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April 27, 2006

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423

Re: Rail Fuel Surcharges, STB Ex Parte No. 661

Dear Secretary Williams:

Following is the statement to be given on behalf of Ag Processing Inc regarding Rail Fuel Surcharges, Ex Parte No. 661.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry J. Voss".

Terry J. Voss
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EX PARTE NO. 661

RAIL FUEL SURCHARGES

STATEMENT OF TERRY J. VOSS

ON BEHALF OF AG PROCESSING INC

MAY 11, 2006

My name is Terry J. Voss. I am Senior Vice President – Transportation, for Ag Processing Inc. Ag Processing is a cooperative owned by 211 farmer-owned local cooperatives and six regional cooperatives. Our company operates 14 facilities that process soybeans and corn, producing crude soybean oil and refined soybean oil, manufacturing methyl esters, and producing soybean meal, ethanol, and various co-products. Ag Processing also actively buys, stores, sells, and ships feed grains, domestically and for export. We have polled our membership. Many have expressed their strong concern with railroad fuel surcharges as presently structured, and have urged that Ag Processing participate in this proceeding.

I should mention that I am a member of the Rail Shipper Transportation Advisory Council, to which I was appointed by former Chairman Nober. I wish to make it plain that the views I express in this statement are purely on behalf of myself, my company, and Ag Processing's members, and not on behalf of RSTAC.

Ag Processing's shipments by rail often travel long distances from Midwestern origins to food processors, animal and poultry feeders, energy suppliers, and export positions on the east and west coast, the Texas Gulf, and into Mexico and Canada. Freight charges on tank cars used to transport vegetable oils and ethanol typically range between \$950 and \$4,800 and on covered hopper cars containing soybean meal range between

\$1,000 and \$5,200. Our traffic moves via all major railroads in the U.S. Tariff freight rates have risen more than 20 percent in the last two years alone and as much as 100 percent in some markets. The shipping community has been advised by the railroads and Wall Street to expect equal if not greater increases in the near future. BNSF alone reported more than a 20 percent increase in revenue from agricultural shipments during the last quarter of 2005 and I doubt that it is alone. One hundred percent of our shipments are subject to fuel surcharges.

Fuel surcharges have had and will continue to have a very significant impact on Ag Processing's railroad freight bill if current railroad practices are maintained. Our company does not begrudge any railroad the ability to recover spikes in fuel costs that occur after the railroad establishes its freight rates. When the various railroads announced their fuel surcharge programs several years ago, we understood that the surcharges were aimed at just such a narrow goal. They were called "fuel surcharges" and not market increases or "congestion pricing." They were tied to the cost of either diesel fuel or crude oil, and were set to change as the prices of those commodities changed. Railroads generally explained their need for fuel surcharges as a means to offset unpredictable increases in their fuel costs. We understood fuel surcharges to have been intended as sort of a hardship safety valve when they were instituted. In my view, if railroads have used and now use fuel surcharges for some other purpose, in effect using a national fuel crisis to achieve enhanced profits at the expense of captive customers, railroads are engaging in unreasonable practices of the type referred to in the Board's Notice of this proceeding.

Had the railroad industry confined fuel surcharges to the per shipment recovery of unanticipated increases in the cost of fuel that arise after a freight rate is set for a particular movement, Ag Processing probably would not be filing this today. We are filing because the railroads' fuel surcharges as applied to our company's individual shipments and those of our members have no direct relationship to fuel costs when applied against freight rates, which is the practice of all railroads except BNSF, and also because surcharges, including those on BNSF, in my opinion exceed the per shipment recovery necessary to make the carriers whole for fuel cost increases that occurred after they established the rates pursuant to which our traffic moves.

That point is made extremely well in the statement of National Grain and Feed Association, of which we are a member. I will provide a few additional examples to illustrate this problem. The source of the data is the table attached to this statement entitled "2005 Average Cost of Diesel Fuel." In some instances, I have taken 2005 data from that table and compared it with early 2006 fuel surcharge levels, a step that should produce only minimal inconsistencies but which is necessary because 2006 railroad operating data is unavailable.

On Union Pacific, Ag Processing has a corn move from Lincoln, NE of 1,050 miles to Houston, TX at a per car rate of \$2,628. The fuel surcharge, payable in addition to the freight rate, is at 13.5 percent of the freight rate for May 2006, adding \$355.00, or \$.34 per mile, to the cost of moving each car. For 2005, UP's average fuel cost per loaded mile was \$.38, or \$399 for the 1,050 mile haul. UP's fuel surcharge alone covered all but about \$44 of its total fuel cost and most certainly exceeded the extent to which UP's fuel costs increased subsequent to when its rate to Houston was published.

