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NAWLA

 EFFICIENT FOREST PRODUCTS & BUILDING MATERIALS DISTRIBUTION

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Wholesale Lumber
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December 11, 2002

Mr. Vernon A. William, Secretary
Surface Transportation Board
1925 K Street, N.W., Suite 700
Washington, DC 20423

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RE: STB Docket No. AB-55 (Sub-No. 618), CSX Transportation, Inc. –
Discontinuance – at Memphis in Shelby County, TN

Dear Mr. Williams:

I am enclosing a copy of a letter to me dated December 6 from our member company, Empire Wholesale Lumber Co. of Akron, OH. At the bottom of page 2 of that letter, reference is made to a Traffic World article in the November 25 issue concerning Bolen-Brunson-Bell Lumber Company.

I have been advised that an appeal by Bolen-Brunson-Bell is pending before the Board of a decision that authorized CSX Transportation, Inc. to discontinue rail service to Bolen-Brunson-Bell's place of business even though the Board found that rail traffic for Bolen-Brunson-Bell not only is profitable for CSXT, but would provide a rate of return of 46.6 percent per year on CSXT's net investment base in the rail line.

Bolen-Brunson-Bell's situation bears on the point made in the first full paragraph on page 3 of the Empire Wholesale letter -- that rail carriers are not interested in providing service to shippers of moderate, although profitable rail traffic. Bolen-Brunson-Bell accounts for approximately 200 carloads per year, but its traffic is highly profitable.

The lumber industry is highly dependent on rail transportation. The 350 independent wholesale distribution member companies of this association, including Bolen-Brunson-Bell, account for approximately 65% of all lumber sold at wholesale in the United States. While some are large volume shippers, a great many are more like Bolen-Brunson-Bell. These kind of incremental erosions of service are detrimental to efficient forest product distribution and should receive the highest level of scrutiny.

The North American Wholesale Lumber Association urges favorable action on Bolen-Brunson-Bell's appeal.



Mr. Vernon A. William, Secretary
Surface Transportation Board
December 11, 2002
Page 2

Ten copies are provided with the original of this communication. A copy is being provided to CSXT's representative.

Sincerely,

A handwritten signature in black ink, appearing to read "Nick Kent", written over the word "Sincerely,".

Nicholas R. Kent
President and CEO

cc: Louis E. Gitomer
Attorney for CSX Transportation, Inc.
Ball Janik LLP
1455 F Street, N.W., Suite 225
Washington, DC 20005

Honorable Roger Nober, Chairman
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423



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December 6, 2002

Mr. Nicholas Kent, President
North American Wholesale Lumber Assn.
3601 Algonquin Road, Suite 400
Rolling Meadows, IL 60008-3108

Dear Nick:

Many rail-dependent NAWLA members, as well as myself, are very concerned about the detrimental effects that recent mergers of Class I railroads and regional railroads are having on our NAWLA members' businesses. As a point of reference, some of those mergers are shown below:

- A. Union Pacific merger with the Chicago & Northwestern, Missouri-Kansas-Texas, Missouri Pacific, Southern Pacific and Denver & Rio Grande Western Railroads.
- B. CSX and Norfolk Southern takeover of Conrail.
- C. Canadian National Railway (Headquartered in Montreal, PQ) purchase of the Wisconsin Central and Illinois Central Railroads.
- D. Burlington Northern and Santa Fe Railway merger.

The challenges such mergers present to the NAWLA membership include the following:

➤ **LACK OF COMPETITION REFLECTED IN TRANSPORTATION PRICING.**

It no longer appears necessary for railroads to price their transportation services in such manner as to protect their business from intramodal competitors. Due to mergers, fewer railroads are benefiting from business previously available to many; not only with respect to terminal carriers, but also the intermediate carriers that have vanished in the last round of mergers.

Some of these intermediate carriers, through contract negotiations, were valuable instruments in providing means for determining competitive delivered pricing on long-haul traffic to specific markets.

Areas previously served by more than one rail carrier are now served only by one (1), and that one carrier has exclusive access to particular markets of its own choosing. The lack of effective competition is demonstrated in the comparatively higher level of freight rates the railroads apply to such "captured" business.

