

Agricultural Transportation Working Group EP 754
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April 12, 2019

The Honorable Ann D. Begeman
Chairman
Surface Transportation Board
395 E St., S.W.
Washington, DC 20423-0001

The Honorable Patrick Fuchs
Vice Chairman
Surface Transportation Board
395 E St., S.W.
Washington, DC 20423-0001

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The Honorable Martin Oberman
Commissioner
Surface Transportation Board
395 E St., S.W.
Washington, DC 20423-0001

The undersigned members of the Agricultural Transportation Working Group, whose members consist of a diverse range of agricultural producer, commodity and agribusiness organizations, commend the Surface Transportation Board (STB) for its actions to examine whether demurrage and accessorial charges increasingly being imposed on rail customers are commercially fair and reciprocal.

We particularly commend the Board for scheduling a May 22, 2019 public hearing to enable rail users to present examples of tariffs, issued arbitrarily by several Class I railroads, that we believe on their face are commercially impractical and unfair, as well as non-reciprocal in that the carriers themselves do not face similar financial penalties if they fail to perform. In other cases, language imposed by carriers in their conditions of carriage appear designed to have a chilling effect on rail customers that otherwise attempt to challenge charges that are inaccurate or excessive.

In addition, we strongly support the STB's efforts, dating to Chairman Begeman's letters to each of the Class I railroads last November, requesting that they examine the commercial fairness and reciprocity of demurrage and accessorial charges set forth in their tariffs. We also believe that Chairman Begeman was prudent to increase the transparency on the additional significant revenues now being generated by the Class I railroads through these practices. The responses submitted to the STB by the seven Class I railroads operating in the United States showed that in 2018 alone, more than \$1.43 billion was collected from rail customers through demurrage and accessorial charges – above and beyond the actual line-haul freight rate and far more, we would contend, than is needed to encourage efficient utilization of rail assets. We appreciate the Board's actions to request that such reporting continue on a quarterly basis for 2019, and respectfully request that such reporting occur in 2020 and future years, as well.

In the interest of obtaining a factual record, we encourage the Board to structure the format of its May 22 public hearing to enable rail customers to challenge the expected assertions by Class I carriers that their demurrage and accessorial charges meet the tests of commercial fairness and reciprocity – as they did in their response letters to Chairman Begeman. Agricultural rail users will be prepared during the hearing to cite specific examples that document quite the opposite.

Thank you again to the Board for its much-needed focus on this key issue.

Sincerely,

Agricultural Retailers Association
Amcot
American Farm Bureau Federation
American Frozen Food Institute
American Soybean Association
Corn Refiners Association
Cotton Growers Warehouse Association
Cotton Warehouse Association of America
Cottonseed & Feed Association
Growth Energy
Institute of Shortening and Edible Oils
National Barley Growers Association
National Cotton Council
National Cotton Ginners Association
National Cottonseed Products Association
National Council of Farmer Cooperatives
National Farmers Union
National Grain and Feed Association
National Oilseed Processors Association
National Sorghum Producers
North American Millers' Association
The Fertilizer Institute
U.S. Canola Association
U.S. Wheat Associates

Randall C. Gordon
1400 Crystal Drive; Ste. 260
Arlington, VA 22043
rgordon@ngfa.org