BEFORE THE

SURFACE TRANSPORTATION BOARD

Ex Parte No. 665

RAIL TRANSPORTATION OF GRAIN

WRITTEN COMMENTS OF THE

NATIONAL CORN GROWERS ASSOCIATION

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Dated: October 30, 2006

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The National Corn Growers Association (NCGA) represents more than 32,000 corn farmers from 48 states. NCGA also represents more than 300,000 farmers who contribute to corn check off programs and 27 affiliated state corn organizations across our country.

Agriculture is notorious for its uncertainty. Crops and farm income are dependent like no other industry on weather, politics and market trends beyond our control or ability to estimate. I guarantee that the cost to harvest and market this year's crop is on the minds of all corn growers, and consequently, we appreciate the Surface Transportation Board (STB) for taking a serious look at rail transportation problems facing grain producers. Additionally, we support the statement submitted by the National Grain and Feed Association (NGFA) to this proceeding. NGFA member companies represent the principal point of sale for many corn producers.

<u>U.S. Corn Industry</u>

America's corn producers continue to make a significant and important contribution to our nation's economy. Over the last five years, the nation's corn crop has averaged 10.3 billion bushels resulting in an annual average farm gate value of almost $22 billion. The relatively stable production over the past ten years, made possible by innovation in production practices and technological advances, has helped ensure ample supplies of corn for livestock, an expanding ethanol industry, new biobased products and a host of other uses in the corn industry. Moreover, investments by the American taxpayer in our nation's agriculture programs have helped to produce a more stable financial environment for production agriculture and a brighter future for our rural communities. In our view, reliable, abundant, affordable and safe supplies of grain for the food on our tables to the fuel in our cars are generating benefits many times over for our national economy.

Higher production yields have created back-to-back record or near record harvests, and this year we are on par to harvest the third largest corn crop in history. While drought and adverse weather conditions possibly reduced the yields across the Corn Belt, northern and eastern Corn Belt producers are experiencing better-than-expected yields. Even with a less than favorable growing season, corn growers are expected to harvest 10.9 billion bushels of corn this fall, according to U.S. Department of Agriculture (USDA) National Agricultural Statistics Service's (NASS) monthly crop production report released in October. Yields are expected to average 153.5 bushels per acre, 5.6 bushels higher than in 2005. USDA also is reporting that the corn harvest is 53 percent complete.

A handful of States – Iowa, Illinois, Minnesota, Wisconsin, Indiana, Missouri and Nebraska – produce most of the U.S. corn crop, and out-produce Argentina's corn crop tenfold. Collectively, these states produce more corn than Argentina, Brazil and China combined.[1]

Exportation of excess production supports domestic grain and agricultural product prices, enhancing the vitality of rural economies. However, agricultural trade is hypersensitive to changes in transportation cost. Frequently, these costs are a large portion of the delivery price, particularly for raw, unprocessed commodities, like bulk corn. USDA research shows that nearly half the cost of U.S. grain at its final destination is accounted for by the cost of transportation from the farm gate to the final consumer.[2] The accessibility and cost of transportation affects the ability of our farmers to keep and expand foreign markets.

Our competitors in South America have a geographic advantage over us. In the U.S., points of production and consumption often are separated by long distances. The leading Corn Belt production areas are located 1,000 miles or more from the ports that serve our export customers. However, the leading grain producing areas in Argentina and Brazil are located within 200 miles of their ports – in some cases as close as 50 miles – and they are making significant investments in their transportation infrastructure to compete in the global marketplace. As a result, the U.S. advantage in world grain markets has weakened.

Additionally, our competitive advantage is slipping due to a myriad of troublesome transportation issues. Strained capacity in all modes, increasing rates for rail service, declining barge efficiency because of outdated locks and dams and congested roadways are just a sampling of the issues that significantly affect our ability to market corn and corn by-products. These factors are being reflected in considerably weaker cash basis levels, with the obvious negative impact on farm-gate prices. Transportation constraints also threaten the growth of the renewable fuels industry. The current infrastructure appears ill-equipped to handle the potential volume increases expected to be generated by the ethanol and biofuels sectors.

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[1] Statement of A.J. Yates, Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, Before the House Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment, June 24, 2004.

[2] Ibid.

