ARC
Alliance for Rail Competition

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Testimony of Wayne Hurst
Past President of the Idaho Grain Producers Association and
Member of National Association of Wheat Growers Budget Committee
before
the House Committee on Transportation and Infrastructure
at a Hearing to Review Rail Competition and Service
Sept. 25, 2007

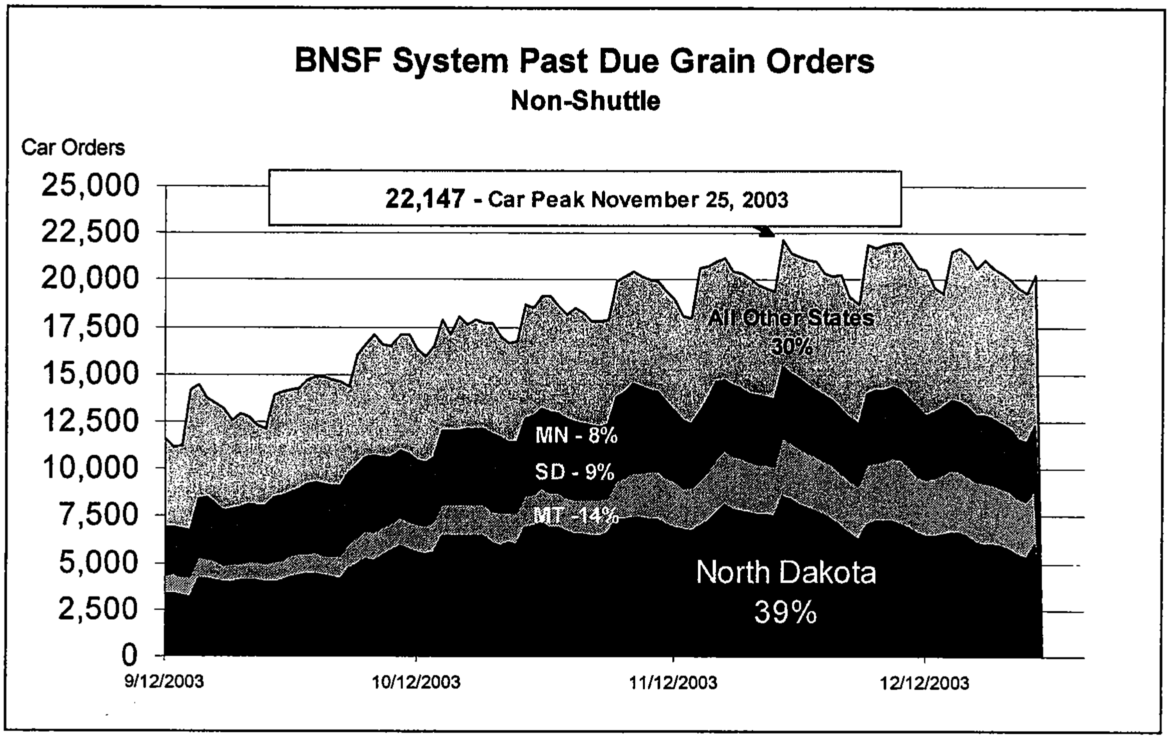
Mr. Chairman and Members of this Committee, my name is Wayne Hurst. I am a wheat, sugar beet, potato, feed barley, alfalfa, silage corn and dry edible bean producer from Burley, Idaho, and a past president of the Idaho Grain Producers Association (IGPA) and a member of the National Association of Wheat Growers' Budget Committee.

I am honored and pleased to be here today on behalf of the Alliance for Rail Competition (ARC) and the agricultural community. The members of the Alliance for Rail Competition include utility, chemical, manufacturing and agricultural companies and agricultural organizations. Producers of commodities as wide ranging as soybeans, dry beans, lentils, rice, barley, peas and sugar beets all have expressed concerns similar to those I will share with you today. Together, these organizations represent growers of farm products in more than 30 states.

Wheat growers know that an effective railroad system is necessary for the success of the wheat industry. However, they continue to face many problems with rail rates and service. Over time, rail customers in the United States have grown more captive. As captivity levels have risen, a larger and larger share of the cost of transportation has been shifted to rail customers and state and local governments. Helping our members find solutions to rail freight problems remains a top priority for both IGPA and NAWG, leading to our alliances with ARC and many other commodity coalitions and to our support of H.R. 2125, which would provide a number of remedies to rail shippers.

