



NORTH DAKOTA AGRICULTURAL ASSOCIATION

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Surface Transportation Board

Att STB Ex Parte No. 677 (Sub-No. 1)
395 E Street, S W.
Washington, D C. 20423-0001

Chairman Nottingham

Members of the Surface Transportation Board -



The North Dakota Agricultural Association submits these comments in response to the notice of public hearing in Ex Parte 677 (Sub-No.1), *Common Carrier Obligation of Railroads – Transportation of Hazardous Materials*, July 22.

Our Association represents the agriculture crops production industry-suppliers-distributors-dealers-and service providers for fertilizers, seed-crop production products-production equipment, and all other related inputs. We have been following the debate in Congress and at the Surface Transportation Board (STB) regarding the railroads' concern over the liability risk associated with rail transportation of toxic-by-inhalation (TIH) materials. Anhydrous ammonia, a TIH material is a critical plant nutrient input. Rail transportation is a critical means of transporting this important agricultural production product.

The common carrier of the railroads obligation, codified by Congress in the Interstate Commerce Act in 1967 and reaffirmed by Congress in the Staggers Act, clearly shows the intent of Congress. Railroads are not allowed to select which shippers to serve and which commodities to transport. While the STB may have an advisory role in making recommendations to Congress on railroad common carrier obligation, only Congress has the authority to change this obligation.

It is critical that American farmers have anhydrous ammonia when or where they need it. Without anhydrous ammonia, U.S. farmers would be unable to produce the amount, or quality, of food the world has come to rely on. Anhydrous ammonia is the least costly and most effective source of nitrogen fertilizer. In addition to its direct application as a fertilizer, anhydrous ammonia is the primary ingredient in all other nitrogen fertilizers and is also used to produce phosphate fertilizers.

Today's infrastructure simply would not be able to handle a shift of anhydrous ammonia away from rail. It is not feasible to think that we could "turn a switch" and provide this essential product to U.S. farmers without the ability to ship by rail from production facilities to ammonia terminals, distribution centers and dealer storage tanks that supply ammonia bullets, nurse tanks and on farm production.

Because of the unique characteristics of anhydrous ammonia, agricultural retailers who receive this essential plant nutrient have extensive employee training requirements, personal protective equipment and facility security. If the anhydrous ammonia was received by truck, a retailer would have to incorporate additional changes to their existing infrastructure including, relocating unloading areas, increasing distribution access in order



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to receive many trucks, and finding qualified commercial drivers with specialized hazmat licenses. In many cases, these additional requirements are either unavailable, or too expensive to institute. We could not provide this essential product to U.S. farmers without the ability to ship and receive by rail.

Rail is often the only alternative to trucks for the overland transportation of anhydrous ammonia. Given today's transportation costs, note that one tank car can transport as much anhydrous ammonia as four trucks. Rail transportation is not only more efficient than trucks, it takes a highly hazardous commodity off our nation's highways where the potential for accidents and public release are many times greater.

In response to the STB's request for potential policy solutions to the liability issue, we support the solution proposed by The Fertilizer Institute (TFI), our national trade association in Washington, D.C. TFI has proposed a business solution to the railroads regarding liability concerns which we believe is a more appropriate method to address this issue. We fully support TFI's comments to the STB and their efforts in this regard.

We thank the STB for considering our comments

Sincerely,

Al Holleman, President
North Dakota Agricultural Association