown increases over their 1995 and 1996 grain loadings during the past few weeks. The BNSF has averaged 12 percent fewer weekly loadings since September this year as compared to the same period in 1995. Average weekly grain loadings since September on the UP/SP system have been off 33 percent from those achieved on the separate Chicago and Northwestern, Southern Pacific, and UP systems during 1995. When compared with 1995, western railroads have loaded 24,000 fewer cars of grain since the first week of September.

Finally, USDA is particularly concerned about the impact of these service problems given the present harvest situation. The most recent USDA crop progress reports for the week ending October 19, 1997, indicate there is still a substantial amount of grain to be harvested, particularly in those areas hardest hit by service problems and most dependent on rail service. For instance, the western corn states of Iowa, Minnesota, Nebraska, and South Dakota have harvested only 48 percent of their corn crops. Based on production estimates, these States have nearly 2 billion bushels of their forecasted 4 billion bushel corn crop still in the fields. This is nearly one quarter our Nation's corn crop, which is forecasted at 9.3 billion bushels this year. In the key western sorghum producing states of Kansas, Missouri, Nebraska, and Oklahoma, 62 percent of all sorghum still remains in the field. This amounts to just over 200,000 bushels of sorghum, or the equivalent of 32 percent of the Nation's sorghum crop. The additional grain that will move to market as these crops are harvested will bring increased demand for rail transportation capacity in those areas already experiencing problems.

USDA Response to Western Railroad Problems

USDA is greatly concerned about the impact of operational difficulties of the western U.S. railroads and the ability of agricultural producers to market their products. Because many agricultural products have a relatively low per unit value, railroad costs typically constitute a large percentage of the delivered prices of these products. In many instances, railroad service is the only viable transportation alternative for agricultural producers in marketing their products. Lack of adequate or economical railroad service ultimately affects the bottom-line returns to agricultural production by exhausting local storage capacity, increasing storage costs, decreasing marketing opportunities, and increasing transportation costs when an alternative mode is available and can be used. To deal with these problems, the USDA is taking a number of actions to communicate the unique dependence of many agricultural shippers on rail services to the Western railroads, and to improve the ability of the Western railroads to address their current operating difficulties.

First, Secretary Dan Glickman has written to the Chief Executive Officer of the UP/SP to indicate his concern with the deteriorating rail situation in the Western United States. Other officials in the Department have expressed concern to the Chief Executive Officer of the BNSF over the current overall levels of service to BNSF grain shippers and the fairness of several specific policies which the BNSF is pursuing with regard to grain shipments.

Second, to ensure that delays in the Federal inspection of rail shipments do not contribute to increased car cycle times, the USDA is adjusting its role regarding Federal grain inspection by adopting several measures to provide better and more timely inspection service to domestic

railcar shippers.³ The measures include: (1) the development of onsite inspection services, whereby USDA personnel will provide inspection services at carloading locations from mobile inspection labs; (2) electronic certification, a computerized system which will allow inspection certificates, issued at several widely scattered points, to be delivered to the company's main office within hours of the completion of the service; (3) relaxed equipment requirements, where grain loaded onto railcars may be inspected using USDA-approved equipment that is owned by the grain elevator; and (4) batch grading, which effectively reduces the number of cars to be inspected in a unit train by up to 80 percent.

Third, the USDA is taking a number of actions to reduce the harvest-time pressure to move grain off farm. To deal with this year's harvest, for instance, the USDA is allowing warehousemen in Federally-licensed facilities to use emergency storage for grain owned by the Commodity Credit Corporation (CCC) of the USDA or for grain held by CCC as collateral under commodity loans to producers. The USDA is generally allowing emergency storage upon request from harvest through January 31, 1998, although emergency storage in the Pacific Northwest has only been approved to December 1, 1997.⁴

Fourth, where firms are having difficulty meeting their supply commitments to the USDA because of the current rail problems, the USDA is granting penalty-free extensions, when

³ The USDA provides federal inspection services on many railcars after they are loaded with grain, but before they are moved. These inspection services are designed to provide buyer and seller with the assurance that the grain will meet Federal standards as to a specific uniform grade and to facilitate marketing of the grain.

⁴ A further extension may be granted by the USDA for emergency storage in the Pacific Northwest.

appropriate, if a written request is made.⁵

USDA Proposals Regarding Western Rail Service

USDA now offers several specific proposals for STB consideration in addressing the current Western rail service problems. These proposals are based on a USDA desire that rural agricultural shipments not be forced to bear the brunt of service recovery on the UP/SP in favor of other types of traffic on which the UP/SP faces greater intramodal and intermodal competition.

