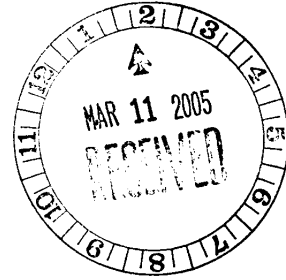


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ORIGINAL

Before the
SURFACE TRANSPORTATION BOARD



Finance Docket No. 34667

BNSF RAILWAY COMPANY-ACQUISITION
AND OPERATION-STATE OF SOUTH DAKOTA

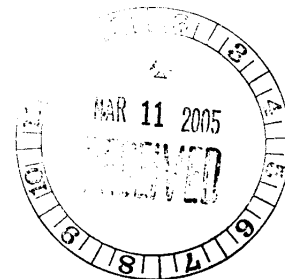
COMMENTS

ENTERED
Office of Proceedings
MAR 11 2005
Part of
Public Record

GORDON P. MacDOUGALL
1025 Connecticut Ave., N.W.
Washington DC 20036

Attorney for John D. Fitzgerald

Due Date: March 11, 2005



Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34667

BNSF RAILWAY COMPANY-ACQUISITION
AND OPERATION-STATE OF SOUTH DAKOTA

COMMENTS

John D. Fitzgerald,^{1/} for and on behalf of United Transportation Union-General Committee of Adjustment (UTU/GO-386), submits these comments in response to Notice dated March 2, 2005 (served March 3), 44 Fed. Reg. 11309-10 (Mar. 8, 2005).

Commentor is in support of the application, filed February 18, 2005, by BNSF Railway Company (BNSF).

The three-page verified statement of John D. Fitzgerald is attached hereto as Appendix 1.

Commentor incorporates in support of his comments, as set forth in Appendix 2, the four support letters from (a) Western Consolidated Cooperative, (b) Dakota Plains Ag Center, Inc., (c) Columbia Grain International, Inc., and (d) CHS Inc., which are

^{1/} General Chairman for United Transportation Union, with offices at 400 E. Evergreen Blvd., Vancouver, WA 98660.

self-explanatory.2/

The BNSF application should be approved.

Respectfully submitted,



GORDON P. MacDOUGALL
1025 Connecticut Ave., N.W.
Washington DC 20036

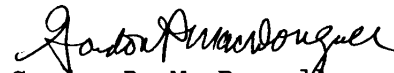
March 11, 2005

Attorney for John D. Fitzgerald

Certificate of Service

I hereby certify I have served a copy of the foregoing upon those persons indicated in the Notice by first class mail postage-prepaid.

Washington DC



Gordon P. MacDougall

2/ The Board's Notice is confusing in that it seemingly requires an IBM-compatible floppy disk to accompany a traditional paper format submission, contrary to the amendments to 49 CFR 1104.3 made April 8, 2004. Ex Parte No. 651, Electronic Filing Option For Certain Documents. 68 Fed. Reg. 18498, 18499 (Apr. 8, 2004). The requirement for a floppy disk to accompany a paper submission, by itself, in excess of 19 pages is no longer required, although the STB did not highlight this feature in its press release. (No. 04-11). By imposing a floppy disk requirement in this proceeding, the confusion may discourage formal comments in support of the BNSF application. This commentor's submission of certain correspondence as part of his comments (Appendix 2) perhaps will avoid any unintentional exclusion of formal comments by means of correspondence.

Of course, the characterization by agency staff of a submission as "correspondence" rather than "comments," may enhance the power of the agency staff vis-a-vis agency members appointed by the Executive and confirmed by the U.S. Senate, in that "correspondence" may not be circulated to the agency members or included on the agency website (as here). For conflicts between agency bureaucracy and political appointees, and the withholding of information, see: Allison, Graham T., Essence of Decision: Explaining the Cuban Missile Crisis (2nd Ed., New York: Longman, 1999). Cf. Alterman, Eric, When Presidents Lie, 138-42 (Viking, 2004).

VERIFIED STATEMENT
JOHN D. FITZGERALD

My name is John D. Fitzgerald, with offices at 400 East Evergreen Boulevard, Vancouver, WA 98660. I serve as General Chairman for United Transportation Union-General Committee of Adjustment (UTU/GO-386) on lines of BNSF Railway Company (BNSF). This is a full-time elective position which I have held since 1993. I commenced railroad service in September 1970 on the former Burlington Northern Railroad Company, and am a BNSF conductor. I became a UTU Local Chairman in 1975, and Assistant General Chairman in 1981.

My railroad experience, and duties with the UTU over the years, have made me fully familiar with railroad operations throughout the BNSF system, which since December 31, 1996 has embraced the former Atchison, Topeka & Santa Fe Railway Company.

