



OFFICE OF THE ATTORNEY GENERAL

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Mr. Daniel R. Elliott III, Chairman
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

**Re: *United States Rail Service Issues*
*STB Docket No. EP 724***

Chairman Elliott:

I write regarding the Surface Transportation Board's ongoing investigation of the rail industry's performance, including the significant capacity and service problems encountered over the last year in Minnesota and the surrounding region.

The Board's recent public field hearing in Fargo, its earlier hearing in Washington on this topic, and its requirement for regular status reports by the BNSF Railway Company ("BNSF") and the Canadian Pacific Railway Company ("CP") have all demonstrated the complexity of this issue. I have heard from Minnesotans, including many farmers, of the serious problems they have experienced as a result of the railroads' inability to reliably move grain, other commodities, fertilizer, and freight. I ask the Board to take the following into consideration as it moves forward on this issue.

First, agriculture is the lifeblood of Minnesota's economy, and the Board must take strong action to resolve this problem. Minnesota's 75,000 farms sell over \$21 billion of agricultural products a year, and Minnesota is the third largest producer in the nation of grain commodities, many of which must be moved by the railroads.¹ As you consider the options available to you, please keep in mind that quick resolution of the problems under discussion by the Board are vitally important to farm families throughout the State, and the issues in this docket directly impact the lives of many people.

¹ United States Department of Agriculture, National Agricultural Statistics Service, *2012 Census of Agriculture: Minnesota State and County Data*, Vol. 1, Part 23 at 7 (May 2014); USDA *2013 State Agriculture Overview*.

Second, the current backlog of grain shipments has already created very real problems for farmers across the region, and things are on track to get even worse. Lack of reliable rail transport has driven commodity prices down. You were provided with a report last week showing that Minnesota farmers lost \$100 million in revenue between March and May of this year due to transportation availability issues.² The report estimates the potential of more than an additional \$100 million loss in revenue for existing grains still in on-farm storage.³ Looking to the future, farmers face crop prices that are being driven down to levels not seen in years by predictions of more high yields this fall.⁴ Those high yields will obviously serve to worsen this problem.

Third, the problems have not been solved by the actions taken by the Board or the railroads thus far, signaling that a change in strategy is in order. The Board's order resulting from its April 10, 2014 public hearing noted the railroads' promises at that time regarding resolution:

Backlogged grain car orders and grain shipping delays and the resulting problems have been particularly acute on the systems of CP and BNSF. At the hearing, CP's President and Chief Operating Officer estimated that *CP's service would be restored to normal in four to six weeks* "if everyone does their part." BNSF has committed to moving last year's crop *prior to the fall harvest*.⁵

Over five months have passed since those promises were made. Recent progress reports by CP and BNSF show inadequate progress, especially when measured by the railroads' promises to the Board. As you stated in your opening statement at the September 4 hearing, not only has the problem not been resolved since the time those promises were made, it has "even gotten worse." New solutions should be explored and implemented to resolve the situation as quickly as possible.

Finally, the Board must also consider the ripple effects already felt in the manufacturing and processing sectors, and the larger marketplace. For example:

- News reports have linked this issue with significant disruptions and losses at two large Minnesota-based companies, demonstrating that farmers are affected at the beginning of a chain of problems that extends all the way to consumers.⁶

² Minnesota Department of Agriculture, *Minnesota Basis Analysis (Preliminary)* (July 10, 2014).

³ *Id.*

⁴ Jacob Bunge, *U.S. Grain Futures Tumble on Upbeat Outlook for Crops: Abundant Crops Send Corn Futures to a 4-Year Low*, Wall St. J., Sept. 3, 2014.

⁵ Surface Transp. Bd., *United States Rail Service Issues—Grain*, Dkt. No. EP 724-2 (June 20, 2014) at 2 (emphasis added) (citations omitted).

⁶ Ron Nixon, *Grain Piles Up, Waiting for a Ride, as Trains Move North Dakota Oil*, NY Times, Aug. 26, 2014, at A12:

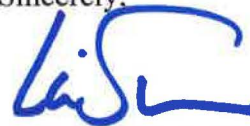
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- This Office encountered life-and-death emergencies earlier this year as the price of propane shot up and some families were unable to heat their homes during a dangerously cold winter. Multiple propane suppliers have blamed that crisis in part on their inability to secure rail delivery of propane in Minnesota and the surrounding region. Just as the fall harvest is upon us, so is the heating season, also making this an issue of urgency for the 10% of mostly-rural Minnesota households that use propane as their primary heating fuel.

Constricted rail capacity is hurting us all, and potentially serious consequences will result if this problem is not immediately resolved.

I thank you and your fellow Board members for your attention to this matter, and I ask you to take decisive action to remedy this bottleneck for Minnesota's farmers and the Minnesota public.

Sincerely,



LORI SWANSON
Attorney General

cc: The Honorable Deb Miller, Vice Chairman
The Honorable Ann D. Begeman, Commissioner

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Food companies say they are feeling the effects of the delayed shipments. General Mills, the Minnesota-based maker of Cheerios, told investors in March that it had lost 62 days of production—as much as 4 percent of its output—in the quarter that ended in February because of winter logistics problems, including rail-car congestion. In its earnings report this month, Cargill, another Minnesota-based food giant, reported a drop in net earnings that it attributed in part to “higher costs related to rail-car shortages.”