The lack of competition has given the merged railroads a degree of marketing power that was never discussed, nor even contemplated by Congress or by the shipping public during the discussions that led to deregulation and removed many of the barriers to mergers. Furthermore, during the merger process, concerns expressed by the shipping public about the threat of this market power were treated as irrelevant initially by the Interstate Commerce Commission and



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WHOLESALE DISTRIBUTORS

Mr. Nicholas Kent, President NAWLA

Page two

December 6, 2002

later by the Surface Transportation Board. This marketing power allows the railroads, through their preferential pricing tactics, to determine which shippers will be allowed to participate in specific markets. It was the unrestrained exercise of this marketing power that led to regulation of the railroads a century ago.

➤ **VULNERABILITY OF THE MERGED RAIL TRANSPORTATION NETWORK.**

Prior to mergers, we had the ability to control our remote inventories by selecting from a number of routes that were available to us, to and from certain gateways. This ability allowed us to route our inventory and divert rail cars as necessary so as to avoid areas of congestion, inclement weather, rail maintenance, and embargoes. Besides the obvious benefit to the NAWLA membership, routing flexibility also benefited the railroads themselves. This flexibility served to enhance the availability of rail cars by minimizing dwell time, car hire expenses, and turn-around time on the rail fleet.

Before the mergers listed above, railroads would compete for our business. The mergers have given the railroads sufficient marketing power where intramodal competition is no longer a consideration.

The most recent incident of rail network vulnerability occurred this past October during the West Coast dock strike involving The Pacific Maritime Association and the International Longshore and Warehouse Union. Trainloads of products moving in containers-on-flat-cars from the ports, and empty containers returning to the ports, were held at railroad terminals and side tracks in compliance with railroad embargoes that were, of necessity, issued in response to the dock strike. Because of the configuration of today's merged railroads, delays were experienced at great distances from the ports and this affected the transit time on our shipments, especially in and moving through the Midwest and South. These delays not only affected container shipments at the Coast, but also forest products and many other commodities moved by the railroads.

How fragile and susceptible to disruption of service the national rail network has become because of mergers. The affect of these mergers should be considered a matter of great consequence to the shipping public in general; and in terms of national security - especially with the ongoing terrorist threats against our transportation systems.

For once, we need to have NAWLA stand up for their membership. As you well know, I personally have had a long slow burn that NAWLA has not helped the membership on most of the truly difficult "pocketbook" issues that hurt NAWLA members' businesses. A NAWLA effort to use their clout to help protect their businesses would go a long way toward making their membership in NAWLA much more valuable!

Empire's former traffic manager, Jim Johnson, served on an important committee of the Surface Transportation Board in Washington, DC for three or four years. He is now in the trucking business in Cleveland. Our new traffic manager, Jim Brennan, called my attention to the November 25 *Traffic World* magazine article, a copy of which is enclosed, concerning NAWLA member Bolen-Brunson-Bell.

Mr. Nicholas Kent, President NAWLA
Page three
December 6, 2002

Many of our members were aggressively encouraged by the railroads to build plant facilities on their lines. Prior to the mergers listed above, an annual volume of, as example, 500 carloads was fairly significant to a railroad of 1,000 miles. Because of mergers, some of those same railroads cover distances ten times greater than when those plants were built. The effect has been that as the railroads became larger, the significance of 500 carloads became smaller from operational and economic standpoints. It seems now, as far as the merged railroads are concerned, that 1,000 carloads per year is the starting point for determining a significance carload volume. Volumes less than 1,000 carloads seem not to be worth the trouble of maintaining service to those shippers.

Please discuss this continue monopolization of the railroads and its effect on NAWLA members. Feel free to copy my letter to the NAWLA Executive Committee for their input. I would be interested to know what their thoughts are. In the past, I have usually been a point man on pocketbook issues for wholesale lumber distributors. It's time now for NAWLA to pick up the responsibility to **truly help their members when they get hurt.**

Best regards,

EMPIRE WHOLESALE LUMBER CO.

J. Harvey Graves

J. Harvey Graves, Chairman/CEO

CC: Mr. Peter A. Carroll, President
Mr. James Brennan, Traffic Manager
Empire Wholesale Lumber Co.

