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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36178

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METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

COMMENTS

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COMMENTS

The Southern Minnesota Beet Sugar Cooperative (“SMBSC”) hereby provides its Comments regarding the Petition for Declaratory Order (“Petition”) filed by the Metropolitan Council (“Council”) on April 4, 2018.¹ SMBSC is joined in these Comments by the thirteen (13) shipper entities listed in Section I below. SMBSC and these thirteen entities are all rail shippers served by the Twin Cities & Western Railroad Company (“TCW”) and would be affected by any change in TCW operations resulting from the multiple transactions described in both the Petition and also the related Notice of Exemption filed by the Hennepin County Regional Railroad Authority (“HCRRA”) in Finance Docket No. 36177. These transactions are intended to facilitate light rail construction and operation (the “LRT Project”). SMBSC and the thirteen entities listed below are collectively termed the “TCW Shippers Coalition” or the members of the “Coalition” in these Comments.

Although the Coalition technically consists of fourteen shippers, in reality it could be understood to represent all the communities, farmers, industries, and jobs that rely on the

¹ The due date for Comments was established by the Board in decisions served on May 22, 2018 and June 19, 2018.

efficient and cost-effective rail service provided by TCW across the rail lines implicated by the Petition. Any interruption or reduction in rail service to these shippers would cause significant harm to the communities in which they operate. Delays in transportation would inhibit the ability of these shippers to participate in interstate commerce, with resulting ripple effects felt throughout the region as farmers, other businesses, jobs, and families are affected. The Coalition urges the Board to carefully evaluate the transactions described in the Petition and take appropriate action in order to ensure there is no material interference with freight rail service provided over the rail lines at issue. In particular, the Coalition requests that the Board impose the conditions described in Section V in any decision granting the declaratory order sought in this proceeding.

I. Identity and Interest of the Shippers Coalition.

In order to accurately describe the interest of the Coalition members, it is important to first understand the rail transportation network in southern Minnesota. As described repeatedly in the filings made so far in this docket and Finance Docket No. 36177, TCW has overhead trackage rights on the Kenilworth Spur and the Bass Lake Spur (collectively, the “Line”).² These overhead trackage rights are utilized by TCW to connect its extensive rail system west of the Twin Cities to interchanges with railroads in the Twin Cities area, including four Class I railroads – BNSF Railway Company (“BNSF”), Canadian National Railway (“CN”), Canadian Pacific Railway (“CP”), and Union Pacific Railroad Company (“UP”).³ Absent access to the

² See, e.g., Petition at 4. See also Notice of Exemption at 2, STB Finance Docket No. 36177 (filed April 5, 2018).

³ See <http://tcwr.net/general-public-2/company-overview/> (“TC&W interchanges with all Class 1 railroads serving the Minneapolis/St. Paul terminal area: BNSF Railway, Canadian National Railway, Canadian Pacific Railway, and Union Pacific Railroad.”).

Twin Cities area via these trackage rights, TCW's only connection to the wider national rail network would be through BNSF in southwestern Minnesota and eastern South Dakota.⁴

The shippers in the Coalition represent not just themselves, but also countless employees, families, and communities throughout southern Minnesota. These shippers are located along the TCW main line west from the Twin Cities area to Milbank, South Dakota.⁵ They are also located along the parallel Minnesota Prairie Line ("MPL"), which is operated by TCW and which connects to the TCW mainline at Norwood, Minnesota.⁶ The members of the Coalition all operate from rail-served facilities on TCW west of the Twin Cities. For purposes of these Comments, all three TCW-operated or controlled lines will be collectively referred to as "TCW."

Coalition members are located in small towns and rural areas of southern Minnesota, and they function as the lifeblood of their communities. Rail service provided by TCW is the crucial link between these communities and the wider world. This rail service enables the shippers to participate in interstate and international commerce, thereby supporting countless jobs and families throughout the entire region. As such, the Coalition members would be significantly affected by any change in TCW rail operations along the Line, including any increase in transportation rates, and they have a strong interest in the issues being addressed by the Board in this proceeding and Finance Docket No. 36177.

⁴ Information about TCW interchanges is available at <http://tcwr.net/general-public-2/company-overview/>.

⁵ TCW also effectively controls operations beyond Milbank, all the way to Sisseton, South Dakota, because TCW's wholly-owned subsidiary (the Sisseton Milbank Railroad Company) operates the 37-mile rail line between Milbank and Sisseton. See, e.g., Twin Cities & Western Railroad Company, the Estate of Douglas M. Head, and the DMH Trust FBO Martha M. Head – Continuance in Control Exemption – Sisseton Milbank Railroad Company, STB Docket No. 35642 (served July 18, 2012).

⁶ The MPL is owned by the Minnesota Valley Regional Rail Authority but operated by TCW. See, e.g., Twin Cities & Western Railroad Company, Douglas M. Head, Charles H. Clay, Kent P. Shoemaker and William F. Drusch – Continuance in Control Exemption – Minnesota Prairie Line, Inc., STB Docket No. 34068 (served June 6, 2002).

The Coalition currently consists of the following fourteen members:

- Southern Minnesota Beet Sugar Cooperative
- Agri Trading
- Heartland Corn Products
- Western Consolidated Cooperative
- United Farmers Cooperative
- Step Saver Inc.
- F.W. Cobs Company
- Meadowland Farmers Coop
- L.G. Everist, Inc.
- Granite Falls Energy
- Form-A-Feed Inc.
- Farmward Cooperative
- Farmers Co-operative Elevator Company
- Central Region Cooperative

For purposes of these Comments, Coalition membership is slightly different than that given in the Entry of Appearance filed on June 18.⁷ Coalition members support these Comments, as shown in Exhibit A.

II. Rail Transportation Provided Via the Line Is Critical to Communities Throughout Southern Minnesota.

A. Reliable, efficient, and cost-effective rail service is vitally important.

Most rail shipments to and from the Shippers in the Coalition travel through the Twin Cities on TCW in order to connect to other rail carriers in the Twin Cities area, including BNSF, CN, CP, and UP. In fact, TCW plays an extremely critical role for these shippers – it enables access to four major competing railroads in the Twin Cities area.⁸ Shippers, farmers, and communities have spent tens of millions of dollars making long-term investments in their facilities along TCW in order to obtain the benefit of competing rail service providers, as enabled

⁷ A few Coalition members' names were misspelled in the June 18th Entry of Appearance. These names have been corrected in the above list.

