



The Fertilizer Institute

Nourish, Replenish, Grow

Ford B. West
President

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

RE: STB Docket Ex Parte 658, *The 25th Anniversary of the Staggers Rail Act of 1980: A Review and Look Ahead*

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. TFI has been an active participant in proceedings before the Surface Transportation Board and its predecessor, the Interstate Commerce Commission, for many years.

TFI commends the Board for initiating this proceeding, since the 25th anniversary of the Staggers Rail Act of 1980 is an appropriate time for reviewing experience under this landmark legislation, and determining the direction in which to proceed for the future. This is especially true because the rail industry has undergone significant changes since the passage of the Staggers Act: it has, for example, become much more highly concentrated; the industry is clearly experiencing significant capacity constraints; and there have arisen new issues and concerns regarding rail transportation security and hazardous materials safety in rail transportation. Policymakers should examine the Act and the administration of the Act in light of these and other new conditions.

TFI members are reporting that, in this capacity-constrained environment, they are experiencing significant rail rate increases, and that rail service has been inconsistent. As the need for transportation by rail of fertilizer products grow, the Congress and the regulatory agency should address ways to alleviate these capacity constraints. In this connection, the Board should examine whether it's very restrictive rules on competitive access should be revisited in this environment, since increased rail options would make it easier for shippers to access the rail carrier best positioned, from both a price and service standpoint, to transport the shipper's goods.

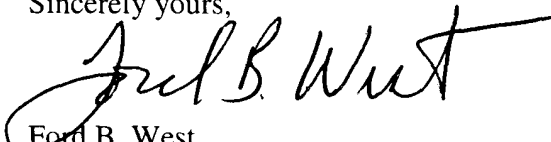
Furthermore, the Board should revisit its bottleneck decision to require railroads to quote rates to established junction points. The Board should also clarify its small case guidelines, as suggested by TFI and many other organizations in comments submitted on July 13, 2003, in order to establish a methodology with clearly defined and reasonable parameters for a shipper to challenge a rate in a timely and less costly matter. Finally, TFI believes that the Board should investigate the paper barriers established in short line spin offs, to determine if there are administrative actions that might limit the length or conditions of these anti-competitive conditions without significantly chilling desirable short line creation.

The Board should also insure that it has all the authority it needs to enforce the railroads' common carrier obligation, in at least two directions. First, as the Board knows, several state or local governments have considered limitations against rail transportation of hazardous materials through their jurisdictions, an action that TFI believes is at odds both with the railroads' common carrier obligation and with sound public policy. Secondly, railroads themselves, in the current capacity-constrained environment, have taken steps to limit their service to shippers, particularly shippers of hazardous materials. The Board should have all the authority it needs to enforce the railroads' common carrier obligations in either or both of these circumstances.

Finally, TFI believes that the Board needs to examine ways to substantially simplify and speed up its adjudicative processes. TFI members operate in a global marketplace that change rapidly. A regulatory process that takes many months or even years will not be useful to TFI members.

Thank you for the opportunity for TFI to make its views known to the Board.

Sincerely yours,



Ford B. West
President