USDA concern over UP/SP service intentions with regard to agricultural traffic is based upon the previously-described service disruptions which agricultural shippers are presently enduring and a review of the UP/SP Service Recovery Plan in which the UP/SP offered no specific information as to minimum levels of service it would maintain to agricultural shippers during the recovery period. This lack of attention to agricultural shipments is conspicuous in the light of several initiatives the UP/SP is taking to accommodate coal and intermodal traffic and because the UP/SP apparently is not rerouting export grain trains over the Kansas City Southern (KCS) to the extent originally anticipated under their agreement.⁶

To ensure that rural agricultural traffic is afforded a minimal level of service from the UP/SP during the recovery period, USDA offers the following two recommendations for the STB to consider as it attempts to facilitate recovery of rail service in the Western United States.

⁵ The USDA routinely purchases foodstuffs for various government feeding and food donation programs.

⁶ USDA understands that the KCS is only being forwarded an average of two trains a week at Kansas City, instead of the two trains a day as originally anticipated by the UP/SP. KCS indicates that they only received ten export grain trains from the UP/SP at Kansas City over the 24 day period from September 28, 1997 through October 22, 1997.

First, in light of the recent STB decision requiring that the UP/SP provide weekly system-wide operation information so that the operating condition of the carrier could be monitored, the USDA requests that the STB also require the UP/SP to provide the following weekly indicators of UP/SP service to agricultural shippers: (1) placements of covered hopper cars for grain loading by state, (2) car velocity times from Kansas to the Gulf for export wheat shipments, and (3) car velocity times from Nebraska to Pacific Coast for export corn shipments. Such data would allow USDA and other agricultural interests to monitor the extent to which rail service is improving to UP/SP agricultural shippers.

Second, should UP/SP service to agricultural shippers continue to be inadequate, the USDA recommends that the STB use its emergency powers under 49 U.S.C. 11123 to direct the handling, routing or movement of traffic so as improve the level of service being provided to specific agricultural shippers. USDA requests that such emergency powers be exercised in specific situations in which agricultural shippers currently being served by the UP/SP have identified alternative rail service providers who are able to serve them. The STB should ensure that such alternative service does not compromise recovery of the UP/SP under its recovery plan. Because many agricultural shipments originate at locations removed from UP/SP main lines, USDA believes that there are a number of locations at which such directed service by the STB would result in at least some service to UP/SP agricultural shippers with a minimum or no disruption to the UP/SP recovery.

Conclusions

The interest of the USDA in the present proceeding stems from the fact that rail service is critical to the economic well-being of this Nation's agricultural and rural economies.

Agricultural shippers generally have limited access to alternative providers of transportation services because many shippers are located beyond effective trucking distances from their markets and far from available waterway transportation. Because many agricultural products have a relatively low per unit value, railroad costs typically constitute a large percentage of the delivered prices of these products. In many instances, railroad service is the only viable transportation alternative for agricultural producers to market their products. Lack of adequate or economical railroad service ultimately affects the bottom-line returns to agricultural production.

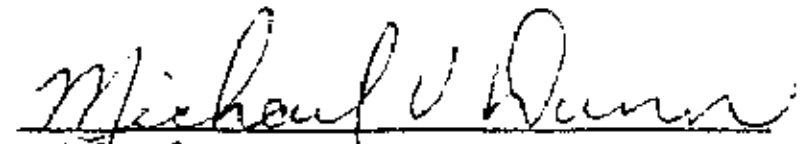
USDA is especially concerned about impact of the railroad service problems on the future ability of agricultural producers to market their products. Recent legislation decreased the importance of the traditional farm support programs and increased reliance on marketing opportunities in the determination of farm income. For this reason, USDA believes that adequate railroad transportation services are essential for agricultural producers to take advantage of domestic and international marketing opportunities in the future.

The USDA comments reflect extensive input from rural and agricultural shippers gained through listening sessions on the adequacy of railroad services and meetings the USDA has held with major farm organizations. USDA is taking several specific actions to improve the efficiency by which Federal grain inspection services are provided to railroad shippers, to mitigate the impact of harvest-time volumes on the immediate demand to move grain, and to allow suppliers under contract with the USDA to delay delivery without penalty. We have communicated our concerns about the disparate impact of railroad operating difficulties on rural and agricultural shippers to top executives of both major Western railroads. We have also offered a number of specific suggestions for the STB to consider in lessening the current

operating difficulties of the Western railroads.

Above all, USDA hopes that STB policies resolve the current operating problems of the Western carriers by promoting a balanced recovery from these service disruptions for all shippers. To this end, our comments include two specific proposals to ensure that the interests of agricultural shippers in this recovery are not ignored. Whereas shippers with competitive transportation alternatives can adjust to disruptions in rail service, a return to normalcy in the level of railroad services is especially important to those rural agricultural shipper who have no practical alternatives to rail.

Respectfully submitted,



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