BNSF's corn rate from Lincoln to Houston for a similar car to that of UP is \$2,360 for a haul of 992 miles. BNSF's \$.33/mile fuel surcharge produces a surcharge payment of \$327, which equates to 13.9 percent of the freight rate. For 2005, BNSF's average fuel cost per loaded mile was \$.43. Its total fuel cost for this 992 mile trip was \$427, so that the surcharge alone covered about 75 percent of total fuel costs.

Ag Processing has a soybean meal movement from Sergeant Bluff, IA to Turlock, CA, also on UP. It is a distance of 1,826 miles. As of May 1, 2006, the per car rate, at 286,000 GWR, is \$3,975 in railroad equipment and \$3,537 in private cars, with no mileage allowance payable for use of the private car. The May UP surcharge is 13.5 percent of the freight rate. Because the freight rate in railroad equipment is \$438 more than in private equipment, the fuel surcharge on the railroad car is \$59 more than the fuel surcharge on the private car, even though both cars are exactly the same, carry exactly the same weight over exactly the same distance in exactly the same train.

Ag Processing also has a soybean meal unit train movement from Hastings, NE to Gray's Harbor, WA via BNSF, a route of 1,894 miles. BNSF applies a mileage-based surcharge to this move at a rate of \$.33 per mile in May 2006. That rate produces a per car fuel surcharge of \$625.00, or 22.65 percent of the \$2,760 freight rate. If BNSF used the same 13.5 percent fuel surcharge percentage as does Union Pacific, the surcharge on this movement would have been \$373.00 per car. The BNSF fuel surcharge for a coal car moving over this route would be \$416 because BNSF charges \$.22 per loaded mile for coal cars.

And, while I am addressing the BNSF fuel surcharges, I am forced to question why it is that the May surcharge rate for grain and agricultural products is \$.33 per mile,

while that for coal is \$.22 per mile, making the agricultural rate 50 percent more than the coal surcharge rate. Grain and grain products often move in unit trains, just like coal. The Board should require a railroad maintaining such broadly disparate fuel surcharge rates between commodities to explain and justify the basis for the disparity.

Another example of inconsistent fuel surcharges can be found on UP. That carrier has a rate on ethanol moving from Hastings, NE to Las Vegas, NV of \$4,820 for a 263,000 GWR tank car. It is a move of 1,326 miles, and the surcharge, at 13.5 percent, is \$651.00, or \$.49 per loaded mile. In comparison, UP's 2005 fuel cost was \$.38 per loaded mile. For a move on UP of soybean meal from Ag Processing's Eagle Grove, IA to Turlock, CA, the rate is \$5,190 in railroad equipment with GWR of 286,000 pounds, with a surcharge of \$701.00 for the move of 1,928 miles, or \$.36 per mile. This illustration shows that a heavier load moving 602 miles further somehow produces a fuel surcharge that is less per mile than the lighter load moving over a shorter distance.

I want to pause and say that BNSF is to be commended for having recently employed a fuel surcharge system for grain and coal that is based on mileage rather than freight rates. A surcharge based on freight rates has no possibility of being related to costs, for obvious reasons such as the non-fuel expense elements and profit margins that are all part of a freight rate. A surcharge which employs mileage as a factor can be an expression of true costs, although it is obvious to me that BNSF's mileage system still produces fuel surcharges that exceed the actual incremental cost of fuel. In that respect, I should observe that, according to railroad annual R-1 reports filed with the Board, BNSF's cost of fuel in 2005 was \$1.40 per gallon, while UP's was \$1.77, yet BNSF is recovering well more in fuel surcharges for an 1,894 mile trip than UP is recovering for its

only slightly shorter 1,826 mile trip. It is clear to me that BNSF, like UP, is recovering more than just those increased fuel costs that arose after BNSF published its rates within the past few months.