Growing Demand for Transportation

The Department of Transportation's (DOT) Federal Highway Administration Office of Freight Management projects a 69 percent increase in freight traffic from 1998 to 2020 for rail carriers.[3] In many agricultural regions of the country, trucks and barges compete with rail, keeping prices in check. However, barge transportation is not available to producers in the western Corn Belt, and truck transportation is cost-prohibitive for longer hauls to market. To agricultural producers located away from barge transportation, effective competition – including rail-to-rail competition – must be preserved and promoted.

Rail transportation demand has been strong and has set records for several years running – a trend that will likely continue due to several factors including: increased demand for commodities due to economic expansion; increasing intermodal demand; expansion of international trade; increased demand for coal due to high natural gas prices; high fuel prices; and new hours of service regulations on the trucking industry. Railroads also have internal operational issues (congestion and labor), and retirement of their workforce in substantial portions.

Total shipped grain tonnages increased 63 percent in 26 years – from 242 million tons in 1978 to 394 million tons in 2004.[4] Of that total, 61 percent was corn.[5] Corn has the highest transportation requirements due to volume. While the average annual harvested acreage of corn and soybeans is comparable (about 71 million acres for corn and 74 million acres for soybeans), the total production of corn is about three and one-half times that of soybeans (10.9 billion bushels of corn versus 3.1 billion bushels of soybeans).

In recent years, railroads have handled about 30 percent of the export corn and about 31 percent of corn moved within the United States.[6] During the week ending October 14, 2006, U.S. railroads originated 25,274 carloads of grain. This is a four percent increase over the previous week, a fourteen percent increase from the same week one year ago, and an eight percent increase over the 3-year average.[7] USDA also anticipates that a strong grain freight demand will continue based on unshipped corn exports which are 44 percent higher than this time last year.[8]

Additionally, the most fuel-efficient modes of transportation – railroads and waterways – will remain vitally important in the movement of agricultural commodities as fuel prices continue at their high levels for the foreseeable future. Likewise, concerns about the

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[3] Department of Transportation, Federal Highway Administration, Office of Freight Management, Freight News: Freight Analysis Framework, October 2002.
[4] Transportation of U.S. Grains, A Modal Share Analysis, 1978-2004, Prepared by Nick Marathon, Tamara Van Wechel, and Kimberly Vacal for the Transportation Services Branch of the Agricultural Marketing Service, U.S. Department of Agriculture, October 2006.
[5] Ibid.
[6] Ibid.
[7] Grain Transportation Report, Agricultural Marketing Service, U.S. Department of Agriculture October 26, 2006
[8] Ibid.

environment will support more environmentally friendly transportation – rail and waterways.

<u>Capacity Limits Have Led to Poor Service</u>

A 1998 USDA report stated that "…for the first time in a century there is too little rail capacity available to satisfy the demand of shippers."[9] Rail capacity concerns are not a new phenomenon, yet as a nation we're only now recognizing it as a problem.

All modes of transportation are facing serious capacity constraints. The Department of Transportation has estimated that "by 2020 the nation's freight tonnage is projected to increase nearly 70 percent" from 2003 levels, making the potential for additional problems in the next 15 years staggering.

We only need to look back on 2005 as an example of the catastrophic problems created by a major failure of our transportation system. The history books will declare Hurricane Katrina as one of the worst natural disasters on record. However, Hurricane Katrina amplified the interconnectivity of rail with barge transportation. The inability to move grain just as the 2005 fall harvest was underway more than proves that fewer transportation alternatives mean higher transportation costs as agricultural producers lost over $1 billion in just four months.

There is very little slack in our nation's transportation system, particularly in agriculture. According to USDA's Agricultural Marketing Service (AMS), the number of railroad revenue-ton-miles increased 69 percent while route miles decreased 40 percent between 1980 and 2003.[10] As a result, each mile of rail line handles nearly three times as much volume on average as in 1980. AMS states that this leads to constrained rail capacity which causes railroads to raise prices and/or apportion capacity to those shipments that are the most lucrative. Thus, agricultural shippers pay more while experiencing deteriorating service.

Various segments of the industry report complaints regarding availability of rail cars, late arriving cars, long cycling times and other service issues. Service predictability is a huge issue – determining when rail equipment will arrive at origin for loading, when it will be furnished locomotive power and when it will reach destination are increasing uncertainties. It is common to hear reports from agricultural shippers who experience wait times for rail cars exceeding 30 days. In a world of "just-in-time" delivery, a 30-day wait for your product to be picked up is often unacceptable to your customers.

