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J.D. HEISKELL & COMPANY

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Statement of the

J.D. Heiskell & Company

Before the

Surface Transportation Board

October 19, 2005

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Chairman Nober, Vice Chairman Buttrey and Commissioner Mulvey. I am pleased to present the views of the J.D. Heiskell & Co. on the 25th anniversary of the Staggers Rail Act.

Heiskell is a 118 year old feed manufacturing and commodity trading company headquartered in Tulare, California. The company has been under the continuous ownership of one family throughout that time and operates five feed mills in two states, California and Idaho shipping two million tons of product per year. In addition, we supply grain and commodities to feed companies from the high plains to the Pacific Ocean, plus Mexico. The volume of these third party sales is more than four million tons per year. All of our mills and customers operate in feed deficit areas importing more than 80% of our needs by rail or rail to truck transfer. The western railroads are our life line, and the animals we feed would be located somewhere else without them. We primarily utilize large unit shipments and operate modern capital intensive assets to achieve the lowest rates available.

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J.D. HEISKELL & COMPANY

The majority of our company's 118 years of operation were spent utilizing regulated carriers. While current service levels are less than ideal, we operate knowing that our transportation providers can move quickly to accommodate our needs. The "one size fits all" environment of a regulated industry was a functional as standing in line at the Department of Motor Vehicles or the Post Office.

We understand well the issues the railroads deal with, a tight labor market, rising energy and equipment costs, and customers and communities that would often rather litigate than problem solve. We operate in that same world. Without rail service, we don't exist, without us the railroads lose their most efficient and predictable business. This mutual need fosters an environment where we resolve problems in real time, not depending on a regulator to intervene. Any significant time delay would render the solution worthless anyway. We both know that. Most of the problems get solved with capital investments by both of us. Once again a "one size fits all" operating environment would mean that capital couldn't be properly focused and the payback too uncertain.

I have been in this business for thirty-five years and have never seen a bureaucratic or regulatory solution to a meaningful problem. Things move too fast, and a regulator could never understand the subtlety of an industry as dynamic as ours. Mutual need is the most powerful motivation a customer and vendor could ever have.

There is no regulatory solution to the issues facing shippers, receivers and transportation providers.

Thank you for giving me the opportunity to express my views on the subject.

Duane A. Fischer

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