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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Ex Parte 677 (Sub-No. 1)

*COMMON CARRIER OBLIGATION OF RAILROADS –
TRANSPORTATION OF HAZARDOUS MATERIALS*

SUBMISSION OF GREG YONT ON BEHALF OF AGRIUM

Agrium Inc , through its subsidiaries ("Agrium"), is a major supplier of agricultural products and services in both North and South America and a leading global producer and marketer of agricultural nutrients and industrial products. Agrium produces and markets three primary groups of nutrients: nitrogen, phosphate and potash as well as controlled release fertilizers and micronutrients.

We are pleased that the Surface Transportation Board (STB) has recognized the importance of the common carrier obligation and is holding its second public hearing to hear testimony on the many issues that are involved with this obligation.

In summary, our position is:

- 1 The common carrier obligation is critical to our food, fuel, and economic security
- 2 Ammonia is an effective and efficient source of nitrogen for farmers
3. There are no substitute products for ammonia that can be utilized for many industrial applications
- 4 There is not enough infrastructure to replace ammonia with other nitrogen fertilizers and satisfy the agricultural demand

- 5 Other forms of nitrogen fertilizer are less concentrated and would require significantly more volume to be transported, using up more of the nation's transportation capacity
- 6 Our industry has an excellent safety record and history of equipment investments for the safe rail transportation of ammonia
- 7 Our company and our industry are working with the railroads to address the liability concerns associated with ammonia transport.

1. Common Carrier Obligation

We rely on rail transportation of ammonia to serve our customers, some of whom are not set up to receive this product via other modes. In the case of longer distances, it is generally not economic to utilize truck transport. Other modes, such as pipeline or barge, generally run at capacity and therefore cannot provide an alternative to rail.

Some of our rail carriers have stated that, but for the common carrier obligation, they would not transport toxic inhalation hazard (TIII) materials. In most cases, there are no competing rail carriers to replace them, and in some of these cases, there is no viable competing mode. The demand from these customers would be left unfilled, or with reduced competition.

The rail industry enjoys privileges along with their responsibilities that extend beyond those in other industries. Congress retained the common carrier obligation in recognition of this unique position and in defense of the public interest. Shippers do not have a choice of carriers in many circumstances, and the public need for reliable access to safe transport requires the common carrier obligation to be defended.

Agrium is essentially a captive shipper or receiver at the vast majority of our facilities.

2. Importance of Ammonia

Ammonia is cost effective fertilizer for American farmers, and would not be readily or economically replaced. It is the least costly nitrogen fertilizer on a cost per pound of nutrient basis. Farmers are benefiting from improved crop prices, but are challenged by significant escalation in input costs. Fuel, seed, chemical and fertilizer prices have increased with world

demand. The American farmer is exposed to world prices for these inputs, and would be further squeezed by more costly nitrogen fertilizer alternatives.

Ammonia is also an efficient fertilizer. Unlike some other nitrogen sources, direct applied anhydrous ammonia bonds with the soil. In applications subject to nutrient loss, such as fall application of fertilizer, ammonia performs better and reduces potential environmental issues.

Ammonia is an essential contributor for growing food for millions of Americans, and for growing crops for biofuel, such as corn used for ethanol production. A single rail car of ammonia produces approximately 128,000 bushels of corn, which can feed approximately 1600 cattle or produce 345,600 gallons of ethanol.

In short, direct applied ammonia is the most cost effective and efficient form of nitrogen fertilizer in many applications.

3. Limited Industrial Substitution

The U.S. industrial market, defined as anhydrous ammonia which is not directly applied in agriculture or used in the manufacture of fertilizer materials, uses an additional 6-6.5 million material tons of anhydrous ammonia annually. While some of this material is imported and used at plants located near port facilities, over 80 percent (5.1-5.2 million material tons) are transported significant distances by barge, pipeline and rail. Approximately 45 percent of this share, or 2.3-2.4 million tons, moves by rail. In some manufacturing processes which use ammonia, product substitution is not possible. But when it is, sourcing substitute products for industrial ammonia use for the 2.3-2.4 million material tons currently transported by rail will be a significant and costly burden to the U.S. industries.