⁸ See, e.g., TCW Initial Comments at 6 (filed April 24, 2018) ("TCW uses the Subject Line many times a day and the Subject Lines are the only form of access to the Twin Cities rail gateway for the Minnesota and South Dakota shippers that are dependent on TCW's service.").

by TCW's connections in the Twin Cities area. If rail service on the Line is eliminated or hindered, then rail shipments on the TCW line could only connect to the national rail network through an interchange to BNSF at Appleton or Ortonville.⁹ Shipments on the MPL can only connect to the TCW mainline at Norwood, or to BNSF at Hanley Falls. Shipments on the Sisseton Milbank Railroad Company ("SMRR," a wholly-owned subsidiary of TCW) can only connect to either TCW or BNSF at Milbank, SD. Consequently, without access to the Twin Cities area through the Line, all shipments originating on or destined to TCW (including shipments originating on or destined to the MPL or the SMRR) would effectively be captive to BNSF. There is limited track space at most of these BNSF interchange points, creating uncertainty regarding whether all TCW-origin (or destined) traffic could continue operating without access to the Twin Cities. Of course, captivity to BNSF could dramatically raise rail rates, thereby imperiling the competitiveness of the shippers and the jobs, families, and communities that depend on these shippers. Without the free flow of rail traffic through the Twin Cities via the TCW, the lifeblood of these communities is put at risk. The farmers, businesses, and shippers in these communities would be significantly hampered in their ability to compete in the national and international marketplace without the competitive rail service options enabled through the TCW connection.¹⁰

⁹ See <http://tcwr.net/general-public-2/company-overview/>. The TCW system map (including the MPL and Sisseton Milbank Railroad Company) is available at <http://tcwr.net/customers/maps/>.

¹⁰ Harm to TCW's operations along the Line would detract from the benefits inherent in TCW's trackage rights – benefits of the type that the ICC recognized many years ago when adopting the class exemption for trackage rights transactions. Railroad Consolidation Procedures – Trackage Rights Exemption, 1 ICC2d 270, 278 (1985) ("Increasing competition by adding carrier services on a line or in a market reduces the market power of the other carriers in the market and creates additional transportation options for shippers.").

B. Coalition members rely on efficient and cost-effective service, including access to multiple carriers in the Twin Cities area.

A brief description of each of the Coalition members is provided in Exhibit B attached hereto. The Coalition includes a wide variety of shippers, from small enterprises to large manufacturing facilities with hundreds of employees. Coalition members rely on TCW for both inbound and outbound rail shipments. To give the Board a sense of the diversity in the Coalition, and the critical importance of TCW rail service, four of the Coalition members are described below.

SMBSC produces beet sugar at its main facility in Renville, Minnesota on the TCW. SMBSC is owned and operated by approximately 500 farm families, and utilizes TCW for over 6,000 rail carloads per year. The President and CEO of SMBSC has stated that “TCW is the only viable rail carrier for our product to move to and from the Twin Cities rail terminal, therefore, 100% of our rail shipments would be subject” to the Petition for Declaratory Order. SMBSC has 375 full-time employees and an additional 475 seasonal employees during the harvest season.¹¹

The Coalition also consists of grain elevators and cooperatives that provide a vital link between Minnesota farmers and markets throughout the United States. These shippers utilize the TCW for outbound rail shipments of grain. For example, F.W. Cobs Company supplies organic grain for “animal feed to customers on both the East and West Coasts” from an elevator located on the TCW in Stewart, Minnesota. F.W. Cobs selected this site for its business “because of the TCWR’s efficiency and access to interchange with the other larger railroads.” F.W. Cobs has invested hundreds of thousands of dollars in its facility to become operational in the last year,

¹¹ See Exhibit B-1.

thereby providing a “boost to local farmers as well as competitive pricing to our customers on both coasts.”¹²

Coalition members also include ethanol production facilities such as Heartland Corn Products, which processes corn into ethanol, dried distillers grains (“DDGS”), and corn oil at a TCW-served facility in Winthrop, Minnesota. Heartland has 900 member farmers who rely on consistent and cost-effective TCW rail service. All ethanol (and 50% of the DDGS) produced at the facility is shipped outbound via TCW. As described by Heartland, “[t]he access provided by the TCWR to markets across the United States and throughout the globe is critical to our business, the economic health of our 900 members, and the 54 people we employ at Winthrop MN.”¹³

The TCW rail line is not only used for outbound shipment of grain and other agricultural-based products like sugar and ethanol. Inbound shipments are also important, as are non-agricultural products. As just one example, a bulk salt delivery service known as Step Saver Inc. operates out of a facility on the TCW in Morton, Minnesota. This facility receives inbound rail shipments of bulk salt that originate in Utah, and delivers the salt to customers throughout southern Minnesota, eastern South Dakota, and northern Iowa. The inbound rail cars travel on the track that is the subject of the Petition for Declaratory Order.¹⁴

C. The Board should ensure the preservation of shippers’ access to efficient and cost-effective rail service, including access to interchanging carriers in the Twin Cities area.

The Board has a statutory duty to support existing competition in the national rail system. Congress has directed the Board to “ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers.” 49 USC § 10101(4). See

¹² See Exhibit B-7.

¹³ See Exhibit B-3.

¹⁴ See Exhibit B-6.

also 49 USC §§ 10101(1) and (5). In fact, the Board is concerned with not just preserving competition, but also enhancing it, when faced with proposed major rail consolidations.¹⁵ Of course, the Board’s major merger rules do not apply to the series of transactions proposed by Council and HCRRA, but they do elucidate the importance of competition issues in considering a proposal that could markedly impact the ability of Coalition members to access competing major railroads in the Twin Cities area by way of the Line.

The Board is also tasked with “avoid[ing] undue concentrations of market power.” 49 USC § 10101(12). Such an undue concentration is possible here to the extent there is interruption or disruption of TCW’s role as a crucial link to competing rail carriers. If TCW is not able to maintain its current ability to transport traffic from areas west of the Twin Cities through the Line and ultimately to BNSF, CN, CP, and UP, then such traffic would be forced to interchange with BNSF outside the Twin Cities, thereby making all TCW shippers effectively captive to BNSF. The Board recognizes that captive traffic generally pays higher transportation rates due to differential pricing. See, e.g., Review of Rail Access and Competition Issues, STB Ex Parte No. 575, slip op. at 2 (served April 17, 1998). Higher rates would negatively impact the ability of Coalition members to compete in the national and international marketplace. Jobs could be lost and communities could be harmed.

The Board and Class I railroads have long recognized that when there is a single shortline railroad which interchanges with multiple larger railroads, competition ensues among the larger railroads for the traffic of shippers located on the shortline. For example, when UP proposed to merge with Southern Pacific Transportation Company (“SP”), the applicants proposed an arrangement agreed with BNSF, which the Board then imposed as a condition of the merger,

¹⁵ Major Rail Consolidation Procedures, STB Ex Parte No. 582 (Sub-No. 1), slip op. at 9-10 (served June 11, 2001).

which reflected this very competitive scenario. In the BNSF Agreement, BNSF was granted the ability to interchange with those shortline railroads that, prior to the merger, could interchange with both UP and SP and no other railroad.¹⁶ This means that those shippers located on the shortline would retain effective two-carrier competition after the merger, with UP/SP and BNSF replacing the prior competition between UP and SP.

Given the extreme importance of competitive forces in facilitating efficient and cost-effective interstate commerce, the Board should be extremely cautious of authorizing any transaction that could impede or hamper that competition. The Coalition urges the Board to attach the conditions described in Section V to any declaratory order approving the Council's proposed transaction.

III. The Board Should Carefully Consider the Impact on Existing Freight Rail Operations From the Complex Series of Transactions Described in this Docket.

