



**Submission**

**to the**

**Rail Freight Service Review**

**April 2010**

## Executive Summary

### Context

The Panel of Experts to the Rail Freight Service Review is no doubt looking for specific recommendations on how to improve grain transportation service. APAS is making a number of such recommendations for consideration by the Panel. They are included at the end of each section to which they pertain in the body of the submission and are also brought together in one group below in the Executive Summary.

However, we also ask the Panel to be mindful of the overall context within which these recommendations have been developed, a context that has changed massively since deregulation of the grain transportation system began in earnest some 35 years ago.

The landscape has changed. There have been dramatic changes in just the past decade since the current system configuration was put in place under the Revenue Cap by the Kroeger Commission in 1999. Here are a few indicators that speak to those recent changes, which will be analyzed in the detailed sections of the submission.

- From 1999 to 2009, 776 miles of rail line or 20% of Saskatchewan branch lines were abandoned.
- During that time the CN Tisdale subdivision was closed (but not abandoned).
- From 1999 to 2009, 749 miles of short line rail were established in Saskatchewan, a 319% increase.
- Producer car loading in Saskatchewan rose from 1,572 in 1999-00 to 9,029 in 2008-09, a 574% increase.
- The number of primary elevators in Saskatchewan declined from 519 in 1999-00 to 169 in 2008-09, a drop of 73%.
- Grain elevator tariffs have increased substantially over that time. For example, initial tariffs for the crop year on wheat among today's largest six companies increased from an average of \$9.22 in 1999-00 to \$13.73 in 2009-10, an increase of 49%.
- Multicar incentives provided by funds within the Revenue Cap have increased from \$2.40 per tonne in 1999-00 to \$6.15, an increase of 256%.
- The port of Churchill handled its first inward shipment of crop fertilizer in 2007 followed by two more shipments in 2008. A fertilizer program is in the works for the 2010 season.

It is our endeavour to demonstrate to the Panel that producers need more than marginal improvements in statistical measures that are applied to the narrow context of business operations within CN and CP. Put another way, a modest improvement in service from a small increase in car cycle (that may or may not endure) is of little value to grain producers who have NO service because reasonable access to producer cars is not provided or because a short line is made unviable by costing mechanisms within the existing system. In essence, the grain transportation system begins at the farm gate.

We have identified four general areas where APAS is able to directly represent the interests of grain producers. Grain farmers and rural communities in Saskatchewan need high quality outcomes in each of these four areas. They need:

1. Not only the right, but proximate and convenient access, to public loading sites and good service when they use them.
2. Excellent service at commercial grain handling facilities.
3. Economically viable short line railways to bring rail service to all areas of the province at a reasonable cost and with a minimized carbon footprint.
4. Unencumbered and cost effective access to tide water at the port of Churchill.

Additionally, they need optimal levels of competition between CN and CP and mechanisms to resolve disputes with shippers, both grain companies and producers, in a timely and cost effective way.

## **Specific Recommendations**

### *Public Loading Sites*

- Halt the CN delisting of 53 producer car sites across Western Canada.
- Place a moratorium on producer car site delisting.
- Commission a task force, with direct producer involvement, to:
  - Study the evolution of producer car loading sites.
  - Set adequate standards for site maintenance and condition of cars.
  - Set adequate service standards and benchmarks, especially for spotting cars on schedule, providing adequate notification of car spotting, and allowing more time than currently provided for car loading.
  - Establish a balanced, two-way penalty structure for non-compliance.
- Establish an agency, with direct producer presence, to:
  - Monitor producer car practices and report to the industry.
  - Resolve disputes.

Provide a forum for industry consultation every five years to determine an adequate network of public loading sites, both by number and geographical distribution.

### *Service to Grain Elevators*

- Better performance standards for rail service to commercial shippers must be established.
- A system of adequate, balanced, and fair penalties needs to be established to ensure shippers have a remedy for inadequate service.
- Put in place an effective, fast-track mechanism for settling disputes.

### *Short Lines and Competitiveness*

- Change the Revenue Cap so that the producers' freight bill is not used to undermine the competitive position of short lines.
- Provide a level playing field for short lines so they are recognized as partners in the grain transportation system that begins at the farm gate.

- Provide a level playing field for short lines so they are able to share system-wide revenues in proportion to the service they provide.
- Open running rights should be established on CN and CP rail lines.

#### *Access to Churchill*

- Commission an independent study into the strategic and commercial advantages that Churchill has to offer.
  - Develop and implement an action plan to optimize the role of the Port of Churchill and the Hudson Bay Railway.
- Change the abandonment process so that unused lines are made available for sale in a timely fashion. Note that this recommendation pertains to the system generally not just to Churchill's situation.
  - For example, efforts are being made by producers to resurrect the Lewvan line but cooperation from the railway is lacking. Withholding rail lines from both operation and sale, resulting in lack of service and blocking of producer or community development initiatives, is unacceptable.
- Change the inter-switching rules so that the least cost switching arrangements are provided for grain movement.
- Provide a level playing field for the Hudson Bay Railway vis-à-vis CN and CP, which were given prescribed status under the Revenue Cap.
- Station an ice tugboat in Churchill to service the port and provide strategic service to Canada's northern waters.

#### *Other Recommendations*

- The interswitching network and distances should be brought up to date.
- The network should have an adequate degree of permanence and predictability.
- Interswitching points should be provided to optimize the overall movement of grain.
- Bring interswitching rates into line with industry standards around car block sizes.
- A process acceptable to shippers is established for abandonment of interswitching points.
- Establish an advocate for shippers to provide information on transportation rights, regulations, and dispute resolutions processes, and to assist shippers in their use.
- Establish an Ombudsman for shippers, including grain producers.

## Table of Contents

<b>Executive Summary .....</b>	<b>i</b>
<b>1. Public Loading Sites .....</b>	<b>1</b>
<b>1.1 The Right to Producer Car Access – Background.....</b>	<b>1</b>
<b>1.2 The Rise of Producer Car Use .....</b>	<b>2</b>
<b>1.3 The Loss of Producer Car Loading Sites.....</b>	<b>4</b>
<b>1.4 Service Problems.....</b>	<b>5</b>
<b>1.5 Other Considerations .....</b>	<b>6</b>
<b>1.6 Implications .....</b>	<b>7</b>
<b>1.7 Recommendations .....</b>	<b>7</b>
<b>2. Service to Grain Elevators .....</b>	<b>8</b>
<b>2.1 Improved Performance Benchmarks.....</b>	<b>8</b>
<b>2.2 Balanced Compliance .....</b>	<b>8</b>
<b>2.3 Seasonal and Peak Demand .....</b>	<b>9</b>
<b>2.4 Survey of Producers.....</b>	<b>9</b>
<b>2.5 Service to the Farm Gate.....</b>	<b>11</b>
<b>2.6 Recommendations.....</b>	<b>11</b>
<b>3. Short Lines and Competitiveness .....</b>	<b>12</b>
<b>3.1 Short Line Railways.....</b>	<b>12</b>
<b>3.2 Multicar Incentives .....</b>	<b>18</b>
<b>3.3 Recommendations re Short Lines.....</b>	<b>22</b>
<b>3.4 Open Running Rights and Recommendation.....</b>	<b>22</b>
<b>4. Access to Churchill .....</b>	<b>23</b>
<b>4.1 Background .....</b>	<b>23</b>
<b>4.2 Churchill at Risk.....</b>	<b>24</b>
<b>4.3 Recommendations.....</b>	<b>24</b>
<b>5. Other Recommendations.....</b>	<b>25</b>

## **1. Public Loading Sites**

### **1.1 The Right to Producer Car Access – Background**

The right to load producer cars was established when the Prairies were being settled because of railways acting with elevator companies to prevent farmers from loading their own cars. The right was first legislated in the 1900 Manitoba Grain Act, and then strengthened in the 1902 Sinaluta Case when the Territorial Grain Growers won a lawsuit against the CPR. Most recently legislated access to producer cars was embodied in the Canada Grain Act 1970 and reaffirmed by Emmett Hall, chair of the Grain Handling and Transportation Commission (1975-77).

Following the Sinaluta case, producer car usage reached a high point of 51,000 by 1912-13. Usage of producer cars declined to low ebb by the early 1940s and remained low until the late 1970s when elevators became congested with non-Board feed grain and later as shipping canola by producer car to be priced at port became popular. (See Allan Dawson, Manitoba Cooperator, Sept. 17/09)

At least three major developments account for this historical ebb and flow of producer car usage: 1) the degree of regulatory intervention by policy makers to protect the interests of primary producers; 2) the level of direct market intervention through producer ownership of grain handling facilities, and 3) the expansion, or contraction, of the grain handling system.

1) Enacted in 1900 because of farmer dissatisfaction with unfair treatment in an unregulated market, the Manitoba Grain Act has been described as the ‘Magna Carta of western farmers’. Building on that success, farmers continued to work through their organizations to influence policy makers to end abusive weighing and grading practices, which culminated in the Canada Grain Act of 1912. That Act set up the Board of Grain Commissioners, establishing and enforcing fair practices for the grain buying market. Once granted the right by the 1902 Sinaluta case, farmers turned to producer cars in the following years when the need was greatest, prior to enactment of the Board of Grain Commissioners. In fact, producer car usage peaked at 51,000 in the year the Board was created. The Board ultimately became the Canadian Grain Commission (CGC) in 1971. The CGC is mandated to protect producers’ interests through the enforcement of grading standards for farmers’ grain deliveries.

2) Formed in 1906 out of the Territorial Grain Growers that had won the Sinaluta case, the Saskatchewan Grain Growers Association (SGGA), immediately created the Grain Growers Grain Company (GGGC). The GGGC eventually grew into two streams of cooperative producer presence in the marketplace – the creation of Saskatchewan Co-operative Elevator Ltd. (SCEL) in 1911 and, through GGGC amalgamation with the Alberta Cooperative Elevator Company, into United Grain Growers in 1917. Later efforts to establish farmer controlled grain pools after World War I resulted in the creation of Saskatchewan Wheat Pool (SWP) in 1924, which purchased the SCEL system in 1926. Ownership of their own companies (SWP and UGG) gave producers direct control over weighing and grading practices in the lion’s share of the grain

handling market, reinforcing the protection of producers rights established through the legislated standards over the years that eventually became the responsibility of the CGC.

3) Producer car usage was also affected as the commercial grain handling and transportation system reached out to grain producers through an expanding branch line network and the rapid growth in the number of primary elevators. By 1950, there were more than 3,000 elevators in western Canada, the majority producer owned, providing localized service and contributing to declining interest in producer cars as their use ebbed in the 1940s.

The rapid rise, then slow decline, in producer car loadings is directly correlated with the advancement of statutory protection of producers' interests, the growth of direct producer ownership of facilities in the grain handling system, and an expanding commercial system.

