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# Standing Committee on Agriculture and Agri- Food

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EVIDENCE

**Tuesday, November 21, 2006**

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**Chair**

Mr. Gerry Ritz

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•(1105)

[English]

**The Chair (Mr. Gerry Ritz (Battlefords—Lloydminster, CPC)):** We'll call this meeting to order.

Good morning, gentlemen. It's great to have you here today with us.

We have, from the Canadian National Railway Company, Peter Marshall, who is the senior vice-president of the western region, and Paul Miller, who is the vice-president of transportation services; from the Thunder Bay Port Authority, Tim Heney, who is the chief executive officer; and from the Western Grain Elevator Association, Wade Sobkowich, the executive director, and Robert Meijer, the director of public affairs. Welcome, gentlemen.

We have two hours slated this morning to talk about rail transportation, what's good, what's not, what's working, what isn't, and how do we fix it. We have two hours to come up with the blueprint to the future. That said, we'll have presentations of 10 minutes or so from each of the panel members and then move on to questions and a comment and answer period.

Starting off will be Peter Marshall, the senior vice-president of CN's western region. Mr. Marshall, please.

**Mr. Peter Marshall (Senior Vice-President, Western Region, Canadian National Railway Company):** Good morning, and thank you very much, Mr. Chair.

I'm joined, as you said, by Mr. Miller. Paul and I are both from Edmonton, so we're glad to be here on a sunny day in Ottawa.

We are appreciative of the opportunity to appear to discuss the transportation of western Canadian grain. I have some very brief opening remarks, and I'm looking forward to the question and answer session, which I think is going to be very helpful to us all.

There is no question that grain is a very important component of CN's business. On average, we move from western Canada to the four western Canadian ports about 11 million tonnes of grain, mostly shipped in covered hopper cars, about 120,000 carloads a year. We handle about half of the total western Canadian export grain shipments to these ports. We also move grain from western Canada to non-port domestic destinations within North America, and we originate grain in eastern Canada as well. In 2005, grain traffic originating in Canada accounted for about 8% of CN's total freight revenues.

We're all aware that this year's crop in western Canada is of very good quality, and combined with high carry-in and strong pricing

due to world market considerations, this has resulted in a very strong movement so far this year. On the crop year to date, to the three major export ports, we've moved just under 41,000 carloads, which is the second highest amount of grain moved to this point in a crop year in the last 10 years.

We are continually looking to improve the efficiency and the fluidity of the transportation system. I'll give just a few highlights from what we have done in the last year or so to look again at improving the physical plant and the assets we have to move products out there, including grain.

We have acquired 60 new high-horsepower locomotives, high-efficiency locomotives, with a further 65 committed for 2007.

We have extended 26 sidings this year in western Canada, which is going to allow us to operate the rail line more efficiently. Of these, 25 are actually in service. We have one more coming up in Barrière, B.C., with an investment of about \$73 million.

We are signalling our line between Jasper and Prince George, which currently has not been signalled. So it will now have centralized traffic control, allowing us to move trains more effectively, more safely, and more efficiently. That's just being concluded by the end of this month, an investment of about \$14 million.

Like most businesses in western Canada, we are faced with having to hire more people, about 334 new employees in western Canada. Over half of them are actual train crews, manning our locomotives, and crew consists. Certainly we've seen some attrition, like most businesses, but definitely the business is growing.

We have about 11,000 covered hoppers in our current service.

More important than the nuts and bolts of the railroad, we've worked very hard with our customers in the last little while on a number of initiatives to enhance system efficiency. A good example is our GX 100 train program, which offers incentives to customers for timely loading and unloading of railcars, and two-way financial penalties if delivery times and spotting times are not met. This has been well received by the marketplace and certainly has made a big difference in our movement to Vancouver, especially this year.

We've just opened an inland stuffing container operation in Edmonton, which helps alleviate the inefficiency of westbound empty container movements and eastbound empty hopper car movements, a very good little initiative that has just opened up.

And we have some incentives to encourage the movement of grain through Prince Rupert, which is one of the most efficient corridors we have.

I think it's important also to say we've attacked all of this with a very underlying objective of providing safety to our rail operations, employees, communities, and customers, and I'm pleased to report that, year to date, as of November 13, we've reduced our number of reportable Transportation Safety Board train incidents by 21%, year over year. The main driver of that has been an improvement on our main line, with a reduction of 35% fewer train accidents.

The main line is clearly the lifeline to the ports for grain, and it has the greatest impact on our ability to move traffic. As an example, in the last week we had quite a few weather issues, with some slides in the Lower Mainland of B.C. That disrupted the movement of all traffic, not just grain. I'm pleased to say that we were back in business in short order and that things are moving very efficiently today.

I think a simple testament of collaboration and the cooperation and the industry improvement, year over year, is the fact that we've moved over 5,400 grain cars into elevator positioning and therefore loading to ports. That is about 10% more over last year. We have been putting those cars into the country and spotting them at the elevators at about 90% of our capacity plan, which is around 4,400 cars a week.

At this time of year, it's important. We get a lot of counsel from the trade that it's a great crop, prices are good, and we have to move it all. It works well when the system collaborates and works collectively. At this time of year it's important that every part of the system work in the best way it can. It is an integrated chain. No piece of the individual chain is going to be able to move all the grain in a compressed period of time, whether it be in the country, the railways, the export terminals, or the vessel shipping program. It's just too compressed to expect it to move all at one time.

We have worked hard to smooth things out. We have had great cooperation, not only from the grain industry but certainly from our friendly competitors at CP. We've done a lot of things with them over the last year.

We can only make available the number of cars that are going to move through the system expeditiously, loaded or unloaded. To place more empties into a system just invites congestion and delays and a loss of productivity. It's important that cars move quickly.

Going forward, again, I think it's important to recognize that we operate as a railroad within an integrated system: the producers, the transportation companies, the field operations, and the port operations. There are many links in the chain. I strongly believe that we have made strong strides as a group over the last several years. It has allowed us to make significant gains for the movement of grain across Canada.

We will continue to work with our partners on other new products to promote system efficiency. We'll continue to focus on tactical planning and the safe daily execution of our plan. And we will continue to make the necessary investments in plant and equipment renewal and capacity to support the western Canadian grain business.

Thank you very much.

• (1110)

**The Chair:** Thank you, Mr. Marshall.

We'll now move to Mr. Heney, Thunder Bay Port Authority.

**Mr. Tim Heney (Chief Executive Officer, Thunder Bay Port Authority):** Thank you, Mr. Chair. On behalf of the Thunder Bay Port Authority, I'd like to thank you for the opportunity to appear before you here today.

The history of the Port of Thunder Bay is based on grain transportation. The first grain elevator in the port began operations in 1884. During its peak years, Thunder Bay was the primary load point for Canadian grain exports, holding the distinction of being the largest grain port in the world and the third largest port in Canada. Thunder Bay currently ranks ninth largest of the 19 Canadian public ports, shipping an annual average of 8.5 million metric tons. It is the second largest Canadian port on the Great Lakes.

The Port of Thunder Bay and the St. Lawrence Seaway transportation corridor continue to play an essential role in the eastern movement of Canadian grain, handling an annual average of 5.9 million metric tons over the past five years, between direct ocean shipments and the servicing of transfer elevators in Quebec. The port serves markets in Europe, Africa, South America, and Mexico. In addition, western Canadian grain crops are shipped by the Canadian lake fleet through to the domestic markets in eastern Canada. Grain represents over 70% of the port's total shipments.

Thunder Bay is the largest point of origin for export cargo transiting the St. Lawrence Seaway system, providing a critical back haul for the Canadian lake fleet, travelling upbound with iron ore. The port operates from the end of March to the beginning of January each year and hosts over 400 ships per year.

The port has nine operating elevators with a combined storage capacity of 1.4 million metric tons, the largest in any single location in Canada. This storage capacity allows for the efficient use of the Canadian lake fleet throughout the shipping season, as well as unparalleled capabilities in the traceability and blending of grain. The port also has two bulk terminals capable of handling grain. The grain terminals in Thunder Bay remain focused on productivity improvements, and they have made steady improvements in railcar unloading times and vessel waiting times. The time that ships spend in port was reduced by 13.6% in the first half of this year, to an average of 1.9 days, the lowest of all western Canadian ports. This compares to eight days in Vancouver. Our average car cycle time for the first six months of the 2005-06 crop year was 18.3 days in Thunder Bay, compared to 19.3 days in Vancouver.

The Great Lakes-St. Lawrence waterway is one of the world's greatest and most strategic commercial inland transportation systems, generating over \$4 billion in economic impact and roughly 20,000 direct jobs in Canada. In 2005, 43.3 million tonnes were shipped through the seaway, which is considered to be about 50% of the capacity of the system.

Marine transportation is the best mode, from the point of view of reduced emissions in virtually any situation where the speed of delivery is not paramount. The St. Lawrence Seaway Management Corporation, in conjunction with the Great Lakes ports, launched the Highway H<sub>2</sub>O program in 2004, with the goal of promoting the waterway and diversifying cargo movement. Toll incentives for new cargo were put in place, and to date 400,000 tonnes of new cargo and \$1 million of incremental revenue have been generated.

Ocean shipping is projected to double in the next 10 years, resulting from the explosive growth in the economies of India and China. This growth will challenge coastal ports and all North American modes of transport. The seaway holds great promise to help meet future transportation needs and improve our nation's energy efficiency, while lowering greenhouse gas emissions.

During the past four seasons, an average of 850,000 metric tons of wheat and barley was shipped directly by rail from the Prairies to Quebec, bypassing Thunder Bay and the seaway corridor. This is the primary threat to the Port of Thunder Bay. The seaway's nine-month operating season is often used as the rationale for this movement. However, currently five trains per week, or about 60,000 metric tons, are bypassing the seaway, and our port will remain open until early January.

• (1115)

With the loss of inbound general cargo in the early 1980s, only about 5% of our port shipments are inbound. The Port of Thunder Bay's current initiatives focus on increasing inbound ocean vessel traffic with European cargo destined for the booming Alberta economy, utilizing grain as a back haul.

We feel that by capitalizing on our available transportation infrastructure, we will be able to enhance economic activities in our region and increase grain shipments through the port by providing increased availability of ocean vessels in the system.

In summary, the seaway system is a strategic transportation corridor in Canada that's currently underutilized. The seaway's future success will depend on its ability to retain existing traffic and be viewed as a viable transportation option.

The Port of Thunder Bay's future success in particular is based on retaining its status as an important gateway for the western provinces. We must force costs out of the system to remain competitive, respond to the demands for a more customized approach to service, and provide new, innovative solutions to meet transportation needs and become part of the strategic transportation planning efforts in western Canada.