Interestingly, the trucking and barge industry have been able to better adjust to fluctuations in grain movement demand. As the cost of grain transportation increases, these industries see that as a sign for additional short-term capacity. Under similar conditions, the rail

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[9] Agricultural Transportation Challenges for the 21st Century – A Framework for Discussion, The National Agricultural Transportation Summit, Kansas City, MO, July 27-28, 1998.
[10] Feedstuff magazine, "*In 60 Seconds*," November 11, 2005.

industry lessens its service options available to small rural shippers.[11] Although shuttle trains move grain efficiently, not all grain and grain products can be moved by shuttle shipments because either the volumes will not justify it or the shipping and receiving infrastructure cannot handle shuttles – a situation not always remedied by new investments.

While railroads continue to have a common carrier obligation under the law – meaning reasonable service on a reasonable request – it seems to be redefined each year as rail service capacity becomes more limited. For example, intermodal is the fastest growing sector of rail traffic and competes with grain for limited rail capacity. By October, the fall corn harvest is in full swing. However, this is also the peak month for intermodal traffic with Christmas merchandise coming into the U.S. In this situation, grain does not have the same status as intermodal, both in the rates and the willingness to haul, which increases the cost of freight to grain shippers and undercuts the efficient marketing of grains.

As price takers and not price makers, these costs come directly from a producer's bottom line. We have little or no ability to influence the price received for our corn and are unable to pass cost increases on to buyers. Higher transportation costs result in producers receiving lower prices for our grain, which results in reduced producer income and potentially reduced economic prosperity in rural areas.

Agricultural products, particularly with respect to biofuels, have opportunities for growth with new and growing markets. However, our ability to take advantage of these opportunities will be severely constrained if transportation capacity is not available. We encourage the STB to study whether service disruptions are a result of long-term capacity constraints or if they are due to industry consolidation which has given the rail industry excessive market power over suppliers.

Increasing Rail Rates and Small Rate Case Challenges

Without question, the Staggers Act allowed a floundering rail industry to dig its way out of debt while preserving rail service to many shippers that otherwise would have lost access. The agriculture industry depends heavily on a strong and financially viable railroad system. Likewise, the availability of rail transportation at a fair price is critically important to corn growers. Unfortunately, rates have not declined uniformly since enactment of the Staggers Act and some shippers are paying significantly higher rates than others.

Agricultural products have been subjected to an increasing number of double-digit rate increases in the past two years, which magnifies the need for agricultural shippers to have access to an expeditious, cost-effective and fair regulatory process for challenging unreasonable rates. Further, a recent study by the Government Accountability Office (GAO) found that the increases that have characterized rail rates for agricultural products since 1985 were atypical from the rate reductions that have occurred for coal, motor vehicles and other non-agricultural shipments. The GAO study, which has given reason

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[11] Agricultural Transportation Challenges for the 21st Century – A Framework for Discussion, The National Agricultural Transportation Summit, Kansas City, MO, July 27-28, 1998.

for this hearing, also found that the greatest increases in the percentage of rail tonnage shipped at rates exceeding 300 percent of a railroad's revenue-to-variable cost were occurring in rural areas where grain shipments are prevalent.[12]

Industry experts have stated that current and expected future demands on railroads, capacity constraints, and greatly increased fuel costs give railroads even more reason to increase rates. For these reasons, corn growers recently participated in two joint-filings with respect to the STB's small rate case proposals.[13]

Under the STB's new proposal, the three "benchmarks" for categorizing rate cases under its "simplified guidelines" with eligibility criteria determined based upon the "maximum value of the case" would be retained. Under the STB proposal, the maximum value of the case would be equal to the challenged rail rate minus 180 percent of variable costs (which is the statutory threshold for challenging a freight rate established under the Staggers Rail Act of 1980), multiplied by five years of annual shipment volumes.

The STB proposed that the most expeditious process – in which the agency pledges to issue a decision within nine months (270 days) after a case is filed (not counting subsequent judicial appeals) – involve shipments where the maximum value of the case is $200,000 or less. If the maximum value of the case is between $200,000 and $3.5 million, the shipper would qualify for what the agency calls a "simplified stand-alone cost" procedure, which the STB states would take about 18 months to resolve. Shippers whose maximum value of the case exceeds $3.5 million would not qualify for the simplified guidelines, and instead would need to bring any rate challenges under the full stand-alone cost methodology.

