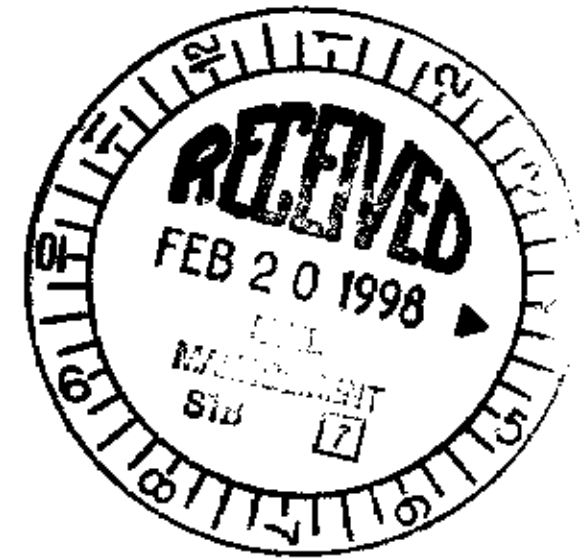




BEFORE THE
SURFACE TRANSPORTATION BOARD

STB EX PARTE NO. 573
RAIL SERVICE IN THE WESTERN UNITED STATES

COMMENTS OF THE
UNITED STATES DEPARTMENT OF AGRICULTURE

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Date: February 20, 1998

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AUTHORITY AND INTEREST

These comments are filed on behalf of the Secretary of Agriculture in response to the Surface Transportation Board's (STB) decision served January 13, 1998, requesting information from shipper groups on the quality of rail service they are receiving. The Secretary is charged with the responsibility under the Agricultural Adjustment Act of 1938 and the Agricultural Marketing Act of 1946 to represent the interests of agricultural shippers and producers in improving transportation services and facilities by, among other things, initiating and participating in STB proceedings involving rates, charges, tariffs, practices, and services.

The United States Department of Agriculture (USDA) is a purchaser and shipper of substantial volumes of food products for supply to domestic and foreign food programs. We believe our experience as a shipper and observer of the Western rail service

crisis will be helpful to STB as it considers the possibility of further action in this proceeding.

GRAIN STORAGE UPDATE

Much has changed since the December 3, 1997, public hearing in the Service Order 1518 proceeding. At that time service to grain shippers was inadequate and USDA's Farm Service Agency (FSA) had approved requests for emergency storage totaling 77.5 million bushels. In Supplement No. 1 to Service Order 1518, STB acknowledged service to Midwest agricultural shippers as one of its four basic service concerns. Since then, agricultural service on the Burlington Northern Santa Fe Railway (BNSF) has recovered and is now running ahead of year-ago levels. And while we believe the quality of service being provided by Union Pacific Railroad and the Southern Pacific Transportation Company (UP/SP) remains inadequate, there has been some improvement in UP/SP's service.

The improvements on both BNSF and UP/SP have greatly relieved the problem of grain storage. Virtually all of the FSA-approved requests for emergency storage expired on January 31, 1998. At present, FSA has approved only six requests for an extension of emergency storage totaling 1.6 million bushels. Thus, for the most part, the grain storage crisis has passed. USDA would like to express its appreciation to both BNSF and UP/SP for the hard work needed to move those mountains of grain. We would also like to thank STB for its clear focus on the grain issue.

MEASURABLE PROGRESS ON BOTH BNSF AND UP/SP

Since public hearings held December 3, 1997, the weekly reports submitted by both UP/SP and BNSF show that both carriers have made progress towards restoring "normal" service levels. This progress is particularly evident on the BNSF. In December, USDA suggested that BNSF had given priority to serving UP/SP's intermodal customers rather

