

Background Brief for the Standing Committee on Agriculture and AgriFood on the issue of producer car sidings

By Cam Goff

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Personal History

My name is Cam Goff, and as you may be aware, I am an elected director of the Canadian Wheat Board. As a producer car loader, I am here to register my personal concerns about CN's intentions, which I feel will deal a major blow to the present and future ability of western Canada's farmers to access local rail transportation for moving their grain to market.

I farm as part of a family operation near Hanley, Saskatchewan just south of Saskatoon, where we grow a variety of crops such as spring and winter wheat, durum, barley, oats, canola, flax, peas, lentils, and chickpeas. My brothers and I have been loading rail cars for about fifteen years. We started loading dealer cars of non-board grains, but the ability to access markets for these products disappeared due to grain industry consolidation. For the last seven years we have loaded producer cars with Wheat Board grains at our local sidings in Hanley and Allan.

Originally, we loaded our cars at the designated public site of Allan when there were still three grain companies and four elevators operating there, as it was the easiest listed public site to access from our farm. In about 2001 I became involved in the effort to save the last of our local elevators in Hanley, hoping to purchase it and keep it running as a farmer directed entity. As part of our plan, I lobbied CN to officially designate Hanley as a producer car loading site. I met with stiff resistance from Canadian National, as they argued that there were two public sites relatively close by at Dundurn and Bladworth, and they saw no need to add another in that region. I indicated that we hoped to have a sizable number of local farmers loading at Hanley. I said that looking at a map did not tell the whole story of topography, road quality, siding access, and a host of other local quirks that determine suitability for railcar loading. Finally, after months of arguing, CN reluctantly agreed to my request and designated Hanley as a public site. Now, seven years later, CN wants to delist all three of the public sites I mentioned earlier: Allan, Dundurn, and Bladworth.

Another example of the quirks that are likely to occur when a railway unilaterally closes public sites is that delisting Allan would cut me (and others) off from loading producer cars for the Wheat Board's Churchill Storage Program. This program helps to increase that port's use as a viable alternative for farmers by reducing their costs. The Hanley public site is not in the Churchill catchment area.

Issues

A farmer's right to access public producer car sites was enshrined in legislation near the turn of the 20th century after a hard fought battle against the grain companies and railways of the day. It was upheld more recently by the Kroeger/Estey report of 2000. This access was legislated to ensure that farmers had the ability choose between the services offered by the big companies, and the savings and convenience afforded by local self-loading. Today, these issues are as relevant as ever. Farmer access to public producer car sites for loading railcars was not granted for the railways' convenience or economic benefit, but for the benefit of grain producers. The legal right to order a rail car is useless if no mechanism is in place to ensure that the car is placed within a practical distance.

The existence of these public loading sites, spread out across the prairies, gives most farmers an additional avenue to ship their grain and provides checks and balances to the grain-handling and transportation system. This helps to keep the major players honest, and brings an important element of competition to the on-going consolidation in the grain industry. It is the broad geographic positioning, of sufficient density, that makes these public sites useful to farmers as an effective safety valve. Closing sites will inevitably increase the distance that the majority of farmers will have to haul, which will reduce both opportunity and profitability. CN is arguing that lack of use makes these sites unnecessary, and an economic drag on the rail system. Producer car legislation was put into place 100 years ago to act as a safety valve to protect producers from abuse at the hands of a powerful grain company/railroad alliance.

A Comparison

As a comparison, hot water heaters in our homes have a safety valve installed to prevent an explosion in case the controls malfunction. These valves are mandated by regulation on every heater installed in this country for the safety of all citizens. The fact that very few of these valves ever perform their function in no way lessens the critical need for their inclusion, or allows the manufacturer to eliminate them as a cost saving measure.

During the last 12 years, producer car usage has steadily increased from 3,000 cars to a record 12,466 cars last year. This is an indication that the number of public sites should be increased, not reduced. The economic savings to producers who choose to load their own rail cars can approach \$2,000/car. This, along with the economic activity generated locally at the town's siding and the retention of local rail service at the community level, are endangered by this proposal.