The rail industry also has suggested that anhydrous ammonia could be shipped in a diluted solution known as aqua ammonia (which is 29 percent anhydrous ammonia). This would require three times the current number of rail shipments, with a greater increase in infrastructure investment, such as rail cars and storage facilities that are not currently in place for most shippers. In addition to tripling rail shipments, making costly production

modifications, and significantly increasing infrastructure investment, aqua ammonia would require the treatment and disposal of over two billion gallons of water annually

4. Infrastructure Constraints and Alternatives

Farmers, Retailers, Wholesalers and Producers have made significant investments in infrastructure based on anhydrous ammonia. These assets are specialized and cannot be used to transport or store alternative fertilizer products. Product substitution would require huge investment in production and distribution assets.

Moreover, with high domestic natural gas prices, it is questionable whether production investments would be made domestically. Substitution might come in the form of increased imports at the expense of the domestic industry. Even so, such imports would require a significant expansion of the existing import infrastructure.

Agrium currently operates six North American ammonia production facilities with an annual production capacity of ammonia of almost 3 million tons/yr. Half of this total goes to internal consumption for production of other products. We have large upgrading plants in Kennewick, WA and Conda, ID that depend on rail transported ammonia for their feedstock. Our system also includes eight large ammonia storage terminals in the United States. We lease a fleet of over 900 railcars, and have made significant efforts to modernize this fleet to meet or exceed the most current and safe standards. The average age of our ammonia railcar fleet is about 4 years old. These facilities represent a significant investment and we would suffer economic harm without the ability to service them via rail.

Our customers have similar investments in ammonia infrastructure, including storage and application equipment at the retail and farm level. Without competitive access to direct applied ammonia, the farmer would bear the higher cost of substitute fertilizers and the new investment required to apply them.

5. Transportation Constraints

Anhydrous ammonia is the most concentrated form of nitrogen fertilizer available at 82%. Other types of fertilizer contain less nitrogen per pound of product, and would require more transportation capacity to be used. For example, urea contains 46% 'N', UAN contains 28 to 32% 'N', ammonium nitrate 34.5%, and aqua ammonia 29%. Use of these products would require two to three times the transportation capacity, in a system that is already capacity constrained. Manufacture of these products still requires the use of anhydrous ammonia.

Alternate transportation modes are already used where effective. There is almost no ability for Agrium to switch ammonia shipments to barge or pipeline from rail, as we fully utilize these systems today. Truck shipment of ammonia is not economic for longer distances, nor desired for operational effectiveness.

6. Rail transportation of ammonia is safe

The Association of American Railroads (AAR) has stated, and Agrium agrees, that rail transportation of hazardous materials which includes anhydrous ammonia is the safest mode for transportation of these materials. According to AAR statistics there was an average of 50,860 shipments totaling 4,070,000 tons of ammonia shipped by rail annually between 2000-2005. One tank car can transport as much ammonia as four trucks. Thus, this total rail volume of ammonia equates to almost 203,450 truck shipments. Rail transportation not only is more efficient than trucks, it takes a hazardous commodity off our nation's congested highways.

7. Industry cooperation

The fertilizer industry is working with the railroads on means to improve our already strong record on safe and secure shipment of ammonia. We are also working on commercial solutions to the railroads' liability issue. The root issue for the railroads remains the potential unlimited liability of a major TIH accident. Safety improvements in rail operation and railcars can and should be reasonably made, but do not manage the liability directly or reduce the potential for an incident to zero. We expect continued demarketing efforts from the railroads until liability is effectively dealt with. There is a limit to the coverage our

industries can jointly establish in the insurance market. A liability solution, likely in the form of a legislated cap, will require industry cooperation and government support

Conclusion

Ammonia is critically important to American agriculture and the economy. It is an effective and irreplaceable product among the fertilizers we need to support the nation's food and energy production. Competitive access to rail transport is required to support the distribution of ammonia. The rail industry should not be allowed to avoid its common carrier obligation when convenient or in their own economic interest to do so.

Agrium is a member of The Fertilizer Institute, and supports the detailed submission being made by the TFI. In order to avoid repetition, I have not gone into the same level of detail in this submission, but fully endorse the comments therein.

On behalf of Agrium, I would like to thank the STB for their attention to this important matter, and for giving us the opportunity to comment.

Respectfully Submitted,

	Mr. Greg Yont Sr. Director, Logistics Agrium Inc Suite 1700, 4582 South Ulster Street Denver, CO 80237
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