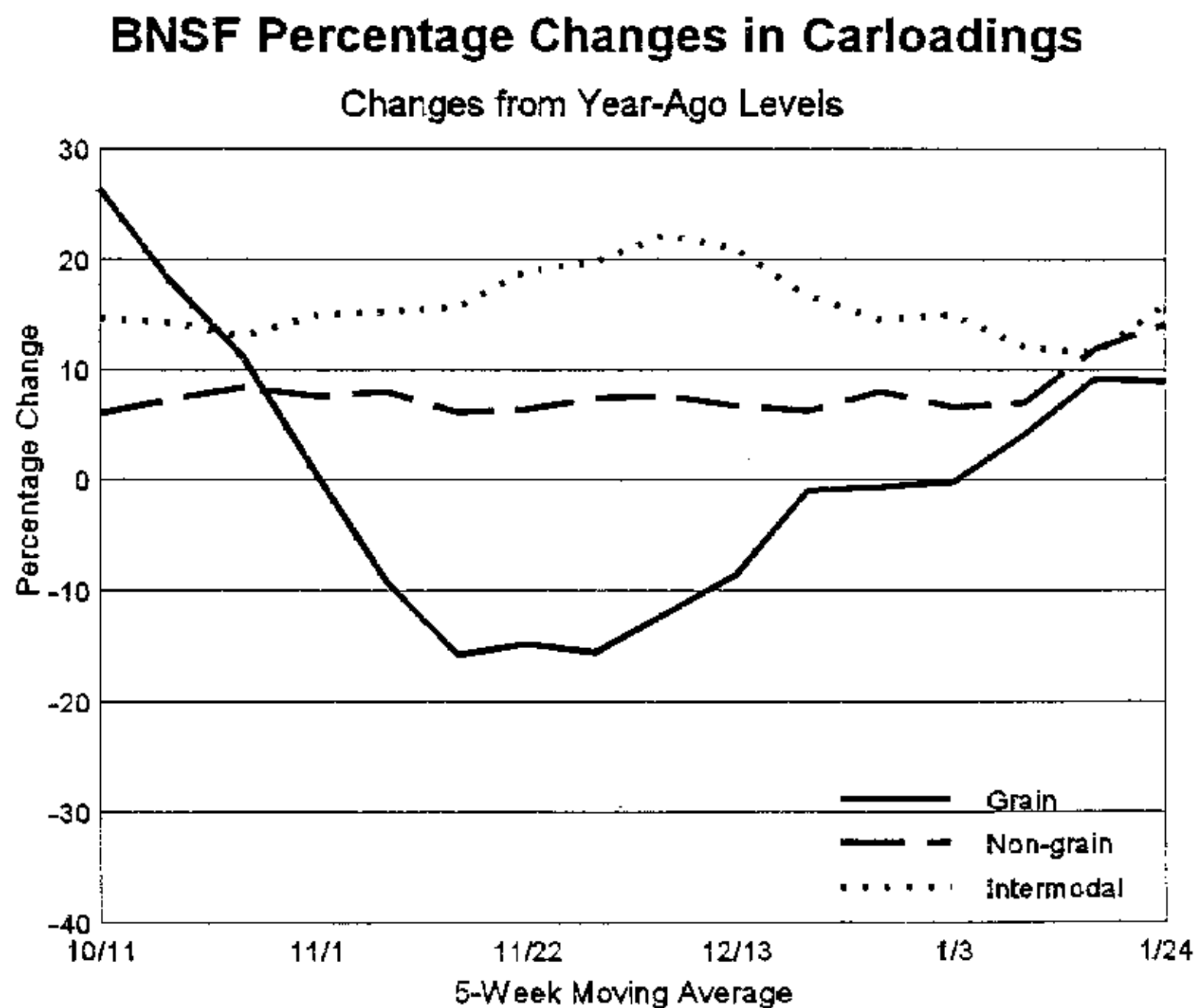


Chart No. 1

than their own agricultural shippers. As Chart No. 1 shows, BNSF is now moving more grain than it did a year ago and there is no longer any reason to suspect that they are shifting system capacity away from grain shippers. Service to grain shippers began to improve shortly after STB's December public hearing and that volume today exceeds its year-ago levels. Moreover, the disparity between the BNSF's service to grain shippers

