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To Whom It May Concern,

Hudson Terminal Rail Services (HTR) is a privately-owned rail service company located in Hudson, CO. Our facility is focused mainly on storage of railcars and transloading bulk products from rail to truck/ground storage. We appreciate the opportunity to voice our concerns regarding Class I Railroad demurrage and the impact recent changes have made on our facility. Our facility is only serviced by Burlington Northern Santa Fe Railway (BNSF), any references to demurrage rules and guidelines contained in this letter apply only to BNSF.

The recent changes in the BNSF Demurrage Book 6004-C tariff has had a significant impact on our facility's operations, customers and even employees. We were made aware of the changes to the demurrage guidelines through our local representative in the Denver area not too long before the change became effective on March 7, 2019.

In previous years BNSF has charged the consignee of the railcar for any demurrage charges incurred, the recent change to the tariff now states the receiving facility will be responsible, regardless of who shipped the car(s) or who the car(s) are consigned to. All offloading of system car(s) at our facility is done by our customers and their contractors. HTR does not take responsibility for the railcar or the load. A receiving facility does not have control of when the consignee will offload the car or have knowledge of any special arrangements the consignee may have with the Railroad in regard to the offload schedule.

The biggest setback/impact for our facility is our outbound capacity and outbound schedule is controlled entirely by BNSF. All manifest cars received by BNSF are to be sent back out via manifest service through the BNSF Denver yard. For a couple years (approx. end of 2016 – 2018) we were allowed to send extra cars out 7 days a week but were limited for each day (either 6 extra cars or 12 extra cars were allowed depending on the day). In recent months BNSF has changed this to limit any extra cars we send to under 1000 feet per day and only 5 days a week. Any demurrage charges incurred because of these limitations should not be the responsibility of HTR.

In order to accommodate these changes and limitations HTR decided we must be able to release the car(s) when they are reported empty and available for pickup, whether we are permitted to send the car(s) out or not. This is also what most representatives of BNSF will suggest when

discussing demurrage and the situation we are in. We've recently been told by the local Denver team we aren't able to do that; we can only release what will be available for the next day pickup. We are also not permitted to send any extra cars on Tuesday or Friday pickup due to BNSF servicing other customers in the area. So as an example, if a system car is emptied Sunday afternoon we aren't supposed to release the car until Tuesday at the earliest, in turn resulting in demurrage charges that are not at the fault of HTR or its customers but rather due to the outbound limitations put in place by BNSF.

Most BNSF customers are able to order and control their incoming inventory from the online tools located on bnsf.com. HTR does not have that capability, we are under the control of the Denver BNSF yard and have no say in how many cars we receive daily. We've had a few occasions in which we receive multiple loaded cars at once and after confirming with our customer, the cars were released over several days so we wouldn't get so many at once. BNSF (or possibly another RR along the way) has grouped the cars together. This puts a strain on our customers to get the cars emptied as fast as they can.

It appears a large portion of customers paying demurrage for system cars are doing so from a BNSF controlled siding or spur. In other words, as soon as BNSF has spotted the cars for their customer on the siding or spur, the customer has immediate access to start offloading/loading the cars. When BNSF inbounds cars to our facility, they are placed on one track and must be later separated out and moved to the designated offloading areas of our facility. Depending on when the car(s) arrive at our facility (could be anytime throughout the day), it can take us up to 24 hours to move the car(s) to a track for offloading due to the placement of the loads when inbound. With the clock for demurrage starting at 12:01 am on the day after arrival, it is impossible for us to place the car to a designated offload track in such a short period of time.

HTR feels it is unfair for BNSF to only give two free days to offload cars and are only willing to pull cars from our facility 5 days a week and even further limit the amount we can send on those 5 days. After recently visiting a BNSF educational meeting in the Denver area regarding demurrage, we can see that a lot of facilities have unique circumstances and are also frustrated that all companies are held to the same standards, regardless of the situation or service by BNSF.

Other issues we've run across are companies shipping loads to us without our knowledge or customers have consigned shipments incorrectly. Our customers are reluctant to change the consignee because of charges they may incur from the Railroad. If a car comes to us consigned to any company other than a customer we have a contract with, we have no legal recourse to recover demurrage costs for those shipments consigned incorrectly.

As a receiving facility we should not be responsible for demurrage charges or take any responsibility for any shipments sent to our site for any reason; we are not the consignee and have no knowledge of any special arrangements that may have been made with the railroad and the consignees of the railcar(s). We are aware and understand we can dispute any demurrage charges we incur; however, it shouldn't be the responsibility of our staff to constantly dispute charges that are due to situations beyond our control and the BNSF service, or lack thereof.

We appreciate the opportunity to voice our concerns, if you should have any further questions or if I can be of further assistance please feel free to contact me anytime at 303-536-4406 or by email: lizbirmingham@hudsonterminalrailroad.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Liz Birmingham', with a large, sweeping loop at the end.

Liz Birmingham
Administrator
Hudson Terminal Rail Services