I have provided the following recommendations for your consideration: one, eliminate the coast guard marine services fee; two, modernize navigation services; three, adjust Grain Commission work practices to keep pace with productivity advances in the grain terminals; and finally, utilize ocean vessels in addition to the lake fleet as an alternative to direct rail to Quebec for wheat and barley shipments.

Thank you.

**The Chair:** Thank you, Mr. Heney.

We'll now move to Mr. Sobkowich.

**Mr. Wade Sobkowich (Executive Director, Western Grain Elevator Association):** Thank you very much for inviting the WGEA's views on grain transportation.

The WGEA is an association of eight farmer-owned public and private grain-handling companies operating in Canada that collectively handle in excess of 90% of western Canada's bulk grain exports. Our members account for about 20% of rail revenues and over \$1 billion in total rail freight bills.

Mr. Meijer.

**Mr. Robert Meijer (Director, Public Affairs, Western Grain Elevator Association):** I'd like to start by putting it into some kind of context. From WGA's perspective, in a perfect world no regulation—legislation or otherwise—would likely be needed. Businesses would act accordingly. All responsibilities, obligations, opportunities, and challenges could or likely would be managed to the benefit of all participants, and in particular in this case the grain handling industry.

However, it's quite obvious we're not in a perfect world. Moreover, we're in a competitive marketplace that's growing much more international, as we know and as we speak. In this context we're facing real and immediate challenging situations within our industry, and in particular with our carriers.

Again, I'd like to thank this committee for allowing us some opportunity here this morning. We're not here today to seek market intervention. We're certainly not here to ask you to hold our hands as business partners and competitors in moving our crops to valued customers domestically and internationally. Rather, we're looking to government and this committee to help reset the table with more fair, balanced, accountable, and transparent legislative improvements and reform. In our mind this is to ensure that all parties—both shippers and carriers alike—live up to their obligations and commitments to the benefit of the grain sector and its valued producers. We've come here today with a few reasons for the reform and how we've realistically come to the decision to approach both the committee and this government with the need for legislative reform.

Both farmers and grain companies, rightfully and out of great interest, have invested heavily in the western grain handling system over the last 20 years and even beyond that. More than ever, we're finding ourselves struggling to meet our contractual commitments due to carrier shortfalls, inefficiencies, and uncertain failures. The current federal legislation does very little to assist in the correction of these deficiencies.

One measure of rail efficiency is cycle times. Despite significant investments in grain handling infrastructure, cycle times have not significantly changed over the last five years. In the same period we have seen a significant reduction in railway service and, unfortunately, reliability. In this past year we have tracked the country elevator spotting performance of one carrier in particular, Canadian National Railway. We're seeing CN spot elevators according to their plan an average of 60% of the time since the start of the crop year, and 70% of the time since we started taking this measurement. To be clear, this is not CN meeting 70% of our demand as an industry; this is 70% of the car-spotting plan CN itself put into place, which has already been rationed considerably relative to the demand of the industry.

This has caused problems in planning the movement of grain from the country to export terminal positions, and has no doubt resulted in extra costs due to additional country elevator staffing on our part to meet loading requirements when cars finally do arrive, and increased export terminal costs due to the lack of reliability of arrival times of those railcars. As shippers, we are unfortunately captive in many of our locations; a grain company situated on a railway has little or no choice but to ship product on that particular railway. Services offered under terms that in our view minimize railway costs do not necessarily meet the transportation needs of the industry each and every time.

In addition, we find that the railways are offering limited car supply—much less than the demand of the industry. This is a serious concern. In times of high demand, this creates an environment of fierce competition for these cars and their services. They assume that the grain will move eventually, and we feel they are not concerned about the negative effect that untimely movement may have on the operations of the grain companies and our valued farmers.

The railways are operating in an unpredictable manner. They are simply maximizing their returns under the current legislative environment. They cannot be expected to change their behaviour until federal transportation law is amended.

• (1120)

As I've spoken to, under the current CTA there is a lack of balance in accountability between shippers and carriers and little obligation on those carriers to provide adequate service. As an example, companies are required to load 100-car unit trains within 24 hours, or 10 hours for 50-car units, to achieve incentives. This also puts many of our employees in stressful situations as they wait around for those cars. When we do get them there's very little time, as I'm explaining, to load those cars. We also have safety concerns that we are always monitoring and keeping our minds on top of.

In addition, once cars arrive at port position, terminal operators must unload cars within 24 hours or they are subject to railcar demurrage. However, there is no reciprocal penalty for a railway or carrier if it fails to provide service.

The matter of reliable and efficient rail service is an issue affecting other industries as well, not just ours. The WGEA has been working with a broad coalition of shippers, including farmer representatives, the Canadian Wheat Board, fertilizer and forest products shippers, and others, to try to bring forward legislative solutions and changes to the legislation. Together, these groups account for 80% of the railways' revenues.

• (1125)

**Mr. Wade Sobkowich:** To pick up from there, Transport Canada told us the reason we weren't able to get these amendments in the past is that as a shipping community, we were never able to agree on what sorts of changes we needed. Earlier this year, they said if we could reach consensus as a group of shippers in Canada they would seriously consider and, in fact, make the amendments we requested, using Bill C-44 as a starting point—the old Bill C-44.

So we created a coalition of these groups Rob mentioned. I have the list for folks who may be interested. In April we reached an

agreement and took our proposal to Transport Canada and staff from the Minister of Transport's office.

It's important that members of Parliament recognize that in just reaching this consensus we're talking about 80% of all the rail shipments across Canada, and the different organizations, the different industries and associations, left a lot on the table. In the interest of doing what we were challenged to do, we did reach this consensus and we took it to Transport Canada.

On May 5, 2006, Transport Canada rejected some of the requests put forward by the shipper consensus, but also agreed to some. For example, shippers had proposed amending the legislation to explicitly ensure railway accountability for service. The specific wording we wanted included in the act was: "A railway company shall not provide a level of service that impedes the ability of a shipper to conduct its business in a competitive, economic, efficient and effective manner."

This particular component was rejected by Transport Canada, so the May 5 package excludes that particular component. The outcome was a further compromise that was less than what was requested by our coalition, but we reluctantly agreed to the May 5 package, recognizing that it would not solve all the grain industry's problems; however, these changes were seen as a significant step forward toward more balanced accountability.

The changes are intended to address railway problems before they occur, primarily by changing railway behaviour through greater accountability, and also improve upon the shipper remedies to be used once an incident does occur.

The May 5 agreement also includes a commitment by the Minister of Transport to undertake a more detailed review of level of service and railway accountability concerns within 30 days of the passage of the bill. We believe an independent review of this nature would be the best way to properly identify the magnitude of declining rail service and determine solutions to reversing this trend.

With respect to the content of what was specifically agreed—I don't want to read through all of them, they can be made available—former Bill C-44 was used as a starting point, and some of the more notable changes to Bill C-44 were multi-party level of service provisions.

The CTA level of service provisions would be clarified to state that they apply to multiple party filings as well as to terminal operators. Another key one was that final offer arbitration provisions would be amended to enable groups of shippers to use the FOA process—right now it only applies to individual shippers—enable groups of shippers to arbitrate ancillary rules and charges, like demurrage for example, in addition to the line haul rates and services as at present; and remove the requirement that terms of an offer under final offer arbitration apply to all shippers in the group equally.

This was seen as pretty important, because if it were a requirement that each of the multiple parties had to be equal, they would never be equal. They all have different business sizes, different shipping locations. You would never have a situation where they could all be equal. So we agreed that item should be removed.

A review of the railway service. It was recognized that the changes we talked about above only go part of the way to address problems in rail transportation; more work needs to be done. So we proposed the CTA be amended to require an independent and comprehensive review of the level of service provisions and the effectiveness of these provisions, and that this review take place no later than six months after the passage of the bill. Transport Canada and the minister did not agree to this particular insertion in the legislation, but they did commit to undertake the review of effectiveness of the CTA level of service provision. So they agreed in principle, but they didn't agree to put it in the bill.

That's what happened in the last year to get where we are today. The grain industry was part of that overall coalition of rail shippers.

• (1130)

**The Chair:** Thank you, gentlemen.

**Mr. Wade Sobkowich:** We just have a few concluding paragraphs.

**Mr. Robert Meijer:** I will conclude, Mr. Chairman, if I could.

On a daily basis, as members of the WGEA, we do consult at various levels, of course, with our carriers. There is a great amount of dialogue that goes on in a working business day. In my view, and in our mind, what we're talking about today is a safety net, an assurance that where we can't come to an agreement and can't find solutions, there are those avenues and mechanisms that both parties, shippers and carriers, can look to for some guidance and a guarantee that obligations and commitments—to the benefit of our industry and our value producers across this country—are met and satisfied.

Really, our main objective is about balanced accountability. We accept the penalties that we pay. I could tell each of you that I don't necessarily like what we would be penalized, but when we do wrong, and where we create issues, I think it's only fair that we are held accountable. But we do need those mechanisms, where it introduces a more balanced and fair level playing field within the system. In our view, the best way and the only way for that is legislative reform.

If we don't get to that point and we find ourselves in a continued dialogue situation between shippers and carriers, this will get much worse than the concern we're expressing today. We will lose grain sales, both domestically and internationally. We will lose revenue within our industry, across all sectors, right down to the producer, unfortunately. There will be significant vessel demurrage costs. Worse, there will be a lost reputation of Canada being a reliable and consistent-quality shipper and provider of grains throughout the world.

Thank you.

**The Chair:** Thank you.

We'll now move to our question rounds, starting with Mr. Boshcoff, for seven minutes.

**Mr. Ken Boshcoff (Thunder Bay—Rainy River, Lib.):** Okay, start the clock now.

**The Chair:** I started it two minutes ago, Ken, but that's okay.

**Mr. Ken Boshcoff:** Mr. Heney, if Thunder Bay can turn a car around in six days less than Vancouver and in five days less than

Prince Rupert, and you can get the train back essentially without dismantling it, if it was spread between the coasts, wouldn't that make the entire grain movement system much more efficient?

**Mr. Tim Heney:** Well, certainly car turnaround is a big factor. I think the elevators in Thunder Bay have come a long way in that regard. A lot has to do with the incentives placed on larger car blocks. They've responded to that. There are a couple of facilities in Thunder Bay that are capable of unit trains. I'm not sure that the grain sourcing on the Prairies is capable of supplying 100 cars at one time on a regular basis. There are bulk facilities, beyond the elevators, that could also turn cars around fast. Those haven't been used in probably five years. But certainly turning railcars around in a rapid way is a goal of everyone in a port.