The “key question” in a State of Maine analysis is “whether the transaction documents give the new owner of the physical railroad assets the ability to prevent the rail carrier that retains the freight operating easement from meeting its common carrier obligations on the Line.”¹⁷ As should be evident from this quotation, the “key question” under State of Maine bears little applicability to the unique factual scenario presented by the Council and the HCRRA in Finance Docket Nos. 36177 and 36178. The State of Maine framework provides no guidance for a situation where the crucial, preexisting freight rail service consists of overhead trackage rights held by a railroad that is not a party to the operative transaction documents. State of Maine says nothing about whether that railroad (here, TCW) must be a party to the transaction documents,

¹⁶ See, e.g., Union Pacific Corporation et al. – Control and Merger – Southern Pacific Rail Corporation et al., 1 STB 233, 252 (1996). See also 1 STB at 391 (n. 127) and 1 STB at 465-466.

¹⁷ New Jersey Transit Corporation – Acquisition Exemption – Norfolk Southern Railway Company, STB Docket No. 35638, slip op. at 3 (served Mar. 27, 2013).

especially where, as here, the operative documents clearly state they do not have any third party beneficiaries.¹⁸

TCW has identified many impacts on rail service from the transactions as currently structured.¹⁹ In response, the Council has asserted that the harms posited by TCW are “speculative.”²⁰ This may be true in the sense that the harms have not yet occurred, but there is no doubt that any material hindrance of TCW rail service would have not only detrimental effects on the shippers in the Coalition, but also cascading effects felt throughout the communities of southern Minnesota. As described in Sections I and II above, the Coalition’s main concern centers on the need to ensure that the proposed transactions do not harm freight rail service, market access, and competitive pricing. In analyzing the filings made thus far at the Board, the Coalition has identified several subsidiary areas of concern; these subsidiary issues can be understood as details regarding the main concern described in Sections I and II. The subsidiary issues include, but are not necessarily limited to:

- Loss of siding track.
- Discord between TCW and the Council/HCRRA.
- Insufficient involvement of shippers.
- Unusual circumstances for a State of Maine case.

¹⁸ See, e.g., Operations and Maintenance Agreement at § 8.7 (“This Agreement is for the exclusive benefit of the Parties and not for the benefit of any third party. Nothing herein may be construed to create or increase any right in any third party to recover by way of damages or otherwise against either of the Parties.”). This agreement was filed with the Board by the Council on June 5, 2018 in Finance Docket No. 36178.

¹⁹ See, e.g., TCW Initial Comments at 10-13 (filed April 24, 2018).

²⁰ Council Reply to Initial Comments at 11 (filed May 2, 2018).

Each of these concerns is briefly addressed below.

A. Loss of siding track.

The Shippers are concerned that the Council asserts “the only practicable routing [for the light rail project] necessarily involves the removal of some sidings.”²¹ These sidings consist of “approximately 16,000 feet” of track “on the east side of the Bass Lake Spur.”²² TCW states that “[r]emoval of those side tracks and the transfer of others to HCRRA will substantially interfere with TCW’s current and future service. TCW simply cannot provide the same level of service without those tracks.”²³ In contrast, however, the Council states that TCW “grossly overstate[s]” the role of the sidings in TCW’s rail service.²⁴

The proposed loss of over three miles of rail sidings currently utilized by TCW causes great concern among rail-served shippers and communities throughout southern Minnesota. The Council claims that the operative agreements ensure that there will be no interference with TCW’s overhead trackage rights,²⁵ but TCW says removal of the sidings will cause material interference.²⁶ Furthermore, as the LRT Project is currently structured, neither TCW nor the shippers can enforce the operative agreements or even know if their terms are being met. The Council says that the dispute about siding usage has already been addressed because CP will

²¹ Council Reply to Initial Comments at 19-20 (filed May 2, 2018).

²² Council Reply to Initial Comments at 22 (filed May 2, 2018).

²³ TCW Initial Comments at 12 (filed April 24, 2018).

²⁴ Council Reply to Initial Comments at 22 (filed May 2, 2018).

²⁵ See, e.g., Petition at 5 and 7. See also Council Reply to Initial Comments at 13 (filed May 2, 2018) (“HCRRA’s exclusive easement for purposes of complying with *State of Maine vis-à-vis* the Council’s acquisition of the rail assets expressly recognizes and is made subject to TCWR’s existing rights.”) and at 22 (stating that HCRRA will be allowed to remove rail sidings “as long as that removal does not materially interfere with TCWR’s exercise of its overhead trackage rights”).

²⁶ See, e.g., Petition to Reject or Stay the Exemption Notice at 10, STB Finance Docket No. 36177 (filed April 24, 2018).

provide dispatching of the Line “until a third party or third parties can be retained,”²⁷ but this seems plainly insufficient if the loss of the sidings causes harm to rail service. The Board has found that these sorts of railroad activities – using side tracks for temporary setting out of cars, thereby enabling smooth and uninterrupted service on main rail lines – are crucial to the provision of common carrier rail service. See, e.g., The City of Ozark, Ark. – Petition for Declaratory Order, STB Docket No. 36104, slip op. at 4 (served July 28, 2017).

Shippers in the Coalition remain extremely concerned about the proposed siding elimination and the effect on TCW rail service, including especially the effect on traffic flows from the communities of southern Minnesota to the interchanges with major railroads in the Twin Cities area. To address this concern, the Coalition has proposed a siding condition in Section V below.

B. Discord between TCW and the Council/HCRRA.

The mere existence of significant discord between TCW and the Council/HCRRA regarding future freight rail use on the Line also causes alarm among members of the Coalition. When the host railroad and a tenant railroad disagree about track usage and rail operations, it is usually the shippers who suffer harm. From the perspective of the Shippers Coalition, it is critical that the disagreements between the Council/HCRRA and TCW are resolved *before* there is any negative impact on freight rail service.

The Council contends that it worked with TCW for “almost two years to develop construction protocols,” that the two parties “developed mutually acceptable design and construction plans and specifications,” and that “a series of agreements” was negotiated.²⁸ Although these agreements were apparently never executed, the Council states that it has

²⁷ Council Reply to Initial Comments at 23 (filed May 2, 2018).

²⁸ Council Reply to Initial Comments at 17-18 (filed May 2, 2018).

“committed to preserve the freight design, construction and operating protocols to which it and TCWR had agreed.”²⁹ Unfortunately, TCW “dispute[s]” this version of events.³⁰ TCW states that, “[i]f this proceeding moves forward, further development of the record will show that these intentions [of the Council] are illusory and unenforceable.”³¹ There is also an ongoing federal district court case concerning these and related issues.³²

The Council suggested it was willing to make a “settlement payment” to TCW to resolve the differences between the parties,³³ but Coalition members are left wondering how any payment could ensure that rail service is not impeded. Even if the Council and TCW agree upon a settlement payment, that is no help to the shippers if the LRT Project interrupts rail service (whether through loss of side tracks or otherwise).

The Coalition is concerned that the continuing discord and disagreements between TCW and the Council/HCRRA could imperil freight rail service. If rail service is interrupted or delayed, significant harm would ensue. If service is interrupted and the involved host carrier (HCRRA) is exempt from Subtitle IV, then shippers would potentially have no recourse to regulatory remedies at the Board absent revocation of the exemption. To address these concerns, the Coalition has proposed certain conditions in Section V below.

