



The Fertilizer Institute

Nourish, Replenish, Grow

Kraig R. Naasz
President

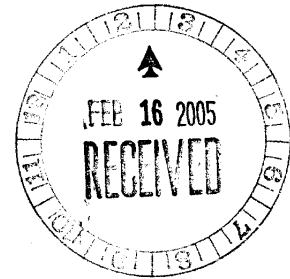
February 15, 2005

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

213305
ENTERED
Office of Proceedings

FEB 16 2005

Part of
Public Record



RE: STB Finance Docket No. 34662, *CSX Transportation, Inc – Petition for Declaratory Order*

Dear Chairman Nober:

As the national trade association of the fertilizer industry, The Fertilizer Institute (TFI) is the leading voice for the fertilizer industry in Washington, D.C. Our mission is to promote and protect fertilizer from the plant where it is manufactured to the plant where it is used and all points in between. TFI members are dependent upon the railroad industry for the transportation of their products to their customers in the farm community. Several products transported by the fertilizer industry fall into the category of "hazardous materials," which are subject to comprehensive regulation by the Department of Transportation.

In this proceeding, CSX Transportation, Inc. (CSX) is seeking an order declaring that an ordinance passed by the City Council of the District of Columbia that bans the transportation of certain hazardous materials moving by rail through that jurisdiction is preempted by 49 U.S.C. 10501(b). TFI provides the following in response to the Surface Transportation Board's request for comments from the District of Columbia and "other interested persons."

TFI strongly supports the Board's issuance of the requested order. TFI and its members have a substantial interest in this matter. TFI believes that rail transportation safety and security are enhanced by national regulation of these matters, to provide for consistent rules across the transportation system, rather than by thousands of local jurisdictions. The D.C. ordinance, if permitted to stand, will compromise and complicate transportation safety and security. A ban by the District of Columbia on the transportation of hazardous materials through its jurisdiction will cause substantial rerouting of these goods, causing them to be in movement for a longer period of time, in more railcars, traveling longer distances through more jurisdictions – the effect of which will be to make the transportation of these goods less safe and secure.

Moreover, the precedential effect of the D.C. ordinance, if allowed to stand, will encourage other jurisdictions to approve similar legislation, potentially making the transportation of hazardous commodities by rail virtually impossible. Rail transportation of hazardous products is, in fact,

Union Center Plaza
820 First Street, NE Suite 430
Washington, DC 20002

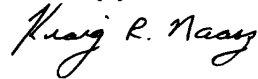
202.962.0490
202.962.0577 fax
www.tfi.org

The Honorable Roger Nober
February 16, 2005
Page Two

one of the safest modes for moving these goods, which are necessary for the economy of the United States and the world. Many of the hazardous materials shipped by TFI members, for example, are used in the production of fertilizer to support food production in the United States and many other nations.

Under its authorizing statute, the Board has exclusive jurisdiction over the contours of the "common carrier obligation" of the nation's railroads to transport goods. The D.C ordinance would directly interfere with that obligation. TFI urges the Board to issue the requested order.

Sincerely yours,



Kraig R. Naasz
President

cc: Counsel for CSX Transportation, Inc.
Counsel for the District of Columbia
Department of Transportation, Office of General Counsel
Federal Railroad Administration, S. Mark Lindsey, Chief Counsel
Research and Special Programs Administration, Assistant Chief Counsel Joseph
Solomey
Department of Homeland Security, Border and Transportation Security, Deputy Chief of
Staff Chris Clark
Transportation Security Administration, Chief Counsel TSA-2