

NORTH DAKOTA GRAIN DEALERS ASSOCIATION

206352

STEVEN D. STREGE, Executive Vice President
CHERYAL WELLE, Executive Assistant
CONNIE LEIER, Administrative Assistant
Ph: 701-235-4184, Fax: 701-235-1028
118 Broadway, 606 Black Bldg., Fargo, ND 58102
Website: www.ndgda.org

LARRY PHILLIPS, Safety & Health Director
Ph: 701-251-9112, Fax: 701-251-1758
P.O. Box 5055, Jamestown, ND 58402-5055

STU LETCHER, Safety Specialist
Ph: 701-543-3110, Fax: 701-543-4183
P.O. Box 72, Hatton, ND 58240

Honorable Vernon A. Williams
Office of the Secretary
Case Control Unit
Surface Transportation Board
1925 K. Street, NW
Washington, DC 20423-0001

Attention: Ex Parte No. 638

Gentlemen:

Enclosed for filing in this case are the original and 10 copies of written testimony submitted by the North Dakota Grain Dealers Association in this proceeding.

Sincerely,

NORTH DAKOTA GRAIN DEALERS ASSOCIATION


Steven D. Strege
Executive Vice President



October 8, 2002

Via Fed Ex

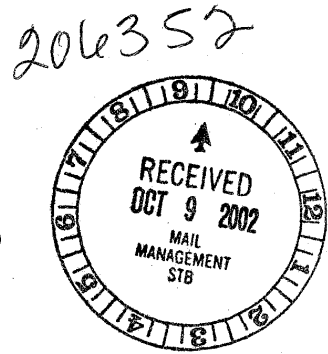
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Office of Proceedings

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Part of
Public Record

Enclosures: One original and ten copies

BEFORE THE
SURFACE TRANSPORTATION BOARD



Ex Parte No. 638

PROCEDURES TO EXPEDITE RESOLUTION
OF RAIL RATE CHALLENGES TO BE CONSIDERED
UNDER THE STAND-ALONE COST METHODOLOGY

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COMMENTS OF THE
NORTH DAKOTA GRAIN DEALERS ASSOCIATION

Due Date: October 11, 2002

BEFORE THE
SURFACE TRANSPORTATION BOARD

Ex Parte No. 638



COMMENTS OF THE
NORTH DAKOTA GRAIN DEALERS ASSOCIATION

The North Dakota Grain Dealers Association (NDGDA) is a 91 year-old voluntary membership trade association representing members who operate more than 350 of the 400+ country grain elevators in North Dakota. These elevators are the first point of sale for most grain production of North Dakota farmers. This grain is then cleaned, blended, conditioned and shipped to both domestic markets and export locations. In a typical year, over 80% of the grain shipped to out-of-state markets moves by rail.

The North Dakota Public Service Commission has filed comments in this proceeding. Rather than burden the Board with another filing of substantially the same comments, the North Dakota Grain Dealers Association states its agreement with what ND PSC has said.

The fact is that most shippers try to mediate their disputes with rail carriers. The problem is the relative economic position of each party. Giant Railroad Inc. doesn't need the business of the small shipper, or most large shippers either, to stay in business. On the other hand, captive shippers can be put out of business by railroad rate and service policies. This is the imbalance of power that the Board needs to address through methods more forceful than mediation.

Mandatory mediation adds at least another 60 days to the process. The proposed \$2,300 filing fee for a motion to compel a response to a discovery request adds more cost, and it seems uncertain who will bear that cost. Mediation should not be mandatory for the shipper, but instead optional. The complainant will not normally have access to discovery when mediation begins. It may feel it needs discovery to make its best mediation case, but should not be required to bear the expense of mediation if it can't make its best case.

A handwritten signature in black ink, appearing to read "D. Strege", written over a horizontal line.

Steven D. Strege, Executive Vice President
North Dakota Grain Dealers Association
118 Broadway, 606 Black Building
Fargo, ND 58102
701-235-4184