BNSF has operated certain former Milwaukee Road so-called "core" lines in South Dakota, with BNSF employees, for well over two decades. Most of these present BNSF employees never worked for the former Milwaukee Road.

I have read the application by BNSF, filed February 18, 2005, for BNSF to acquire these rail lines. Based upon the application, and my own investigation, I support the application, and ask that it be approved by the STB. Approval of the application would appear to change the legal form of BNSF from operator under a modified certificate, to a regular certificate holder under §10901, and give greater stability for continued operations.

Moreover, approval of the application and BNSF operation should ensure minimum protection for BNSF employees in the event of abandonment or discontinuance, whereas at present the status of employee protection may be in doubt. I understand BNSF's obligations as a holder of a "modified certificate" may not embrace employee protection under §10903, commensurate with its duties under Oregon Short Line in the event of an ordinary abandonment or discontinuance. Of course, railroad employees may be entitled to some relief in an abandonment/discontinuance under "modified certificate" operations against BNSF or the State or South Dakota, and I do not wish to waive any such claims, but there may be legal problems and/or expenses.

BNSF in its application states BNSF employees would not be adversely affected by approval of the application (Appl., 27; Ex. D). I will hold BNSF to its promise. However, despite best of intentions, traffic patterns in the Upper Midwest on occasion have been known to change, such that opportunity for employee protection is an important consideration for railroad employees, which also redounds to the benefit of local communities and businesses.

The stability provided through formal BNSF responsibility for ownership and operations should be encouraged, and the application approved.

VERIFICATION

STATE OF WASHINGTON)
COUNTY OF CLARK)

I have read the foregoing verified statement, know the
contents thereof, and that the same are true as stated.


JOHN D. FITZGERALD

Dated at Vancouver, WA
March 11, 2005



February 22, 2005

The Honorable Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423

Re: BNSF Railway Company-Acquisition and Operation-State of South Dakota #34667

Dear Secretary Williams:

I am the President of Dakota Plains Ag Center, LLC, located in Parkston, SD. I am writing to you today in support of BNSF's proposed purchase of the South Dakota Core rail network.

My company is very dependent upon our relationship with the BNSF as a supplier of freight for both shipping and receiving of grain and bulk fertilizer products. We have invested over \$13.0 million in our facilities and plan to continue to invest even more, but it is imperative that we have access to quality rail service to support this investment. My greatest fear is that if the BNSF is not allowed to exercise their rights under a contractual agreement with the State of South Dakota, we will begin to see our services curtailed and upgrades eliminated. This will have a devastating effect on our business.

We feel that the purchase of the Core Lines by the BNSF will allow continued upgrades of track and services that will allow us to continue to grow and expand; providing more jobs and greater economic growth for rural South Dakota.

As such, we urge your approval of BNSF's purchase as soon as possible so that we can continue to explore opportunities for growth and expansion in South Dakota. Thank you for taking time to consider my comments and concerns.

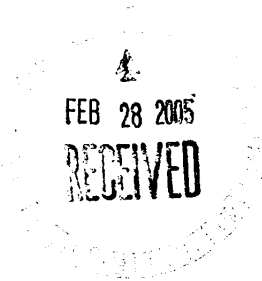
Sincerely yours,

Douglas Brown
President/General Manager
Dakota Plains Ag Center, LLC

Corre F.D. No. 34667
UTU/GO-386
Appendix 2
Page 1 of 4

41055 282nd Street
Parkston, SD 57366

Phone: 800-257-6791
Fax: 605-935-7028



WEST-CON

Correspondence

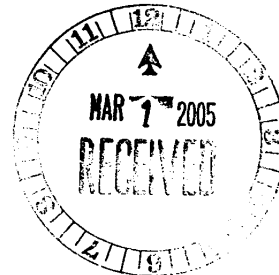
F.D. No. 34667
UTU/GO-386
Appendix 2
Page 2 of 4

101 Rand Street • Holloway, MN 56249 • (320) 394-2171 • 1-800-368-3310

February 24, 2005

The Honorable Vernon Williams
Secretary
Surface Transportation Board
1925 K. Street, NW
Washington, DC 20423

FD 34667



RE: BNSF Railway Company – Acquisition and Operation – State of South Dakota

Dear Secretary Williams:

I am the General Manager for Western Consolidated Cooperative (West Con), and I am writing in support of BNSF's proposed purchase of the South Dakota Core rail network.

West Con is producer owned and will receive a projected 30 million bushels of grain in 2005 from our producers. We are responsible to find markets throughout the US and other areas of the world. We also retail over 75,000 tons of dry and liquid fertilizer to our producer, owners, and distribute 100,000 tons of dry fertilizer to other retailers.