**Mr. Ken Boshcoff:** When we talk about that and get into the environmental aspect, maybe I'll ask CN that question.

If we use 850,000 metric tons, which would essentially be 35 vessels, it's not only taking the cars out for that much longer a period of time, but there has to be an economic impact on the seaway and the Port of Thunder Bay. I'll ask that first. What would the economic impact be to the Port of Thunder Bay, or our seaway system? If they went from Manitoba to Thunder Bay and back right away, how much greater assistance would that be to, say, the WGEA?

**Mr. Tim Heney:** In terms of the car turnaround time, I'd have to defer to CN about how long it would take to get the cars back from Quebec versus going to Thunder Bay.

The economic impact is generally considered to be \$50 a tonne. So on 850,000 tonnes a year, you're looking at about \$400,000 for economic impact of the seaway—if it had gone down the seaway.

**Mr. Ken Boshcoff:** Four hundred—?

**Mr. Tim Heney:** I'm sorry, it would be \$4 million.

**Mr. Ken Boshcoff:** Okay, \$4 million. Thank you.

In your conclusion, you talk about ocean vessels versus the lake fleet. Is there a reason the CWB has given you as to why they won't use salties?

• (1135)

**Mr. Tim Heney:** They say that they're unreliable in supply, that the ocean rates fluctuate, and they gave various other reasons. The quandary we're left in is that most of our non-board grains that go through the port, which comprise about 35% of the grain, are carried almost exclusively in salties.

The grain companies don't seem to have a problem getting the saltie supply for their own crops. Very little, if any, of the Wheat Board crop goes by saltwater vessels.

**Mr. Ken Boshcoff:** I'm also concerned that the WGA mentioned that earlier this year you were advised that if you could reach a consensus, you would not only be listened to but responded to. I presume that this was essentially a consensus amongst competitors.

I know you must be feeling somewhat disillusioned. Our concern here as parliamentarians is the loss of the competitive position that with this delay.... You've gone down this path, and now the minister won't agree to it. What can we do as a committee to expedite this or make the case for you?

**Mr. Wade Sobkowich:** I'm glad you asked that question. You're right, we had a lot of debates. There was a lot of heated discussion among the shippers in Canada to reach a consensus. A lot of the discussions have really been exhausted over the last nine months.

Yes, we are frustrated. We were challenged to reach a consensus. We stepped up to the plate, and we did reach a consensus. It was a lot of hard work to bring forward the needed changes as Canadian shippers.

We had more left in the next step in the process, and we reluctantly accepted that even though it was less than what we needed, it would help expedite and be a good first step. We'll get these; we'll see how it goes; and we'll get the level of service review, because that's where we think a lot of the solutions might come from.

We're still hopeful that this is going to happen, that we'll get the May 5 amendments. But as to what this committee can do, it would be fantastic if this committee approached Transport and the minister in support of the May 5 amendments.

**Mr. Ken Boshcoff:** For CN, when we talk about car turnaround and availability and your own commitment to environmental concerns about vessels, versus direct to the eastern coast, is there any kind of environmental commitment where you'd say, we can help the farmers, the suppliers, and the producers if we can utilize a port, such as Thunder Bay, much more quickly and save all that time and answer the questions about car availability? Is there a philosophy within the organization?

**Mr. Peter Marshall:** The answer to that is yes.

A lot of planning goes on in the industry relative to any crop year. At the end of the day, a lot of it boils down to where the sales are being made and where the markets are. Historically the markets are off the west coast, and some are through Thunder Bay and Churchill. When Churchill and Thunder Bay close up for the winter, there's still an outlet in the east, which is what we call winter rail that goes to Quebec City.

In some respects, we're at the end of the chain in terms of the decision on where the sales are being made. We're then asked to provide the transportation services to move the grain to those particular markets.

Have we done a lot of analysis about the environmental impacts and the future of Thunder Bay? I would say it's been very limited, because the marketplace says where the sales are made, and that's where the transportation services have to move the product to.

**The Chair:** Thank you, Mr. Boshcoff. Your time has expired, I'm sorry to say.

Monsieur Roy, for seven minutes, please.

[Translation]

**Mr. Jean-Yves Roy (Haute-Gaspésie—La Mitis—Matane—Matapédia, BQ):** Thank you, Mr. Chairman.

My question is for Mr. Sobkowich and Mr. Meijer.

I am not aware of the changes that you have requested to the legislation. Could you summarize what those changes would be as well as the consensus that you have achieved? I was not here in May

and it is essential that we understand each other. I don't know what you're talking about when you talk about amending the legislation.

You've also said that the railway doesn't meet its commitments in 60% to 70% of cases. Could you explain what you mean by that? Is this related to delays, to a lack of railcars or to something else? That's what I want to know.

• (1140)

[English]

**Mr. Wade Sobkowich:** If I may, I'll answer your last question first. I think it's important that people understand what goes into building a train. It takes a lot of resources to load a 100-car unit train. When the companies have a train scheduled to arrive, to be spotted at their elevator on a particular day, what they'll often do is dedicate all their resources to loading that train. It means they'll shut down any farmer deliveries coming into that elevator for that particular day.

They wait for the train. The 60% and 70% spotting performance I talked about earlier and that Mr. Meijer mentioned is the percentage of time you can expect that train to arrive on that day. You have a 60% chance, since the beginning of the crop year, that the train is going to arrive on the day CN said it was going to arrive. If it doesn't arrive, you have staff.... I don't know whether I need to get into all the details. Maybe you had the Canadian Grain Commission there for previously inspected cars; you have staff; if it is a weekend, you're paying staff time and a half; plus you've shut down any deliveries into that elevator for the day.

Then if the railway contacts you and says it can't make it on Monday and is coming on Tuesday, now you've shut down deliveries into that elevator for two days, and if it doesn't come that day, then you will have shut down deliveries for three days.

We talk about efficient utilization of railway assets. That's good, and it's what we need to strive for, but we also need to be mindful of the efficient utilization of grain elevator assets and resources.

I noticed that in his opening comments Mr. Marshall talked about CN's spotting 90% to the week that they say, and they do. They have 4,450 cars that they'll spot in a given week, and in that week they'll spot 4,000 of those cars, which is 90%. It sounds good, but from our perspective it's not good enough to know the cars are going to come sometime that week. We need to know the cars are coming on the day, and that's where we get to the 60% number.

I don't know whether that answers your last question. Does it answer it? Could you repeat the first question again?

[Translation]

**Mr. Jean-Yves Roy:** I would like you to summarize what amendments to the legislation you would like to see.

[English]

**Mr. Wade Sobkowich:** I can provide the committee with a full list after the meeting, if you'd like, but what I could do is go over the ones that were more notable for the grain industry. All of them are important, but I highlighted some of them just for the purposes of letting you know.



Basically it was the ability for parties to file final offer arbitration as a group. A group of shippers could get together and say they're getting poor service in Vancouver and would like to file arbitration on it. That was one component.

Another component was to be able to arbitrate ancillary charges—not only whether the demurrage tariff, for example, was applied the way it was written, but whether the tariff in fact is reasonable. We'd like that ability.

Basically all of the changes have to do with providing balanced accountability and providing for correcting service problems after they occur. To our way of thinking, if the service is good, they never get used. Does that make sense?

[Translation]

**Mr. Jean-Yves Roy:** Very well.

[English]

**Mr. Robert Meijer:** I'd like to go back a little bit on the car spotting. If I look at a couple of our operations out in the field, just to put this into context and to pick up on what Wade was saying, there's a demand out there, according to industry, by customers who, thankfully, are demanding Canadian grains and oilseeds and special crops on a daily basis. As companies, no doubt we're very competitive in trying to capture those opportunities and meet the market needs of the end-use consumer.

We are informed by our carriers that they understand what the demand is, but here is what we're going to get. Reluctantly, we have to accept that. In a competitive world, there are formulas. I'm not going to claim to be an expert on this, but there's an allocation process that has set out a certain number of cars for a given day. As Wade was saying, on a Thursday or Friday we've asked for, say, a 100-car unit to show up at our door. We get our employees in place. Sometimes we have to hire extra staff, and sometimes we have to ask people to work on a Saturday or Sunday. To some of us it might not seem like a lot, because I'm sure all of us have to do that every now and then, but for some of these employees, working on a Saturday or a Sunday to load a car, when those cars don't show up, or shows up on a Sunday late, two days after the fact.... Then you have 24 hours to load that car. In the context of, say, a 100-car unit—Wade, correct me if I'm wrong—that's about 14 minutes per car.

Safety is of utmost priority to us, but I can tell you that as employees sit around on a Saturday or a Friday night waiting for cars to show up, they do get a little frustrated. They get a little angry at management, but we tell them to wait. Then the cars finally show up, and then we say, oh, by the way, you have about 14 minutes per car to meet the obligation; otherwise, we lose our incentive or get penalized. Then we bust our butts to do that—sorry to be so blunt—and then sometimes the cars don't get picked up after the 24-hour period is done.

That's the point we find ourselves at. In answer to the question of the committee member about the delays or lack of cars, politely, I would almost say we should ask the carriers why there are delays or why there is a lack of cars, because I can tell you that out in the field we have an elevator and we're waiting. We've requested; we know what we've been allocated, and we know what we've been told is supposed to show up on a given day, and that's all the control we

have. We're supposed to do our job when those cars show up, and when we don't, we're penalized.

That's about as blunt as I can get.

• (1145)

**The Chair:** Thank you, Mr. Roy.

Mr. Anderson, go ahead for seven minutes, please.

**Mr. David Anderson (Cypress Hills—Grasslands, CPC):** There are a number of directions I'd like to go in here, but I want to get the railways' response to what was just said, because you're talking about 24 hours to load cars, 14 minutes to load them. You've got a week to spot them and you're using your own staff to provide service within a week. It takes nine days—if you split the 18 days in half—to get them to port. If there are charges to the shippers if they do not comply, do you think it's fair that you face the same penalties and have the same incentives for performance as well?

**Mr. Paul Miller (Vice-President, Transportation Services, Canadian National Railway Company):** Sir, everything that Mr. Sobkowich and Mr. Meijer mentioned we do discuss with them and with the grain companies directly. There's no question that we understand very well the importance of spotting to the day. We know that being able to move the total volume is one measure, but being able to be there to spot to the day that we've advertised and advised the companies is important to us as well. We definitely are not satisfied with a 60% or 70% rating, and we're working with the customers to improve that.