We commend the STB for its strong desire to see expedited, simple, clear and cost-effective rules for cases that cannot practicably utilize full stand-alone costs (SAC) procedures. Unfortunately, these proposals are not a solution. As stated in joint comments filed by NCGA and other interested parties, the STB's proposal to amend its so-called "simplified guidelines" for challenging unreasonable rail rates would instead deprive shippers of meaningful access to regulatory relief and place them in an even more untenable situation than exists currently.

The STB's proposed new procedures would constitute a "barrier" that would deprive small agricultural shippers of meaningful access to challenge unreasonable freight rates. In calling on the STB to revise its proposal to remove inequities and unrealistic eligibility requirements, our joint comments cited the following major defects:

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[12] Report to Congressional Requesters by the U.S. Government Accountability Office (GAO), "Freight Railroads: Industry Health Has Improved, but Concerns about Competition and Capacity Should Be Addressed," GAO-07-94, October 2006.

[13] Joint comments filed on Ex Parte No. 646 (Sub-No. 1), Simplified Standards for Rail Rate Cases, by Andrew P. Goldstein, legal counsel on behalf of the National Grain and Feed Association and other Agricultural Organizations referred to in the comments as "The Agricultural Commenters." Joint Written Comments filed on Ex Parte No. 646 (Sub-No. 1), Simplified Standards for Rail Rate Cases, by Nicholas DiMichael and Andrew Goldstein, counsel on behalf of the American Chemistry Council and other interested parties. Supplemental filings were also submitted on our behalf by Gerald W. Fauth III and Thomas D. Crowley. October 24, 2006.

- The agency's proposed monetary limit of $200,000 on the cumulative value of a rail rate case over five years would mean that most shippers of grain and grain products would be eligible to challenge an unreasonable rate on just a "miniscule" fraction of their traffic, and would have no legal or practical way to pursue redress for the vast majority of their affected shipments. Under the STB's proposals, access to regulatory relief would be limited to shipments of 27 cars per year (assuming a successful challenge results in a rate reduction of $1,500 per car) up to a maximum of 1,400 cars per year (assuming a successful challenge results in a $500 reduction per car). Eligibility limits are so completely unrealistic, attempting to overcome them will become the rule rather than the exception for grain and other shippers of small origin-destination volumes, adding complexities and costs.

- The STB's proposed requirements to aggregate all shipments from a single facility do not recognize the multiple rates that may exist on a single shipment of agricultural products or the multiple carriers that may be involved in the movement. For instance, between any given origin and destination, there may be different rates that apply to single cars, multiple-car units (such as 26-car shipments), unit trains (75 to 110 cars or more) and private versus rail-owned cars, as well as an interchange of the shipment to a different carrier than the one whose rate is being challenged.

- The STB's procedures would require a shipper to conduct a revenue-to-variable cost analysis of all of its traffic to determine whether it would be eligible to file a rate challenge on just a portion of its shipments.

- Because they are patterned after the agency's "stand-alone" cost methodology, the STB's proposed "simplified" guidelines are incompatible with the varying volumes and diverse traffic patterns that characterize agricultural shipments. Volumes of commodities and products shipped from agricultural facilities can vary dramatically from year-to-year, dependent upon shifts in cropping patterns, changes in livestock and poultry production, weather-related impacts on yields and animal numbers, and fluctuations in domestic and export market demand. Similarly, shipment destinations vary based upon market demand.

- The STB proposal would prohibit shippers from bringing another rate challenge against the same carrier for two years if they succeed in reducing rates by $100,000 or more through a successful challenge against that same carrier. In addition, if a shipper succeeds in obtaining a reduction on some rail rates at a particular facility, but is barred from seeking similar relief in rates applied to other commodities or shipments at the same facility, the carrier would be able to raise rates on the traffic immune from further rate challenges as a way to recoup the revenues subject to the successful rate challenge.