C. Insufficient involvement of shippers.

Replacement and reconstruction of almost the entire Line is apparently envisioned by the Council. See, e.g., Petition at 8; Reply to Initial Comments at 19. Coalition members would like to be involved in or at least kept informed of the scheduling and planning for this replacement and reconstruction effort in order to ensure that there are no negative impacts to rail shipments

²⁹ Council Reply to Initial Comments at 18 (filed May 2, 2018).

³⁰ TCW Rebuttal Comments at 14 (filed May 17, 2018).

³¹ TCW Rebuttal Comments at 15 (filed May 17, 2018).

³² See TCW Initial Comments, Exhibit A (filed April 24, 2018).

³³ Council Reply to Initial Comments at 4 (filed May 2, 2018).

using the Line. The Council asserts that it and HCRRA “took great pains to obtain input from TCWR and its shippers concerning the proposed project.”³⁴ In support of the assertion about input from shippers, the Council cites only to comments filed by certain shippers with the Federal Transit Administration (“FTA”) during that agency’s environmental review of the LRT Project several years ago. See Council Reply to Initial Comments at 19-20 (n. 17) (filed May 2, 2018). The relevance of these environmental comments to the issues currently before the Board is questionable at best. These comments were filed years ago before the start of the current dispute between the Council/HCRRA and TCW regarding how to structure the transactions to ensure preservation of freight rail service on the Line. In any event, Coalition members informed the FTA at that time of the need to maintain freight rail service along the Line.³⁵ Finally, the FTA is not the agency that oversees TCW’s Board-authorized trackage rights.

The shippers in the Coalition participate in a wide variety of business transactions every day. Complex supply chains may be involved, in which TCW rail service is only a small part. In many cases, Coalition members have contractual volume commitments to major U.S. railroads; disruption of TCW rail service could prevent such members from meeting the volume commitments, leading to significant contractual penalties and/or other financial harm. Similarly, Coalition members also have other contractual obligations that depend on reliable TCW rail service, such as obligations to supply outbound commodities to customers, or obligations to purchase inbound materials. Again, penalties are possible if the contractual obligations are not

³⁴ Council Reply to Initial Comments at 6 (filed May 2, 2018).

³⁵ See, e.g., https://metro council.org/Transportation/Projects/Current-Projects/Southwest-LRT/Publications-And-Resources/Environmental-Documents/FEIS/TechMemos/SWLRT-FEIS-Appendix-L_DEIS-Part-1.aspx (showing that SMBSC, Heartland Corn Products, Farmers Co-operative Elevator Company, Form-A-Feed, Step Saver, and other shippers in the Coalition filed comments regarding “theme C” – which means “opposition to relocation of freight rail out of the Kenilworth Corridor”).

met. For all these reasons, Coalition members must be involved in discussions and planning for any work that would affect TCW rail service.

Coalition members understand that construction of the LRT Project will necessarily require occasional, predetermined short-term track outages of approximately 24-36 hours along the Line used by TCW. Coalition members are prepared and willing to arrange their transportation needs to accommodate these occasional, predetermined short-term track outages. They respectfully request to be included in any discussions among the Council, HCRRA, and TCW regarding planning and scheduling of these outages and other impacts on TCW rail service, including any extension of the mediation initiated by the Board in the decision served June 1, 2018. See Section V below.

D. Unusual circumstances for a State of Maine case.

Careful Board evaluation of the Petition and the related Notice of Exemption is advisable because the facts involved here do not represent a standard State of Maine scenario. Unlike in typical State of Maine cases, the main railroad using the track facilities that are to be sold (here, TCW) is not actually a party to the operative agreements. In fact, the main current relevance of the subject track to the national rail network does not lie in the rail access of shippers immediately adjacent to the track,³⁶ but instead as a connection or through-running track for shippers that are many miles distant. Meanwhile, the railroad retaining the easement over the subject track facilities (here, HCRRA) has an exemption from all obligations of Subtitle IV, which also adds an unusual wrinkle.

If the Council and HCRRA fail to adequately provide for TCW's rail operations, will TCW be able to bring any breach of contract claims? Or, will it be prevented from doing so because it is not a party to the operative State of Maine agreements? Will shippers or TCW be

³⁶ The Council says there are none. See Petition at 5-6.

able to enforce any federal regulatory rights against HCRRA? Or, will they be prevented from doing so due to HCRRA's Subtitle IV exemption? These are relevant questions for all shipper members of the Coalition, who depend on consistent, reliable rail service to keep their businesses running.

Shippers in the Coalition are concerned that the Council advocates that the Board consider only the “narrow question” of whether the relevant agreements meet the State of Maine standard.³⁷ The Board is charged with keeping the flow of interstate commerce moving smoothly through the United States. The Board has a statutory and implicit duty to ensure that its regulatory processes do not cause harms (however unintentional) to the flow of rail traffic across the common carrier national rail network.³⁸

The Council contends that swift resolution of the issues in this docket is necessary because any delay “could cost tens of millions of dollars.” Council Reply to Initial Comments at 24 (filed May 2, 2018). Even if true, this is not the only risk. A hasty Board approval without conditions would effectively condone a series of actions where the serving railroad (TCW) is at odds with the track owner (Council), including regarding the removal of 16,000 feet of siding track. Communities, businesses, farmers, and families throughout southern Minnesota (and into eastern South Dakota) rely on the rail transportation provided by TCW along the Line to reach connections with numerous Class I railroads in the Twin Cities. The Line provides a critical link to the national economy for thousands of jobs. Any material disruption in that link would cause untold harm, with rippling side effects felt throughout the southern Minnesota economy.

³⁷ Council Reply to Initial Comments at 12 (filed May 2, 2018).

³⁸ New York Cross Harbor Railroad v. STB, 374 F.3d 1177, 1187 (D.C. Cir. 2004) (Board has a “statutory duty to preserve and promote continued rail service”).

IV. Responses to the Five Questions Posed by the Board.

In the decision served on May 22, 2018, the Board asked for input on five specific questions. The Coalition hereby provides responses to each question below:

1. What steps, if any, would need to be taken with respect to the transaction agreements for which the Council seeks a State of Maine declaratory order in order to appropriately protect TCW's interests? Are there changes that could bring the parties to common ground?

The Shippers Coalition wholeheartedly supports any effort by the Council and TCW to find common ground, especially regarding the need to preserve and maintain TCW's ability to provide freight rail service over the Line. See Sections II and III.B above. The Coalition urges the Board to withhold the requested declaratory order until TCW, the Council, and HCRRA agree on all key issues related to rail service, including the preservation of sufficient siding tracks. The Coalition has proposed a condition regarding siding tracks, as described in Section V below.

2. What is the effect on the State of Maine analysis, if any, of HCRRA's exemption from Subtitle IV of Title 49 of the United States Code?