There are reasons we don't get there. There are CN reasons. Peter mentioned some of the reasons a moment ago. We've all heard and read about the rains and so on in the Vancouver corridor, so those will affect the spotting plan for that region in the next week. There are other reasons that we don't get the unloads at the terminals that we're expecting.

In answer to your question about penalties and two-way accountability, we took a step in that direction with this current crop year. I believe Peter mentioned our GX 100 program, which puts accountabilities on us for timely arrival of the train, both on the empty side and on the loaded side. There are financial penalties if we don't achieve that. The penalties that Rob and Wade talked about apply on the customer side of that. So we've moved in that direction, and we're prepared to do more in that direction.

**Mr. David Anderson:** Well, I'm glad to hear you're not satisfied, because every year we come back here, and it seems that one or other of the carriers is a problem in my part of the world. A few years ago it was CP. I'm actually getting compliments for CP, particularly from the short-line railway that exists in my part of the world, but I have not gotten those compliments on your railway over the last year.

We sat here last spring. The officials who were here assured me you would be able to handle the crop this fall. The first thing this fall, I got a massive number of calls into my office about the fact that you folks were not moving grain. The farmers could not get it out of the elevators and off their farms. I'm just wondering why there seems to be this ongoing problem.

The second part of it is that you talked about your GX 100 program. I'm not familiar with it, but I'm wondering whether the shippers see it as an adequate remedy to the problems they're faced with.

• (1150)

**Mr. Peter Marshall:** I'd like to respond. Monsieur Roy had some good questions about the whys of delays, and Mr. Anderson as well.

There are long supply chains between the country and the port, whether it be Prince Rupert or Vancouver or Thunder Bay, and every part of that chain has to be working very smoothly.

One example would be seven-day-a-week, 24-hour operations. When cars are loaded in the country and moved to the port and moved back to the country for reloading, if there are impediments along the way to moving the car, it's going to extend the cycle time. If we get to a port that is only working Friday and then Monday, or maybe with one shift on the weekend, the car's going to sit there longer than it needs to. If we move the car into an elevator on a Friday and they don't work the weekend, then it sits for two days.

We are working to change some of these mechanisms that all of us here on the panel have talked about, and we have some programs out there and some new ideas that we are working on. They take time to implement.

But it's akin, in some cases, to trying to thread the needle. Our operations are 24 hours a day, so we're moving trains and moving cars, but a lot of the country, and the ports to some extent, are not working 24 hours a day. That doesn't mean they have to work 24 hours a day, but to get from where we are today to a future is going to require, in my estimation, some more commercial relationships.

**Mr. David Anderson:** Can I get a response? My time is short, so I'd like a response to the other part of the question.

**Mr. Wade Sobkowich:** Yes. To speak on the GX 100s, first of all, those are pretty good. We're seeing those products performing better than the rest of the allocation. But what we're not seeing is the average going up. So while GX 100s are getting better, the rest of the allocation must be getting worse.

**Mr. David Anderson:** Does that only apply to 100-car train lots, then, or what are the parameters on GX 100? For anybody who's shipping less than that, nothing has changed?

**Mr. Paul Miller:** There are other programs in place for 25- and 50-car shippers, but the GX 100 program in particular, Mr. Anderson, applies to 100-car trains.

**Mr. Wade Sobkowich:** We're not sure, but we think that because the average isn't moving.... We're still at 60%; the car cycle times haven't really improved. We would have expected car cycle times to improve really considerably over the last 15 years since the grain industry rationalized, but they haven't. Because car cycle times haven't improved, we suspect that what we're seeing is the GX 100s doing better at the expense of the rest of the allocation.

**Mr. David Anderson:** You mentioned that two of the important things on the level of service question were that you want the ability for parties to file for final offer arbitration as a group and then to arbitrate ancillary charges. Are those the two most important things, in your mind?

**Mr. Wade Sobkowich:** It's difficult to rank them, but I would say they're up there for the grain industry, for sure.

**Mr. David Anderson:** I want to ask the railways. Are you prepared to accept those two points?

**Mr. Peter Marshall:** We're always interested, and we've talked about this for long periods of time.

I would dispute the fact that car cycles have not improved in 15 years. I think that's an overstatement. We can demonstrate that this year car cycles have improved significantly. But again, it's a chain, and we are trying to provide products to take advantage of and work with the grain companies, who have rationalized their own networks and have built 100-car loaders. We all have to work together on this.

**The Chair:** Thank you, Mr. Anderson.

I'd like to follow up on Mr. Anderson's questioning. With the GX 100, are there certain commodities that are covered and others that aren't? Or is it all commodities—anything that'll go on 100-car spots?

**Mr. Peter Marshall:** It's a 100-car train, regardless of the grain commodity that goes into it and whether it's board grain or non-board grain. It's on the size of the train as opposed to the type of commodity.

**The Chair:** Okay. Are there other commodities included in it, such as potash and so on?

**Mr. Peter Marshall:** No.

**The Chair:** We're strictly talking about grains here?

**Mr. Peter Marshall:** Yes.

**The Chair:** Mr. Atamanenko, please.

**Mr. Alex Atamanenko (British Columbia Southern Interior, NDP):** Thank you for being here, gentlemen.

Many farmers are concerned about the loss of the Canadian Wheat Board as a single desk. They feel that by changing it to be another small grain company it won't be a major player on the world stage, and this will take market power away from the farmers. That's one point of view.

At this committee's meeting, some stakeholders have claimed that companies would be in a good position if the CWB lost its influence over grain transportation. How would you respond to such a statement? In your opinion, what leads some people in the community to make such comments?

Maybe I can get an answer from all of you, please.

• (1155)

**Mr. Paul Miller:** We're sort of the operations guys from our side of the house. We're not really qualified or capable of making comments on the policy the government may bring in for the CWB.

We have processes that have been built over the years that include the CWB in our overall tactical planning of transportation on a weekly basis. If for some reason the CWB wasn't there into the future, we would have to rebuild some of those processes.

But CWB is a very important customer of ours. It's our largest single grain shipper from western Canada. We work with it very closely. I guess we'll wait with others to see what comes down the pike.

**Mr. Alex Atamanenko:** Thank you.

Mr. Heney.

**Mr. Tim Heney:** About 65% of the grain through Thunder Bay is Wheat Board grain. The remainder is non-board. We have a variety of users of the port system, and there doesn't seem to be a real consensus as to the effect the Wheat Board and its single desk would have if it were modified. There are those who say they would get more grain through the port. Others say it would be poor for the port. I don't really know the answer to that. There are a lot of variables in play.

Certainly the ocean vessels are not being utilized by the Wheat Board, whereas they are being used by the grain companies for their non-board shipments. The direct rail program is entirely Wheat Board grain. So from that aspect it's really difficult to determine the exact effect a change to the Wheat Board would have on transportation. We consider the seaway and the port to be a viable system under all conditions, so whether that changes or not...

There is also the fact that the Wheat Board ships a lot of grain through Churchill. It's always been a sore point with Thunder Bay, given that it serves the same markets under different subsidy conditions. If that grain were to come back to Thunder Bay, I guess we'd consider it a good thing.

**Mr. Alex Atamanenko:** Mr. Sobkowich.

**Mr. Wade Sobkowich:** Likewise on CN, we don't have a recommendation on the Wheat Board file whatsoever. But the changes we are recommending to the Canada Transportation Act are going to be required regardless of what happens or doesn't happen with the Canadian Wheat Board.

You said people are asking you if we need the Wheat Board there to counterbalance what otherwise we'd be left with in terms of an imbalance if they weren't there. Whether that question is right or wrong, the fact that it's being asked speaks to the fact that we need to strengthen the Canada Transportation Act.

**Mr. Alex Atamanenko:** I'm going to get a little more specific here on transportation itself.

I think all of us agree it's unacceptable that there's a 60% or 70% spotting plan. It doesn't make sense from the point of view of business if I want to do something, I'm relying on a day, and I can't because the cars aren't there. Are cars being held back somewhere to ensure that profit, or are there just not enough cars?

To you folks, is there a difference between CN and CP? If that's the case, what is the difference? Are you learning from your competitors if they're more efficient in certain areas? Obviously this situation has to be improved.

Maybe I'll start with you, Mr. Sobkowich.

**Mr. Wade Sobkowich:** I'll start with your last question.

CP is performing better than CN. We don't have an accurate measurement, but they're spotting at closer to 80%, and we're seeing

a trend to more grain moving to CP because of it. But companies are obviously limited in their ability to do this, because if they're located on a CN line it costs more to the company and the farmer to truck that grain to a CP site.

We come back to the fact that the rules set out for the railways are deficient, regardless of how they're performing within those rules.

**Mr. Alex Atamanenko:** Gentlemen, let's put you on the spot. That's why you're here.

CP has an 80% rate and yours is 60% or 70%. What's the reason? You're both in it to make money. Obviously something's wrong. Do you have an explanation for this?

● (1200)

**Mr. Peter Marshall:** I do. And these are good questions. We don't shy away from them.

CN supplies to quite a different network from the one CP supplies to, and CP does a great job. In fact, just this past year we put in place a new co-production agreement with CP into Vancouver. It allows CP to bring railcars, and specifically grain cars—and other products, but mostly grain—that run on the CN lines in Vancouver to get to the Saskatchewan Wheat Pools and the JRIs of the world rather than going through their own yards. It's more efficient for the industry. It's more efficient for CP, it's more efficient for CN, and it's more efficient for the grain companies if we allow that co-production agreement to take place. I got in bed with CP to do that specifically. It's better for the industry, so we have a new co-production agreement into Vancouver as one example.

We also go to Ridley, which CP does not. We also go to Churchill, which CP does not. Any delay in those supply lines to Churchill or to Prince Rupert is going to impact the return of cars to get spotted back into the field.

In the process that we employ today, the plan is put together a week ahead of time. Cars that are coming back to the country could be at Thunder Bay, could be at Churchill, could be at Prince Rupert, or could be in Vancouver. We're anticipating them to flow back into the field to get spotted at elevators. If there's any kind of disruption like the one we had in Churchill at the end of this shipping season, when the weather was bad, they couldn't unload, and the ships couldn't come in, those railcars sit there day after day. I'm planning on those cars to come back into the field to get spotted. If they don't return to me, I can't spot them.

What we do have to do a better job at is communicating. If the cars are not going to come back, we have to tell the grain company, "I'm sorry, we anticipated a hundred cars back from Ridley or a hundred cars back from Churchill. They didn't make it for these reasons, so we're not going to be there on Tuesday; we're going to be there on Thursday." There's no question that there has to be some communication going on there.