Producer car usage would be even higher if there were effective marketing structures in place for oilseeds and pulses that provided farmers with a buyer at port facilities. Grain companies with country and port assets are reluctant to

accommodate producer cars. Farmer-owned companies such as West Central Road and Rail are enhancing producer car benefits by offering innovative cutting-edge blending opportunities for producer cars which enable producers to increase the premium that they are able to capture for their product. The growing use of producer cars will see an expanding number of companies like Mission Terminal offer increasing choices for all grains to all producers. This in turn will further expand use of this option to improve farmer profits - but only if sufficient public loading sites are conveniently located.

The Reality

Farmers need the choice of railcar loading as an option for grain movement, and having the maximum number of public loading sites available helps to ensure reasonable access to this cost saving option. It has to be realized that many factors affect the practicality of an individual using a producer car. CN only guarantees a penalty-free loading time of eight hours, so time is of the essence. A farmer has to haul an auger to the loading site (time-limited by the speed of the hauling tractor), set up, return home, load his truck(s), drive to the site, and start loading the car. This is all after he has driven to the site to confirm that the car was indeed dropped off, and after he has inspected it to ensure that it is capable of hauling grain. CN's performance on delivery timing and railcar condition has a lot of room for improvement. It is unwise for a producer to assume that a railcar will arrive on time and in good condition.

Seasonal factors such as winter weather (which can make implement starting difficult or impossible), rain, snow, and the aversion to tying up equipment make producers unwilling commit resources in hope of a suitable railcar arriving on schedule. Many of the hopper cars, which are actually owned by the government and not the railways, will often sit for days, if not weeks, at the site after having been loaded by the producer. This fact makes CN's imposition of penalties on the producer's performance particularly galling. With all these impediments thrown at them, farmers still choose to load their own rail cars for the simple reason that they can save themselves well over a thousand dollars per car.

Public loading sites have proven their value many times in the past. There are instances where producer groups were able to use their local public sidings to force CN onto negotiations. These groups had been trying to enter into commercial agreements with CN to establish producer car loading facilities, but were met with antagonism and lack of cooperation. It wasn't until they had gained CN's attention by loading at multiple public sites and becoming a source of irritation that CN grudgingly entered into negotiations. In an ongoing case, CN has ignored two different groups that have been trying to establish commercial facilities for several years.

It is not unreasonable to assert that every short line railway in western Canada owes its existence to the strategy of producers banding together to make use of local public loading sites to force the railways to come to the bargaining table. If

these sites, and others in the future, are allowed to be delisted, a valuable negotiating tool will be lost.

A map has been included to give a visual overview of CN's public sites that are to be delisted. As well as current sites up for abandonment, CN's public sites that have been delisted in the three years since the map was printed in 2006 are also noted. It graphically illustrates the pace of desertion taking place. A full size version of this map is available for your viewing after the presentation.

Economics

The railways may argue that leaving these sites designated ties up assets and costs them money. There are salvage values and savings that may accrue to reuse or sale of such items as switches and rails, but the recovery of such items would incur substantial costs and significantly reduce any benefit. It should also be realized that when the railways are left to their own devices, salvage decisions are not necessarily made in the best interests of the system as a whole. An example of this is when, only a few months after discussions with a CN Field Manager on the long-term advantages of leaving the newer 10 year old second track at Hanley's siding, and salvaging the original 50 year old rails, a CN crew came down the line and removed the new rails.

The costs to the railways to allow these sites to remain listed will be minimal. Experience has shown that few if any of these sidings are actively maintained by the railways. Any costs that are incurred are minor compared to the overall system benefit. As well, the Edsforth Study estimated that the railways are being over-compensated for grain transportation by approximately \$100 million annually. The only thing that would happen if delisting public sites is allowed would be that the train companies would not have to service farmers, and the grain companies would get more business. Meanwhile, local roads would see more traffic and efficiencies would drop. When pursuing efficiencies in grain movement, an efficient system must be viewed from farm gate to port, not only from concrete elevator to port. The producers create the wealth in the grain industry and must not be left out of the efficiency equation.

CN has stated that no individual or company came forward to request a commercial agreement with the company during the 60 day comment period, for any of the public sites in question. CN asks annual fees of \$2000 for land rental and \$8/foot for track under a commercial agreement. As you can imagine, almost no farmer would be able to justify such an arrangement when they usually ship only 1 to 5 cars a year. These public loading sites were never intended to be a source of extra revenue for the railroads. They were intended to impose checks and balances by allowing farmers the ability to ship their production by an alternate method from a reasonably convenient location.