### 1.2 The Rise of Producer Car Use

The flip side of this correlation also appears to be true, i.e. that the recent rise in producer car loadings is an outgrowth of: deregulation of freight rates and, to some extent, of grain standards and CGC involvement; the elimination through privatization of most of the direct producer control over weighing and grading through producer ownership; the abandonment of branch lines; and the rapid consolidation of the primary elevator system.

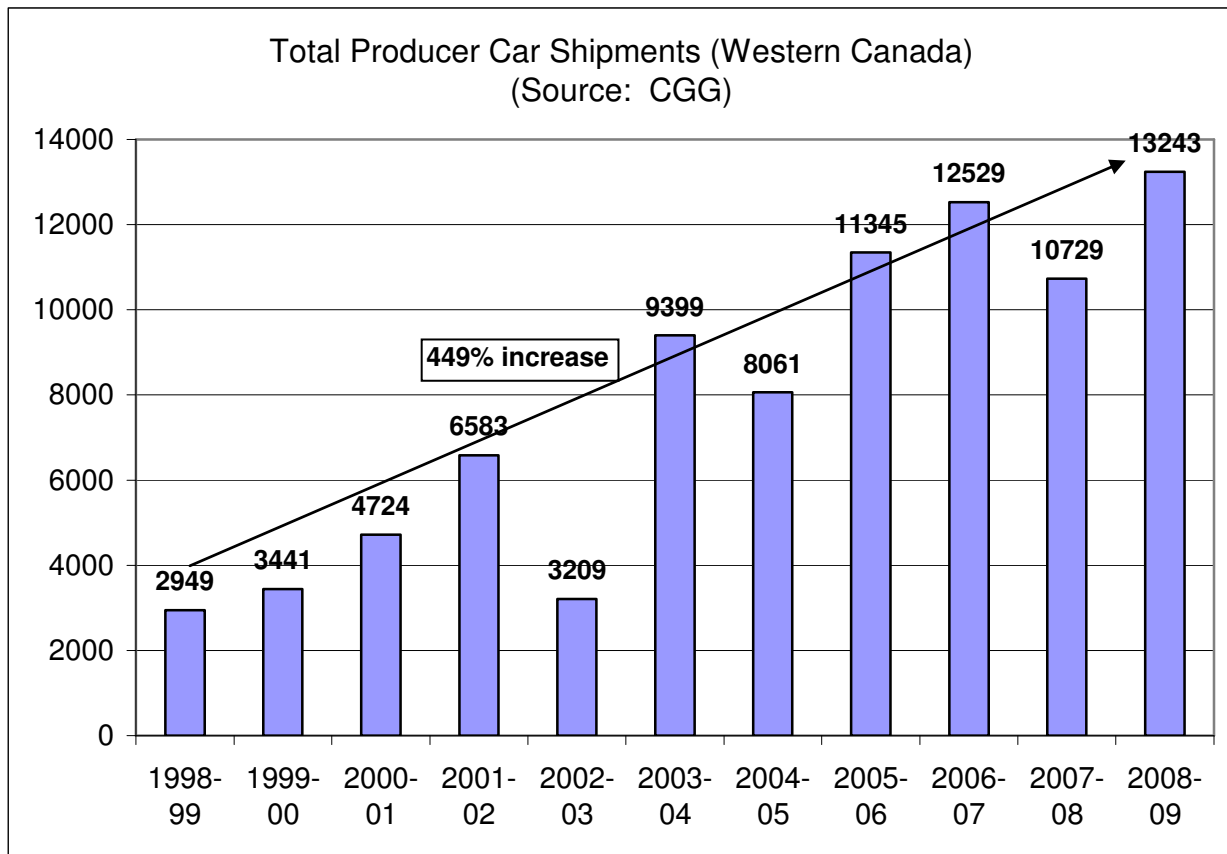
As of March 30, 2010, we have a total of 317 primary elevators in western Canada compared to about 2,750 as recently as 1970 (Encyclopedia of Saskatchewan) with two major outcomes: a) hauling distances and scheduling demands have risen dramatically; and b) most of the 317 elevators (69%), are owned by four non-producer companies, reducing competitive options for producers. Both of these outcomes have increased the value of producer car loading sites. At the same time, branch line abandonment has stimulated investment in short line railways to fill the void, for which producer cars are virtually the only option available to producers.

The main driver behind producer car use is economic. Producers routinely save an average of about \$1,000 for each producer car they ship. Much larger savings as high as \$1,800 are not unheard of. Here is an example, provided by RailWest Management, of an actual situation that compares loading a producer car versus delivering to a local elevator.

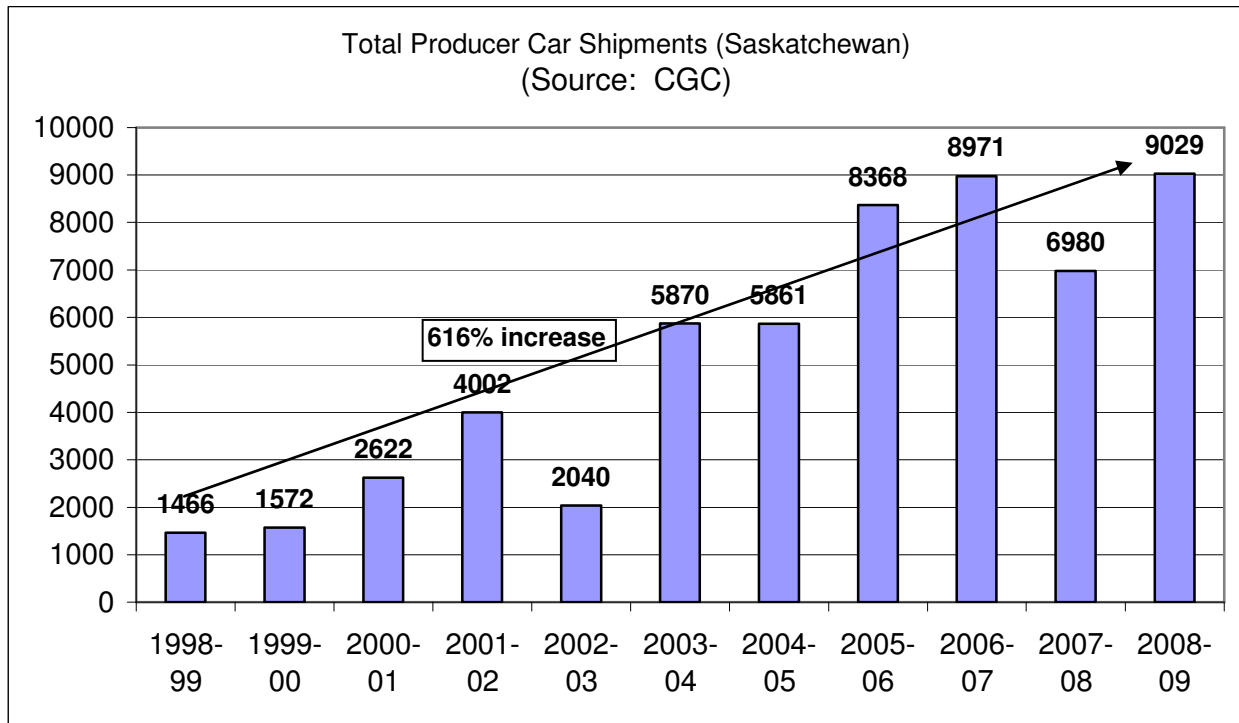
	Producer Car	Local Elevator
	\$/t	\$/t
(1) 1 CWAD 13.0 Instore St. Lawrence	\$261.30	\$261.30
(2) Freight – Vanguard, SK to TBay	\$33.00	\$33.00
(3) Freight Adjustment Factor	\$0.00	\$0.00
(4) Country Elevation	\$0.00	\$14.00
(5) Cleaning	\$4.50	\$5.00
(6) Weighing&Inspection/CGC App.	\$0.58	\$0.47
(7) Administration	\$1.00	\$0.00
(8) Incentive	(\$3.50)	\$0.00

(9) Total Cost = Sum of (2) to (7)	\$35.58	\$52.47
(10) Net Revenue (1) minus (8)	\$225.72	\$208.83
(11) Savings (10 col.1 – 10 col.2)	\$16.89	
(12) Average Tonnes per Rail Car	91	91
(13) Savings per car (11 times 12)	<b>\$1,537</b>	

The chart below shows that producer car use Prairie-wide has risen dramatically over the past 10 years, up 449% from about 2,949 in 1998-99 to a modern era record of 13,243 in 2008-09.



In the chart to follow, the pattern is even more striking in Saskatchewan where producer car shipments have increased 616% from 1998-99 to 2008-09.



### 1.3 The Loss of Producer Car Loading Sites

The origin of the roster of producer car sites is somewhat vague. In addition to reaffirming the legislated right of producers to load producer cars, the Hall Commission (1977) made a recommendation that tied loading sites to existing delivery points. The recommendation makes sense in that day's context of early consolidation of the grain handling system, i.e. that the option to load a producer car should be preserved where commercial elevators were disappearing:

“Where a primary elevator at a single elevator point is closed, the siding should remain in place for the spotting of producer cars.”

It appears the overall configuration of producer car sites originally matched that of the grain elevator system, meaning there would have been producer car loading sites at 818 Saskatchewan commercial delivery points in 1975, just prior to the Hall Commission. There are now only 133 listed locations, as listed on the CN and CP websites as of February 2010. That means that five out of six Saskatchewan loading sites (83.7%) have been lost in the past 35 years.