- The STB proposal vastly underestimates – in some cases by up to tenfold – the cost shippers would incur in bringing a rate challenge under the "simplified"

> procedures. A small shipper likely would consider rate challenges of only a "very narrow slice" of its traffic, "if any at all," given the costs of bringing a case compared to the: 1) level of rate that would be challenged; 2) the potential chances of success; and 3) the level of rate reduction that might be achieved. Even under the most optimistic scenarios analyzed, it would **not** be cost effective to challenge approximately two-thirds of the range of shipment volumes that likely would be eligible for rate challenges under the STB's "simplified" guidelines.

In short, the STB's proposed revisions to its "simplified" guidelines are "highly restrictive" and would make regulatory relief to challenge unreasonable rates "virtually non-existent" for all but a few facilities shipping "miniscule" volumes of grain and grain products. Even the STB's own proposal states that regulatory relief to challenge unreasonable rail rates would be limited to a small percentage of a carrier's traffic.

Furthermore, these proposals are designed to improve processes available to shippers *after* they have been charged a rate they consider to be unreasonable. From the start, the rates paid for grain shipments should be at levels that promote, rather than punish, our competitiveness in the global marketplace.

Fuel Surcharges

While recovery of unanticipated fuel expenses by railroads is justifiable, fuel surcharges have hit agriculture particularly hard. As indicated in our comments of September 25, 2006, on Ex Parte 661, Rail Fuel Surcharges, we are encouraged that the STB ruled that applying surcharges based on rail rates constitutes an "unreasonable practice." These surcharges have hit agriculture particularly hard and we have been concerned that the calculation many railroads are using to establish their surcharges are unreasonable and provide revenue beyond recovering their costs of fuel.

Nevertheless, in statements submitted on October 2, 2006, to the STB, all Class I rail carriers registered their strong objections to the agency determining specifically how fuel surcharge programs should be implemented and reported. Rail carriers, as well as the Association of America Railroads, claimed that a "fuel surcharge is a rate, not a practice, so is unchallengeable as an unreasonable practice." This argument takes the polar opposite to position of the STB's finding that fuel surcharges clearly were not part of the rate. It does, however, bring up a key legal question. If the STB reconsiders its position and finds that fuel surcharges are part of the rate, then the only recourse to shippers would be a formal rate case challenge, costing upwards of $3 million.

As of this writing, the STB has yet to announce any time frame for a final decision or further arguments in this proceeding. We urge the STB to finalize its decision which would mandate that fuel surcharges must be reasonably related to additional fuel costs and rail carriers must be transparent in their actions.

Increasing Importance of Short lines

The GAO report touched the hundreds of short line railroads that have come into being since enactment of the Staggers Act. Short lines provide rail service for numerous rural communities that otherwise would have lost service as a result of rail abandonment, and in many cases, short lines also provide greater customer service with lower rates. According to USDA, short line and regional railroads now operate nearly 30 percent of our railroad network and originate about 25 percent of the carloads.[14]

However, what began as a financing scheme for small railroad purchase of rail lines has turned into prohibited restrictions on competition. While railroads have partial antitrust immunity, there is concern that existing paper barriers may violate the Sherman Act[15], which prohibits restraint of trade, because they limit the market access of shippers and restrict rail-to-rail competition. Paper barriers limit the ability to interchange traffic with other railroads, restricting our access to markets which impacts our ability to obtain the best price for our products due to increased shipping costs. Furthermore, the rates split between Class I railroads and short line railroads cannot adequately support shortline track investment or maintenance.

Paper barriers are usually confidential. Shippers are not aware of their existence until they attempt to ship products and are faced with the penalties in the paper barrier. The selling or leasing railroad should recover the fair market value of the sold or leased rail lines at the current cost of capital. However, when the fair market value of the line is inflated by accounting for the value of traffic that will travel over the lines, producers pay tariff rates higher than warranted.

We echo requests made by USDA that the STB initiate a comprehensive review of paper barriers and develop guidelines for reasonable paper barriers that would satisfy antitrust laws.[16] We also believe a prohibition of unreasonable paper barriers would not result in desertion of rail lines. It would still allow railroads to profit by selling or leasing lines and remove the ability to extract monopoly rates.

Infrastructure Investment

In July, the STB asked each Class I to report on their preparedness and expectations of the fall harvest. We appreciate the STB for being proactive in this regard and were pleased to learn that most of the major carriers recognize the continuing trend of large harvests, each discussing their planned infrastructure improvements in response.