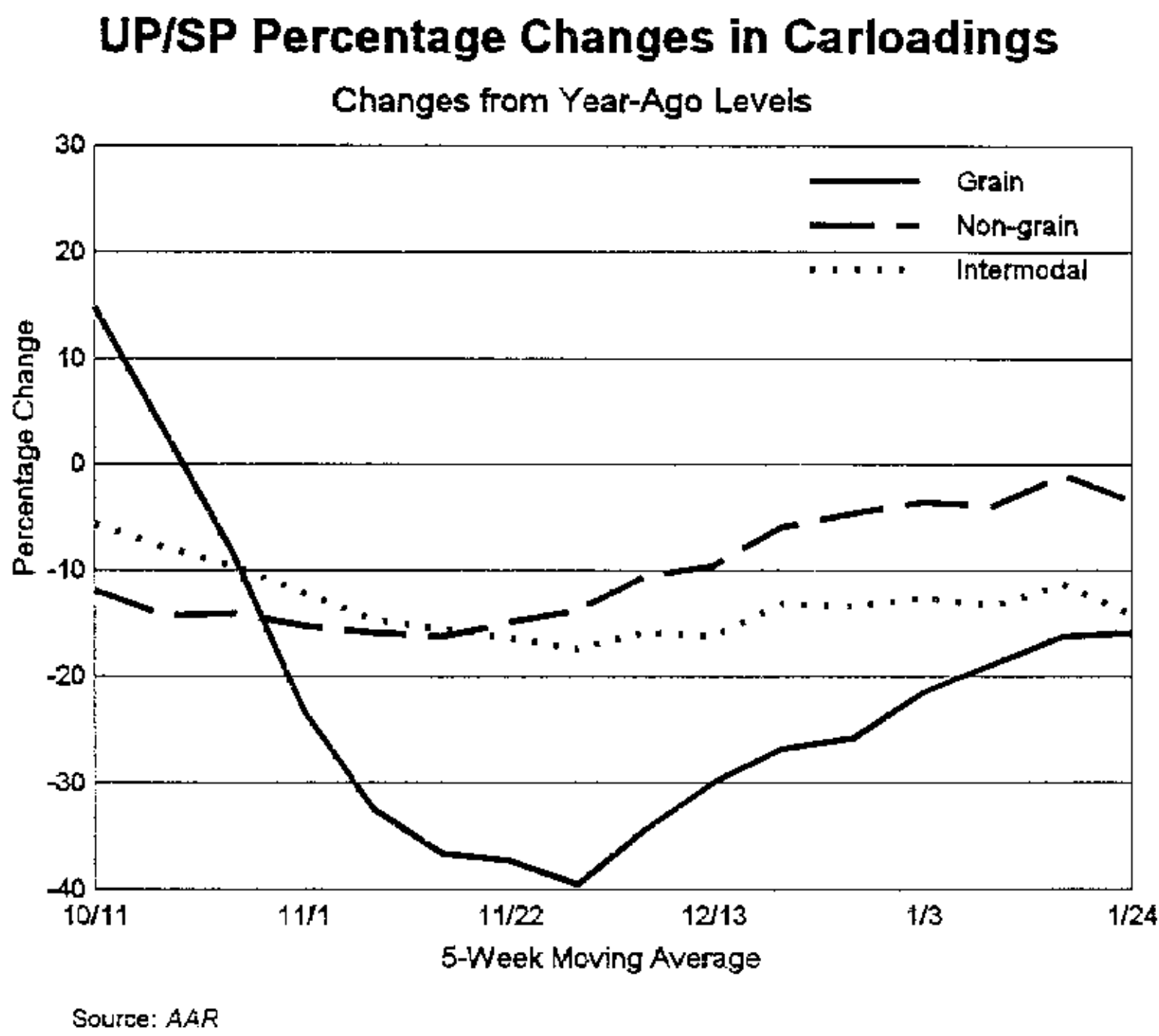


Chart No. 2

and their service to other shippers no longer exists. By contrast, as Chart No. 2 shows, service levels on the UP/SP still lag their year-ago levels quite badly. However, grain shipments have increased and the disparity between grain and non-grain shippers has improved markedly.

While the volume of UP/SP's service to grain shippers still lags its year-ago levels, there are several reasons to believe that grain shippers are not being systematically discriminated against. First, market spreads are currently encouraging storage rather than shipment of various grains. That is, grain prices today are lower than the expected present value of grain to be delivered later this year. Second, BNSF's recent increases in grain shipments may represent an increase in its market share relative to UP/SP rather than an overall increase in the demand for grain transportation services.

