

OFFICE OF THE GOVERNOR
STATE OF MONTANA

ORIGINAL

BRIAN SCHWEITZER
GOVERNOR



JOHN BOHLINGER
LT. GOVERNOR

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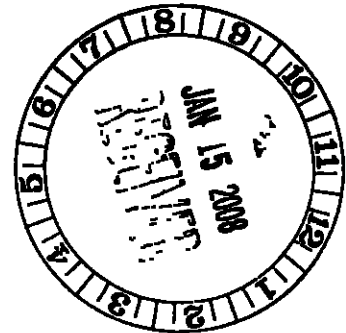
January 14, 2008

ENTERED
Office of Proceedings

Anne K. Quinlan, Esq.
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

JAN 17 2008

Part of
Public Record



Re: Ex Parte No. 385 (Sub-No. 6), Waybill Sample

Dear Ms. Quinlan:

I am writing to the Board to express my support, and that of my Administration and that of a number of Montana and other agricultural groups who asked to join me, for the NITL letter petition for reconsideration filed December 31, 2007 as to the STB "Clarification" issued December 17 in Docket No. 385 (Sub-No. 6). The supporting agricultural interests are listed on an attachment to this letter.

The Board may recall that I filed written comments and came to Washington to speak at the May 11, 2006 hearing on railroad fuel surcharges in Ex Parte No. 661, Rail Fuel Surcharges. Montana is the most rail captive state in the country, with some 95% of rail freight controlled by BNSF, and one of the concerns I expressed in my testimony in Ex Parte No. 661 was that "Montana would be paying MORE after a switch to mileage-based fuel surcharges," because "BNSF simply raised the underlying rates and then applied a slightly smaller mileage-based fuel surcharge than the revenue based fuel surcharge."

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In its January 26, 2007 decision in Ex Parte No. 661, the Board recognized the need for transparency as to rail surcharges, to permit shippers and others to assess whether railroad fuel surcharges recover more than the actual increased costs of fuel. Captive shippers are most vulnerable to such overcharges, and the exceptional captivity of Montana shippers makes fuel surcharges on our rail rates particularly vulnerable.

The Waybill Sample could be a useful tool for monitoring abuses, but this will not be the case if the Board allows or directs railroads to report fuel surcharge revenue as a part of aggregate Freight Revenue, with no breakout of the fuel surcharge components. As NITL's petition for reconsideration explains, the resulting loss of transparency is unnecessary, since railroads can report fuel surcharge revenue and other freight revenue separately on waybills.

I urge the Board to grant the NITL petition, reconsider the Clarification issued December 17 and provide the promised transparency as to fuel surcharge revenues.

Respectfully submitted,


BRIAN SCHWEITZER
Governor

cc: Counsel for NITL, NGFA,
BNSF and other Class I Railroads

ATTACHMENT

MONTANA WHEAT & BARLEY COMMITTEE
COLORADO WHEAT ADMINISTRATIVE COMMITTEE
COLORADO ASSOCIATION OF WHEAT GROWERS
IDAHO BARLEY COMMISSION
IDAHO WHEAT COMMISSION
IDAHO GRAIN PRODUCERS ASSOCIATION
MONTANA GRAIN GROWERS ASSOCIATION
NEBRASKA WHEAT BOARD
NEBRASKA WHEAT GROWERS ASSOCIATION
OKLAHOMA WHEAT COMMISSION
SOUTH DAKOTA WHEAT COMMISSION
SOUTH DAKOTA WHEAT INC.
TEXAS WHEAT PRODUCERS BOARD
TEXAS WHEAT PRODUCERS ASSOCIATION
WASHINGTON WHEAT COMMISSION
NATIONAL ASSOCIATION OF WHEAT GROWERS
NATIONAL BARLEY GROWERS ASSOCIATION