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[12] Statement of Chuck Lambert, Acting Under Secretary, Marketing and Regulatory Programs, U.S. Department of Agriculture, Before the Surface Transportation Board on Ex Parte No. 575 – Review of Rail Access and Competition Issues: Renewed Petition of the Western Coal Traffic League, March 10, 2006.
[15] Sherman Act; 15 U.S.C. §1
[16] Statement of Chuck Lambert, Acting Under Secretary, Marketing and Regulatory Programs, U.S. Department of Agriculture, Before the Surface Transportation Board on Ex Parte No. 575 – Review of Rail Access and Competition Issues: Renewed Petition of the Western Coal Traffic League, March 10, 2006.

Transportation infrastructure improvements expand the number of marketing options available to producers which means greater farm income. For example, corn growers are proactively supporting the Dakota, Minnesota & Eastern Railroad's (DM&E) loan application to the Federal Railroad Administration (FRA) to improve its current rail system and build into the Powder River Basin. All agricultural producers stand to benefit with increased competition among rail carriers. Producers in the DM&E's service area will experience direct improvements in market competition, access and service. Congestion at any point in the nation's rail system has a ripple affect reaching far beyond its origin. Agricultural producers outside of DM&E's immediate service area will have reduced congestion due to improvements in capacity, equipment and available labor.

The DM&E project is expected to relieve current pressures on bottlenecks and improve the outlook for shippers and receivers of all rail traffic from coast to coast. This anticipated result is keeping with the FRA loan program's new prioritization of projects to "*enhance service and capacity in the national rail system"* and that *"would materially alleviate rail capacity problems which degrade the provision of service to shippers and would fulfill a need in the national transportation system."*

For corn growers it is clear that without improvements, existing problems will only worsen. We consider the DM&E project to be a step in the right direction as it provides greater benefit to the region served through improved reliability and speed of delivery for all of its shippers, including those of corn and corn-based products.

The rail industry has reported an expected $8 billion investment in infrastructure on their part over the course of this year – a 21 percent increase over 2005. However, some of this is focused on maintenance or renewal of existing capacity as opposed to capacity expansion. This only maintains the status quo and makes no long-term commitment to infrastructure investments. As the GAO points out in its October 2006 report, "Railroads do not prepare long-term capacity plans because of concern about the potential for significant economic changes."

We are appreciative that the rail industry faces the highest percentage of fixed costs when compared to all other modes of transportation. The rail industry provides its own roadbed, tracks, terminals and other facilities which are subject to depreciation, property taxes and maintenance expenses regardless of traffic value or volume.

Additionally, corn growers welcome the investment commitment by the rail industry to improve capacity, but as one industry expert has pointed out, individual railroads will concentrate their limited funds on what they perceive to be their most profitable market segments.[17] Our concern is how well corn growers compete for rail service, and in turn, rail infrastructure improvements with other sectors of the economy. Grain and grain products have not proven to be a high priority for service with the rail industry. We question whether or not these investments will be a response to the demands of Wall Street

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[17] Statement of Carl D. Martland, Senior Research Associate & Lecturer, Department of Civil & Environmental Engineering, Massachusetts Institute of Technology, Before the Subcommittee on Railroads, Committee on Transportation and Infrastructure, U.S. House of Representatives, April 26, 2006.

investors or reflect public benefits in terms of economic development, energy use, safety and congestion.

Improving transportation capacity should be a national priority that deserves urgent attention – sooner rather than later. We can no longer stand idle, taking our transportation infrastructure for granted. Capacity constraints, structurally deficient bridges and mediocre roads, and locks and dams long past their expected useful life require our full attention as a nation.

If we are to remain competitive in a very dynamic domestic and world market and be in a position to capture new market opportunities, we must have reliable, cost-effective and efficient transportation - whether by barge, truck or rail. Competition among these modes of transportation helps farmers receive their farm inputs, meet their customers' demands for timely delivery of products and successfully compete with foreign producers. Even when producers have cost-effective transportation alternatives, rail is an integral part of moving products to market.

Corn growers appreciate your responsiveness and are ready to serve as a resource should you require supplemental information.

Respectfully submitted,

Ken McCauley

Ken McCauley
President

CERTIFICATE OF SERVICE

I, Lisa Kelley, certify that on this 30th day of October, 2006, I caused a copy of the foregoing document to be served by first-class mail, postage prepaid, on all parties of record in STB Ex Parte No. 665.

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