CONTINUING DIFFICULTIES FOR UP/SP

Although the immediate problem of grain storage has been resolved, USDA is still concerned that congestion continues to plague the UP/SP in the Texas-Louisiana Gulf Coast region. February has seen some further degradation in many key measures of UP/SP's operational capabilities. USDA is directly affected by the Western railroad service crisis. We have the responsibility to procure and ship food products for a number of domestic and foreign food assistance programs. These programs include the National School Lunch Program, the Women Infant Children Special Feeding Program, the Food Distribution Program for Indian Reservations, and the Commodity Supplemental Feeding Program. USDA is also responsible to purchase and deliver commodities to foreign

countries under the Food for Peace Program (Title II and III), Food for Progress Program, Section 416 donations, and the World Food Program. USDA uses rail transportation for movement of food products under all of the domestic and foreign feeding programs. We ship by rail both to domestic destinations and to ports for subsequent export. USDA also is responsible for domestic movements of dairy products purchased under the price support programs.

We believe that there has been little, if any, improvement in Western railroad service in the Gulf Coast area (Houston, Texas-Lake Charles, Louisiana). This lack of improvement in rail service in the Gulf Coast area has resulted in delays of food shipments under USDA export programs. Some shipments have not reached port in time to be lifted onto a vessel. In order to meet our program needs, USDA has been forced to move commodities from one port to another by truck. Naturally, this has increased our costs significantly.

The rail yards in the Gulf Coast area are still heavily congested, resulting in extreme delays in placement of rail cars into port operations. For instance, it is estimated that Union Pacific rail yards in Lake Charles contain about 1,500 rail cars, causing a back log of traffic moving into the Port of Lake Charles. It appears that UP/SP is utilizing an overflow yard for rail cars in Lake Charles. Cars moving into this overflow yard must then be moved back into the main yard before they can enter the port.

A recent example of the delays experienced in the Gulf Coast area may be a useful illustration of these continuing difficulties. On January 29, 1998, USDA contacted UP/SP customer service in an attempt to expedite the movement of some rail cars into

the Port of Lake Charles in order to meet a vessel which was due in port on February 5, 1998. These rail cars (KCS 749004 and KCS 749191) had been sitting in UP/SP's rail yards in Lake Charles since January 7, and January 12, 1998, respectively. This is far longer than the normal dwell time for a car in a rail yard.

To deal with these difficulties and delays, USDA has undertaken a number of initiatives. For example, in conjunction with the Agency for International Development (AID), we have established a pilot project to pre-position cargo at U.S. ports. Also, USDA has added 5 days to the schedule for vessel bookings to allow for delays in rail movements to ports. In addition USDA and AID have requested steamship lines to set back the time period for vessels to call at U.S. ports for cargo in USDA export program. These initiatives notwithstanding, USDA is still experiencing problems because of poor rail service in the Gulf Coast region. The inadequate level of rail service is hampering USDA's management of critical foreign food assistance programs.

CONCLUSIONS

The service provided by BNSF and UP/SP to grain shippers has improved since the December public hearing in this proceeding. In BNSF's case that progress has been substantial and USDA believes BNSF is clearly providing an adequate level of rail service to its customers. In UP/SP's case, however, despite progress in handling grain traffic, USDA believes that the congestion of traffic on the UP/SP has created an emergency situation of such magnitude as to have substantial adverse effects on shippers and on rail service in the Gulf Coast region of the United States. We believe that this emergency

constitutes a situation requiring immediate action to serve the public and that STB, using its powers set out in 49 U.S.C. 11123, must modify and extend Service Order 1518 yet again. We believe that a 90-day extension would be appropriate and, as part of that order, UP/SP and BNSF should continue to report weekly information on grain shipments.

Current market prices for grain have created substantial incentives to store grain through much of the remainder of the current crop marketing year. USDA is concerned that as we move into the next crop year, UP/SP's congestion problems will affect its ability to handle the increased volume of grain traffic that will occur as the harvest season begins. The new crop year for wheat begins June 1, 1998, as the harvest of hard red winter wheat begins in Texas and continues northward through Oklahoma and Kansas through mid-summer. Much of this Lower Plains wheat typically moves to the export facilities located along the Gulf Coast. Therefore it is essential that the congestion problem be cleared by early summer or we will once again be reading news accounts of grain on the ground.

Finally, although this proceeding is separate from the UP/SP oversight hearings, it is our belief that at some level they are inextricably linked. The UP/SP congestion problems highlight what we believe is the principal failure of the UP/SP merger: An inadequate competitive balance in Texas affecting both the Gulf Coast and the Mexican gateway. We believe that for the public to fully enjoy the benefits of an efficient and competitive railway network, the UP/SP oversight hearings will have to be reopened and STB will have to examine the competitive problems in Texas.

Respectfully submitted,


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