

BEFORE THE
SURFACE TRANSPORTATION BOARD

EX PARTE NO. 665
RAIL TRANSPORTATION OF GRAIN

COMMENTS
OF
UNITED STATES DRY BEAN COUNCIL

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U. S. Dry Bean Association**

I. INTRODUCTION

For the Record, my name is Steve Brown, I am the General Manager of Jack's Bean Company LLC in Holyoke, CO. I live in a small town approximately 2,000 people. Our growers produce Light Red Kidney beans, Pinto beans, Yellow Popcorn, and Black beans and we at Jack's Bean Company market these products. We are a hybrid coop owned by growers in Colorado and Nebraska. I also serve as President of the Colorado Dry Bean Administrative Committee, a state check off representing growers and dealers in the State of Colorado. I also serve as Vice President of the United States Dry Bean Council which represents growers, dealers, and end users with production from 17 states including Arizona, California, Colorado, Idaho, Kansas, Nebraska, New Mexico, New York, North Dakota, Wyoming, Michigan, Minnesota, Montana, South Dakota, Texas, Washington, and Wisconsin and it is in that capacity that I appear here today.

II. RAIL TRANSPORTATION IS CRITICAL TO OUR SURVIVAL

Rail transportation is critical to get these crops to market both domestically and internationally for the benefit of our growers and the small towns of rural America. We continue to be strong supporters of efficient, safe and economical rail transportation. There is much talk about providing broadband internet to rural America but very little efforts to maintain and improve our rail transportation with increased competition for the benefit of agriculture in rural America. This is a bigger problem for much of rural America than lack of broadband internet. We, in American agriculture, must have rail to move our products and continue to remain competitive in U.S. and world markets. What we have now is a system of duopoly railroads, large areas of shippers that are captive to single railroads and a regulatory system that is not protecting the small rail customers from the giant railroad systems this Board helped create.

III. THE U.S DRY BEAN INDUSTRY IS FACED WITH LOSING MARKETS TO FOREIGN COMPETITION -

Due to the lack of rail competition it is harder to serve our customers by providing our products in a timely manner at a competitive prices. I just returned from Miami, Florida to see a customer there. He told me that he could order a boxcar of beans from Canada and another boxcar from my Colorado location on the same day, and the product from Canada would arrive as much as a week earlier even though it is further away. If this continues, he stated, it is better for him to import from Canada instead of buying from US companies like myself. We used to be able to order a car from our railroad when we wanted, today it is a railroad rule that it can't be ordered any quicker than 7 days. In my opinion, this is simply a railroad game so the railroads can show better

railroad statistics on service by not allowing us to order immediately. Our critical railroad service is becoming harder to depend on each day. What is our remedy? Pleading with the railroad for better service is met with indifference. The railroads do not like to handle less than full trainloads of any agricultural commodity, including dry beans, and requests for improved service or, in some cases, service at any level, are countered with either indifference or exorbitant freight rates. Because of this critical need the United States Dry Bean Council is an avid member of the Alliance for Rail Competition which is seeking legislative change to bring fairness, choice and equity back into the rail market.

We also have problems with the service integration between our short line railroad OmniTrax and Class 1 railroad BNSF. This cooperation is made worse as the short line is nonunion and the Class 1 is union with a resultant lack of unity between the two groups of employees. This lack of cooperation spills over into our ability to get timely service.

IV. LOSS OF RAILROAD SIDINGS

Some of my associates and customers have lost their railroad sidings and it continues to develop ongoing tremendous financial hardships due to higher cost and inefficiency. Railroads continue to make access harder and further from where the service is needed by closing sidings that we have historically utilized. The required railroad service is moving further and further away from our source elevators. The costs of transporting our beans further and further, to and from rail, is a cost shift to the producers and merchandisers from the railroads. In reading the GAO report – we do not find them addressing the cost shifting that is going on with those that are captive. Our

costs in the captive markets are rising faster than in those areas that have competitive railroads because the railroads in captive shipper areas can and are shifting the costs of gathering and distribution to the captive shippers. Many improvements in service and rates are needed.

V. RAILROAD PLAY 'GOTCHA' WITH THEIR LEASES

Another area where the railroads are shifting costs to the captive rail customers is in their dominance over decades old land leases on which our facilities are located. Our community was formed when the railroad land grants occurred and over the years if you wanted to have access to the railroad you had to build facilities on the railroad land and lease from the railroad. The railroads invited us to locate on their land – it was a good business practice for us and the railroads because the investment brought railroads business. However, the railroads have had a complete change in attitude in the last 10 years. Today, we as captive shippers, have seen years of arbitrary land rental increases with an attitude 'either pay or move.' It is physically impossible to move our buildings and grain elevators from the railroad land. Remember, this was the land the U. S. government granted the railroads when they were built with an obligation to provide and serve the public interest. The railroad then "spun off" ownership on the rail land adjacent to their railroads to a wholly owned subsidiary – a real estate company. This new real estate company wanted the land sold at very high prices or made demands upon us to move the buildings and grain elevators built on the land or pay up. We were forced to purchase our land at very high prices because we had no choice. In some cases the new real estate company sold the property out from underneath the current leasees to others

and then those lessees were held hostage to even a worse situation – higher rents and no option to buy to get away from the ever increasing rents.

VII. TODAY OUR RAILROAD PROBLEMS CONTINUE TO GROW WORSE

Today we continue to see arbitrary freight rate increases with no other choices other than shipping by railroad. We are captive and that is coupled with deteriorating service - the lack of equipment and consistent service. There are times that our service is delayed for many days because the railroad discontinues train service due to other work, called ‘more pressing work demands.’ We need competitive rates, access to equipment and sidings, and consistent minimum service. That is what the public interest requires.

VIII. SUMMARY - WE NEED HELP

WITH OUR MARKET DOMINANT RAILROADS

Please help the American farmers, small businesses, and rural small towns by addressing this massive concentration of economic power in the railroads. You are the regulatory agency that we, in American agriculture, must rely on. We are counting on you to set your sights on providing solutions so we can market our products without monopoly interference. All we ask for is reasonable rates, reasonable levels of minimum service with adequate equipment. The American farmers, small businesses, and small towns, and the public have a right to this and it is absolutely necessary to compete with and maintain our markets in the United States of America and the World.

Thank you for holding this hearing and giving me the opportunity to participate and voice our concerns on the issue of agricultural transportation as a business and vital agricultural industry and on behalf of small town America.

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