Effects of Growing Rail Captivity

Since the passage of the Staggers Rail Act of 1980, the degree of captivity in many wheat growing regions has increased dramatically, and America's farmers continue to experience both unreliable service and higher freight rates. We have had continuing rail equipment shortages since the railroads started aggressively consolidating and merging in the early 1990s. Producers

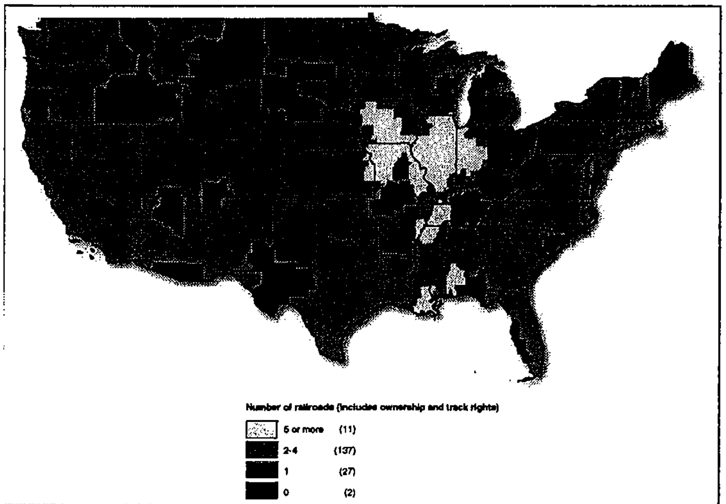


Wheat Is On The Ground In The Grain States – and More Harvesting To Do

Dusty Tallman, chairman of NAWG's Domestic Policy and Infrastructure Committee, from Brandon, Colo., who was scheduled to testify at this hearing but was unable to be here after it was rescheduled, wanted me to talk about Colorado's transportation woes for this hearing. Following wheat harvest in July of this year, there were more than 10 million bushels of Colorado wheat stored on the ground primarily in areas where there was a lack of adequate rail service - captive branch line areas. Colorado did not experience a record crop - while the 2007 Colorado winter wheat crop was above average at 87.75 million bushels, it was well below the all-time record crop of 134.55 million bushels, produced in 1985, and the most recent high of 103.2 million bushels in 1999, and was smaller than wheat crops produced in 10 of the last 28 years. Yet millions of bushels sat on the ground because they were produced in areas served by single railroads with no rail-to-rail competition - areas we call captive.

Since 80 percent of Colorado's winter wheat moves by rail to export position in the Gulf of Mexico and the Pacific Northwest - too far to truck - the railroads know wheat on the ground will still be there when they get ready to move it. While U.S. wheat prices are at record highs, Colorado producers and elevator operators are being shut out of the market because they are located on captive rail lines. Compounding this problem is that the corn and millet harvests are just beginning and these commodities cannot be stored on the ground. The lack of rail cars creates an economic embargo on Colorado wheat producers, keeping them from fully participating in these record high prices. I am advised by Darrell Hanavan, executive director of Colorado Wheat Administrative Committee, that this has resulted in wider basis than normal and a loss of 25 to 50 cents per bushel to wheat producers. I am also hearing reports that

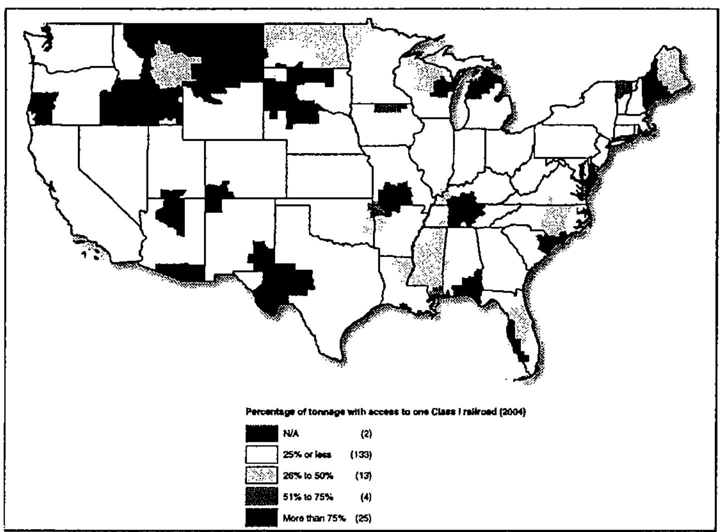
Figure 12: Number of Class I Railroads Serving Economic Areas, 2004



Source: GAO analysis of BEA and GIS data.