But there are pieces of the puzzle that the railway does not control. Those two pieces themselves, Churchill and Ridley, are two pieces of the puzzle that CP does not have to contend with.

**Mr. Alex Atamanenko:** Just as another follow-up on this, it sounds to me as though there's not enough equipment.

**Mr. Peter Marshall:** I believe there is enough equipment. If it's used properly, there's enough equipment to move the Canadian grain crop.

**The Chair:** Mr. Sobkowich, do you have a response to that?

You're out of time, Alex. Sorry.

**Mr. Wade Sobkowich:** I just wanted to mention that if a grain company sells canola to Japan and they aren't able to meet their contractual commitments, they don't go to the customer and say, "We didn't get the grain from the farmer, so we're going to be late", or "We can't fulfill our obligations." We have items in place in our contract with the farmer to mitigate damages.

CN and CP have demurrage. It may be the fault of the company or it may not be the fault of the company, as we said before. You plan your movements. If you're planning to get the car on Monday, it's going to end up at the terminal so that you can unload it in a timely way. If you don't get it on Wednesday, you take that into account with all the rest of the elevators, and you end up with bunching at a terminal. You can't unload the cars quickly enough because you got them all at the same time, and you pay demurrage. We have demurrage in place presumably to be used to mitigate the ill effects of that when spotting is required in the country.

We assume that the railway would take that demurrage, use it to increase car supply or whatever they need to do in order to ensure their commitments in the country. But what we're seeing is a demurrage penalty in place. However, we're also seeing CN using the fact that terminals can't unload the cars quickly enough—or maybe they didn't, which may or may not have been the terminal's fault—as a reason for why they couldn't spot in the country. But in our view, that's why demurrage is there.

**Mr. Peter Marshall:** I'm not saying it's the terminal's fault. I'm just saying those are the facts we have to deal with.

**The Chair:** Thank you, Mr. Atamanenko.

Just before we move on, does anybody have the comparison in volume numbers between CP and CN?

**Mr. Peter Marshall:** Not in a detailed view.

**The Chair:** Ballpark?

**Mr. Peter Marshall:** We're about fifty-fifty.

**A witness:** Yes, it really is about fifty-fifty.

**The Chair:** It's a good comparison. It's not apples and oranges; it's two different kinds of apples.

**Mr. Peter Marshall:** Year to year, it might flip-flop a little bit, 48 to 52, but it's pretty close.

**The Chair:** Yes, depending on production on their runs and so on.

Good. Thank you.

Mr. Easter, for five minutes, please.

**Hon. Wayne Easter (Malpeque, Lib.):** Thank you, Mr. Chair.

On the last comments made by Wade, this is very serious. In terms of poor performance, whether it's as a result of the shipper or the carrier, demurrage or whatever, who really ends up bearing the final cost of that?

•(1205)

**Mr. Wade Sobkowich:** It's shared between the grain company and the farmer.

**Hon. Wayne Easter:** It all seems to get borne back to the primary producer one way or the other.

**Mr. Wade Sobkowich:** A large portion of it, yes.

**Hon. Wayne Easter:** That's the problem.

You mentioned as well, or it may have been Robert, that the May 5 package that went to Transport Canada...you reluctantly agreed to a proposal.

And we do need copies of that, Mr. Chair.

**The Chair:** We will get them.

**Hon. Wayne Easter:** But you need the strength of the Canada Transportation Act.

Well, I found in my dealings, both on the government side and the opposition side, that Transport Canada seems to have always weighted its proposal more in favour of the railways. I don't think there's any question about that. Primary producers seem to be the forgotten factor. So I think we have to keep that in mind as we're moving ahead.

In the act itself, though, as it relates to the railways, there is a legislated requirement for the railways to provide sufficient railcars, pursuant to the provisions of the Canada Transportation Act pertaining to service levels. Do you as shippers believe the railways are meeting those obligations under the CTA?

**Mr. Wade Sobkowich:** Well, no, we don't, in a simple response.

**Hon. Wayne Easter:** Then I'll move to the railways

I agree with you, Mr. Marshall. You said there are a number of pieces to the puzzle.

This is partly in relation to Alex's comment. You do know, as a railway, that there are going to be times when you have floods, as happened recently in B.C., that there are going to be labour shutdowns in other areas. Do you not have within your car capacity some sleeve to protect against those natural events?

**Mr. Peter Marshall:** I think what we need to collectively look at is the total available capacity in the system, whether it be with the producer, whether it be with the grain elevator in the country, whether it be with the railroad, whether it be with the ports. Until that available capacity is utilized, I think we incur extra costs that don't need to be there. It's quite easy for me to say, let's add another 1,000 cars into the network. I think that would be a mistake because, as you say, the cost would ultimately be borne by the producer. I believe very strongly that there are components of the system that are underutilized today. We have an obligation, as an industry, which the railroads are part of, to determine where that capability is, to squeeze that extra efficiency out without incurring extra cost to the system.

That's what I believe.

**Hon. Wayne Easter:** I guess that isn't happening, Mr. Marshall.

I remember before you guys could close down a branch line, you used to appear before the CTC at public hearings in the west. I've been at some of those. That protection isn't there anymore for communities. We've seen branch line after branch line close down. You're basically left with mainly a main line now.

We've seen the Crow rate go, and farmers are picking up huge costs as a result of that. Farmers felt they could get the hopper cars, and now that's gone. We know that in that process the railways were gouging in terms of maintenance costs. So when are we going to see, from the railways, something that's going to improve the system for the benefit of the farm community? We haven't seen it. Government has made move after move after move.

I want to look at these May 5 proposals, but I think we've come to the time when, if the railways have to be penalized, they're going to be penalized, because you're not living up to your obligations.

**Mr. Peter Marshall:** As I said in my remarks, I believe the system is one of many pieces of the puzzle. I believe the railways have a strong role to play there and have made a strong contribution. As I mentioned, we have invested in our physical plant, we've invested in locomotives, we have hired people. We are in the business of transporting products. The grain companies and the country elevators have rationalized over the years. They have made changes to their network. If there are no elevators on a grain line and no grain coming to an elevator, other business decisions get made.

So I feel quite confident that we have done a lot of very positive things over the years. Again, I also believe it takes every part of the chain to work together to continue to improve.

• (1210)

**Hon. Wayne Easter:** I'm not disagreeing. I'm not saying you haven't done positive stuff; you have. But in terms of Canada, where in the Prairies we're an average of 900 miles from tidewater, transportation is functional to marketing, and the primary producer is captive of all the other players in the system. I'm not saying when you're ending up spotting only 60% of daily car spots there isn't a serious problem, because somebody is paying a price and it always ends up back at the primary producer.

So let me just close with this: do you have the capacity to move the total crop between the two railways; and do you have the capacity on a weekly basis to spot those cars, and on a daily basis?

**Mr. Peter Marshall:** I can't speak for CP. I know, for CN, we have the capacity to move their crop. Incidents are going to happen that are outside of everybody's control in terms of weather and so on. I also believe that within that there is still room for efficiency in other parts of the chain to help with that ability to spot the railcars.

**The Chair:** Thank you, Mr. Marshall.

I'll move to Mr. Storseth, for five minutes, please.

**Mr. Brian Storseth (Westlock—St. Paul, CPC):** Thank you very much, Mr. Chair.

Maybe just to pick up on that last point, Mr. Marshall, could you help explain what you perceive to be some of these other efficiencies within the system?

**Mr. Peter Marshall:** I think the simple ones are continuous operation—24/7, as an example—and in some cases the compo-

nents, the terminals and the country elevators, do work on a Saturday or a Sunday. This is a conveyor belt, with cars and locomotives going from point A to point B and returning, and sometimes we are collectively subject to things that are outside of our control, such as weather. The farmer may not be able to get to the elevator on a given day because it snows and he can't get his crop there, so there's not as much grain in the elevator. We've had, as described, pretty bad weather in the Lower Mainland. We've had snow in Prince Rupert. We've had terrible weather in Churchill in the last couple of weeks of the grain season there.

When things are out of our control, we need to collectively get together and understand how we can improve what we have available to us. So if the cars are moving in the middle of the night and they get to an elevator at 2 o'clock in the morning, they're going to sit there until 8 o'clock in the morning or perhaps 9 o'clock in the morning. There's some efficiency there that I think can be captured.

I think some of our challenge is that we have third parties involved and we have processes that are a little bit more complicated than they need to be sometimes. A more direct relationship between the provider of transportation and the user of the transportation might simplify things. But those are all things that, again, I think have been on the table previously.

**Mr. Brian Storseth:** But these efficiencies you talk about surely are the same kinds of efficiencies as other forms of transportation have to deal with, day in and day out, in this large country of ours and are things that you've been continually talking about for years.

I want to move on. I have a lot of things I'd like to talk about here. This GX 100 program that you have, everybody seems to favour somewhat. Are there any plans for smaller loads as well, such as a fixed carload, and have you consulted at all with the shippers on this?

**Mr. Paul Miller:** Yes. We've been speaking with shippers really as recently as last week and yesterday on various aspects of some of the products we're offering: improvements to the basic GX 100 offering, expansion of the GX 100 offering, and then how we move this scheduled sort of approach or mindset down to some of the smaller blocks. So those discussions are ongoing.

• (1215)

**Mr. Brian Storseth:** You talk about some of the punitive measures that the rail lines would face in this GX 100 program that you have. Are they comparable to penalties that the shippers themselves would face should they not meet their contractual obligations?

**Mr. Paul Miller:** They're comparable. We've had some discussions recently—and I don't have the documentation here in front of me—about whether the time window that we're allowed is the same as the time window that the shipper is allowed to accomplish what the shipper has to accomplish. So we have some discussions ongoing there about moving those around. The penalties are comparable, and that is how it was designed.

**Mr. Wade Sobkowich:** I think GX 100 is a good example. It shows how the railways can perform when there are penalties. What we're seeing is that when there are penalties, they're moving, and they're spotting it at a higher level. When there aren't penalties, they're not.

This is also illustrated by some of the other things CN does for other industries. For example, CN has CN tariff 9000 for other industries. This doesn't apply to grain, but in this tariff, CN has the guaranteed car order program, which provides for reciprocal penalties for non-performance. Customers can order the cars by day of the week up to four weeks out. Once these cars are accepted, CN pays the customer \$100 per car, if the cars are not spotted on time, to the day of the week. The customer pays a penalty if the cars aren't used. As a result, they're performing in percentages that are in the high eighties and low nineties on these products.

