National Association of Wheat Growers
25 Massachusetts Ave NW · Suite 500 B · Washington, D.C. 20001 · www.wheatworld.org

February 28, 2022

Hon. Martin Oberman
Chairman
Surface Transportation Board

Hon. Robert Primus
Vice Chairman
Surface Transportation Board

Hon. Patrick Fuchs
Member
Surface Transportation Board

Hon. Michelle Schultz
Member
Surface Transportation Board

Hon. Karen Hedlund
Member
Surface Transportation Board

RE: Canadian Pacific Railway Limited – Control – Kansas City Southern (Docket No. FD 36500)

Dear Chairman Oberman, Vice Chairman Primus, and Members, Fuchs, Schultz, and Hedlund:

The National Association of Wheat Growers (NAWG) would like to express their opposition of the merging of Kansas City Southern (KCS) and Canadian Pacific (CP) railroads unless the merger is accepted under the condition of guaranteeing captive shippers of the new Canadian Pacific Kansas City Limited (CPKC) be given open access to reciprocal switching. Established in 1950, NAWG is the primary representative in Washington, D.C. for wheat growers, representing 20 state wheat grower organizations. NAWG works to promote policy efforts that create an environment that is conducive to the success of wheat farming in the United States (US).

In 2001, the Surface Transportation Board (STB) released rules holding proposed rail mergers to a higher standard, requiring them to prove the merger would increase competition for rail customers. This rule effectively stopped further consolidation of Class I mergers which had begun to increase shipping costs. Since then, no Class I mergers have occurred, yet shipping rates have continued to rise. While the STB chose to hold the proposed merger of KCS and CP to the pre-2001 standard of proving the merger won't hurt competition, further consolidation of the rail market is still worrying. Coupled with differences in Canadian shipping policy that could lead to preferential Canadian shipper rates, NAWG believes that the proposed merger would further consolidate the rail market and lead to less competition in the marketplace – to the detriment of wheat producers

Wheat is already heavily reliant on rail transportation to move across the (US) due to the amount of the commodity that is exported and where major growing regions are located. Distances from the central and northern plains, the largest growing areas, are too great a distance from ports, waterways, and end users to be trucked, making railroads a crucial link in the wheat transportation logistics chain, both domestically and internationally. NAWG has voiced concern over decreased rail-to-rail competition and has been supportive of the STB considering policies that would reduce rail rates. This merger would be the antithesis of that goal.

Another area of concern to NAWG is the potential for preferential rates for Canadian shippers due to differing domestic rail policies between the US and Canada. These differences include the Canadian maximum revenue entitlement, the Canadian arbitration system, and their more favorable rules on reciprocal switching. The Canadian maximum revenue entitlement (MRE) dates back to 2000 and aims to balance market power between the rail industry and grain shippers, especially in areas only serviced by one company. The MRE caps the amount of revenue a railroad can earn reducing costs to shippers, a program popular with Canadian farmers. These policies keep Canadian rail rates lower compared to the US. It is important for the STB to weigh these issues carefully and consider implementing conditions that keep these concerns in mind.

The Canadian comparison is particularly telling as the two-spring wheat and durum growing regions are similarly positioned in the interior of each country, with near identical distances to traverse to export facilities in each country, with differing government rail policies being one of the only large differences in market position. However, despite the similarities, studies conducted by USW have shown that similar origin to export point rail movements at the time in Canada were 30% below the US moves at the time. This leads to some concern about how the proposed CPKC will affect wheat shipments moving from Canada to the US and Mexico putting US wheat producers at a disadvantage. If these concerns come to fruition, the CPKC having a direct line into Mexico would put US wheat producers at a competitive disadvantage in their largest market.

NAWG opposes the proposed merger of the KCS and CP railroads, unless the merger be accepted under the condition of guaranteeing captive shippers of the new CPKC open access to reciprocal switching. NAWG feels that the merger would be detrimental to competition in the rail market and increase rail rates, and if approved, the STB should consider conditions for approval that would act as remedies. Therefore, NAWG urges the Surface Transportation Board to reject the merger proposal, except on condition of open access to switching. As deliberations continue, should the merger be approved, NAWG also encourages the STB to include the agriculture community in discussions of what conditions the merger be approved under.

Respectfully submitted,

David J Milligan

President David Milligan
National Association of Wheat Growers
25 Massachusetts Ave NW, Suite 500b
Washington, DC 20001
(202) 547-7800

Taylor Williamson

Taylor Williamson
Government Relations Representative
National Association of Wheat Growers
25 Massachusetts Ave NW, Suite 500b
Washington, DC 20001
(202) 547-7800

CC: Parties of Record