Additionally, the GAO showed that all industry tonnage originating with access to one Class I railroad mirrors the previous graph – Figure 13[2].

Figure 13: Percentage of All Industry Tonnage Originating in Economic with Access to One Class I Railroad, 2004



Source: GAO analysis of BEA, DOT, and STB data.

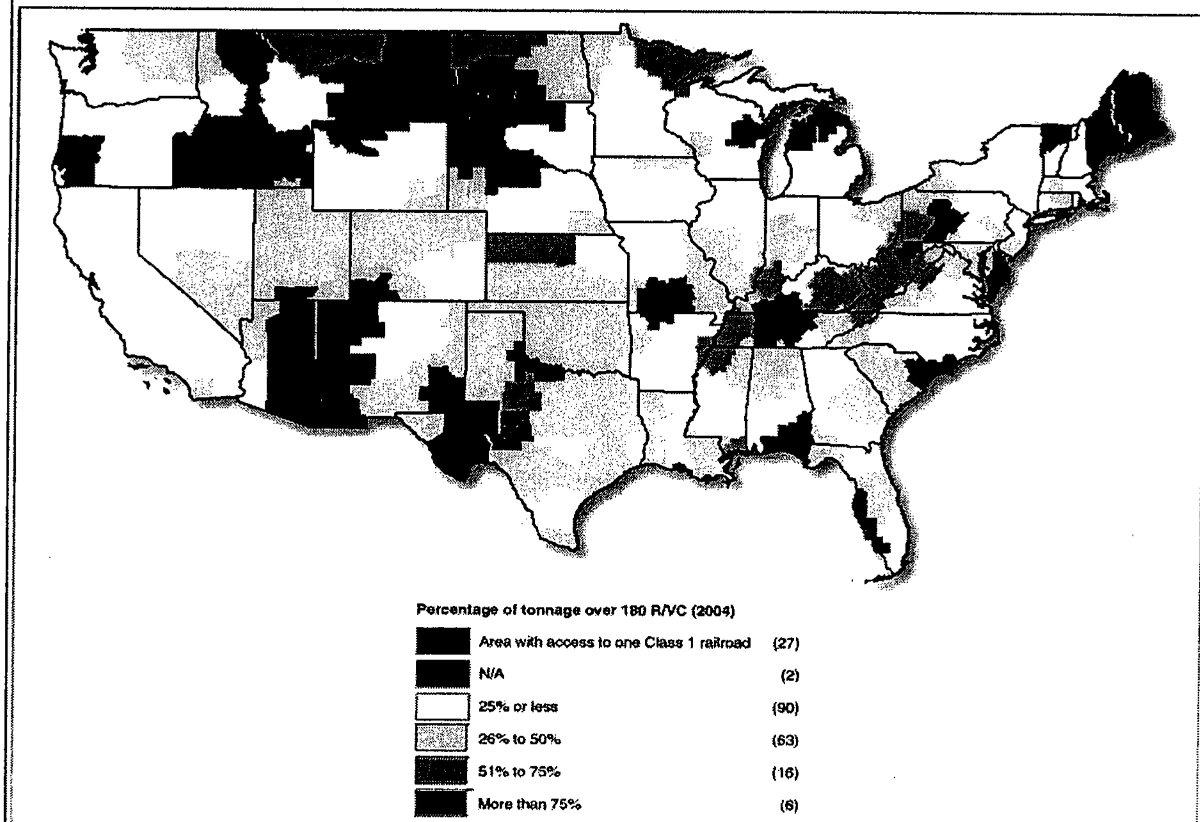
The GAO pulls these observations together with Figure 18, which shows changes in tonnage traveling at rates over 300 percent R/VC from 1985 to 2004[3].