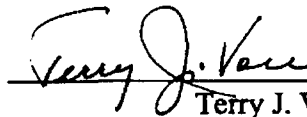
It appears to me that the BNSF and Union Pacific fuel surcharges also share another flaw in common, which is reliance on the retail price of highway diesel fuel as an index for their surcharges. Although the highway price of diesel fuel may be a preferable index to the price of West Texas Crude used by Norfolk Southern, CSX, and Canadian National, it nevertheless is an index with deficiencies when used as a basis for calculating railroad fuel surcharges. *Neither Union Pacific nor BNSF pays the retail highway diesel price.* One reason for that is the retail highway diesel price includes state taxes, which are not paid by railroads. Each state sets its own taxes, and they can increase precipitously, as they have in some states. These tax increases and the fact that railroads do not pay retail highway fuel prices make the retail price of highway diesel fuel inflated and inappropriate, in my view, as an index for the market price of diesel fuel utilized by railroads.

As the Board knows, railroad rates have been rising steeply, and rate increases are announced with more frequency than in former years, when railroads generally raised grain rates only once a year to coincide with the availability of a new crop. Each time a railroad raises its rates, there is no doubt that it considers all of its costs and intends to achieve a certain markup. To assume otherwise would be preposterous. No business can set prices without being aware of the costs of what it sells and the profits it makes per sale. It would be contrary to common business practice, if not common sense, to assume

that a railroad's current rate fails to reflect the cost of fuel as known to that railroad at the time it set the rate.

Because Ag Processing's facilities are in the west and are served primarily by UP and BNSF, I have concentrated in this statement on the western railroads. However, many of our shipments move to destinations served by the eastern railroads and become subject to the eastern carriers' fuel surcharge programs upon interchange of our cars to those carriers. The eastern railroads' surcharges, although not affecting as much of Ag Processing's total traffic as the fuel surcharges of the western carriers, are subject to the same criticisms, deficiencies, and comments as set forth regarding the western railroads.

If fuel surcharges are to be continued in appropriate circumstances, as we recognize may be fair, then those surcharges should be tied to recovery of per shipment fuel costs above the level of fuel costs in affect when the shipment's rate was established. It would be preferable for fuel surcharges to be stated in terms of ton-miles as nearly as that goal can be achieved feasibly. The Board should require railroads to produce all information necessary to implement such an approach, should encourage railroads voluntarily to adopt such cost-based surcharges, and should direct the railroads to do so if necessary.


Terry J. Voss
April 27, 2006

2005 AVERAGE COST OF DIESEL FUEL

<u>LN.</u>	<u>ITEM</u>	<u>SOURCE</u>	<u>UP</u>	<u>BNSF</u>
1	2005 - Total Diesel Oil Gallons	R-1 Sch.750, L.4	1,362,933,944	1,402,347,000
2	2005 - Total Cost of Fuel	R-1 Sch.750, L.5	\$2,406,312,000	\$1,959,895,000
3	2005 - Average Fuel Cost Per Gallon	L.2 / L.1	\$1.7655	\$1.3976
4	2005 - Total Loaded Car Miles	R-1 Sch.755, L.4-194	6,356,505,000	4,561,633,000
5	2005 - Average Fuel Cost Per Loaded Car Mile	L.2 / L.4	\$0.37856	\$0.42965
6	Sample AG Processing Movements - Miles	AG Processing	1,050	992
7	2005 - Total Fuel Cost Per Movement	L.5 x L.6	\$397.49	\$426.21
8	Fuel Surcharges Per Car	AG Processing	\$354.78	\$327.36
9	Sample AG Processing Movements - Miles	AG Processing	1,826	1,894
10	2005 - Total Fuel Cost Per Movement	L.5 x L.9	\$691.25	\$813.76
11	Fuel Surcharge Per Car - RR Cars	AG Processing	\$536.63	\$625.02
12	Fuel Surcharge Per Car - Private Cars	AG Processing	\$477.50	\$625.02
13	2005 - Average Fuel Cost Per Gallon	L.3 Above	\$1.7655	\$1.3976
14	2005 Average Diesel Price Per Gallon	EIA	\$2.3985	\$2.3985
15	Difference	L.14 - L.13	\$0.6330	\$1.0009
16	Base price Level	UP and BNSF	\$1.3900	\$1.2500
17	March 2006 Average Diesel Price Per Gallon	EIA	\$2.5585	\$2.5585
18	Increase	L.17 - L.16	\$1.2085	\$1.3085
19	Percent Increase	L.17 / L.16	89.52%	104.68%
20	January 2006 Average Diesel Price Per Gallon	EIA	\$2.4674	\$2.4674
21	March 2006 Average Diesel Price Per Gallon	EIA	\$2.5585	\$2.5585
22	Increase	L.21 - L.20	\$0.0911	\$0.0911
23	Percent Increase	L.21 / L.20	3.69%	3.69%