The HCRRA exemption requires the Board to add an appropriate condition to any decision granting the requested declaratory order. When the State of Maine doctrine was created, the Interstate Commerce Commission made clear that it depended largely on the common carrier obligation of the serving railroad holding the easement on the track assets to be transferred.³⁹ With its Subtitle IV exemption, however, HCRRA could be found to have no common carrier obligation.⁴⁰ A regulatory gap could exist under these facts. If the requested

³⁹ State of Maine, 8 ICC2d at 837 (“both parties agree that MEC retains the common carrier obligation and that it could not cease to offer service on the line without ICC permission...this record persuades us that...MEC has done nothing that impairs its ability to fulfill its continuing common carrier obligation”).

⁴⁰ Just to be clear, the Coalition is *not* arguing that HCRRA has no common carrier obligation, or that HCRRA would have no regulatory obligations as the host railroad for Board-authorized

declaratory order were granted without conditions and TCW's rail service were disrupted, then both TCW and the shippers could be barred from seeking regulatory relief against HCRRA (because of the Subtitle IV exemption) and the Council (because it is not a carrier). In addition to the obligations of a host carrier pursuant to Board-authorized trackage rights, the Coalition is also concerned about common carrier obligations such as 49 USC §§ 10702(2) and 10742. Given the extreme importance of the Line to the shippers and communities along the TCW, the Board should condition any State of Maine order on the unambiguous statement that HCRRA is not exempt from Subtitle IV for any of its obligations as the host carrier for TCW's trackage rights or related obligations that could affect shippers served via those rights. See Section V below.

3. What is the effect on the State of Maine analysis, if any, of Section 1(a)(2) of the Joint Powers Agreement between the Council and HCRRA?

The Board should find that Section 1(a)(2) prevents issuance of the requested declaratory order. As described in Section 1(a)(2), the purpose of the Joint and Cooperative Exercise of Powers Agreement ("JCEPA") is "to assign responsibility to the Council for administering on behalf of HCRRA the Trackage Rights Agreements and HCRRA's performance of the Common Carrier Obligation." This purpose is subject to Section 1(b), which states that HCRRA is still ultimately responsible to fulfill its common carrier obligation and obligations under the trackage rights agreements "[i]f the Council breaches or otherwise does not perform."

The requested declaratory order cannot be issued based on the existing JCEPA because Section 1(a)(2) purports to make the Council a common carrier – which is not permissible

trackage rights. However, the Coalition is concerned that HCRRA *could be found* to have no such obligations, or the Council and HCRRA *could assert* that no such obligations exist.

without Board authorization.⁴¹ The fact that the “ultimate” responsibility would fall on HCRRA if the Council fails to perform does not change the fact that the Council is expected to be and act as the common carrier for the rail line pursuant to Section 1(a)(2). Board authorization is necessary before an entity can engage in such performance as a common carrier. The Board should state that, if the Council wants to move forward with the transaction, the Council must either obtain authorization as a common carrier or modify the JCEPA.

4. What is the effect on the State of Maine analysis, if any, of the presence of a second easement holder, i.e., TCW?

As mentioned above, the facts before the Board are unusual for a State of Maine case. See Section III.D above. Each State of Maine case must be evaluated based on the “specific facts of...[the] particular transaction.” See 8 ICC2d 835, 838. Given the unusual facts here, the Board should take pains to ensure that the overhead rail service provided across the Line is not interrupted or materially affected by the proposed LRT Project. The Board should impose the conditions described in Section V below. If all the conditions in Section V are imposed, the Coalition does not necessarily believe that TCW must be a party to the operative State of Maine agreements. However, inclusion of TCW as a party would likely go a long way toward resolving many of the issues surrounding the transactions proposed by the Council and HCRRA. Inclusion of TCW in the operative agreements would facilitate protection of existing freight rail service along the Line and ensure that the transactions more closely follow the typical State of Maine transaction.

⁴¹ See, e.g., Kansas City Transportation Company LLC – Lease and Assignment of Lease Exemption – Kansas City Terminal Railway Company and Kaw River Railroad, Inc., STB Docket No. 34830 (served May 23, 2007).

5. Should operational impacts on TCW be considered as part of the State of Maine analysis? If so, should they be considered as a result of treating TCW as the State of Maine “carrier,” as opposed to HCRRA? (See TCW Initial Comments 17, 19.) Alternatively, should they be considered due to TCW’s status as an overhead trackage rights operator? What specific operational impacts would the transactions have on TCW, if any—for example, due to loss of sidings or due to the narrowness of the corridor and shared uses?

Yes, operational impacts on TCW should be considered as part of the State of Maine analysis here. As described at length in Sections I and II above, the Line is a crucial link for the shippers and communities of southern Minnesota and eastern South Dakota. It enables them to participate in interstate commerce and compete effectively in national and international markets. TCW does not necessarily need to be considered the relevant carrier (instead of HCRRA) for purposes of the State of Maine analysis. In fact, such a consideration could lead to unintended consequences given that TCW’s rights are overhead only, and TCW is not currently a party to the operative agreements. However, the impacts on TCW and its shippers should definitely be considered by the Board, which has the flexibility and authority to craft regulatory solutions and conditions that are appropriate for particular facts and circumstances.⁴² The Coalition urges the Board to impose the conditions described in Section V below upon any decision granting the requested declaratory order.

V. If the Board Permits the Transactions to Go Forward, the Board Should Consider Adding Conditions.

The specific facts and circumstances surrounding the Council’s State of Maine proposal necessitate the attaching of appropriate conditions to any decision granting the requested

⁴² Interstate Commerce Commission v. American Trucking Association, Inc., 467 U.S. 354, 365 (1984) (finding that the ICC “has discretion to take actions that are legitimate, reasonable, and [directly] adjunct to the Commission’s explicit statutory power”) (internal citations and quotations omitted). See also 49 USC § 1321(a).

declaratory order.⁴³ As mentioned above, the factual scenario described in this docket and Finance Docket No. 36177 does not represent a typical State of Maine scenario. However, the questions raised by this unique set of circumstances can be addressed by appropriately-devised conditions pursuant to the Board's State of Maine authority and general regulatory oversight.⁴⁴ The Coalition proposes the following conditions:

1. There should be no net loss of track space along the Line, whether main line, sidings, passing tracks, or otherwise, unless TCW agrees in writing. Tracks can be moved, but the new tracks should be constructed and operational before operations cease on the old tracks.

2. The Board should conduct oversight. The Council should be required to file quarterly, publicly-available reports with the Board until six (6) months after LRT operations begin. Such reports should describe construction activities, coordination with TCW, and information-sharing with affected shippers.

3. The Board should require that representatives of the Shippers Coalition are permitted to participate in any discussions and negotiations about modification or implementation of the transactions described in Finance Docket Nos. 36177 and 36178. The Board initiated a 30-day period of mediation in a decision served June 1, 2018 in this docket; if the mediation period is extended, the Coalition respectfully requests that it be included in the mediation.

⁴³ Each State of Maine case must be evaluated based on the particular facts and circumstances at issue. See State of Maine, 8 ICC2d at 838 (“unless there are adequate protections built into the transaction, we intend to examine these transactions closely and will make a determination based on the facts and circumstances of each case”).