[2] Ibid, Page 27

[3] Ibid, Page 34

Finally, the GAO report correctly establishes the link between single railroad access and elevated percentage of tonnage above the threshold for rate relief.

Figure 20: Overlap between Percentage of Tonnage over Threshold for Rate Relief and Access to Only One Class I Railroad

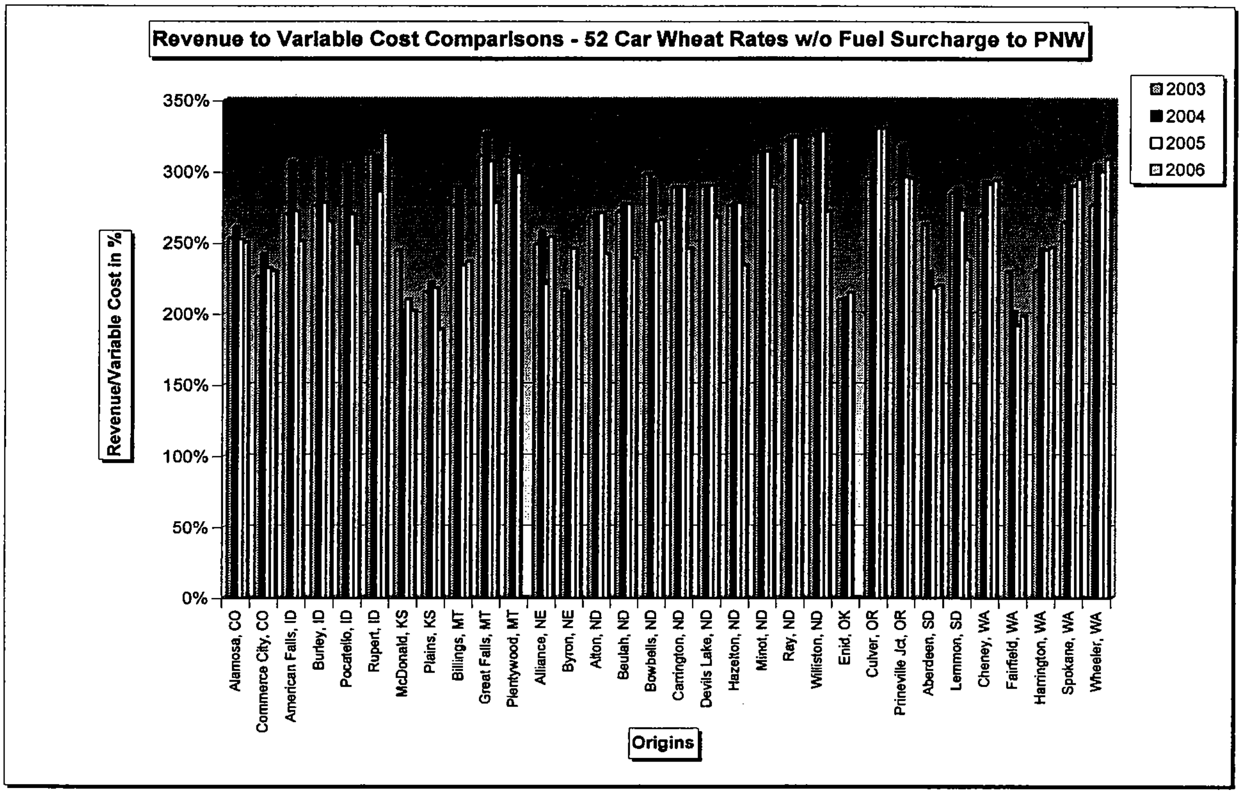


Source: GAO analysis of BEA, DOT, and STB data.