**Mr. Peter Marshall:** They are a component of a commercial private contract between CN and the customer.

**Mr. Brian Storseth:** I have to address one thing that you brought up. I would like to talk about some other things, but I have about four seconds here.

You talked about the fact that your accident rate has been reduced by 21% year over year. Can you tell me exactly how many accidents that is? Is this attributable to any particular change you've made in your safety policies, or is it just attributable to the fact that last year was a record high in accidents?

**Mr. Peter Marshall:** It wasn't a record high. The numbers I have here show that we had 221 this year versus 280 last year. That's where the 21% comes from.

I would say that this comes from a very comprehensive call to action on safety at CN, starting from our CEO on down. We have recognized that there is an ongoing need to make breakthroughs in safety, whether it be personal injuries or train accidents. We have gone out this year across the property and had very comprehensive assessments, action plans, and programs put in place to see that improvement. We expect that, and need that, to continue.

**Mr. Paul Miller:** It's technology investment as well as people and processing.

**The Chair:** Thank you, Brian.

Madame DeBellefeuille?

Monsieur Roy.

[*Translation*]

**Mr. Jean-Yves Roy:** Thank you.

My first question is for Mr. Marshall. I've heard you say at the beginning that the system is not very efficient and there are many problems. Of course, one can always use the weather as an excuse but not 365 days per year. Accidents may happen but they don't happen either on every line 365 days per year.

Is it a matter of bad equipment? Why are there so many delays? Why aren't you able to advise your clients in advance? Why can't you tell them in advance that there will be a delay and that they shouldn't bring their staff in because the train will only arrive in two or three days?

I don't understand. There seems to be a communications breakdown somewhere. For example, if one of your shippers knows that there will be a delay or if there has been an accident, the first thing to do would be to advise your client to let him know that the train will be two or three days late. If you did that, your client wouldn't have to keep his people on standby.

There's something I don't understand here. There's a lack of communications. That doesn't make sense.

[*English*]

**Mr. Peter Marshall:** Thank you for your questions.

Starting with your question on communications, I agree that there needs to be better communication at CN with the customer. There also needs to be better communication in the system. Sometimes we are not advised as a railway that there are issues. Sometimes the third party—

For example, let's say railcars are moving to Churchill and the weather is bad. Nobody knows when the weather is going to improve. Nobody knows when the ship is going to arrive. There are decisions outside of our control that we are just not advised of. Sometimes by the time the information gets to us it's too late.

• (1220)

[*Translation*]

**Mr. Jean-Yves Roy:** When you say that it sometimes happens that you are not informed, I have a problem with that. Can't the train conductor advise you?

[*English*]

**Mr. Peter Marshall:** We continue to work with the industry on the importance of communication. The sooner they let us know, the sooner we can make decisions and the sooner they can make decisions.

I guess what I'm saying is that sometimes they don't know themselves. And things happen. Sometimes when we're moving a train of empty cars or loaded cars the locomotive fails, the train stops, and we have to go and rescue the train with another set of locomotives. It may take several hours to do that.

Those are things that we know and we can communicate. But when it's with a third party—I'm not saying this happens all the time, Monsieur Roy, and again, I think we can improve our communications—sometimes we don't get the information on things that are occurring. Collectively, I think, the system needs to work better at communicating, but we ourselves certainly have an obligation to communicate better.

[*Translation*]

**Mr. Jean-Yves Roy:** I'm not convinced by your explanation. If you have a 100-car train moving on a rail line line, I can't conceive that you would be unable to be informed of its status. I'm sorry but, if anything happens, you should be informed immediately in order to be able to advise your client. I think that is essential. That's what good service means.

If a train breaks down, of course, the first thing to do is to start repairs. However, the very next thing should be to advise your client that there will be a delay because the locomotive broke down. I think that would be the first thing I would do if I were the carrier. I would try to communicate with my client to let him know that I would be late because of a breakdown. I would tell him not to keep his staff on standby since the train would be a day or two late and that I will call him as soon as I'm able to give him a firm arrival date. That would be logical, I believe.

[English]

**Mr. Peter Marshall:** I understand and I think a lot of communication goes on, but it's very complex and it's not the train that fails with its locomotives. That we all know, and we can communicate that. When we put a plan together with the industry, it's a week in advance. It's on Tuesday or Wednesday, so the following week we will be at your elevator.

If the cars are in Churchill that we expect to come back to spot at that elevator, and they don't come back to us, we will tell the train, there are weather issues in Churchill, the cars are not coming back; what do you want to do? In some cases the grain companies take that information and they change their location. Okay, don't spot them here; spot them over here. Go to a different elevator. That takes time to communicate through the system. Maybe those cars are coming from Thunder Bay.

So tremendous amounts of change go on every day in the process. Again, as an industry, we have done a much better job of communicating that. With fewer elevators, there are fewer chances for problems at the elevator. With programs like the GX 100, again there's a much higher probability of that working because we have a commercial contract that has penalties both ways. That drives some of our results.

But I don't disagree. We need to communicate better. I think CN is a part of that solution and I think the rest of the industry is also part of the solution. We need to help each other.

[Translation]

**Le président:** That's all.

[English]

Mr. Boshcoff, five minutes, please.

**Mr. Ken Boshcoff:** Mr. Heney, regarding the St. Lawrence Seaway system, we talk about the fact that the port gets 400 vessels a year, which is down considerably from the heyday. What is the critical mass or what is the prime determinant that makes for a functioning seaway system? We know it's working in combination with all those other transportation systems. But where are we, and if some of these train changes that have been suggested by the WGEA don't happen, is there an impact that could affect the seaway?

**Mr. Tim Heney:** To my way of thinking, there are two parts to the seaway. One is the lower lakes and one is the full route all the way to Thunder Bay. And grain is the only option in Thunder Bay at this point. We have coal and we have potash to smaller degrees, but in its history, grain has been the mainstay. So without the critical mass, as you say, in grain, you could eventually lose the capability of the seaway being a link to western Canada. In other words, a route that travels 2,300 miles inland is sustained basically by grain.

We still have nine elevators. That's far more than is theoretically required and that's sustained by the diverse ownership of those elevators. But certainly we're at the lowest. The last five years have been the lowest five years in the history of the port and grain. How much lower can it go? It's always a question. We don't know. You will start to see elevators lost during consolidations of companies. Beyond that, it seems to be sustained by that distinct ownership.

• (1225)

**Mr. Ken Boshcoff:** Thank you.

This is for CN. There has been some nervousness about the movement of personnel and intelligence operations to Chicago from Montreal. Whether it's a real or perceived issue, the movement of the system from being transcontinental east and west and now with the tremendous impacts north and south in the United States, should Canadians be concerned, even as we talk, about some of these policy decisions, about a gravitational pull or movement from Montreal to Chicago as headquarters and operational centres?

**Mr. Peter Marshall:** I'm not aware of any plans at this point. I think we have a North American view. Structurally, we're in three regions—eastern Canada, western Canada, and the United States—and right now that model is working very well. I don't have anything further to comment at this point.

**Mr. Paul Miller:** We could just add, sir, that while some may argue whether it was the movement of intelligence or not, the movement of our network operational group, of which I am a part, was from Montreal to Edmonton. Edmonton is our network operations headquarters for our entire system, east, west, and south. In fact, it has been publicly announced that we're investing in facilities and real estate to rehouse that network operations function.

So as Peter says, neither of us is aware of any plans, and certainly the plans that we are aware of are to maintain the importance of the Edmonton operation.

**Mr. Ken Boshcoff:** For the WGEA, when you talk about this lack of balance in accountability, I think that concerns us all. I know the proposal, the consensus, was supposed to find a solution for that.

Were the railways involved in terms of the understanding about penalization if they don't provide service? The corollary is that if the minister said he would act on your solutions, why would he promise that in the first place if there wasn't an intent to follow through?

I'll just leave those two. I don't think we'll have much more time beyond that.

**Mr. Wade Sobkowich:** The railways weren't involved in the discussions with the shipper group, nor were they involved in the discussions with Transport Canada. The thinking at that time was that the situation had regressed to such a point that there was no way we were going to be able to sit down and reach a consensus with the railways. Our objective was to come to Transport with some solutions that they said they would accept, and those were our expectations.

As for where the minister's head is at and how it got there, I can't comment because I don't know.

**Mr. Peter Marshall:** Minister Cannon asked both us and CP to come up with some solutions, because we were not part of the industry associations at that time. We embraced that opportunity, we did bring forward some proposals, and there were some very comprehensive discussions. At the end of the day, the proposals that we had put forward and on which we were making some good progress actually didn't conclude, because there were some other items that were brought into the discussions relative to shipments to the U.S. The industry was therefore not able to support the proposals. They weren't able to kind of get a consensus among themselves. That's where things stand right now.

• (1230)

**The Chair:** Thank you, Mr. Boshcoff.

Mr. Anderson, for five minutes.

**Mr. David Anderson:** We've been studying another issue at the committee here as well, and that's the Canadian Grain Commission and the COMPAS report on that. I would like some response from all three groups about what role you feel the Grain Commission should play. What kinds of changes should we, the committee as a group, be looking at making in our recommendations to the government? I'm particularly interested in your perspectives on inspection and those kinds of things.

Actually, Thunder Bay interests me in particular, but everybody can answer the questions.

**Mr. Peter Marshall:** We can only speak for the railroads on this. We don't have a position on it. I'm not really familiar with the proposed changes, and this is not a part of the business that we get involved in at all.

**Mr. David Anderson:** So when you're saying terminals aren't able to handle your loads and that the CGC's ability or inability to provide services there doesn't have a direct impact on—

**Mr. Peter Marshall:** I think that's a very valid point and a good point. It's something we would probably interface on with the terminals themselves or the grain companies themselves, rather than going directly to CGC.

**Mr. David Anderson:** Maybe Mr. Heney can deal with that.

**Mr. Tim Heney:** As the port has adapted to some of these modern operating methods, like 24-hour rail loading and things like that, the Grain Commission in Thunder Bay has been rather slow to adapt to those kinds of working conditions. On occasion, they've refused to put on midnight shifts. They've charged overtime for four o'clock to twelve o'clock shifts. Anything out of the ordinary seems to either cost people more money or prevent them from modifying their work practices. From that aspect, they have to change the way they manage their operation or how flexible they are in terms of their working conditions, in order to adapt to the modern realities. I think they've been slow to do that.

**Mr. David Anderson:** There was a suggestion made that some of it may be able to be privatized. Do you have a position on that? Do you have a concern? Do you think private companies could do the job? Or do you feel that the CGC needs to be available 24 hours a day?