⁴⁴ The Board has authority to attach conditions to State of Maine decisions. See, e.g., City of Woodinville, Wash. – Petition for Declaratory Order, STB Docket No. 35905, slip op. at 5 (served Oct. 7, 2016).

4. The Board should unequivocally state that TCW and any affected shipper(s) can seek all possible regulatory remedies against the easement holder (likely HCRRA) for its obligations as a host railroad for TCW's Board-authorized trackage rights or related obligations that could affect shippers served via those rights. To the extent the Board believes this condition would require removal or elimination of HCRRA's Subtitle IV exemption, the Coalition requests that the Board take that step.

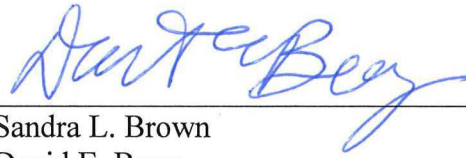
5. Overhead trackage rights along the Line should remain regardless of whether provided by TCW or another entity. The Board should unequivocally state that third parties are able to acquire the trackage rights in the event that TCW ceases use of them. Such a statement is necessary due to precedent such as Delaware and Hudson Railway Company, Inc. – Discontinuance of Trackage Rights Exemption, STB Docket No. AB-156 (Sub-No. 27X), slip. op. at 6-7 (served Aug. 13, 2015).

6. Section 1(a)(2) of the JCEPA must be modified as described in Section IV above, or the Council must become a Board-authorized railroad.

VI. Conclusion.

The Shippers Coalition appreciates the Board's attention to the important issues that are implicated by the multiple transactions proposed in this docket and the related Finance Docket No. 36177. The Coalition urges the Board to carefully consider the possible cascading impacts on rail service, shippers, and affected communities from the proposed transactions and the requested declaratory order. The Coalition respectfully requests that the Board attach the conditions described in Section V above to any decision issuing the requested declaratory order.

Respectfully submitted,



Sandra L. Brown

David E. Benz

THOMPSON HINE LLP

1919 M Street, N.W., Suite 700

Washington, D.C. 20036

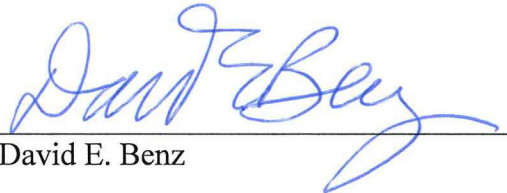
(202) 331-8800

*Attorneys for Southern Minnesota Beet
Sugar Cooperative, and on behalf of the
TCW Shippers Coalition*

June 27, 2018

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of June 2018, I served a copy of the foregoing upon all parties of record via U.S. first-class mail, postage prepaid.



David E. Benz

EXHIBIT A

Statements of Support

EXHIBIT A-1

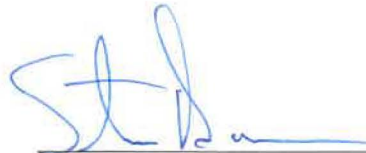
**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

Statement of Support

I am filing this Statement of Support on behalf of my company in the above-captioned proceeding. My company supports the foregoing Comments filed in this docket on behalf of the TCW Shippers Coalition. Further, I certify that I am qualified and authorized to file this Statement.



signature



printed name



company

June 19th, 2018

EXHIBIT A-2

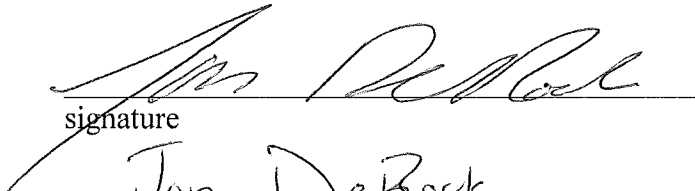
**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

Statement of Support

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signature

Jon DeRock
printed name

Agri Trading
company

June 19th, 2018

EXHIBIT A-3

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

Statement of Support

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signature

Gary Anderson
printed name

Heartland Corn Products
company

June 19, 2018

EXHIBIT A-4

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

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signature

Dean Isaacson

printed name

Western Consolidated Cooperative

company

June 20, 2018

EXHIBIT A-5



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

Statement of Support

I am filing this Statement of Support on behalf of United Farmers Cooperative (UFC) in the above-captioned proceeding. UFC supports the foregoing Comments filed in this docket on behalf of the TCW Shippers Coalition. Further, I certify that I am qualified and authorized to file this Statement.

Signature



Jeff Nielsen, President/CEO


United Farmers Cooperative (UFC)

June 21, 2018

EXHIBIT A-6

 Step Saver, Inc.TM Salt Pumping Systems <i>Salt delivery made easy.</i>	120 West 2nd ST, PO Box 240 Morton, MN 56270 Toll Free: 888-783-7728 Email chuck@stepsaverinc.com Fax: 507-697-2060
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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

Statement of Support

I am filing this Statement of Support on behalf of my company in the above-captioned proceeding. My company supports the foregoing Comments filed in this docket on behalf of the TCW Shippers Coalition. Further, I certify that I am qualified and authorized to file this Statement.


signature
Charles J Steffy
printed name
Step Saver Inc
company

June 20, 2018

EXHIBIT A-7

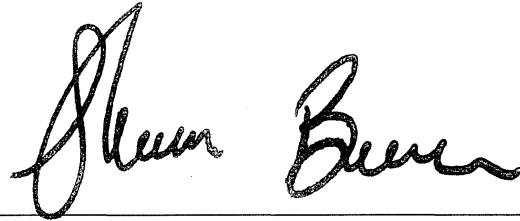
**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

Statement of Support

I am filing this Statement of Support on behalf of my company in the above-captioned proceeding. My company supports the foregoing Comments filed in this docket on behalf of the TCW Shippers Coalition. Further, I certify that I am qualified and authorized to file this Statement.



signature

Shawn Brooks

printed name

F.W. Cobs Company Inc.

company

June 19th, 2018

EXHIBIT A-8



Meadowland Farmers Coop

P.O. BOX 338
LAMBERTON, MINNESOTA 56152
OFFICE 752-7352

Serving the Community Since 1905

BEFORE THE SURFACE TRANSPORTATION BOARD

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

Statement of Support

I am filing this Statement of Support on behalf of my company in the above-captioned proceeding. My company supports the foregoing Comments filed in this docket on behalf of the TCW Shippers Coalition. Further, I certify that I am qualified and authorized to file this Statement.