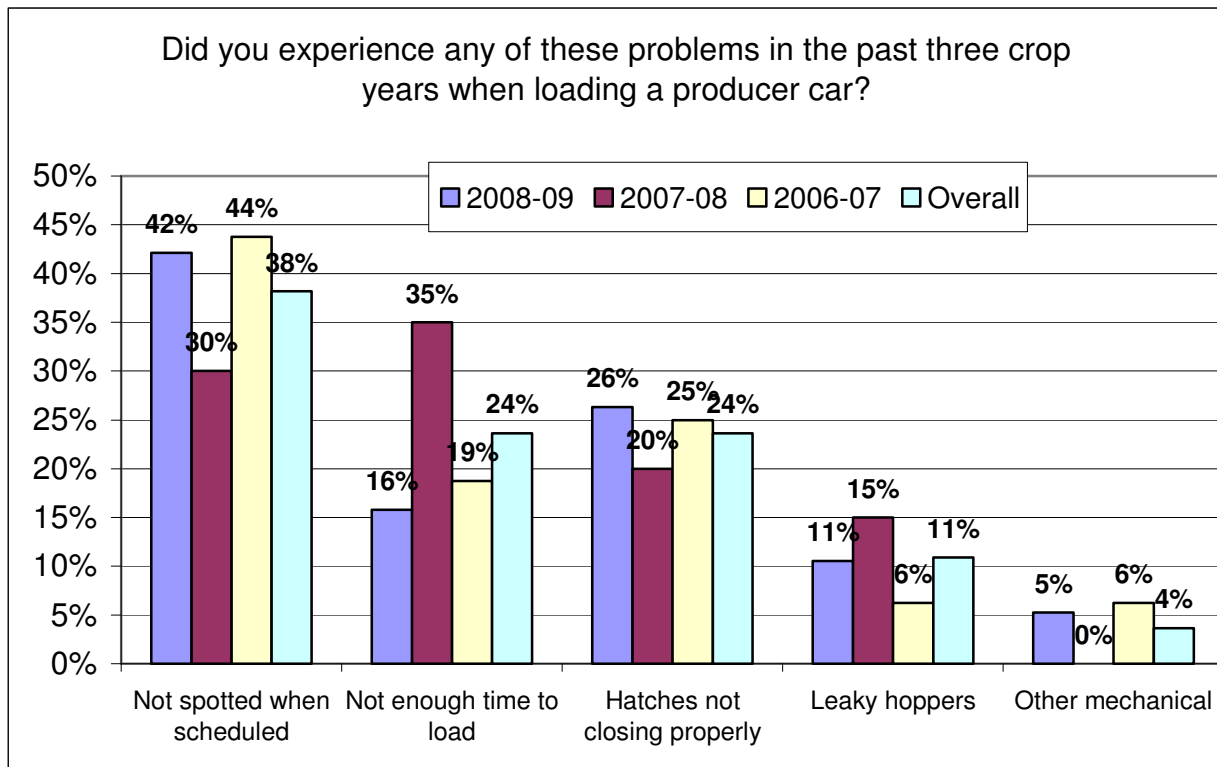
Throughout Western Canada there are currently 239 locations with listed producer car loading sites. Across the Prairies, CN delisted 53 sites in 2009 and another 55 were delisted in the previous four years by CN and CP combined. This suggests that out of about 347 sites some 31% have been delisted in the past five years alone.

Decisions to eliminate loading sites over the past five years run counter to the dramatic upward trend in producer car use. Increased demand for producer cars ought to have been a market signal to the railways to maintain sites. Yet, delisting continues apace, serving to drive grain deliveries to sites of commercial grain handling investment on the CN and CP lines. The outcome clearly undermines producers' competitive position for grain marketing options.

### 1.4 Service Problems

There are serious service level issues that limit the use of producer cars. We know from reports from APAS representatives (i.e. elected to represent an RM within APAS) and from conversations with producers at large that producer car shippers experience serious service deficiencies at the operational level.

We also have information gathered directly from producers. APAS conducted a survey of producers in January and February of this year. The first section asked them what problems they have experienced when shipping producer cars. We did not have the resources to conduct a full, random sample survey of Saskatchewan grain farmers so we cannot say what proportion of producer car shippers experience these problems. However, the survey results confirmed the anecdotal evidence we had about the range of issues and show that failure to spot cars when scheduled is the biggest problem, followed by not enough time to load, and then mechanical problems, particularly hatches that don't close properly. A summary of the problems experienced is shown in the chart below.



### *1.4.1 Case in Point*

We are able to provide an excellent example of the service problems producer car shippers are facing, provided this winter by an APAS representative.

- He ordered three producer cars to ship malt barley.
- He was notified by railway letter the cars would be spotted in shipping week 23 (Feb. 14-20).
  - Note here that a specific date is not provided. Producers will have to estimate what specific day the car(s) will arrive based on local knowledge of typical delivery patterns or perhaps by notice from their broker, provided the broker becomes aware of the specific date in time for notification.
- He filled two semi-trailer trucks with malt barley in order to be prepared for faster loading when they arrived.
- He was notified by phone on Feb. 20 that they would not be spotted until the following week.
- The cars did not arrive.
- His broker phoned on Feb. 22 to see if he had loaded the cars.
- The broker advised that the cars would be spotted on Feb. 26.
- The cars were not spotted.
- The cars were spotted on Sunday, Feb. 28 but no notification was given.
- Having discovered the cars, he did load them on Mar. 1.
  - Note that the time allotted to load all the cars is only eight hours.
  - Note also that he had his trucks sitting idle, full of malt barley, for the duration.

### **1.5 Other Considerations**

- In part producer car loading sites are not being used because they are already too far away. Delisting has already become a causal variable in determining usage.
- APAS is of the informed view that the costs of maintaining producer car sites are covered by the Revenue Cap. If so, there is no rationale at all for delisting them. Plus, leasing of delisted sites will mean the railways are paid twice. We are also concerned that the railways will continue to be paid under the Cap for any sites they abandon.
- There is a void in the Transportation Act in relation to producer cars that needs to be filled with a process that recognizes their growing place within grain transportation.
- Once the sites are physically removed, the major railways will not replace them.
- Any future regulatory changes to Western grain marketing institutions will likely increase the value to grain farmers of the producer car option.
- ‘Commercial arrangements’ proposed by CN as negotiated solutions to individual sites will create private contracts that destroy the legislated right of producers and rural communities to public access.

## **1.6 Implications**

In essence, the universally acknowledged right to producer cars is no right at all if there is no practical way for producers to access loading sites that not only meets their individual business needs but serve the system as a whole. This principle is becoming more and more important as rationalization of the system continues through grain handling consolidation and unilateral decisions by the railways like the recent CN delisting, not to mention the potential impact of further grain marketing deregulation.

The practical right of reasonable access is being eliminated by serial cuts to the system without consideration of the overall impact, especially potential future needs. Piecemeal changes to the overall configuration of producer car sites through ad hoc and self-interested decisions by the railways will not serve the future needs of all stakeholders, including non-agricultural businesses in rural areas that use such sites.

This really is a rural development issue for Saskatchewan since non-agricultural businesses and rural communities also rely on access to public loading sites. For example, we know that a rural Saskatchewan manufacturer exporting to the U. S. relies on a public loading site to make it competitive. Likewise, we know that non-agricultural products like liquefied petroleum gas is distributed by rail throughout rural Saskatchewan and that proposed mining development in central Saskatchewan is likely to rely on rail access. The high value of public loading sites to rural Saskatchewan is also exemplified by the fact that about one-third of traffic on the province's short lines is non-agricultural. The province will be hampered in the future by continuing site abandonment since ready access to a public loading site will be a deciding factor for establishing businesses in rural areas.

## **1.7 Recommendations**

- Halt the CN delisting of 53 producer car sites across Western Canada.
- Place a moratorium on producer car site delisting.
- Commission a task force, with direct producer involvement, to:
  - Study the evolution of producer car loading sites.
  - Set adequate standards for site maintenance and condition of cars.
  - Set adequate service standards and benchmarks, especially for spotting cars on schedule, providing adequate notification of car spotting, and allowing more time than currently provided for car loading.
  - Establish a balanced, two-way penalty structure for non-compliance.
- Establish an agency, with direct producer presence, to:
  - Monitor producer car practices and report to the industry.
  - Resolve disputes.
- Provide a forum for industry consultation every five years to determine an adequate network of public loading sites, both by number and geographical distribution.

## **2. Service to Grain Elevators**

While producers are no longer considered shippers once their grain is delivered to an elevator, it does not mean they are not directly affected by the service problems that elevator companies are having with the railways. On the contrary, those problems are often downloaded immediately to the farm gate as producers assume the consequences of delayed deliveries or missed opportunities brought on by inadequate service at their local delivery points.

Stretching back many months, directors and representatives within APAS have been reporting a high level of frustration among elevator company managers and employees with the poor rail service they are receiving. In addition to the negative impact on the grain company's day-to-day operation, they have been unable to provide their clients with proper service. They are well aware of the potential harm to customer relationships from not being able to accept grain deliveries, either in a timely fashion or when contracts require them.

The elevator companies and their association have made their concerns known publicly and at industry meetings. Among the range of their issues we are aware of, we would like to highlight three that resonate directly with producers' grain transportation needs. We support the efforts of the Western Grain Elevator Association to have these concerns addressed by the Service Review.

### **2.1 Improved Performance Benchmarks**

We recognize that better performance in rail shipment was achieved last year. However, that was because the recession reduced shipping demand from most other sectors of the economy. Being able to deliver the goods when there is no work elsewhere demonstrates that there is a systemic problem in meeting the transportation needs of the grain sector during times when the Canadian economy is functioning normally.

Since we know that better performance is achievable, the bar has been raised. Performance benchmarks need to be set higher than last year's accomplishments. Grain producers need outstanding service to help make them competitive globally.

The 80% compliance level set by CTA decision 488-R-2008 is inadequate. The results of APAS's farmer survey below demonstrate that there is inadequate service at local elevators that is being downloaded to the farm gate.

In a competitive global marketplace, neither commercial shippers nor grain producers should be expected to accept a benchmark as low as this. Indeed, railway performance and the benchmarks set by the CTA fall short of what Canada requires as a nation to be competitive internationally.

### **2.2 Balanced Compliance**

A system is needed that balances compliance levels for both shipper and service provider. The current system is not able to ensure high quality service because there are not adequate penalties

for non-compliance by the railways nor is there a fast track method for having them applied. But, penalties are not the objective. Saskatchewan producers need exceptional service.

### 2.3 Seasonal and Peak Demand

Adequate service is not being provided on a seasonal basis, particularly in the fall at harvest time, to meet the needs of elevator companies and their farmer customers. This problem is exacerbated by the high degree of variability by quarter in grain movement as identified in the Quorum monitoring reports. There appears also to be a voluntary component to the lack of seasonal demand since the railways are reported to be deliberately trying to even out grain movement throughout the year to avoid larger capital investments to meet peak demand, something variously referred to as ‘demand smoothing’ or ‘flatlining’.

Likewise, grain companies are not assured of railway response to meet the shipping requirements for grain sales opportunities. Without being able to rely on peak rail service response, grain marketers are hindered in their efforts to find markets for producers’ grain.

### 2.4 Survey of Producers

APAS conducted a survey of grain farmers through its network of RM representatives, who were instructed to distribute the questionnaires to farmers in their area. Sometimes they were given to RM council members who provided a good geographical representation in the area. They were not instructed to distribute the questionnaires to only those who have experienced grain transportation problems locally. A total of 69 questionnaires were received and analyzed.

A simple sequence of questions was asked:

*In recent years (2008-09, 2007-08, 2006-07) were you unable to deliver grain to a local elevator because of a lack of railcar movement there?*

Those who answered ‘Yes’ were asked a follow-up question for each of the past three crop years.

