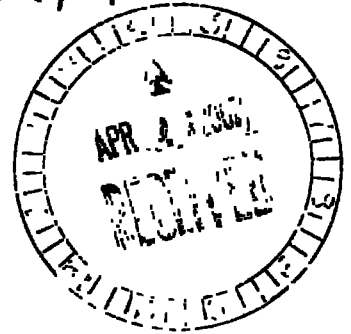


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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB EX PARTE NO. 671

RAIL CAPACITY AND INFRASTRUCTURE REQUIREMENTS

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WRITTEN STATEMENT OF
NORTH AMERICA FREIGHT CAR ASSOCIATION

The Board's Notice of March 6, 2007 ("Notice") in this case instituted a proceeding to examine various aspects of future rail infrastructure demands and the means by which those projected demands can be met. Interested parties were given the option of appearing and providing oral testimony at the hearing scheduled for April 11, 2007 or, instead, submitting written comments by April 4, 2007.

These comments are submitted pursuant to the latter option on behalf of North America Freight Car Association ("NAFCA"). NAFCA is an unincorporated association comprised of entities that manufacture, own, or operate private freight cars. NAFCA currently has 27 members who collectively own or operate in excess of 500,000 privately-marked freight cars, equaling approximately 70 percent of all private freight cars oper-

ated in the United States as of January 1, 2006. Approximately 55 percent of all freight cars operated in the United States are privately marked.¹

The Board's Notice requests information on, among other things, "the infrastructure investment needed to insure that the Nation's freight rail system continues to operate in an efficient and reliable manner; possible solutions to the challenges presented by growing rail traffic and limited capacity; and the potential role of public-private partnerships and innovative financing tools in meeting these challenges." Members of NAFCA, as shippers who, in many instances, provide infrastructure to facilitate the efficient movement of freight cars and as suppliers and users of freight cars, submit these comments to ensure that the Board is fully aware of the significant contributions being made by parties other than the Class I railroads to enhance the Nation's rail capacity and to address capacity constraints. The notion that railroads alone are funding the industry's expansion needs is no longer accurate and, if harbored by policy makers, could produce unintended consequences.

I. Non-Railroad Infrastructure Investment.

Railroads increasingly seek to move their traffic in large trains that shippers are expected to tender as units at origin and unload as units at destination. In many instances, Class I railroads currently refuse to consider providing service to new or substantially

¹ Railroad Equipment Report, 2006, Association of American Railroads (August 2006). In Docket N 42060 (Sub-No. 1), *North America Freight Car Association v., BNSF Railway* (January 26, 2007), the Board suggested that private cars have grown in use in an attempt by private car owners to "have more cars available during seasonal and other periods of greater need." To the contrary, private cars have not increased in number to meet seasonal, peak demands; there has been a systemic decline in railroad car supply for 25 years, when carriers supplied 73 percent of all cars and just 26 percent were privately sourced. If the private fleet was acquired just to meet "seasonal" and other abnormal levels of need, then it would be true that 55 percent of all railroad traffic – the private car share – and 100 percent of all tank car shipments are of a seasonal or other abnormal nature, which is plainly impossible.

expanded shipper facilities unless those facilities are equipped with switches and track to accommodate 100-car or larger trains in a single switch from or to the rail line.

These demands by railroads require substantial capital outlays by shippers, both to acquire the land necessary to construct the track infrastructure and to actually construct the tracks themselves. Only the railroad industry can quantify the extent to which its customers collectively have added track infrastructure of the type required to meet railroad standards for new or expanded service. We can, however, provide some indicia of those expenditures.

A 100-car train consumes approximately 6,500 feet of linear track space, or nearly 1.25 miles. However, as a practical matter it takes far more than 1.25 miles of industry track to accommodate the loading and unloading of large unit trains in most instances. The reason is that there must be sufficient space to allow the train, including the engines, to exit the railroad line as a unit prior to loading and to hold the empty cars in a continuous train after they have been loaded and await pick-up by the carrier. Facilities that primarily unload cars face the same issues in reverse. Thus, at a minimum, industrial track necessary to meet railroad expectations for service amounts to a minimum of 2.5 miles of track for every train of 100 cars or more handled on the facility. When a facility handles multiple trains at the same time – for example, a utility company receiving a second or third coal train before the first one can be unloaded, or a grain facility that receives corn trains and ships ethanol trains – the amount of industrial track necessary is increased dramatically. It is not uncommon for new facilities to require three or four loop tracks, each some three miles in total length.

The cost of building such track varies according to whether land must be purchased, the value of land, and construction costs. At a conservative minimum, the switches and track necessary to meet railroad demands for new service will cost well over \$1 million per mile. In the aggregate, particularly with the construction of many new ethanol and bio-fuel production facilities served by rail, shippers are investing hundreds of millions of dollars in track and related infrastructure.

Those types of investments help to improve service not just for the shippers making them, but for all rail customers. The Board has on several occasions stressed the fact that railroads are "networks" and that service improvements made in one part of the rail system may well benefit customers elsewhere in the system. If so, the same is true of investments made by specific shippers in facilities that help to make rail service more efficient, such as those that promote the use of unit trains.