Mike Trosen, D.M.
signature

Mike Trosen
printed name

Meadowland Farmers Coop
company

June 19th, 2018

EXHIBIT A-9

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

Statement of Support

I am filing this Statement of Support on behalf of my company in the above-captioned proceeding. My company supports the foregoing Comments filed in this docket on behalf of the TCW Shippers Coalition. Further, I certify that I am qualified and authorized to file this Statement.

signature

printed name

company

June 20th, 2018

EXHIBIT A-10

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

Statement of Support

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signature

Steve A. Christensen

printed name

Granite Falls Energy

company

June 20th, 2018

EXHIBIT A-11

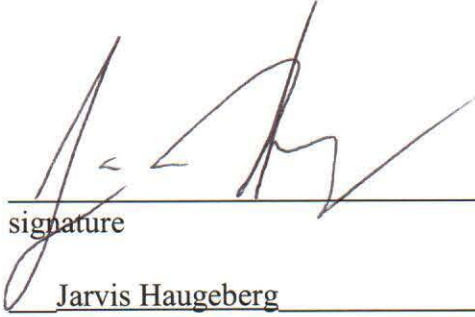
**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

Statement of Support

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signature

Jarvis Haugeberg
printed name

Form -A-Feed, Inc.
company

June 20th, 2018

EXHIBIT A-12

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

Statement of Support

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signature



printed name



company

June 20, 2018

EXHIBIT A-13

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

Statement of Support

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signature

Scott Dubbelde
printed name

Farmers Co-operative Elevator Co
company Honley Falls, MN

June 25, 2018

EXHIBIT A-14

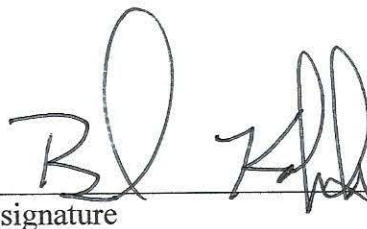
**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36178

METROPOLITAN COUNCIL – PETITION FOR DECLARATORY ORDER

Statement of Support

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signature

Brad Kohls
printed name

Central Region Cooperative
company

June 19th, 2018

EXHIBIT B

Shipper Descriptions

EXHIBIT B-1



Southern Minnesota Beet Sugar Cooperative

83550 County Road 21, Renville, Minnesota 56284

June 19, 2018

SMBSC is located in Renville, Minnesota a city of Renville County, Minnesota. SMBSC is a beet sugar producer owned and operated by 500+ farm families since 1975 and is located on Twin Cities & Western Railroad Company ("TCW"). SMBSC employs approximately 375 full-time benefit-rated employees, with an additional 475 seasonal employees during the harvest season. SMBSC ships over 6,000 plus carloads per year via this route with a delivered commodity value in excess of \$160 million, consisting of sugar, molasses, pellets, coal, and limestone. TCW is the only viable rail carrier for our product to move to and from the Twin Cities rail terminal, therefore, 100% of our rail shipments would be subject of the Petition of Declaratory Order.

Regards,

Steven Domm
Southern Minnesota Beet Sugar Cooperative President & CEO

EXHIBIT B-2

Memorandum

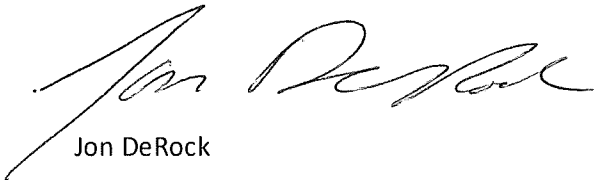
To: Surface Transportation Board

From: Jon DeRock, Owner

Date: June 19, 2018

Subject: Petition for Declaratory Order

Agri Trading operates an Animal Fats and Vegetable Oil Blending Facility out of Hector, MN along with a trucking operation that utilizes 10 tractors and 20 trailers. This location employs 15 employees, multiple owner operators that deliver to this location, and another 20 employees in Hutchinson, MN. These individuals rely on having the rail operational with good/consistent service being provided by the TC&W. All of our inbound and outbound shipments travel on the track that is the subject of the Petition for Declaratory Order. An increase in rates and a reduction in service will not only materially impact Agri Trading, but it will also negatively impact the 100's of customers that it services out of that facility along with their collectively thousands of employees.

A handwritten signature in black ink, appearing to read "Jon DeRock", is written over a horizontal line.

Jon DeRock

EXHIBIT B-3



HEARTLAND CORN PRODUCTS

53331 State Hwy. 19 • P.O. Box A • Winthrop, MN 55396
Phone: 507-647-5000 • Fax: 507-647-5010

Heartland Corn Products operates a 100 million gallon/year ethanol plant in Winthrop Minnesota served by the TCWR. The facility receives shipments of corn via truck and processes the corn into Ethanol, Dried Distillers Grains (DDGS), and Corn Oil. 100% of the Ethanol and 50% of the DDGS produced at the facility is shipped by rail via the TCWR, while all of the corn oil is shipped by truck.

The value created by processing corn at our facility has a significant impact on our 900 members by adding an average of \$.80/bushel on the approximately 40 million bushels that are delivered by our members. The access provided by the TCWR to markets across the United States and throughout the globe is critical to our business, the economic health of our 900 members, and the 54 people we employ at Winthrop MN.

All of our rail shipments travel on the track that is the subject of the Petition for Declaratory Order.

Respectfully submitted,

Gary Anderson – CEO Heartland Corn Products

EXHIBIT B-4



June 20, 2018

Dear Surface Transportation Board:

Western Consolidated Cooperative operates a rail-served grain elevator in Appleton, MN. At this facility, Western Consolidated Cooperative built a 110 car shuttle loading facility which consolidates inbound shipments of grain via motor carrier from producers and three other elevators we operate. Grain which is received at this facility is engaged in outbound rail shipments via TCW Railroad. With the help of TCW rail service, this facility is now able to ship grain to many new markets throughout the United States.

Some of these outbound rail shipments travel on the track which is subject of the Petition for Declaratory Order. Western Consolidated Cooperative has 90 employees and 1,200 member producers.

Sincerely,

Dean Isaacson
President – Western Consolidated Cooperative

EXHIBIT B-5



June 21, 2018

To Whom It May Concern:

United Farmers Cooperative (UFC) operates rail-served grain elevators and fertilizer facilities in Brownton, Winthrop and Bird Island, MN. At our grain facilities consolidates inbound shipments of grain from our producers and load them onto rail for shipment into the cities to ports on the river as well as across the country via rail. Our fertilizer plants depend on the rail for critical timely shipments of crop inputs from across the country and around the world as well. All of these carloads traverse some or all of the rail lines that are involved in this Petition for Declaratory Order. Efficient and time sensitive rail service is a significant part of our business model.

UFC is a farmer/member owned cooperative and has been in existence since 1915. We are owned and governed by over 2,500 agricultural producers and serve thousands of customers across central Minnesota. In addition to the above mentioned facilities, UFC operates many other business across 19 communities and employees over 500 employees in jobs that in many cases have been created and rely on the critical railroad service.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Nielsen', is positioned above the printed name.

Jeff Nielsen
President/CEO

/tmw

EXHIBIT B-6

 Step Saver, Inc.TM Salt Pumping Systems <i>Salt delivery made easy.</i>	120 West 2nd ST, PO Box 240 Morton, MN 56270 Toll Free: 888-783-7728 Email chuck@stepsaverinc.com Fax: 507-697-2060
--	---

06/20/2018

Step Saver Inc operates a bulk salt delivery service and is located in Morton, MN. It is on the MPL which is owned by the 5 counties in which it operated. The MPL is serviced by the TCWR. Step Saver Inc brings in bulk solar salt which is originated near Salt Lake City UT. The inbound rail cars of solar salt travel on the track that is the subject of the Petition for Declaratory Order.