*In recent years (2008-09, 2007-08, 2006-07) did lack of railcars have a direct negative impact on your farm operation, such as being unable to fulfill a contract on time, unable to get a contract when needed, or losing a marketing opportunity?*

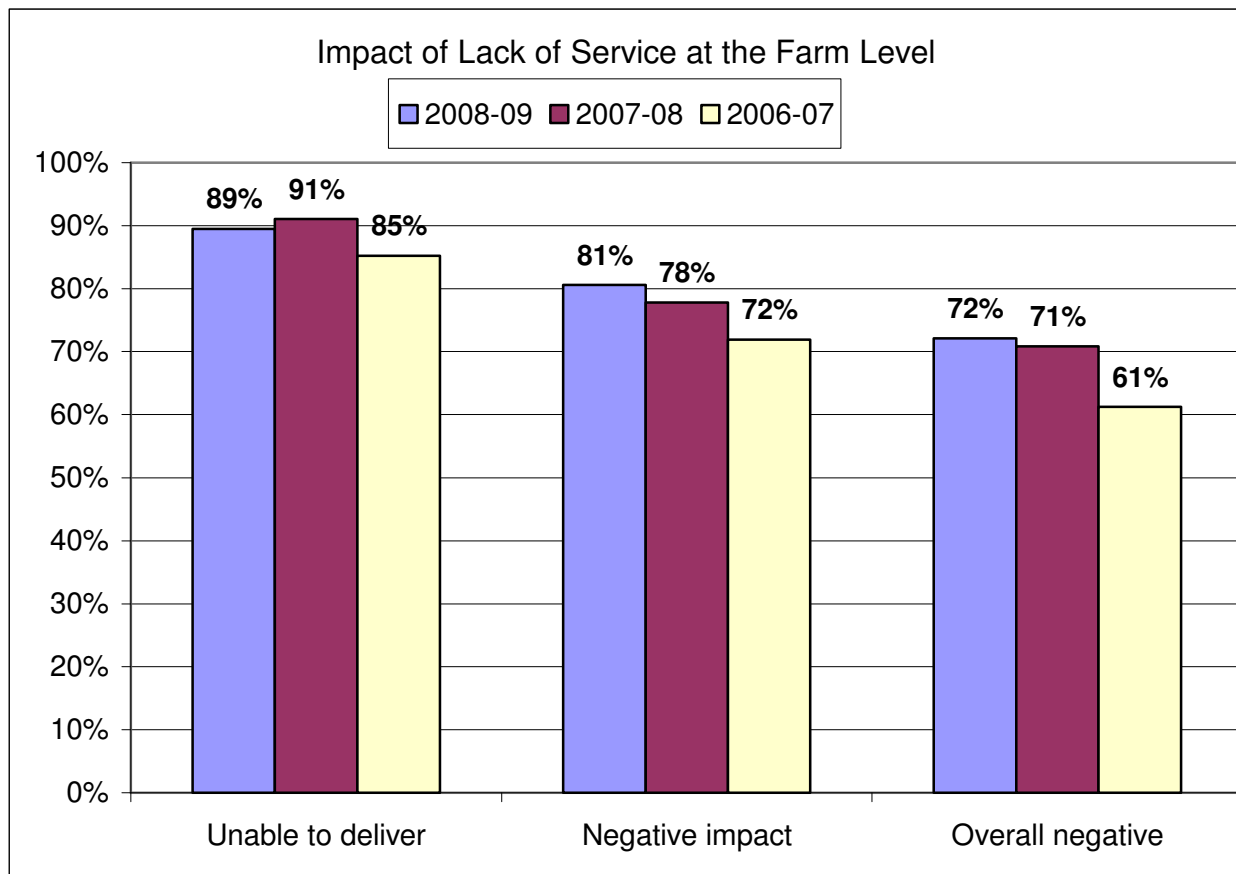
Finally, those answering yes to this question were asked to describe the negative impact they experienced.

*If Yes, what happened?*

The results demonstrate that a large proportion of survey respondents are experience problems delivering grain because of a lack of local railcar movement and a large proportion of those farmers are suffering negative consequences in their business operations.

The chart below summarizes the response levels to the first two questions and multiplies those response rates to arrive at an estimate of what proportion of the farmers surveyed are having negative consequences at the farm gate because of the lack of local railcar movement.

- We can see that a very high proportion of farmers were unable to deliver at some point in each of the past three years, averaging 88% of farmers over those years.
- For a high proportion of these farmers there are negative consequences at the farm gate, averaging 77% over the three years and actually increasing in severity in more recent years ('negative impact' category).
- When these values are combined in the 'overall negative' category, we see that fully two-thirds (68% on average) of all farmers surveyed are reporting negative impacts on their farms from lack of railcar movement.



The negative impacts reported by farmers in the list below demonstrate that lack of rail service is causing them the same kinds of problems that any business, including the railroads, does not want to incur.

- Cash flow restricted
- Interest charges

- Late contract delivery penalty
- Scheduling employees
- Scheduling truckers
- Scheduling own time
- Bin space not available
- Can't deliver from combine
- Cost of hiring trucks for last minute delivery
- Loss of grade
- Missed winter weights, hit road bans
- Lost marketing opportunity
- Had to deliver grain into the next crop year
- Extra trucking cost to deliver to alternate point
- Delays in lineups at elevator
- Lost an oats contract

## **2.5 Service to the Farm Gate**

The survey shows that measuring service begins at the farm gate. CTA decision 488-R-2008 confirms that rail transportation service originates with shippers and the markets they serve:

“Further, while the railway company is responsible for the transportation of grain, it is ultimately the shipper who starts the process through the commercial sales agreement. This sets in motion a logistics chain of events of which rail transportation is only one component. The demand for rail service is derived from the demand for grain at destination and not the opposite.”

It is not difficult to argue that it is actually the farmer that initiates the process. This is certainly true for producer car shipments and holds for grains marketed through the commercial system by the CWB on their behalf. It can also be extended to most non-Board grains since farmers are initiating such sales, particularly through production and marketing contracts.

The survey results demonstrate that there are widespread and frequent rail service deficiencies that are being downloaded to producers. The current performance benchmarks are not working.

## **2.6 Recommendations**

- Better performance standards for rail service to commercial shippers must be established.
- A system of adequate, balanced, and fair penalties needs to be established to ensure shippers have a remedy for inadequate service.
- Put in place an effective, fast-track mechanism for settling disputes.

### **3. Short Lines and Competitiveness**

Grain transportation is not a competitive sector. It is a monopoly that requires some level of regulation to protect shippers' interests. Not only are there only two railroads that don't compete with one another, but there is no competitive, cost-effective alternative mode within Canada such as water.

Rail line abandonment over many years, together with consolidation of the grain handling system, are limiting producers' delivery options, downloading costs directly to producers, increasing the costs of maintaining roads, and increasing the consumption of fossil fuels that contribute directly to greenhouse gas emissions.

#### **3.1 Short Line Railways**

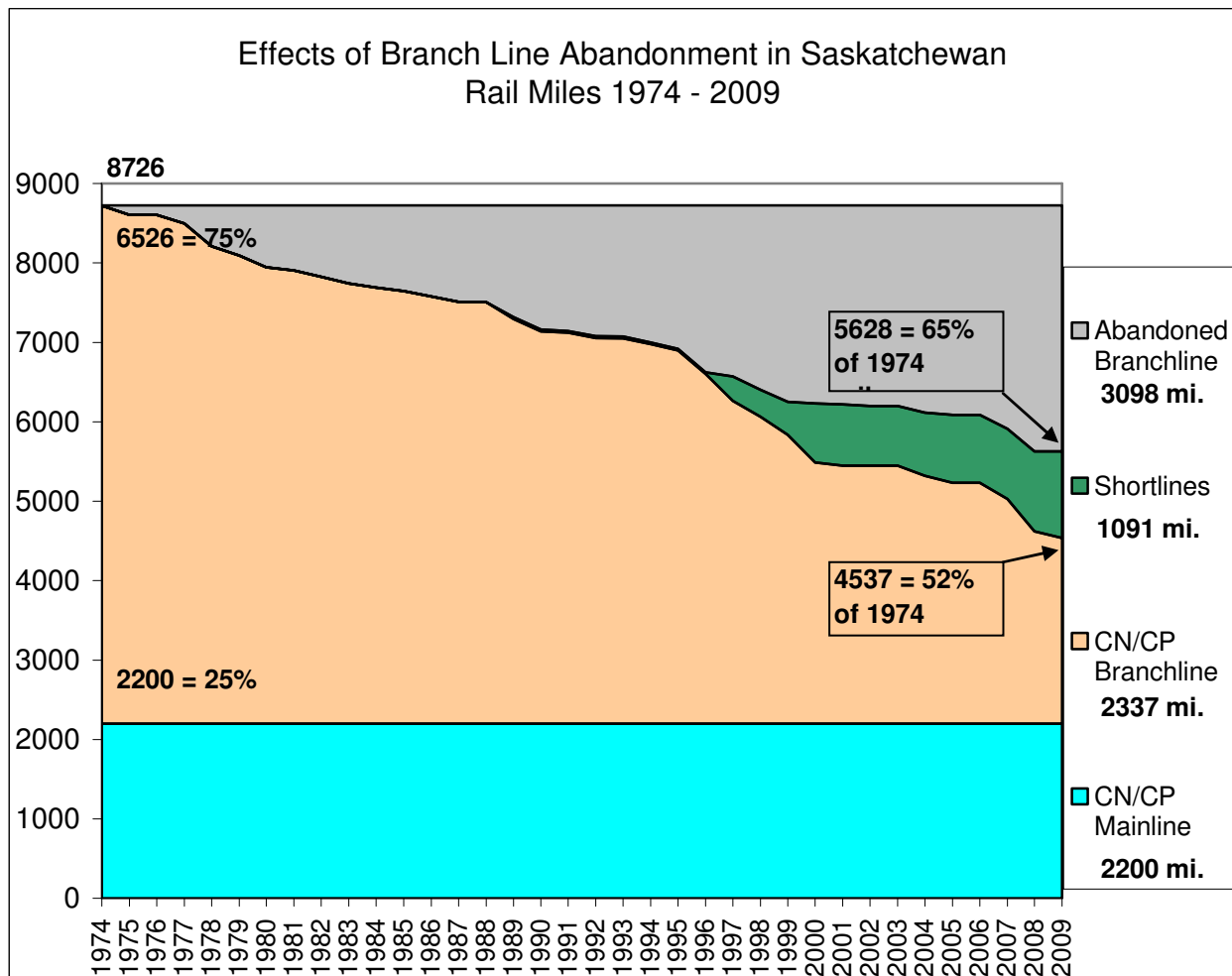
Benefits that short lines can provide include:

- A commercially-based option for service across grain growing areas where no service exists due to rail line abandonment.
- Access to efficient transportation systems.
  - For grain transportation in Saskatchewan, it is widely recognized that short lines provide lower cost movement of grain to main lines than the major railways can provide on their own.
- Accountability to local communities and businesses.
- A commercial check and balance on railway costs and service.
- Equitable access for grain producers.
- Better customer service, especially for producer car loading.
- Direct economic activity and spinoffs in rural areas from infrastructure investment.
- Provide a focus for ancillary business development.
- Substantial direct savings to farmers from producer car loading.
- Retention of producer car cost savings in rural communities.
- Reductions in trucking costs to producers.
- Reduced wait times at inland terminals.
- Substantial reductions in highway maintenance costs.
- Substantial reductions in greenhouse gas emissions.
- An enhanced competitive position for grain producers. It appears that short lines do bring grain transportation service very close to the farm gate.

