

BEFORE THE
SURFACE TRANSPORTATION BOARD

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URGENT ISSUES IN FREIGHT RAIL SERVICE

COMMENTS OF THE
NORTH DAKOTA GRAIN DEALERS ASSOCIATION

Introduction

NDGDA is a 111-year-old voluntary membership trade organization representing the interests of commercial grain industry in North Dakota. These facilities are the primary point of sale for grain raised by North Dakota farmers. They receive, clean, condition, process, and ship these grains and related products to domestic and international markets.

Rail Service Issues

The service issues plaguing North Dakota grain shippers include late car orders and delayed shipments along with missed train arrival/spot times (ETAs) and poor communication. We believe the reasons for these problems are related to railroad labor shortages and while the service issues in North Dakota have not resulted in facilities being shut down, they have caused many excessive costs to shippers and created a critical labor issue for North Dakota elevators.

Late Car Orders/Delayed Shipments

- A few shippers are reporting BNSF DETs are 6-7 weeks behind. One manager indicated that they were notified that a train ordered for 3/7/22 will arrive 4/22/22.
- Shippers are reporting that single car orders that are over 30 days old are getting cancelled. While cancellation may improve the railroad metric of orders not being over 30 days old, these orders have to be re-ordered putting those shipments that much farther behind and costing the shipper untold amounts in the form of contract late delivery penalties, interest expenses and lost sales.
- Some BNSF shippers had cars ordered for March but didn't receive them until after April 1st costing those shippers an extra .08/mile in fuel surcharge.
- Many BNSF shippers have cars ordered for delivery in April and are extremely concerned they will be delayed until after May 1st when fuel surcharge goes to .47/mile adding an additional .27/mile in costs.
- It should be noted that grain and oilseed production in North Dakota was down about 20-25% in 2021 due to drought conditions. Had production not been drought reduced, the rail service issue would probably be much worse than it is.

ETAs

The main challenge shuttle loaders face is having the necessary personnel in place at the moment the shuttle arrives to be able load, grade and bill the train in the time frame required by the tariff rules. The personnel needed are not only the elevator's employees but also grain inspection services. In some locations of the state grain inspection services require many hours of advance notification to ensure their personnel can get to the elevator by the time the train is spotted. When an ETA is missed the elevator incurs the extra labor costs while employees and grain inspection personnel sit around waiting for the train to arrive. Other consequences include employees working extended hours without proper rest, employees working in unsafe conditions, and employees working erratic hours giving up weekends and family time. These situations create employee morale issues and the problem has become so pervasive that it has created a critical labor issue for North Dakota elevator managers. Compensation rates for elevator employees are becoming unsustainable and even then, elevators are struggling to find qualified help. Employees are willing to give up pay in exchange for predictability and stable hours and are leaving elevators for lower paying jobs. Here are some recent reports:

- A manager reported tracking a train until it was six hours from the spot time which would have been on a Tuesday afternoon. They started making the arrangements to get employees and grain inspection in place for when the train arrived and then had to put everything on hold as the spot time was moved back. The manager stated that the spot time changed 11 or 12 times during the course of that week and the train finally arrived five days later on Saturday with the result of the elevator employees working all weekend.
- An elevator watched a train they were expecting to load stop 10 miles short of the interchange to pull the train into the spot. The elevator crew had already been sent home to rest because they were expecting to load at night. The train didn't move for 48 hours until a crew was sent out to move it the last ten miles, requiring the train be loaded during the weekend.
- This past Easter weekend a manager reported a train was to be spotted at 10:00 am on Easter Sunday. The manager made arrangements to have employees available to load the train meaning none could travel for the holiday. The train was spotted 30 hours late at 3:00 pm on Monday afternoon.

Communication

The issue of communication with railroads goes hand in hand with the service issues we are experiencing. Lack of communication on the part of the railroads is probably the most common complaint of North Dakota shippers. Railroads expect their shippers to operate on a 24/7 basis but are not available to address problems outside of normal work hours and even then, it is very difficult to get answers. The following are a few recent situations:

- A manager reports being notified by the railroad on a Thursday that the train he was waiting for would be spotted on the following Monday. The railroad then without notification to the manager moved up the spot time to Saturday. The elevator did not have the personnel in place to load the train and incurred demurrage charges.
- A manager reported a situation where they had a loaded train waiting to be pulled and they tried for several days to get an answer on when they could expect the train to move. No communication came from the railroad until the shipper was notified that there was an empty

train headed back to his location and that he was responsible for redirecting that train since it couldn't be spotted due to the loaded train not being pulled. In essence, the shipper was being penalized by the railroad for the railroad's own poor performance.

- Many managers report being able to track the empty freight they are slated to load right up until it gets within 100-200 miles from the facility. Once it hits a railyard in the state, they lose ability to track the freight and it may take several hours or days for the freight to move what should take just a few hours and it is very difficult to get communication from the railroad about when the train will spot at the facility.

These are just a few recent examples of actual situations that have occurred here in North Dakota within the last few weeks or months, but they are by no means the only examples. There are dozens of these situations occurring every month. Each case was relayed to NDGDA by shippers with specific dates and times. We have made these examples generic so as not to put any one shipper in the position of being singled out.

Conclusion

Currently in North Dakota, grain shippers accept all of the risk when making a grain sale. They guarantee delivery during a specific timeframe and pay the penalty if the sale is late due to rail service issues. If a shuttle spot time is missed the elevator makes the necessary adjustments and pays the extra personnel costs to ensure the train is loaded within time allotted by tariff rules. Railroads bear no other risk than some loss of revenue due to slower velocity.

Perhaps it is time to shift some of the risk for non-performance back to the railroads. One suggestion would be to revise the rules for demurrage to allow shippers reciprocal charges for missed spot times and late car orders. Another suggestion is to require railroads to pay a portion of the penalties incurred when contract shipment deadlines are missed due to poor rail service.

Thank you for the opportunity to present our views and suggestions on this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stuart L. Letcher". The signature is fluid and cursive, with a large loop at the end of the last name.

Stuart L. Letcher, Executive Vice President
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