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Ex Parte No. 658

Impact, Effectiveness and Future
of the Staggers Rail Act of 1980

Comments of
North Dakota Grain Dealers Association
to the Surface Transportation Board
October 19, 2005

The North Dakota Grain Dealers Association is a 94 year-old voluntary membership organization in which over 90% of this state's country grain elevators, large and small, hold membership. The predominant form of county grain elevator ownership in North Dakota, and for a large part of neighboring states, is farmer cooperative. Thus we are very close to and familiar with all phases of agriculture, from providing the seed and fertilizer, applying crop protectants, taking in the harvest, conditioning and blending those crops, and shipping them off to both domestic and export markets.

The impact of Staggers on agriculture varies widely. Competition instead of regulation was to govern. Unfortunately effective transportation competition and alternatives are not available for this state nor significant areas of the Great Plains. Actions by the ICC and the STB to substitute for competition have been insufficient.

The consolidation of the railroad industry since Staggers has provided some benefits, but it has also enabled the few remaining large players to dominate rail customers, geographic regions, and sectors of industry. The scales have tipped too far and STB should rebalance under existing law or seek additional authority from Congress if necessary to do so.

Rail service disruptions, delays and crises are common in agriculture. Those most captive to the railroad pay the highest rates, but are often shorted on service as railroads reach first for business that might be lost to competition. Railroad concentration on the largest of shipment sizes leaves other shipment sizes, important markets, and some crops without reliable rail service, even though they pay higher rates. One of our disappointments with the Board's interpretation of Staggers is its unwillingness to correct discriminatory car distribution practices.

Congressional intent in Staggers was that the common carrier obligation for grain shippers not be abandoned. That was reaffirmed in the ICC Termination Act of 1995. A Senate report states: "The Committee believes the common carrier obligation is particularly critical, especially in light of the needs of grain shippers and others who continue to experience difficulties in obtaining rail cars and service. According to a September 1995 report by the U.S. Department of Agriculture entitled 'Assessing the Impact of Railcar Availability on Grain Prices,' rail car shortages lower farm prices and reduce the competitiveness of U.S. grain exports." S. Rep. No. 104-176, at 7 (1995)

In the future the Surface Transportation Board should shift more attention to shippers, especially captive shippers. Attention to railroad profitability is not as demanding as it once was.

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