

BEFORE THE SURFACE TRANSPORTATION BOARD

Docket No. FD 36500

ENTERED
Office of Proceedings
June 9, 2022
Part of
Public Record

CANADIAN PACIFIC RAILWAY LIMITED; CANADIAN PACIFIC RAILWAY COMPANY; SOO LINE RAILROAD COMPANY; CENTRAL MAINE & QUEBEC RAILWAY US INC.; DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION; AND DELAWARE & HUDSON RAILWAY COMPANY, INC.

—CONTROL—

KANSAS CITY SOUTHERN; THE KANSAS CITY SOUTHERN RAILWAY COMPANY; GATEWAY EASTERN RAILWAY COMPANY; AND THE TEXAS MEXICAN RAILWAY COMPANY

AMENDED COMMENTS OF NATIONAL ASSOCIATION OF WHEAT GROWERS

In accordance with Decision No. 11 herein, served November 23, 2021, and Decision No. 18, served May 27, 2022, National Association of Wheat Growers (“NAWG”), a party of record, hereby files its Amended Comments.

IDENTITY AND INTEREST

Established in 1950, NAWG is the primary representative in Washington, D.C. for wheat growers, representing 20 state wheat grower organizations. NAWG works to promote policy efforts that create an environment that is conducive to the success of wheat farming in the United States.

AMENDED COMMENTS

NAWG is concerned the merger of the Kansas City Southern (KCS) and Canadian Pacific (CP) railroads will result in decreased competition that will negatively impact the production, distribution, and price of certain chemistries of critical importance to American agriculture and

our members.

Specifically, NAWG supports the comments filed by Bayer CropScience LP; The Chlorine Institute; the American Chemistry Council, the Fertilizer Institute, and the National Industrial Transportation League; and the Occidental Chemical Corporation and Oxy Vinyls, LP regarding the transportation of toxic inhalation hazard (TIH) materials. We join them in urging the Board not to approve the CP-KCS merger unless it precludes the adoption and extension of CP's tariff language concerning insurance, indemnification, and liability provisions for TIH materials. We further urge the Board condition the approval upon the adoption and extension of KCS' tariff language applicable to TIH shipments throughout the combined CP/KCS system.

The TIH-related language in CP's TIH tariff is an anticompetitive, industry outlier that is in stark contrast to the language in KCS' tariff, which addresses indemnification and liability for the shipment of TIH materials in a fairer and more reasonable manner for hazardous materials generally. This issue is particularly salient during this time of supply chain challenges.

This tariff language threatens to increase the price of key agricultural inputs during a time rampant price inflation that has already caused inputs like pesticides, herbicides, and fertilizer to hit all-time highs. These tariffs will make it more expensive for farmers to implement the necessary practices needed to ensure a robust domestic and humanitarian food supply. The increased costs of securing these products, if they're able to attain them at all, could have devastating consequences on production in the short- and long-term. Meanwhile, competing transportation options, like trucking, remain a far costlier, often less efficient option.

Thank you for your consideration in this matter.

Respectfully submitted,

/s/ John G. Dillard

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Dated: June 9, 2022

CERTIFICATE OF SERVICE

In accordance with Decision No. 11, I hereby certify that I have served, this 9th day of June 2022, a copy of the foregoing Amended Comments of National Association of Wheat Growers by email on all persons on the service list for this proceeding, by email or by first-class mail.

Respectfully submitted,

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