II. Non-Railroad Freight Car Investment

The number of railcars owned by the Class I railroads has significantly declined since 1947, while the ownership of railcars by shippers and other non-railroad companies has climbed steadily since World War II. Although total annual capital expenditures by the Class I railroads nearly doubled since 1980, annual capital expenditures for locomotives and rail cars declined by about 50 percent since 1980. Whereas private cars were only 26 percent of the total U.S. fleet in 1980, today they comprise 55 percent.

Of the total 1.3 million freight cars operating in the United States, both privately and railroad-owned, 248,000 are tank cars. Fewer than 800 of those cars are owned by railroads, and those are mainly used to move company products such as locomotive fuel.

Thus, for all intent and purposes, the tank car fleet used in the United States is supplied entirely by shippers.

Although tank cars are not of uniform size or characteristics (some have equipment to maintain temperature control of commodities, and some are built to specific standards for the movement of various types of hazardous materials), we conservatively estimate that the average current replacement cost of a tank car is \$90,000. It would cost the railroads approximately \$22 billion to replace the private tank car fleet, which is utilized to move some of the highest per car revenue commodities handled by railroads, such as chemicals, petroleum products, ethanol, and vegetable oils. Additionally, each car requires maintenance, which conservatively can be estimated at \$1,000 per year per car, to cover labor, materials, and shop movement costs, adding about \$250 million more annually to the non-railroad cost of supplying this type of equipment. In only a minority of instances do shippers receive mileage allowances when private tank cars are furnished, so that the expense of acquiring and maintaining that fleet falls mainly on the private suppliers of tank cars, and not the railroad industry.

A second major category of freight cars supplied by shippers and other non-railroad companies is the covered hopper car. There are 452,000 such cars operating on US railroads, and 249,000 of those, or about 55 percent, are privately owned. Covered hopper cars have a current replacement value of approximately \$76,000, representing a replacement cost for the private covered hopper car fleet of \$19 billion. As with tank cars, each covered hopper car requires an annual maintenance outlay. Using the same per car assumptions as for tank cars, the annual outlay for maintenance of private covered hopper cars is about \$250 million. Even without consideration of maintenance expenses,

the replacement value of just these two types of predominant private cars – tank cars and covered hopper cars – is approximately \$56 billion. If shippers and other non-railroad companies did not supply this type of capacity investment, railroads would be called upon to do so or to forego the revenue generated by this substantial segment of the private fleet.

Despite the shift in ownership of freight cars, the rules governing car maintenance, standard car features, car hire, and car interchangeability are still established by the Class I railroads through their control of the AAR rule-making process. That situation made sense when the Class I railroads owned most of the rail equipment, since the individual railroads shouldered most of the costs and derived most of the benefits of a rule change. If the cost of the rule change exceeded the perceived benefit and there were no overriding safety considerations, the proposed rule change would likely have been defeated. Today, however, the cost-benefit analysis is unbalanced since those shouldering most of the cost of the rule are those supplying most of the equipment (i.e., non-carriers) without AAR voting power commensurate with their ownership share of the total fleet. The Class I railroads no longer have an economic incentive to limit rule changes for car specifications and maintenance to situations where the change can be cost-justified. If the trend continues and the cost and risks of private car supply becomes onerous, this significant source of third-party funding for rail capacity may be impaired.

III. Equipment Investment. In furtherance of its oversight role, the Board should be aware that the outsourcing by railroads of capacity investments is trending up and making it more difficult for non-carriers to maintain their role in capacity enhancement. Capacity can be increased through railroad operational improvements such as positive

train control (PTC) and by equipment enhancements and improvements. On the equipment side, one such improvement being advanced is the installation of electronic brakes (ECP). Everyone agrees that such brakes, which shorten stopping distance by a large factor, would greatly reduce the necessary headway separations thereby increasing the number of trains that can operate on a segment of track. It has been estimated that the installation of ECP brakes on the existing fleet would cost approximately \$4000 per car. The question is: "who will pay for such brakes?" If non-carrier car providers are expected to do so, there should be an environment which gives them a greater voice in the process.

One of the issues about which the Board seeks comments is "the potential role of public-private partnerships" to meet rail infrastructure financing needs. NAFCA urges the Board not to overlook the role of other "partnerships" that result in the enhancement of railroad capacity at the expense of non-carriers. Those investments do not stop with freight cars and related track. They extend to technology and personnel – investments in computerized systems to bill freight cars, route shipments, and perform other functions that formerly were provided by railroads.

NAFCA does not question that many private transportation investments, in the form of cars, tracks, or otherwise, may help provide a more efficient railroad system. The point is, nevertheless, that it is not merely railroads that pay for necessary rail infrastructure, but their customers as well. That fact should not be overlooked by the Board in

its examination of the nature of rail infrastructure that is necessary and the source of payment for that infrastructure.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Darrell R. Wallace". The signature is fluid and cursive, with the first name "Darrell" being more prominent than the last name "Wallace".

**Darrell R. Wallace
Vice President – Transportation
Bunge North America, Inc. and
President, North America Freight Car Association**

Dated: April 4, 2007