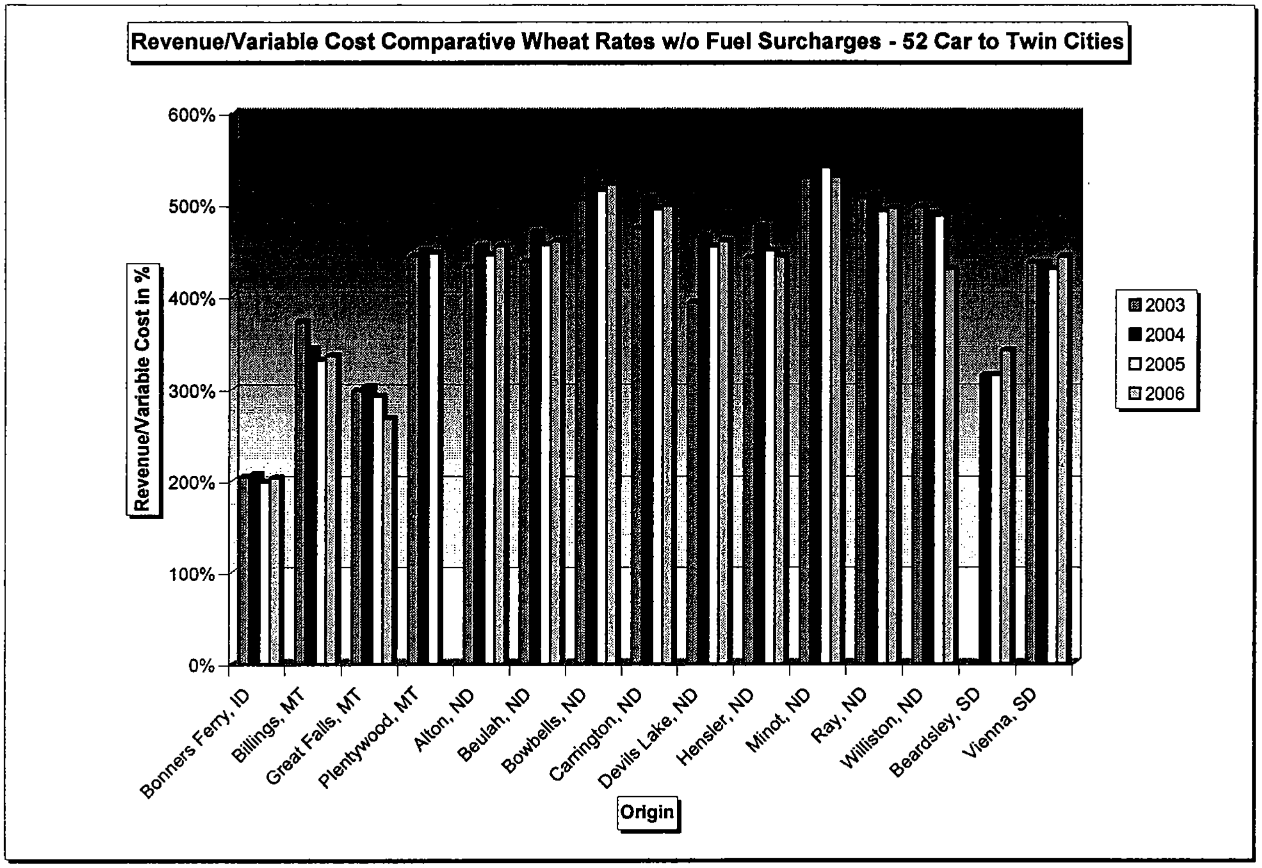
Our consultant's[4] research of R/VC levels on grain from the western growing areas confirm what the GAO found. (Please see the *2006 Montana Rail Grain Transportation Survey and Report,* prepared for the Montana Rail Service Competition Council and *A Joint Survey and Analysis* by the Montana Department of Transportation and Whiteside & Associates, at: **http://rscc.mt.gov/docs/Rail_Grain_Transp_Survey_2006_Final_05_22_07.pdf**)

In examining the R/VC levels on rates to common destinations of the Pacific Northwest, we find large areas moving at rates considerably above the threshold. The chart below shows that areas where little or no rail-to-rail competition exists are exposed to much higher R/VC, in line with the GAO study. This graph shows points in Montana, Idaho, South Dakota and North Dakota that experience R/VC levels upwards to 300 percent. This analysis can be done for points in all parts of the grain growing areas of the country.

[4] Whiteside & Associates, Billings, Mont.



Examination of R/VCs from 2003-2006 into the Gulf Coast destinations from the states that market into these destinations finds a similar story. Origin states including Colorado, Kansas, Nebraska, Oklahoma and Texas routinely see wheat rates well above the threshold and some as twice as high as the threshold level.