### 3.1.1 The Decline of the Rail Network

The chart below provides a good overview of the changing structure of the rail network in Saskatchewan from 1974 to 2009 and shows the growing importance of short lines.

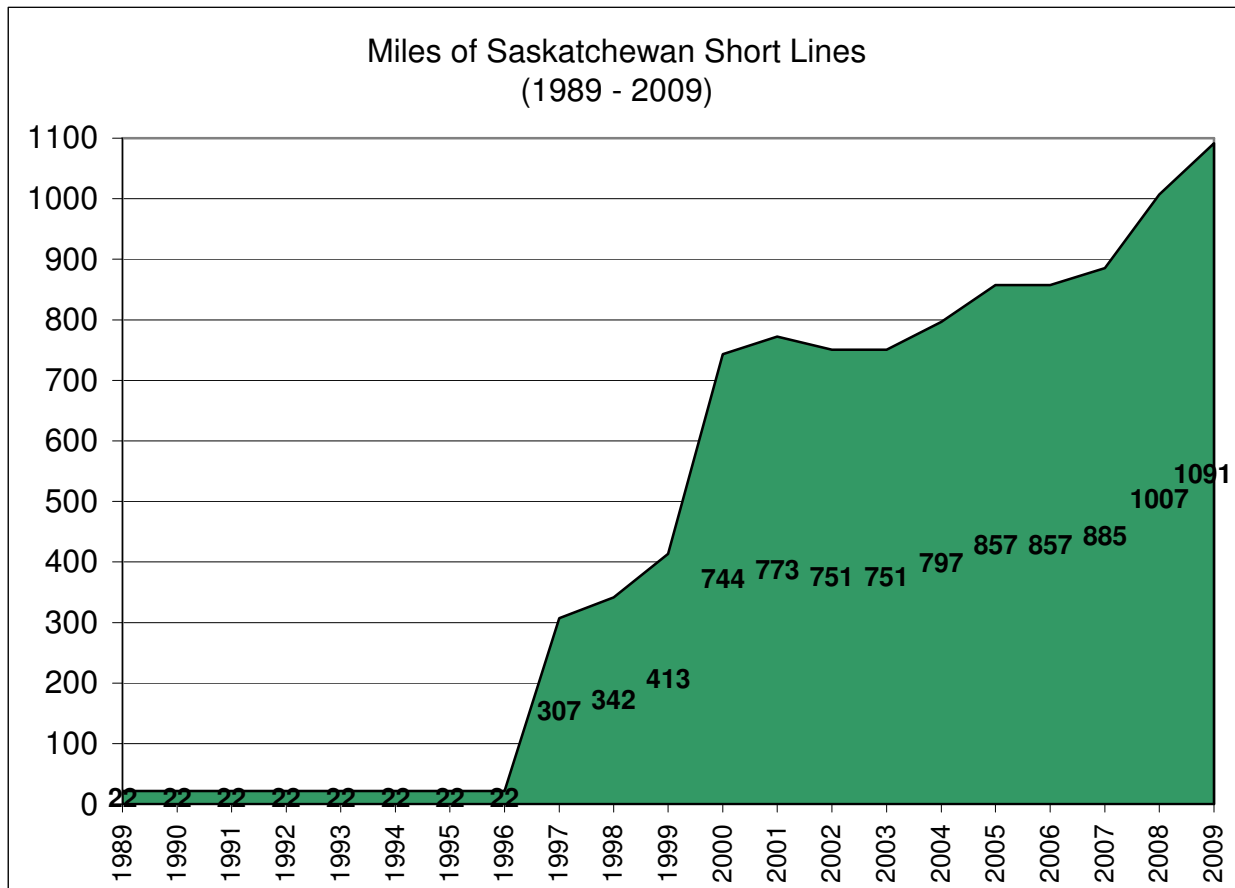
- Without short lines the rail network has been nearly halved (52%) to 4,537 miles.
- With short lines included the network is nearly two-thirds (65%) of the 1974 mileage.
- In addition to forming a substantial proportion (19%) of the current rail network, short lines provide focused infrastructure presence, in fact virtually 100% of the presence in some areas of the province.



### 3.1.2 The Rise of Short Lines

The chart below shows the substantial increase in short line mileage in the province.

- The miles of Saskatchewan short lines has increased 50 fold from just 22 miles in 1996 to 1,091 miles in 2009.
- There are now 10 companies operating short line railways in Saskatchewan, six located in the south and southwest areas of the province and four located in the north and northeast part of the grain growing region.

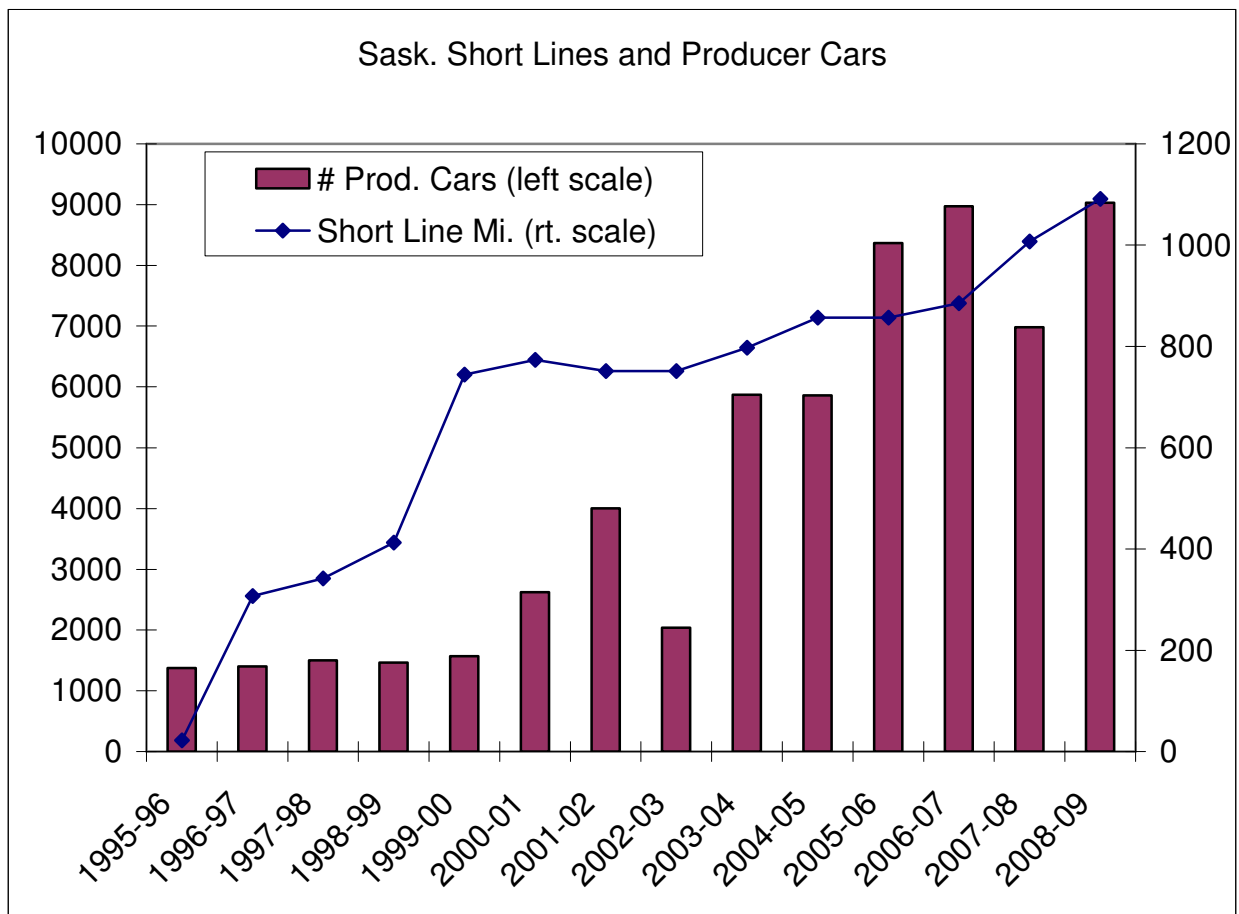


### 3.1.3 The Fit with Producer Cars

The future role of short lines will be critically important to the interests of Saskatchewan grain producers. It is also true that the future use of producer cars will be greatly enhanced by the existence of viable short line railways.

The chart below shows the simultaneous rise in importance of both short line railways and producer cars in Saskatchewan.

- The increase in short line mileage (right hand scale) led the increase in producer car loadings, which remained fairly level from 1995-96 through 2000-01.
- It appears that the gap was closed in subsequent years as producer car loading rose sharply.
- The data appears to confirm the symbiotic relationship between short lines and producer cars, created primarily by the much better service that short lines provide to producer car shippers.