Mr. Tom Tomjack, CEO/Chairman
North Pacific Group, Inc

Mr. Robert Bell, CEO
Bolen-Brunson-Bell Lumber Co.





out and purchase such a retail network that's already in place versus trying to start one from scratch. "The synergies are there, the network is there. To try to start from scratch would just be too difficult," he said.

"Railroads are going to have to go retail — they know that — if they want to grow their intermodal business," said a former

Class 1 intermodal marketer. "They have to be closer to the customer. There are inefficiencies in the relationships between IMCs and the railroads that only can be corrected if the railroads decide to take back some of what they gave up."

Yeager concedes that the concept works in Canada but said it's a different

ballgame in the United States. "The U.S. railroads have many more shippers on their line. They're not set up to deal directly with most of their intermodal customers," he stated. "They're set up to run trains. It's possible if enough attention was paid to it, but it would take years before they could truly be successful." ●

Shipper Challenges STB

BY JOHN GALLAGHER

Bolen-Brunson claims STB violated own rules in deciding CSX line discontinuance case

A Memphis, Tenn., lumber shipper claims that a Surface Transportation Board ruling on a rail line discontinuance not only will seriously damage the shipper, but that the STB violated its own regulations in making its decision.

The line in question is a 1.1-mile piece of CSX track east of Memphis in Shelby County, Tenn. CSX filed for permission to discontinue service over the line in July.

Bolen-Brunson-Bell Lumber Co. Inc., a wholesale lumber distributor, is the only active shipper on the line. CSX claims that the costs to operate the line, including the need to rebuild an old rail bridge, make it unprofitable.

Bolen-Brunson asserts that CSX relied on faulty profitability forecasting calculations in coming to that conclusion, and filed a petition to reopen the STB decision. Bolen-Brunson submitted its own calculations, showing that future annual profits determined in accordance with the board's own regulations "are sufficient to amortize even CSX's overstated cost of bridge rehabilitation." Moreover, it said there would be "enough profit left over each year to provide a return on the line's net investment base that would be in excess of CSX's cost of capital."

The lumber company contends it would lose roughly \$100,000 in its rail-to-truck reload business and rail-direct business if it lost service on the line. "That is a significant loss for a small family-owned lumber company," Bolen-Brunson said in its petition. It said CSX has failed to provide service "on reasonable request" over the line since March 2001. The company seeks damages from the railroad.

CSX asserts that the shipper has transportation alternatives. Bolen-Brunson currently uses another transload facility elsewhere in the Memphis area, which it could use for the traffic on the line, the railroad argues. In addition, "CSX has made available to (Bolen-Brunson) a transload facility at Leewood Yard, which it submits is less expensive for CSX to operate and should also result in more efficient service," the railroad stated.

The STB cited these alternatives in

explaining its decision. "In contrast to the demonstrated burden that continued operation of the line will impose on CSXT and on interstate commerce, the burden that the discontinuance will impose on BBB and the community is less clear given BBB's transportation alternatives," the STB stated. "We conclude that any harm to BBB and the community from the proposed discontinuance is outweighed by the demonstrated harm to CSXT and the burden on interstate commerce through continued operation of the line."

Bolen-Brunson states the line should remain open purely based on economics. The forecast year in the decision provides a rate of return of 46.6 percent per year — 10 times CSX's systemwide rate of return of 4.6 percent per year, it contends. This is "plenty enough to amortize the cost of bridge repair," with enough left over each year to still provide for more than a cost of capital return, it stated.

"It was erroneous as a matter of law," the shipper claims, "for the board to find that the future profitability of the line is limited and speculative on the ground that it cannot be assumed that (Bolen-Brunson) will remain in business for the 10-year life of the rehabilitated bridge," nor that it will make as much use of the rail line during that period as in the forecast year.

"Under the forecast year regulations, it definitely is presumed that a rail user will remain in business after the forecast year, and that its future rail line use will mirror its forecast year use," the shipper states. "Ironically, while the forecast year concept is designed to take speculation and guesswork out of determinations of future profitability, the board's erroneous finding reintroduces speculation into that subject matter. Therefore, it is not the future profitability of the line but rather the board's finding on future profitability that is unduly speculative." ●

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