What is clear is that the areas of the country served by single and dual rail are experiencing increasing rate levels that are not found in areas that have some rail-to-rail competition.

The Transportation Cost Shift

The IGPA, NAWG , ARC and farm producers across the country recognize the need of railroads to make adequate return, but remain concerned that the Surface Transportation Board has not focused on the price being paid by producers and has not seen fit to provide reasonable remedies to guard against market abuse. The evidence presented by GAO studies in 2006, 2002 and 1999 all point to the same conclusion – that the STB is not adequately protecting large parts of the country from market abuse where no competition exists.

Railroads' claims to this Committee and to the Surface Transportation Board that their rates are falling neglect the fact that costs are being shifted to agricultural producers in captive areas. Transportation costs, therefore, for farm producers and state governments are actually rising.

One of the most comprehensive studies on the effects of this cost shifting was conducted by the Montana Department of Transportation and Whiteside & Associates in March 2006 (http://rscc.mt.gov/docs/Rail_Grain_Transp_Survey_2006_Final_05_22_07.pdf). The report came to eight conclusions:

1. Grain is being hauled farther and farther over the state and county highway systems.
2. The majority of farm producers have experienced increasing hauling distances over the past 10 to 20 years. More than 70 percent of Montana grain producers are hauling their products farther than they were 10 years ago, and 100 percent of those hauling farther than 10 years ago are also hauling farther than they were 20 years ago. This trend reflects the transition to a smaller number of elevators located in the state. Distances to local elevators continue to increase in all of the Plains states; data from all respondents shows an average one-way haul today of 37.19 miles compared to an average haul of 17.35 miles 10 years ago (an increase of 114 percent) and 9.69 miles 20 years ago (an increase of 285 percent).
3. Those farm producers experiencing increased haulage are hauling more than three times as far as those farm producers who have not experienced any increased hauling distances.
4. The non-wheat crops are experiencing significantly greater hauling distances even than wheat crops, further burdening alternative and rotational crop practices.
5. Some counties show average hauling distances upwards of 80 miles.
6. The 2006 harvest in Montana could be best described as a tale of two cities – with winter wheat showing average to above average yields and spring wheat, durum, barley, pulse, peas and lentils showing average to below average yields.
7. The vast majority of farm producers have the capability to store most, if not all, of their grain production.
8. Even with the diversity of yields, most Montana farm producers experienced elevator pluggings multiple times during harvest due to lack of rail cars.

railroad market power is being exerted to create haves and have-nots in the shipping community.

Conclusions

Agricultural growers together with the members of the Alliance for Rail Competition truly believe that a healthy and competitive railroad industry is essential for their continued viability. However, with poor service, a lack of available cars, increased rail rates and a regulatory agency that does not meet the needs of shippers, it is increasingly difficult for agricultural producers to remain competitive in a world marketplace.

We believe that the government needs to be the facilitator and the catalyst for increasing competition in this historically strong industry. We believe the railroad industry can survive and prosper in a competitive environment and, indeed, we know from history that competition breeds innovation and efficiency. In light of the horrific situation U.S. grain producers are facing with major railroads unable to meet common carrier obligations all over the nation, it is time that public policy in this area needs to be reexamined. The Alliance for Rail Competition and the agricultural community believe the STB and its predecessor, the ICC, have failed to protect the interests of the captive rail shippers as the Staggers Rail Act intended.

Wheat growers and other producers, along with members of ARC, believe that both railroads and shippers would be better off with more competition in the marketplace, and they support provisions in H.R. 2125, a bill that calls for increasing competition without increasing regulation. We fervently believe that final offer arbitration as outlined in H.R. 2125 will provide a host of benefits where competition cannot physically be created. Providing for "final offer" arbitration and the removal of "paper barriers" will restore balance to the commercial relationship between the railroads and their customers.

We in agriculture and the members in ARC believe this legislation will improve rail transportation by providing fairness and openness in the negotiations between railroads and their customers over rates and service. By simply requirin g railroads to provide rates to their customers between any two points on their system, many additional rail customers will gain access to the benefits of rail transportation competition.