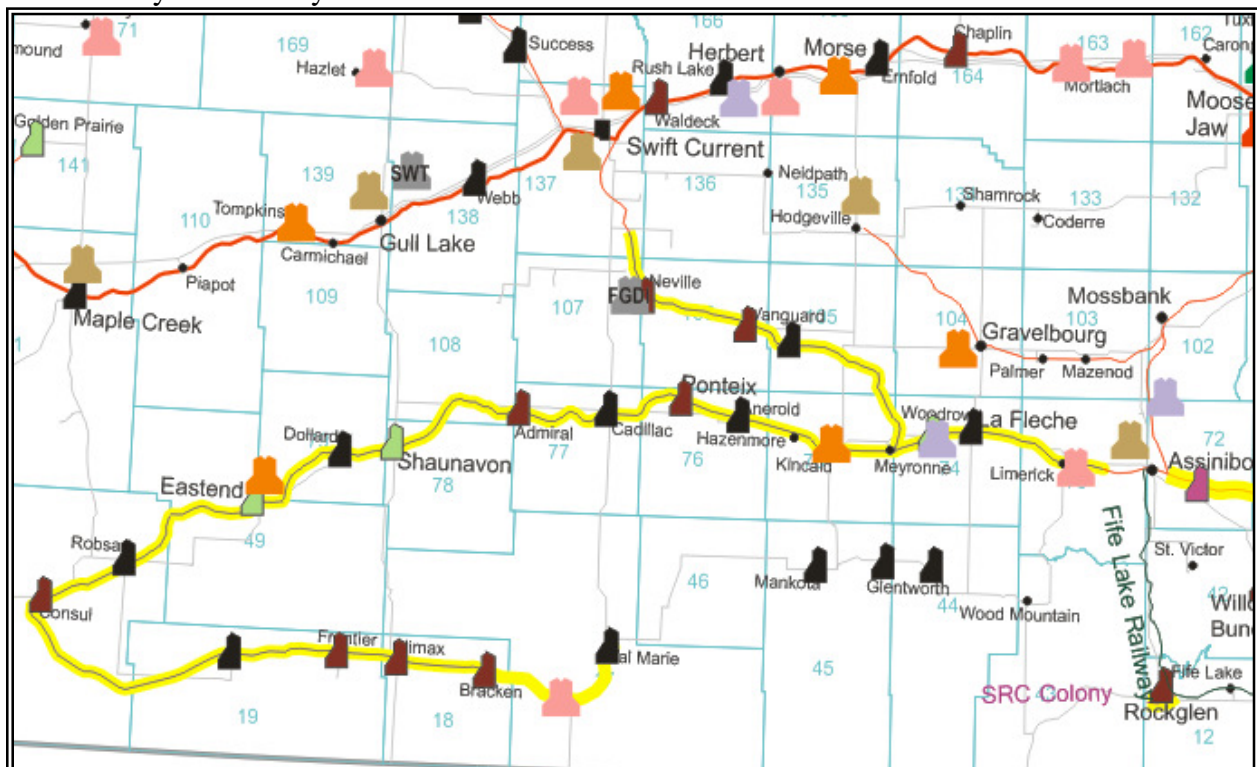


### 3.1.4 Impact on Rural Communities

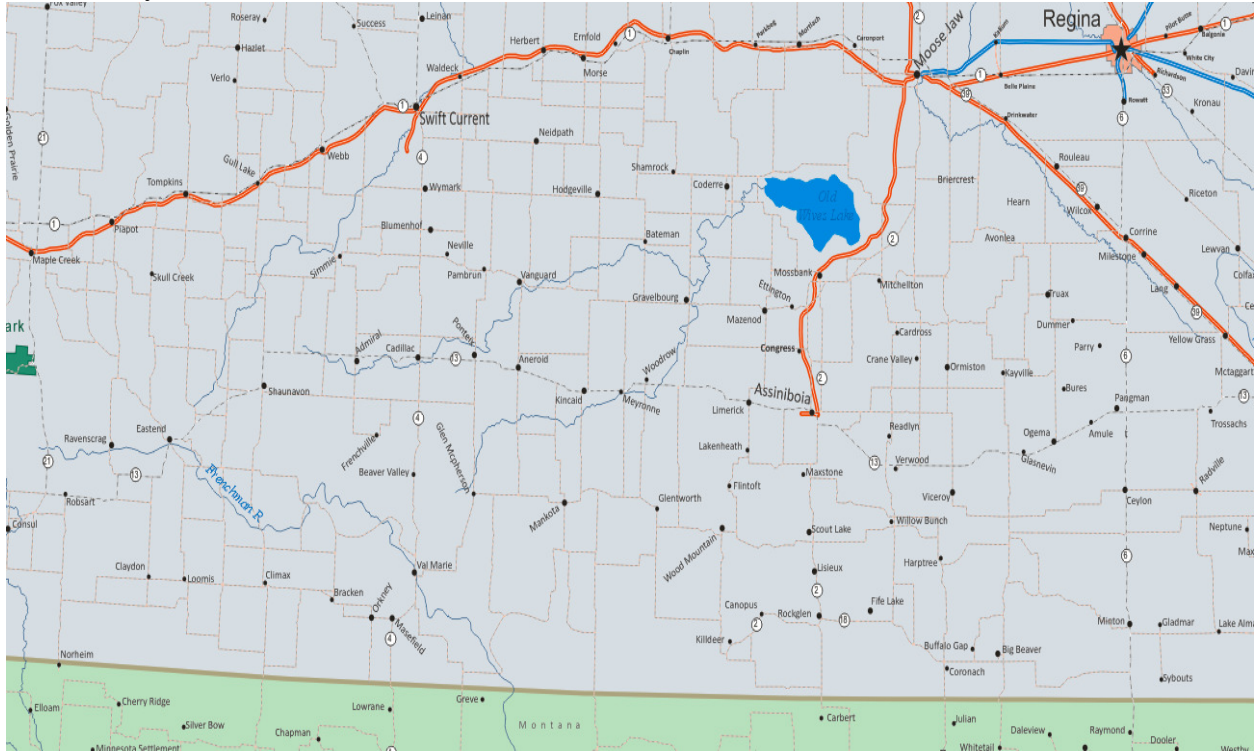
The future role of short lines is important to the viability of rural communities. The sequence of charts to follow (provided by RailWest Management) shows the benefit of short line development to both grain producers and rural communities.

- The first chart shows configuration of country elevators that existed prior to the rail line abandonment.
- The second chart depicts the utter void in rail service to southwest Saskatchewan created by abandonment.
- The final chart shows that most of the original rail line, some 496 kilometers, has been brought back into service by Great Western Railway, along which 22 loading sites have been developed, matching the original elevator configuration.

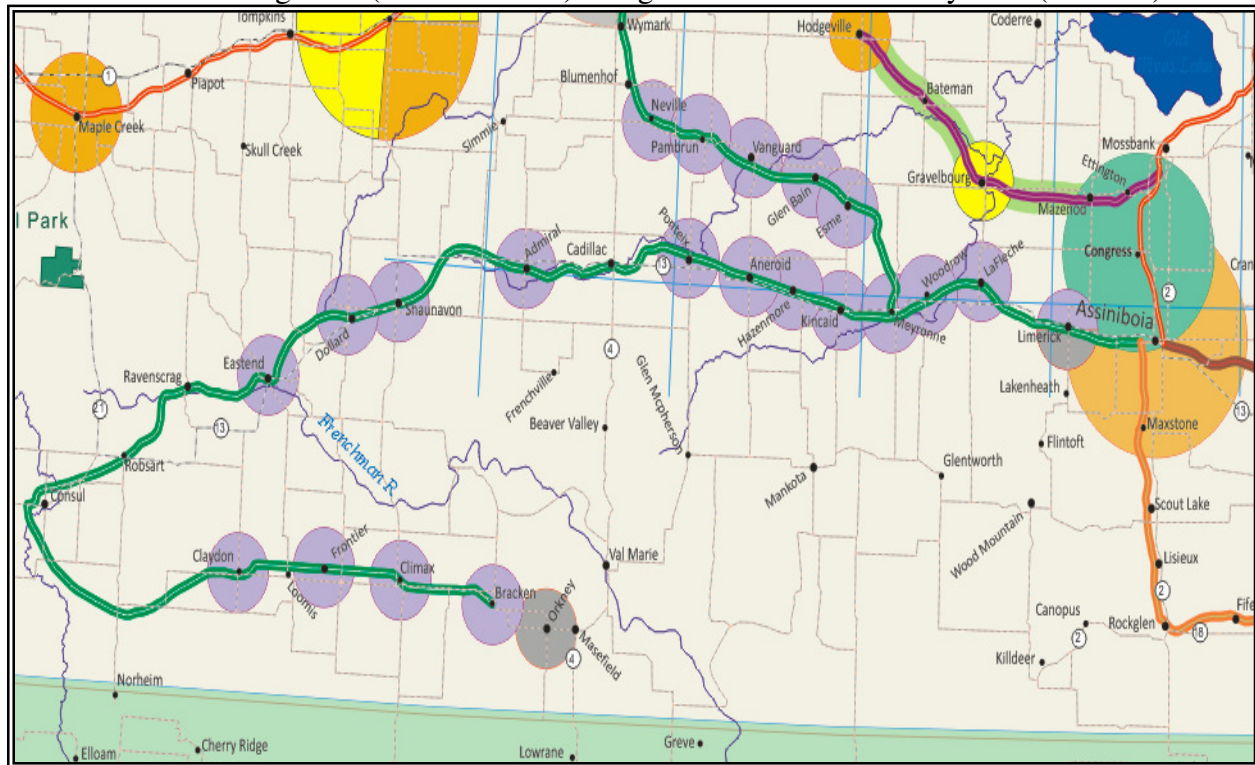
The Country Elevator System in SW Saskatchewan



## The Rail System in SW Saskatchewan after Abandonment



## Producer Car Loading Sites (Circle Centres) along Great Western Railway Line (496 km.)



### 3.2 Multi-car Incentives – A Double Edged Sword

#### *Background*

The Estey review in 1998 recommended the rate cap be repealed and replaced with a revenue cap, and that “the economies effected thereby be passed on to the farmer”. Subsequently, the 1999 Kroeger review established the Revenue Cap.

It is noteworthy that Working Group 1 in the 1999 review, dealing with rates and revenues, asserted “under the revenue cap framework, overall railway revenues are expected to decrease as a result of commercial forces while at the same time providing more price flexibility to encourage efficiencies”.

However, pretty much the opposite has come to pass. Indeed, KAP’s analysis shows that “the railway companies have become increasingly competent at maximizing their earnings by getting as near to the cap as they can”. Here’s the table they put together:

Crop Year	Revenue % of Cap
2000-01	99.2
2001-02	96.2
2002-03	94.4
2003-04	99.9
2004-05	99.9
2005-06	100.4
2006-07	100.1
2007-08	107.9

The same conclusion can be drawn from analysis provided by Quorum in their reports and particularly at the recent meeting of the Hudson Bay Route Association where Estey’s recommendation was cited and the question asked of Quorum’s official “are producers the major benefactor under the Revenue Cap?” The answer was a simple “No”.

Indeed, based on recent studies (Travacon, 2007), producers are being charged at least \$4 per tonne more than the railways are entitled to. The railways had originally requested a 20% return when the Revenue Cap was created. The study shows their return in the range of 50%, thus the productivity gains are not being shared back to producers. Currently there are suggestions that what amounts to an overcharge may be substantially higher than that figure.