Step Saver distributes the bulk solar salt to customers located thru out southern MN into eastern SD, and Northern IA. Step Saver Inc currently has 12 fulltime employees that work out of Morton, MN. Continued rail service is critical to Step Saver's continued service to its customers into the future.

Yours truly



Charles J Steffl, President and Owner, Step Saver Inc.

(Railroad letter 06-20-2018)

EXHIBIT B-7

F.W. Cobs Company's grain elevator is located in Stewart, MN. This elevator allows us to access organic markets in Minnesota that we have not had access to before. We are a primary supplier of Organic Grain for animal feed to customers on both the East and West Coasts. The TCWR gives us access to all markets as it interchanges with mostly all class 1 railroads and the elevator is located on Twin Cities & Western Railroad Company ("TCW"). Since purchasing our facility in December 2017, we have relied on TCW for efficient and effective rail access to the Twin Cities to connect with major Class I carriers such as BNSF, a route that includes the Bass Lake/Kenilworth corridor. We estimate we will ship over 200 carloads a year over this route. We selected this specific site because of the TCWR's efficiency and access to interchange with the other larger railroads. We have invested hundreds of thousands of dollars to get the operation running in Stewart, MN in the past year, and have already well exceeded our goals for shipping in the region due to the reliable service we get from the TCWR. This allows us to provide a boost to local farmers as well as competitive pricing to our customers on both coasts.

Regards,
Justin

Justin Wright

F.W. Cobs Company
justinw@fwcobs.com
P: 888-531-4888 X4
F: 866-738-9883
www.fwcobs.com



EXHIBIT B-8

Meadowland Farmers Coop operates a rail-served grain elevator in Delhi, Minnesota. At this facility, Meadowland consolidates inbound shipments of grain received via motor carrier, and engages in outbound rail shipments of grain via TCW. Some of these outbound rail shipments travel on the track that is the subject of the Petition for Declaratory Order. Meadowland Farmers Coop has approximately 3 full-time employees at the Facility.

Mike Trosen, GM
Meadowland Farmers Coop
Business: (507) 752-7352
Cell: (507) 530-6368
E-mail: mtrosen@mfcoop.us



Meadowland Farmers Coop

"Don't be Outsold by a lessor Story better Told!"

EXHIBIT B-9



L. G. EVERIST, INC.

350 S. MAIN AVE., SUITE 400
SIOUX FALLS, SD 57104
605.334.5000
WWW.LGEVERIST.COM

6/20/18

L.G. Everist, Inc. (LGE) operates a rail served granite quarry by Ortonville, MN. Annually, LGE ships approximately 125,000 tons of high quality aggregates to the Minneapolis metropolitan area via the TCW. These shipments are equivalent to approximately \$3 million in revenue and they would be directly affected by the subject of the Petition for Declaratory Order. LGE employs 25 people at Ortonville quarry.

EXHIBIT B-10

Good Morning

Granite Falls Energy is an ethanol plant located on the TCW rail road located in Granite Falls ,Minnesota We ship Over 60 million gallons of ethanol per year via rail along with associated by products.
All of these outbound rail shipments travel via the TCW .
We have approximately 40 fulltime employees at this facility

Steve Christensen
CEO
Granite Falls Energy

EXHIBIT B-11

Form A Feed Inc operates a rail operation in Stewart MN. This facility receives bulk commodities via rail for transloading to truck, packaging and or further processing. This facility underwent massive construction approximately ten years ago. We employ 3 full time staff members at the facility and other support staff on our team are employed to support the business functions at what we call "The Rail Shed". While we may not be the largest shipper on the TCW RR we did make an investment which we feel is significant with the assumption that the TCW would be available to service our location.

If you have any questions you will find my contact information below.

Thanks

Jarvis Haugeberg
Vice President Operations
Cell: 605 968 3074
jarvis@formafeed.com



www.formafeed.com



EXHIBIT B-12



June 20, 2018

Surface Transportation Board
Washington, DC 20423-0001

Dear Surface Transportation Board:

Farmward Cooperative operates grain facilities that are served by the Twin Cities and Western Railroad (TCWR). These facilities are located in Olivia, Danube, Renville and Sacred Heart. At each of these locations we utilize the services of the TCWR to transport outbound shipments of grain that we have received from our customers via motor carrier. We also use this rail service for inbound shipments of crop nutrients to our agronomy facility in Danube. Several of these rail shipments travel on the track that is the subject of the Petition for Declaratory Order. Farmward Cooperative employs approximately 150 employees of which 50 are located at the above locations.

Thank you for your consideration.

Craig Hebrink
Senior Vice President – Grain and Feed

EXHIBIT B-13



Farmers Co-operative Elevator Co.

1972 510th Street
Hanley Falls, MN 56245
507-768-3448

Cottonwood	507-423-6235
Echo	507-925-4126
Minneota	507-872-6134
Minnesota Falls	320-564-3835
Montevideo	320-269-6531
Taunton	507-872-6161

The Farmers Co-operative Elevator Company operates rail-served grain elevators in Minnesota Falls, Echo, and Montevideo. Echo is served by the MPL and Minnesota Falls and Montevideo are served by the TC&W. At these facilities, FCE consolidates inbound shipments of grain received via truck and rail, and engages in outbound rail shipments of grain via the MPL and TC&W. It is extremely crucial for our Coop's current and future viability to have efficient access to the Twin Cities markets and also to the connecting Class I railroads. We have invested over \$30 Million Dollars alone in the past three years at our Montevideo site to be able to load shuttle unit trains. FCE has 12 full-time employees at these facilities and 42 full time employees company wide. Our Cooperative represents nearly 2,000 active Patron/Owners. Feel free to contact me if you have any questions.

Sincerely,

Scott Dubbelde, General Manager

EXHIBIT B-14



Buffalo Lake
PO Box 99
Buffalo Lake, MN 55314
320-833-5321

Cobden

Fairfax
PO Box E
Fairfax, MN 55332
507-426-8263

Cosmos

Gibbon
PO Box 47
Gibbon, MN 55335
507-834-6534

Hector

Sleepy Eye
PO Box 429
Sleepy Eye, MN 56085
507-794-3031

Stewart

Central Region Cooperative, a producer owned cooperative serving 4,728 patrons at locations in the state of Minnesota, in the counties of Brown, Kandiyohi, Meeker, McLeod, Renville, and Sibley. Central Region Cooperative has rail-served grain elevators in **Fairfax**, and **Buffalo Lake** Minnesota. These facilities rely on motor carrier services to ship grain and receive fertilizer products to survive. The Twin Cities & Western Railroad and Minnesota Prairie Line are vital to Central Region Cooperative and its patrons. The inbound and outbound shipments of these products, and the livelihood of 157 full-time employees, along with 40-50 part-time employees rely on the railroads to use the tracks that are subject of the Petition for Declaratory Order.

Central Region Cooperative is an active shipper with 3,780+ carloads per year at the **Buffalo Lake** and **Fairfax** facilities. Efficient and time sensitive rail service is a significant part of our business model. Any activities undertaken by the Met Council that could result in a reduction of service or delayed shipments will have a financial impact on our bottom line.

Central Region Cooperative