**Mr. Tim Heney:** No. I think the elevators have used private companies and do use them on occasion. In many ways, it's probably an alternative.

**Mr. David Anderson:** Okay.

**Mr. Wade Sobkowich:** As you know, we appeared before the committee here in September and expressed our views on the COMPAS report in its entirety. We support the recommendations—not all of them, but most. We think they are necessary changes.

Without getting into too much detail, we support them. In particular we support the idea that Mr. Heney was talking about, which is the CGC's obligation to provide service at the ports. They've told us that sometimes they won't have the resources to staff the ports and load the boats when they need to be loaded. We've said that it's not up to the CGC to decide when the boats are going to be loaded. We need to deal with our operations. Basically we've asked for the recommendations to be implemented.

**Mr. David Anderson:** Okay.

I'd like to have you talk a bit about the container facility in Edmonton that you're establishing. It's a good news story, but I would also like to have a little clearer understanding on how it's going to positively impact the folks living in Saskatoon, Brandon, and those areas.

Over the past few years, there has been an issue on the Prairies regarding the inability to get containers quickly, efficiently, and effectively. I want to know how your proposal is going to improve the situation for producers.

**Mr. Paul Miller:** Sure. The basic logistical idea is pretty straightforward. Right now due to the strong importation of consumer goods from Asian economies into Canada, a number of steamship line containers go back empty, at least to the ports and often across the Pacific. The more containers that could be made available on the Prairies for loading, the better it works, because we avoid having an empty container moved to Vancouver, and an empty grain hopper car moved back from Vancouver.

Within a few hundred miles, the Edmonton facility is both a truck and a rail market. Producers could choose to truck their traffic to the Edmonton facility, where it would be transloaded into containers, then moved by rail to Vancouver. But it's also available for hopper car service.

So Humboldt, Melfort, and Saskatoon could choose to ship by rail to the Edmonton facility as opposed to shipping by rail all the way to Vancouver to a container stuffing facility and making the transload. This takes a significant chunk of two-way empty movement, or cross-hauled empty movement, out of the equation.

• (1235)

**Mr. David Anderson:** You're saying that you'll be able to take hopper cars and then stuff the containers in Edmonton? Are you using bulk product there? Does it have to be bagged? Are there any restrictions in terms of stuffing the containers?

**Mr. Paul Miller:** No. It tends to be speciality type crops, for which folks are looking for identity preservation. It can be bagged, or it can be just a big plastic liner that goes into the container, which is then loaded in bulk.

**The Chair:** Thank you, Mr. Anderson.

We'll move to Mr. Atamanenko for five minutes, please.



**Mr. Alex Atamanenko:** Perhaps Mr. Marshall and Mr. Miller can give me a quick answer on this. Canadian National Railway is no longer just the Canadian National Railway. You're a major player, the fifth largest railway company in North America, which is to your credit. Could this be a factor, in that some of the inefficiencies we're seeing with this 60% to 70% may be caused by decisions made outside of Canada that influence our grain transportation? This is kind of a philosophical question.

**Mr. Peter Marshall:** The answer to that is no, because most of what we're talking about today reflects western Canada. It's pretty much contained within the western Canadian borders. The decisions are made in the west.

I look after the west from Armstrong, Ontario, to the west coast, so the group we're talking about is pretty much in my backyard. We are responsible for providing the service and the resources to move the product, so it's invisible as far as I'm concerned. It's western Canada based.

**Mr. Paul Miller:** Perhaps I could add to this very quickly, from a network perspective. The techniques that we use to try to minimize congestion to the Canadian ports and congestion within the Canadian movement system and delay are identical to those we use in the U.S. In fact—and this is a very small anecdote, it's not the philosophy that you're discussing—we're actually moving resources from the U.S. to western Canada right now, because we're seeing some congestion. We can't use them effectively in the U.S., so we're bringing them out to the west.

**Mr. Alex Atamanenko:** Have you any comments on this, gentlemen?

**Mr. Tim Heney:** In defence of CN, I think their operating practices are being emulated in many ways by CP and many other railways, so it's not only a CN type of operation; it's a way to efficiently use their fleet. It's a new reality in North America, I think.

**Mr. Peter Marshall:** I'd like to mention that we seem to be spending a lot of time on this 60% or 70%. What we're saying is that during the week we're 90%, and in some weeks we've been 95%-plus. It's the day of week that we're a little bit out on. If we don't get there by midnight, one minute after, technically we're late. That's an area we have to improve on, I don't disagree with that. But again, I think we need some help in some respects as well.

**Mr. Wade Sobkowich:** Yes, relative to the last comments, we're interested in improving that number.

Another measure of performance is cycle times. We know that cycle times are around 18 days. Recently, I think, they've gone down to 17.7 or something like that, so that's an indication of efficiency. Another indication of efficiency is deviation from the cycle time—reliability, in other words. Recently we've seen cycle times get a little bit better. We've seen deviation from the average get a little bit worse.

I'm pretty sure that doesn't answer your question, but it's a point I wanted to make.

**Mr. Alex Atamanenko:** I have one last question. This may be a stupid question, but as a former teacher I guess there are no stupid questions, so hopefully you'll forgive me.

You don't seem to be meeting your targets during the week to be where you have to be, except at times, and it's frustrating for the other people. Logically, one would think that there has to be—and I asked this question before—more equipment to facilitate this process, yet you're saying this is not a factor, and that if there were more, then the farmer would bear the cost. I don't understand that. A private company has to meet its commitments, increase the cars or personnel or locomotives, and I don't understand why then the farmer bears the cost. This is your company that's making that investment to make more money to serve the people.

I would like that cleared up, please.

•(1240)

**Mr. Paul Miller:** Sir, one of the things that we continually focus on is to have the right number of assets and the right amount of capacity to meet the market requirement. We mentioned earlier in this presentation, I believe, that the amount of grain we expect to lift in western Canada is well known and it's communicated in advance. It's 4,450 cars per week, and we have put our car fleet plan in particular, but also our service plan, locomotives and so on, in place to meet that.

What we have found over the long history of railroading is that if you start to fall off and you try to address that by flooding in more assets, you wind up slowing down the whole system. You can have a very unintended consequence, and we've seen that ourselves in the past, much to our chagrin, when we've had many more cars, sometimes twice as many cars as a port can unload. The reason for that would not be because of the port or our customers or the terminal elevators, but situations have developed where we have twice as many cars loaded as they could unload in an entire week. That simply slows the whole system down and you wind up worse off than you would otherwise have been.

So we're very much focused on having the right amount and then addressing and fixing and working with others to address and fix what's broken, what has caused the delay, in order to get back to the country with the empties. That's our operating philosophy in all of our lines of business, not only grain but throughout.

**The Chair:** Thank you, Alex.

A final point on that, Mr. Meijer.

**Mr. Robert Meijer:** Let me just...I don't know whether "clarify" is the best word, or just "get some more discussion" here. Let's keep in mind that the 4,450 that was just thrown out is a number that's provided to us. It's not the demand that we have signalled as shippers in this equation. The number 4,450 in this context is what the carriers have come to us and said is realistically what they feel they can give us.

As I said, we reluctantly accept that; then, based on the allotment among all the shippers in this industry we're participating in, we're finding ourselves in that 60% to 70% on a daily basis. They're using a weekly number. As we said, if we expect a car to be there on Monday or Tuesday, that's when we hope it's going to be there.

So there is a spread between the demand and what we get. I would not like to think it would be the shipper who tells us what the demand is; we know what the demand is. We're telling our carrier, this is what we need, and they're saying, okay, but this is all you're getting. So that's a part of it.

Just to bring it back a little bit, if I could, Mr. Chairman, I've sat and listened to all of the discussion, and there have been excellent questions. I think the dialogue has been fantastic here today. But one thing that gets me—I've heard it here a couple of times, and we continue to read it—

Years ago we were all at this table, and I suspect next year we'll be at this table, and I certainly think years from now we'll be at this table to address Mr. Easter's point. Where we're coming from is that we need legislative reform to get the base right, to get the playing field right, to get both shippers and carriers on equal footing, where both are held accountable in a very transparent way to the obligations of the industry, and most importantly—and I've heard it here many times from many of the members of the committee—so that producers are protected, in particular on the cost side.

We as companies make investments, as do the carriers as well, and we have to bear some of that cost—we accept that—and shouldn't be allowed to simply pass it on in the system, and that's a part of legislative reform.

I think it's great that we come here and have a dialogue about all the operational things and the business elements of our day-to-day transactions, but we'll continue to do that. I'm certainly not coming here to Ottawa today to ask the committee to sit and hold our hands and help us through it. I want the ability, through legislative reform, as does the WGEA, that when we get into problems we can go to an arbitrator and say we have a business issue here and don't want to have to run to government—to go to a committee—to complain about it.

**Mr. Wade Sobkowich:** May I answer Mr. Atamanenko's question?

• (1245)

**The Chair:** Very quickly.

**Mr. Wade Sobkowich:** I agree with you that farmers shouldn't have to pay for those costs when there are service deficiencies in the country. We think that's what demurrage is for. Demurrage should be taken and used to make sure the railways can fulfil their commitments in the country.

**The Chair:** Mr. Miller, you wanted to make a point on this issue?

**Mr. Paul Miller:** Just very briefly, Rob is right—going back to the 4,450—that it's a number that we publish. I would hope Rob would agree with me—we might debate a bit around the edges—that there is some science and a lot of history to that number, about what the overall system can produce.

**Mr. Robert Meijer:** I agree. There's no doubt about that. Yes.

**The Chair:** Okay.

On that point, before I move to Mr. Easter, of the 4,450, what numbers are you dedicating to producer cars? They're the mainstay of a lot of the short lines and the secondary lines. Is there a dedicated number?

**Mr. Paul Miller:** Sir, we'll have to get that number back to you. I don't know the number. I'll be very honest; it's not a huge percentage of that total. But we can get the number of producer cars that are loaded as a percentage of the total.

**The Chair:** That would be good. I would love to see that.

The other point I have is this. Peter, you mentioned at one point that there is some muddying of the waters with third parties who make the communication lines and the allocation of cars difficult. Can you give me some examples of those third parties? Who are you speaking of?

**Mr. Peter Marshall:** I'm certainly not saying it's intentional; it's just—

**The Chair:** We're not pointing fingers.

**Mr. Peter Marshall:** That's right.

It's vessels, arrival times. As an example, a vessel may be coming into Ridley Terminals. The industry believes it's going to be there on such-and-such a day, and maybe there are issues on the sea and it doesn't get there for two or three days, so the grain stocks pile up in Ridley.