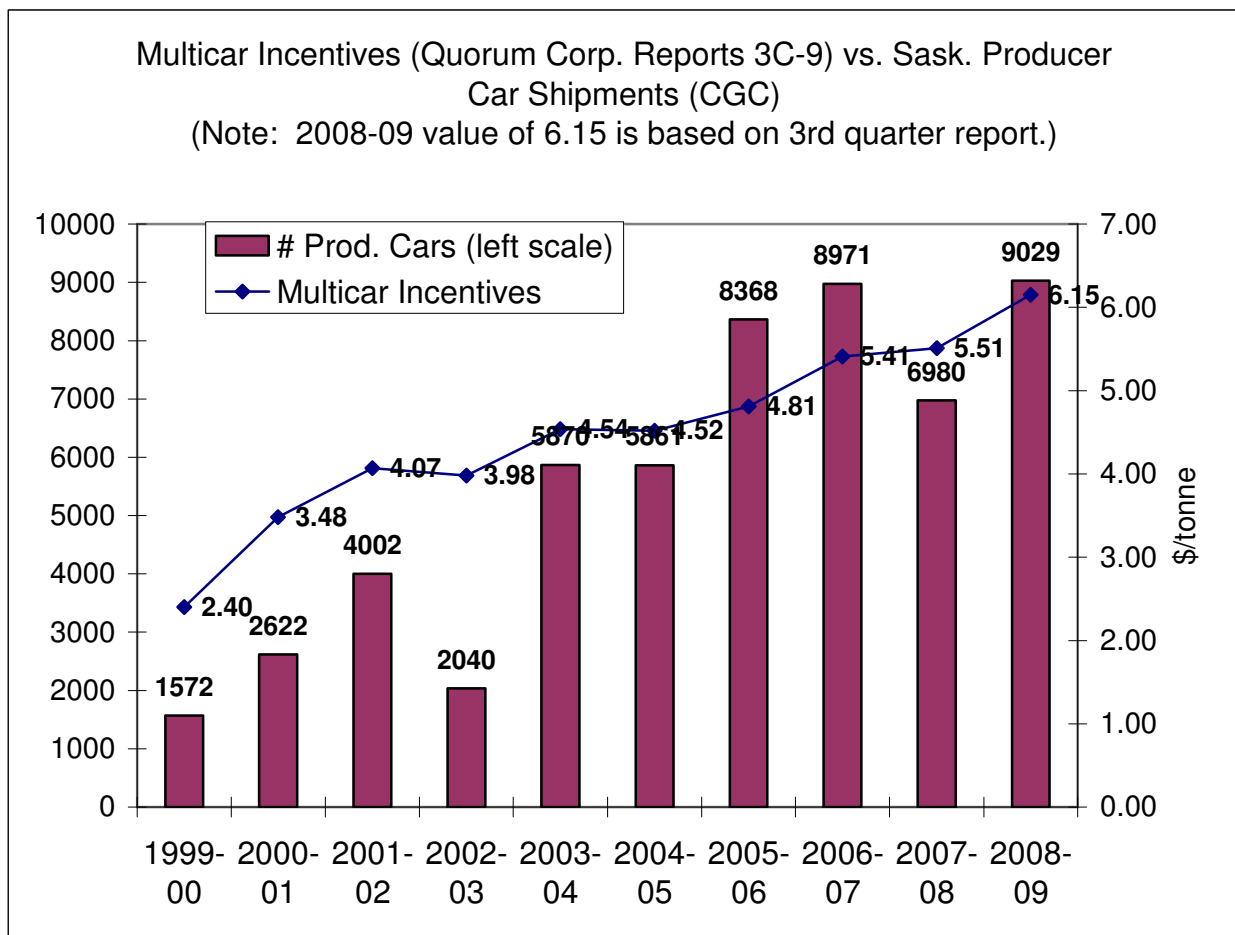
The multi-car revenues allowed under the Revenue Cap were intended to be mechanisms to not only generate efficiencies in the system but to share savings back to farmers. Technically, savings appear to have been translated back to producers. In reality, though, that conclusion is not supported for several reasons.

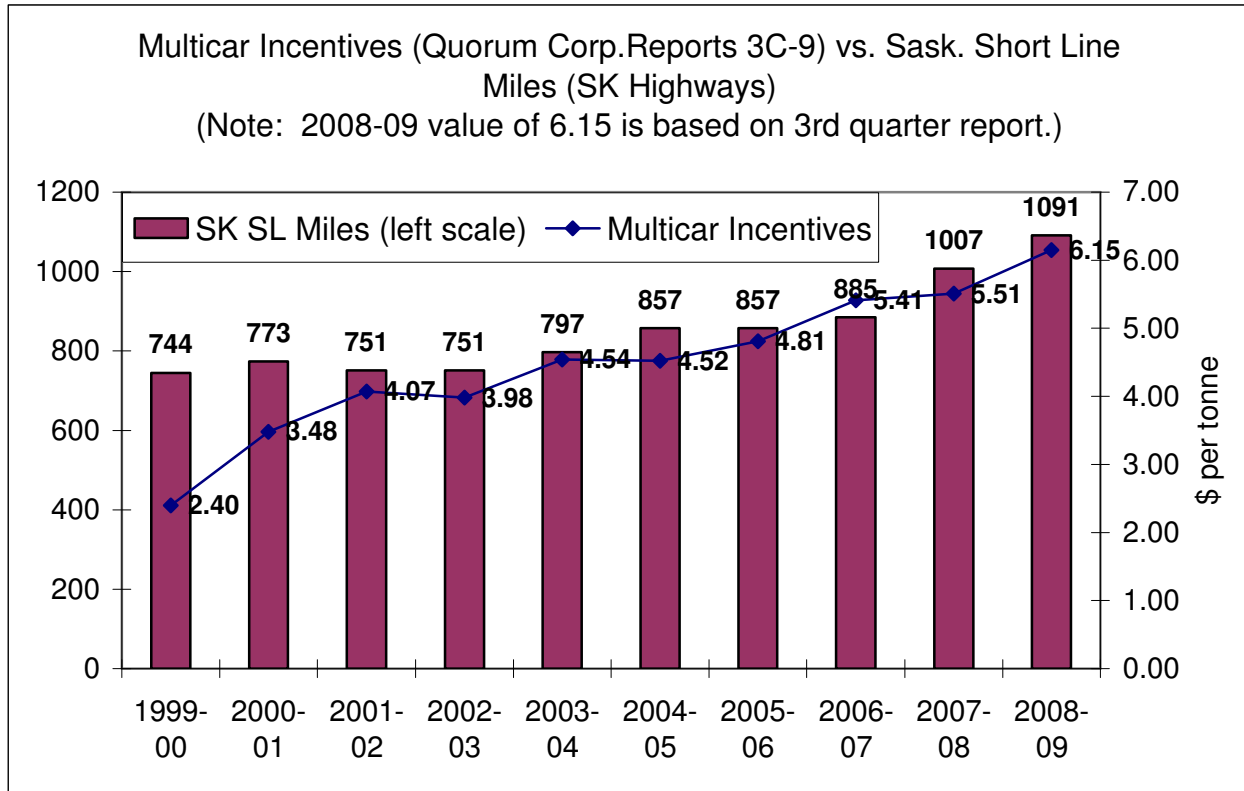
- The railways are able to recover the incentive payments from the Revenue Cap, so it is actually producers’ own money that is being paid back to them.

- The multi-car incentives form all or the major part of trucking incentives being paid by grain companies to take business away from short lines and to reduce competition from producer cars. These incentives are not distributed widely but are directed into areas serviced by short lines.
- Farmers are already paying much more to haul grain to existing lines from areas where branch lines have been abandoned.
- Tariffs have gone up substantially at grain elevators along consolidated rail lines.

The previous section talked about the fit between producer cars and short lines. The charts below show the rise in incentive rates since 1999-00 simultaneously with the increase in producer car loadings and short line mileage in Saskatchewan.

- Multicar incentives have increased from \$2.40 per tonne originally in 1999-00 to an official average of \$6.15 in 2008-09, an increase of 256%.
- The incentive rates track upwards with the rise in producer car loadings and the increase in short line mileage.



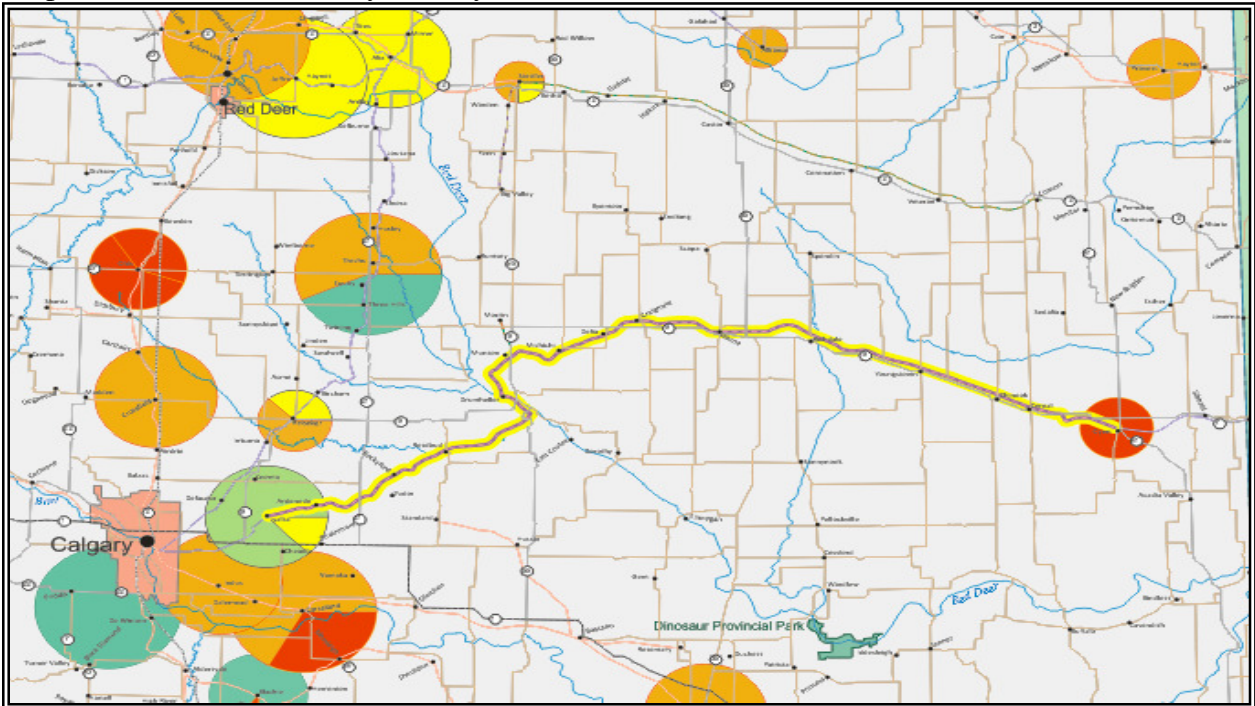


Studies show that the value created for a 100-car spot is \$3 per tonne. Yet, selective railway incentives to grain companies, directed toward short line serviced areas, are now in the range of \$8 – \$9 per tonne, paid for by farmers because the railways are charging it to the Revenue Cap. Furthermore, we have anecdotal information of trucking incentives offered to producers, typically in areas where short lines operate, at \$12 per tonne. APAS is not suggesting that grain companies should not be allowed to offer incentives, but that the system is changed so that the money for the incentives does not come out of farmers’ pockets in the first place.