To do this efficiently, we have had to build 2 – 110 car grain load out facilities and 1 – 65 car fertilizer receiving facility. This could not have happened without the support of the BNSF. Our producer's survival depends upon a reliable rail network in Minnesota and South Dakota and through the country for transportation of grain and fertilizer.

BNSF's purchase will ensure BNSF will continue to be a key part of South Dakota's transportation network. Ownership of the Core lines will ensure BNSF has a continued investment incentive to grow the business on the Core. Healthy sustained investment for the long run is important to West Con because it adds value to the producers.

We believe BNSF's purchase will benefit our company and the shipping community generally, and we urge your prompt approval of BNSF's purchase. Thank you for your considering our comments.

Sincerely,

Dean Isaacson
General Manager

COLUMBIA GRAIN INTERNATIONAL, INC.
COLUMBIA SQUARE, Suite 1200
111 S.W. Columbia Street
Portland, OR 97201-5844 USA



F.D. No. 34667
UTU/GO-385
Appendix 2
Page 3 of 4
Main Office
Portland, Oregon
Area Code (503) 224-8624
FAX (503) 241-0296
pdxmerchants@columbiagrains.com

March 1, 2005

The Honorable Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington DC 20423

Re: ***BNSF Railway Company – Acquisition and Operation – State of South Dakota
Finance Docket No. 34667***

Dear Secretary Williams:

I am the president of Columbia Grain, and I am writing in support of BNSF's proposed purchase of the South Dakota Core rail network.

Columbia Grain is a grain export firm based in Portland, Oregon. We exported 3.6 million metric tons wheat in 2004. Our share of U.S. wheat exports is approximately 13 %. In addition, Columbia Grain owns and operates 40 grain elevators in the western US. Most of our rail loading facilities are located on the BNSF. We do have a few facilities located on the Canadian Pacific. Our export facility in Portland unloaded approximately 25,000 railcars in 2004. This facility is jointly served by the BNSF and Union Pacific.

BNSF's purchase will ensure BNSF will continue to be a key part of South Dakota's transportation network. Ownership of the Core lines will ensure BNSF has a continued investment incentive to grow the business on the Core. Healthy sustained investment for the long run is important to Columbia Grain because our business is very dependent on reliable rail service.

We believe BNSF's purchase will benefit our company and the shipping community generally, and we urge your prompt approval of BNSF's purchase. Thank you for considering our comments.

Sincerely,



Thomas J. Hammond
President



SEN MAR. 3. 2005



Received 03/03/2005 05:31PM in 02:10 on line [9] for AS008936 * Pg 5/7
LAW DEPT 3- 5 : 9:44 ; CHS TRANS 6513556452-

NO. 805

F.D. No. 34667
UTU/GO-386
Appendix 2
Page 4 of 4

5500 Cornex Drive
Inver Grove Heights, MN
55077

651-355-6000
chsmc.com

March 3, 2005

The Honorable Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington DC 20423

Re: *BNSF Railway Company – Acquisition and Operation – State of South Dakota*

Dear Secretary Williams:

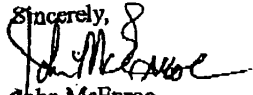
This letter is intended to express support for BNSF Railway's proposed purchase of the South Dakota Core rail network by CHS Inc.

CHS Inc., a farmer owned grain and energy cooperative, owns and operates several origin and destinations facilities throughout the United States with rail service provided by BNSF. Specific to the segment of rail line in question, CHS owns and operates grain facilities at Canton, Mitchell, and Worthing, South Dakota. All three capable of loading or receiving BNSF shuttle trains. Over the past several years, CHS Inc. has invested several million dollars of capital at those three facilities in order to more efficiently handle and ship grain via BNSF. That investment was predicated on the transportation service package provided by BNSF as well as BNSF's market access capabilities, both to export and domestic grain markets.

BNSF's purchase of this line segment will ensure CHS Inc. facilities will continue to have efficient and competitive access to those markets via a reliable source of transportation. Continued investment in infrastructure by BNSF is vital to the financial well being of the assets owned by CHS. Ownership of the Core lines encourages BNSF to further invest in the rail infrastructure and provide continued transportation services to a significant grain producing area of South Dakota.

CHS believes BNSF's purchase will benefit our company and the shipping community of South Dakota. CHS urges your approval of BNSF's purchase. CHS Inc. appreciates your consideration of our comments.

Sincerely,


John McBuroe
Senior Vice President
CHS Inc.

Cc: Sarah Bailiff, BNSF
(via fax 817-352-2397)