Fairness and Legislation

Of grave concern is the process which allows the potential abandonment of 30% (53 of 176) of CN's listed loading sites to be left to CN's sole discretion. CN may have followed all the procedures laid out in the act, but the act is flawed in this regard. Your help is needed in correcting this legislative omission and maintaining producer choice. The weakness of the act in its speaking to this process is a flaw that cannot be allowed to remain, and should be dealt with by the appropriate bodies. Decisions as far-reaching as these, which affect so many on such a large scale, must not be left to a single party with self-interested motives. A transparent system should include a much more effective and public notification system. Farmers and all levels of governance should be involved. The onus should be on the railways to prove why these sites need to be abandoned. The entire producer car loading system should be subject to scrutiny by all affected parties, and designed to ensure the best placement of sites and use of resources. All concerned must realize that if any sites are abandoned and infrastructure removed, they will be lost forever to our rail system.

In a world that recognizes that rail is the most efficient method of land transport, and is struggling to reduce consumption of non-renewable resources, we have to maximize our use of ecologically sound assets. Many companies are in the process of labeling all products with an "eco-label" that will, among other things, document the energy used to produce that product through its life cycle. Dismantling Canada's rail system and putting us at a competitive disadvantage by increasing consumption of non-renewable resources through greater truck use is both commercially and environmentally short-sighted.

Commercial discussions have nothing to do with public producer car sites, which are a regulatory (not a commercial) issue. Producers would be waiving their regulatory protection by entering into a commercial arrangement on these sites, which is an unacceptable and unnecessary capitulation to CN's strategy for eliminating farmers' choice. It should also be noted that producer car loaders pay a significant premium on their freight rate over what the rail companies charge at large concrete elevators. The grain companies receive rebates from the railways in the form of multi-car incentives, so the railways do receive compensation for their extra efforts at the public sites.

Closing

One could imagine a city transit company arguing that stops 3 blocks apart were too uneconomical, given the extra time taken to stop and start, wear on the equipment, extra fuel used, drivers' wages etc. Reducing the number of stops by going to a 1 kilometer spacing would certainly reduce costs to the transit system, but would also likely drive usage to a point that it could be argued that the entire system should be abandoned.

In closing, I ask that you do what you can to stop the delisting of these public sites. We must ensure that legislation protects the maximum number of farmers and maintains the greatest possible access to this important avenue of grain movement. The checks and balances that these public sites provide for producers must not be underestimated. Our recent experience with the current economic crisis should have taught us the folly of allowing self-regulation by big business.

I urgently request that you pass this matter on to your colleagues in the appropriate departments. Please ask for their immediate involvement in this process. I have included the CTA's response to my letter of concern over this issue in order to help impress upon you the needed urgency of action by those with the power to make the necessary legislative changes. I remind you that CN has only agreed to leave these 53 sites intact until January 1, 2010.

Thank you for your consideration of this matter. I hope for your positive response.

Cam Goff

Hanley, Sask.

Expansion on original brief:

Since Oct 22, some other questions have arisen as follows

- 1) In Committee, CN claimed that it costs them \$8-12,000.00 annually to have each siding checked for safety issues by weekly switch checks and monthly rail walks.
 - a) A Committee member asked to see work logs of the sites to confirm that these inspections took place at the frequency mentioned. Have these logs been produced, and what do they show?
 - b) It has been told to me that the costs associated with these inspections are considered an eligible expense under the Revenue Cap, and as such CN is allowed to increase the Cap by an equal amount. If this is true, then it is farmers who are paying for these services (if provided), not the railways. Closure of these sites would have no economic benefit to CN.
- 2) In Committee, CN spokesmen said that the presence of switches at these sidings was a safety issue as they greatly increased the probability of a derailment. My question is: what is the number of derailments that have occurred in the last ten years are attributable to switches? What is the percentage of derailments? Were any of these derailments at sidings that were present because of public producer car loading sites?
- 3) CN says that they are willing to enter into commercial arrangements on the sites that they have delisted. What they fail to mention is that if these arrangements are entered into, the sites are no longer public sites, but become leased sites. Any farmer wishing to load a producer car at these locations would have to obtain permission to do so, and pay a fee if required.