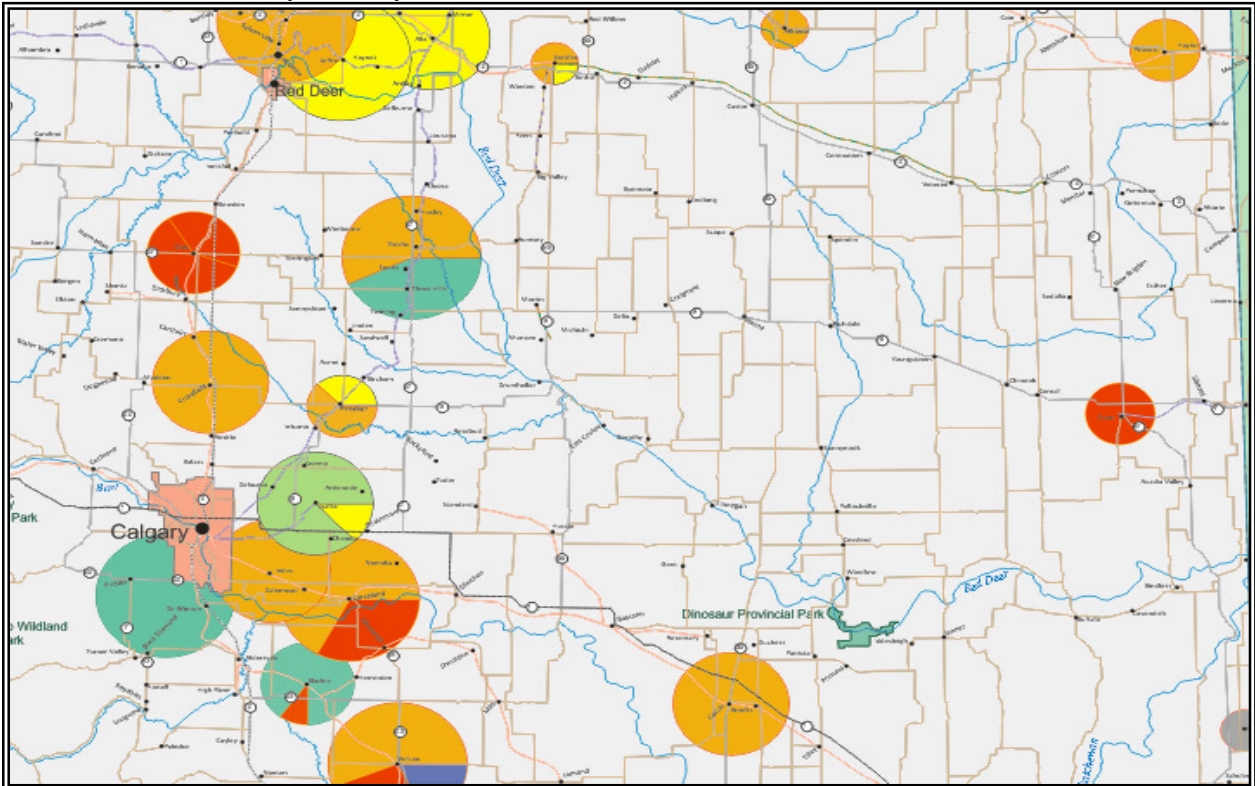
There is no market discipline here. Because there is no competition between railway companies and because the Revenue Cap regulations empower them to do so, the railways are steadily increasing the amount of the incentives they pay grain companies to values well beyond the value of the efficiency that the multi-car spots actually generate for the railways.

There is ample evidence (e.g. Boundary Trail Railway, Manitoba) that short line development is generating substantial trucking and grading incentives from grain companies to compete with short lines and the loading of producer cars on them. While these incentives may have a short term benefit for some producers, they directly undermine the competitive position of short lines. Indeed, discussions with WRAP confirm that trucking incentives are seen as a barrier to short lines in Alberta, in particular efforts to establish a short line from Lyalta to Oyen (107 km). If this short line is not established, a virtual rail transportation wasteland will be created in east central Alberta, as the following two charts amply demonstrate.

Proposed Short Line from Oyen to Lyalta



No Short Line from Oyen to Lyalta



### **3.3 Recommendations re Short Lines**

- Change the Revenue Cap so that the producers' freight bill is not used to undermine the competitive position of short lines.
- Provide a level playing field for short lines so they are recognized as partners in the grain transportation system that begins at the farm gate.
- Provide a level playing field for short lines so they are able to share system-wide revenues in proportion to the service they provide.

### **3.4 Open Running Rights**

There is a way to enhance competitiveness in grain transportation – by allowing market entry of alternative service providers by establishing open running rights. When preferences are expressed by policy makers for more commercially- rather than regulatory-based solutions, then promoting full competition, including open market entry, is an obvious choice. For the railways, allowing open running rights is a natural fit with their strong aversion to regulation, which is consistently communicated publicly. It is also a natural fit with their corporate practices since they have willingly invested heavily to enter the U. S. transportation market that does allow open running rights.

#### **Recommendation**

- Open running rights should be established on CN and CP rail lines.

## 4. Access to Churchill

### 4.1 Background

The Hudson Bay Rail Line (CN) and Port of Churchill were built in the 1930's for several reasons:

- To provide for exports from Western Canada, particularly grain, as well as the import of industrial goods, particularly from the Northern Hemisphere.
- To provide infrastructure for northern industrial and community development.
- Strategically, for Canada's defense and sovereignty requirements.
- To serve as a base for supplying goods to Canada's Arctic communities.

During the 1930's Churchill exported quantities of honey, lumber and livestock through the port. Throughout the 1950's and 1960's the port was used to import automobiles, liquor, pipe, tractors, transmission towers, machinery, sodium nitrate and other commodities and to export not only wheat but also cobalt oxide and nickel slabs.

Churchill is very important to grain producers since it is a lower cost shipping alternative, especially to markets in Europe and the Middle East. It is closer to 25% of western grain production than any other Canadian port. For example, it is 981 nautical miles closer to Rotterdam than is Thunder Bay.

It is also a lower cost option for grain markets in Canada's Maritime region as evidenced by an initial transfer of wheat to Halifax in 2007. In fact, a memorandum of understanding has been signed between the ports of Churchill and Halifax to pursue mutually beneficial business opportunities. Saskatchewan grain producers certainly welcome opportunities that are mutually beneficial to themselves and consumers in Eastern Canada.

For the first time, fertilizer, a key agricultural input, was imported from Russia via Churchill in 2007 and distributed to Prairie farms. Two more fertilizer shipments arrived in 2008. An import program for urea (nitrogen fertilizer) is being set up for the 2010 shipping season. The port has great potential to serve the interests of Western Canadian farmers on their business input side.

Grain exports account for about 90% of current port traffic with the balance being the fertilizer imports and the resupply of communities in Nunavut. Over the past six years, the port of Churchill has shipped an average of about 488,000 tonnes each year and has current potential grain export capacity in the range of 700,000 to 800,000 tonnes.

	Tonnes	CWB	Non-CWB
2009	529,300	529,300	0
2008	424,388	424,388	0
2007	620,709	620,709	0
2006	488,754	384,162	104,592
2005	466,785	353,361	113,424
2004	400,010	360,510	39,500

## 4.2 Churchill at Risk

It is very important that we maintain Churchill as a port for both grain exports and imports of interest to grain producers, especially with the likelihood of more ice free days as global warming takes hold. Strategically, Churchill is more important than ever for Canada's sovereignty. With the ice starting to melt in the Arctic, several countries are laying claim to the land beneath.

There are several rail service issues that need to be resolved for grain producers to be able to fully capture the value that Churchill shipments have to offer:

- Because the line from Tisdale, SK to Hudson Bay, SK is not operational, grain from Prince Albert and east travels an extra 200 miles is required to reach Churchill, via Canora. This subdivision is effectively abandoned but not being offered for sale.
- The railways are refusing to interchange rail cars for Churchill-bound traffic at the most direct route location (e.g. Yorkton), forcing grain to travel farther.
- The railways are imposing discriminatory freight rates on Churchill, which directly reduce its competitive position. They can do so because rates are no longer distance-related under the Revenue Cap.
  - CP has increased Churchill rates by 14.1% from 2001-06 but only 5.5% to Thunder Bay.
  - The rate from Tisdale sub is \$16.39 higher to Churchill than to Thunder Bay.
- Commercial grain interests are also working to undermine Churchill's success.
  - A grain facility in The Pas has been closed but offers to buy it are being refused.
  - Predatory pricing is being practiced to draw grain deliveries away from the Churchill railhead at The Pas.

## 4.3 Recommendations

- Commission an independent study into the strategic and commercial advantages that Churchill has to offer.
  - Develop and implement an action plan to optimize the role of the Port of Churchill and the Hudson Bay Railway.
- Change the abandonment process so that unused lines are made available for sale in a timely fashion. Note that this recommendation pertains to the system generally not just to Churchill's situation.
  - For example, efforts are being made by producers to resurrect the Lewvan line, who have a business case but cooperation from the railway is lacking. Withholding rail lines from both operation and sale, resulting in lack of service and blocking of producer or community development initiatives, is unacceptable.
- Change the inter-switching rules so that the least cost switching arrangements are provided for grain movement.
- Provide a level playing field for the Hudson Bay Railway vis-à-vis CN and CP, which were given prescribed status under the Revenue Cap.
- Station an ice tugboat in Churchill to service the port and provide strategic service to Canada's northern waters.

## **5. Other Recommendations**

### **5.1 Dispute Resolution**

For producer car shippers a dispute settling mechanism does not exist. For commercial shippers the mechanisms are inadequate.

- Establish an advocate for shippers to provide information on transportation rights, regulations, and dispute resolutions processes, and to assist shippers in their use.
- Establish an Ombudsman for shippers, including grain producers.

### **5.2 Interswitching**

The question of interswitching within this submission arose in relation to inadequate service for grain movement to Churchill that is creating higher costs to producers. But interswitching is a larger issue that is important in relation to the absence of competition in grain transportation. Limiting interswitching points, which has become increasingly problematic as the grain handling system has been rationalized, further reduces competitive options for shippers.

We need a review of interswitching distances, locations, and practices and the development of an interswitching process that serves the needs of shippers and ensures that:

- The interswitching network and distances are brought up to date.
- The network has an adequate degree of permanence and predictability.
- Interswitching points are provided to optimize the overall movement of grain.
- Bring interswitching rates into line with industry standards around car block sizes.
- A process acceptable to shippers is established for abandonment of interswitching points.