And sometimes there are space issues. They can't unload the railcars because the terminal bins in Vancouver, Thunder Bay, Churchill, and Ridley are full. That's one thing.

It's very difficult. I'm certainly not an expert on marine shipping, but I know that sometimes the communication there is not what it needs to be.

**The Chair:** Who coordinates that?

**Mr. Peter Marshall:** I'm not a hundred per cent sure about that. In terms of the shipping, you're saying the vessel—

**The Chair:** Yes, the booking of the ship coming in. There's demurrage both ways.

**Mr. Peter Marshall:** That depends on whether it's a Wheat Board vessel or a grain company vessel, especially if it's non-board grain.

**The Chair:** As my final point, in your allocation of cars—well, allocation may be separate—when you're providing cars to a certain elevator point and so on, do you consider the Wheat Board or the elevator that contains the product to be the shipper? Who's the shipper?

**Mr. Peter Marshall:** That's a good question.

**The Chair:** How do you ascertain—I don't want to say blame—which is doing its job properly if you don't know who the shipper is?

**Mr. Paul Miller:** The Wheat Board is the shipper of record for their products—and gentlemen, you can correct me—but the elevator company for the Wheat Board products is basically operating as its agent.

**The Chair:** So the elevator, on behalf of the board—let's say it's Mr. Meijer's Cargill—orders 50 cars for number three on a certain day and hopes to get them. The board is not in that equation at all, other than that Mr. Meijer bought that grain on behalf of the board and has it in-house. Does he deal directly with you, or does the Wheat Board deal with you and say, Rob has our grain, go pick it up?

**Mr. Paul Miller:** These are some of the complicated but working well issues that we talk about. The Wheat Board has—

**The Chair:** If you don't understand it, I can understand why you have problems trying to make the thing work.

**Mr. Paul Miller:** No, I think I understand it. The Wheat Board has an allocation of capacity with which they, in turn, work with the grain companies to bring in the grain in grades of product that they're looking for.

**The Chair:** Yes, the quota system and all of that.

Good. Thank you.

Mr. Easter, for five minutes, please.

**Hon. Wayne Easter:** Thank you, Mr. Chair.

On that point of the shipper, there was a class action against the railways quite a number of years ago that determined that the Wheat Board was the shipper. It should have been the railways, and the court case would have been won, but anyway that's beside the point.

The discussion here has been on the level of service proposals. In the WGEA submission you state, "Under the current Canada Transportation Act, there is a total lack of a balance in accountability between a shipper and a railway and little obligation on a railway to provide adequate service. ... Simply put - there is no penalty for a railway if it fails to provide service."

You then talked about your meetings with Transport Canada and you proposed that the CTA be amended to require an independent and comprehensive review of the level of service provisions into the effectiveness of such provisions no later than six months after the passage of this bill.

Mr. Marshall, in your discussion just a moment ago, you gave some reasons for the problems with level of service—Ridley and so on. It could be any natural factors, etc. In terms of this request for changes in the CTA, to its being amended to deal with this level of service and having a proper review, Transport Canada and the minister disagreed. Am I correct in that?

• (1250)

**Mr. Wade Sobkovich:** I'm sorry, they disagreed with what?

**Hon. Wayne Easter:** They disagreed with your proposal for an amendment to require an independent and comprehensive review.

**Mr. Wade Sobkovich:** They disagreed with the idea of inserting that in the legislation or in the bill, but they had agreed on May 5 to the idea of the review and to doing it within six months after the passage of the bill.

**Hon. Wayne Easter:** Where would the railways be on this? Should it be amended? Should there be level of service provisions? Should there be a review no later than six months after the passage of the bill?

**Mr. Paul Miller:** Mr. Easter, I'm not an expert in this end of the discussion. My understanding is that we, CN, and CP as well, I believe, had worked with a number of shippers and shipper organizations and agencies to try to find a commercial dispute resolution process that would address the very concerns that you're talking about, and that Wade and Rob have spoken about in terms of

the balance and how these things would be arbitrated, discussed, and resolved in the future.

Again, I apologize, I'm not aware of where that process stands, if that process continues to be ongoing, or whether it's still an open discussion.

**Hon. Wayne Easter:** Wade.

**Mr. Wade Sobkovich:** I can respond to that.

What happened was that the minister invited CN to go back to their customers with some sort of commercial solution, and CN met with a number of the different associations that were part of this coalition with a proposed framework for commercial dispute resolution. They met with the WGEA. We assessed it. We realized that what they had initially proposed would do very little to give us anything further than what we have under the current CTA as it is, so we said this really wasn't good enough.

A requirement, by the way, that we were advised of by CN is that if we agree to the commercial dispute resolution process it means we stop pushing for the May 5 changes. To us that wasn't acceptable. We don't have a problem with commercial dispute resolution. We think it's an effective way to resolve disputes, but it needs an effective legislative backstop. The reason the railways were proposing it in the first place was under the threat of moving to an effective legislative backstop. So we felt that we needed the May 5 changes. We're not averse to working on commercial dispute resolution with the railways.

It's like the Court of Queen's Bench legislation. Let's say you have problems with that. You'd never have the government saying, "Well, we know there are problems with the court system, but we're not going to fix it. You guys should just get together, sit down with the party who is part of the problem, and try to resolve it." It doesn't happen that way. You have effective legislative remedies and effective legislative backstop, and then if commercial dispute resolution is chosen by the parties, is developed and chosen by the parties as an alternative to using the legislation, then that comes out of it.

**The Chair:** Thank you, Mr. Easter.

**Mr. Peter Marshall:** I have just one point here.

**The Chair:** Yes, Mr. Marshall.

**Mr. Peter Marshall:** We weren't just talking about grain when CN and CP were putting this together. There were lots of associations.

Again, part of the challenge on the grain side is that there is legislation there that doesn't pertain to any other existing legislation, that doesn't pertain to any other commodity group. So it's difficult. And that's a big challenge. There's no doubt about it. But we did come forward with proposals and we have made good progress with many of the industry groups out there. But again, as I mentioned earlier, there was some introduction of some considerations for products moving to the U.S. And there wasn't a consensus there by the industry associations. So we still believe there's room for individual discussion and resolution on this with individual companies.

**The Chair:** Thank you.

Mr. Anderson, you have the last five minutes, please.

**Mr. David Anderson:** A number of people, Mr. Meijer particularly, earlier made a strong case for two-way benefits and liabilities. I've listened today, particularly to you, Mr. Marshall, and what I've really heard, I think, is a series of excuses rather than any vision. I've listed them. There are a dozen reasons why the system doesn't work here.

Two or three times you also mentioned that one of your concerns is that you don't have a commercial contract. I'm just wondering if that is the real reason we're having this discussion: you're resisting the obligation for services because your company doesn't see your relationship with grain as being a commercial contract. You've talked about being treated different legislatively. You talked earlier about one of the other commodities, that you have a contract on that and that's why you have benefits and liabilities on both sides of the issue. Is that how you see it?

• (1255)

**Mr. Peter Marshall:** Well, I see it as one of the differences; that is how I would describe it.

I apologize for bringing up facts, as you convey, that you determine to be excuses. I'm just trying to give the group here the benefit of some of the things that I live and breathe every day out there. I'm not saying there aren't things the railways can be doing better. I'm saying that we are part of a system, and we need to work as a system. It's an integrated system, and within that integrated system there are components that are different for grain than for other commodities. I'm just trying to relay the facts, how we have to deal with operating our business on a day-to-day basis.

**Mr. David Anderson:** Both national carriers deal with all those things on a day-to-day basis. I don't accept the fact that you're operating at about 25% to 30% less efficiency—in terms of stacking the cars, getting them in place—than the other provider right now. A couple of years ago it was the other way around.

I'm not sure why we have this happening, but there's a lot of frustration out there. As Wayne said, it's the primary producers who end up paying the penalty. They can't get their grain delivered. They pay the extra costs for that. It's frustrating for all of us who have to deal with the system year after year when things do not seem to be changing that much.

I just wanted to change the subject for a second.

Mr. Heney, you mentioned that the board uses only lakers when they're shipping their grain, and grain companies used ocean freighters.

**Mr. Tim Heney:** That's generally so, yes. It's about 95% lakers for the Wheat Board, and the opposite condition for non-boards.

**Mr. David Anderson:** And why is that?

**Mr. Tim Heney:** Well, there's an operating philosophy. First of all, the lakers service a couple of elevators in the river that are

serviceable only by Canadian lake fleet, and that's Baie-Comeau and Port-Cartier. Those two facilities don't have rail access, so the lakers are an integral part of moving grain in the system.

The issue becomes the size of the lake fleet. It's been declining over the years as the grain has been declining through the port. There are now about 20 bulkers—they call them straight-deck vessels—that aren't self unloaders, and those are carrying 78% of the grain in Canada on the seaway. So you're down to these 20 ships. We don't mind those being used to capacity; the problem is that we don't want our capacity limited to those. We feel that we could do a lot more grain if there were a better availability of the ocean vessel coming directly into the port.

**Mr. David Anderson:** How many companies are providing that service on the lakes? Are there one or two primary companies?

**Mr. Tim Heney:** There are two primary companies. Fednav is the largest. It's actually a Canadian-owned company with foreign-flag vessels. Canformav is probably the second largest, and then there's a variety of smaller foreign operators, as well.

**Mr. David Anderson:** If I said I had someone approach me who said that they had offered laker services and their offer was rejected, would that ring true to you, that there could be other providers out there that are not being utilized, so the freight rates are not as competitive as they should be?

**Mr. Tim Heney:** Well, certainly the ocean rates fluctuate quite a bit compared to lake rates, so how competitive they're going to be depends on the market. But you have realize that when you ship by ocean vessel out of Thunder Bay, you're not double-handling it. It goes in the vessel to its ultimate destination. When you travel by laker you have to pay that double handling and double elevation fee.

So a lot of increased efficiency could come to the port by using more of the ocean fleet.

**Mr. David Anderson:** With grain, you could be loading in freighters that wouldn't have to be reloaded or anything; it could just go to its market.

Which Canadian-owned company is that?

**Mr. Tim Heney:** Fednav.

**Mr. David Anderson:** Who are they owned by?

**Mr. Tim Heney:** The Pathy family in Montreal.

**Mr. David Anderson:** Thank you.

**The Chair:** Thank you, Mr. Anderson.

Gentlemen, thank you so much for your presentations here today. It's certainly an ongoing target, as you've brought up a number of times. I'm sure we'll see you all again. I probably won't see you before Christmas, so have a great Christmas season.

This meeting stands adjourned.







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