

Chairman Oehlke & members of the Economic Impact Committee of the North Dakota Legislature:

The 63<sup>rd</sup> Assembly was focused on improving our transportation systems here in North Dakota. In fact, Section 18 of 2013 Senate Bill No. 2012 provided for a study of the long-term costs of transportation infrastructure maintenance and improvement projects and methods for funding these projects. The traffic counts on both our highways and through our airports have skyrocketed causing us all to give careful thought to these issues. And while we may not agree on all of the solutions, we do all agree that the needs must be addressed and solutions sought.

Today, we are facing several major crises in a different segment of our transportation systems, that of our rail ways. Our rail systems are working overtime to deliver all of the harvested resources that this state produces. The most recent issue of the Agweek magazine published in our region outlines just some of the impacts of the shortages caused by this explosion in rail delivery needs in our region.

One of companies affected is American Crystal Sugar, a regional company owned by nearly 2750 shareholder farmers from our region. Today, because of the lack of rail delivery systems, American Crystal has slowed down production at three of its five plants because their storage facilities at those facilities are bustingly full. Further delays will mean the loss to their customer base which, in a year of record sugar supplies on the market, would mean longer term problems for everyone who relies on this industry from the local community businesses all the way to our differing levels of government.

Steve Strege, executive vice president of the North Dakota Grain Dealers Association, is quoted in the article stating that his members are also dealing with serious problems. The normal 110 car shuttle train normally makes three trips per month to the west coast. Some elevators are down to 1.6 to 2.3 turns, which is about 2/3 of normal. As recently as last evening I spoke with a friend telling me that several elevators in North Dakota cannot get their unit trains shipped.

What will all of this mean? It will mean an increase in the basis (the difference between the Chicago Board of Trade price and the elevator price) and thus lower prices to our ag producers, all in a year of very high input costs and low prices. I have seen the consequences of what this means first hand. I have spoken with farmers who are selling farmland this year to meet their commitments, not because of a poor crop but because of extraordinary expenses and low prices. Folks, I am sitting here telling you we are on the precipice of a crisis in our ag sector.

Besides all of this, the increase in crude oil transported by rail is causing other issues, specifically with the safety of our citizens and communities. By all measures, the railroad is the lifeline to the economic success of our oil industry. However, we all know of the recent rail accident near my boyhood home of Casselton and the others in Quebec, Canada and in Alabama. The accident in Lac Magentic, Quebec resulted in the death of 47 of the city's residents. The cargo on all of these trains was Bakken crude from North Dakota.

I was in Casselton on December 30<sup>th</sup> and saw this accident first hand. Had this accident happened in the city limits or, even worse, twenty miles to the east in Fargo, we would all have been attending funerals for our loved ones and friends not to mention the catastrophic property loss the likes of which would probably have shut down the transportation of crude oil by rail indefinitely. Honestly, the potential for this type of disaster should give us all pause knowing what is at stake here; the very people that we are elected to serve and protect are all at risk as is the very economic engine that is driving our state right now.

And so, it is my belief that we must do everything in our power to eliminate the risks of such an incredible disaster. Some of the solutions will be technological will others will be just the forces of our economy. But, clearly, some solutions must come from government.

Recently, I outlined some suggestions that would provide both short and long term ideas to dealing with this danger.

They are:

1. Promote the construction of underground pipelines that are proven to be much safer than "above" ground conduits for transporting "flammable" materials;
2. Provide incentives for the construction of by-pass rail routes around communities.
3. Require all train cars carrying "flammable" materials to be upgraded to at least the 2011 standards or better. As far back as 1991, the US Transportation Safety Board cited the DOT-111 cars (those used in all these accidents) as "inadequate" to safely transport hazardous materials such as crude and ethanol;
4. Require "automatic" and "remote" unhooking devices on all cars carrying "flammable" materials;
5. Require the inspection of all trains prior to the departure from their origination and at every point where there is a crew change;
6. Require the pre-notification of all certain sized communities of every train transporting "flammable" materials at least 12 hours in advance;
7. Require that Emergency Response Assistance Plans for each county and city that these materials pass through on the routes;
8. Require that all trains carrying "flammable" materials reduce their speeds to 25 mph through all communities;
9. Require that all passing trains be required to reduce their speed to 25 mph during the time that they are passing a train carrying "flammable" materials;
10. Hold hearings in affected communities asking for input from local citizens and government officials;

Mr. Chairman and members of the committee, it seems to me that our state has both the motivation and the means to finds solutions to both our rail shortage crisis and this potential disaster. I call on all of us to work together with the rail companies, the federal rail authority, and our state leaders to find solutions to these problems and concerns.

One of the ways I outlined as a potential solution to these concerns is with technological advances. Here today is a friend of mine, Ervin Lee. Ervin, please stand up and be recognized. Ervin is from Minot and has worked with some friends and colleagues to develop a fire suppression product that is currently used by the military to kill fire at its initial stage. Ervin's product could be utilized by both emergency response teams as hand held devices but also as attachments to the rail cars themselves.

Mr. Chairman, I would like to ask permission for Ervin to step forward and give a short presentation on this remarkable product that could potentially save many lives as well as the lifeline to our economic success. Thank you.

# AGWEEK

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## Rail service issues force American Crystal Sugar to slow production

American Crystal Sugar Co. says it is slowing down sugar production at three of its five factories immediately because of slow rail service. Some agricultural industry officials feel they're losing out to oil traffic.

By Mikkel Pates, Agweek

HILLSBORO, N.D. — American Crystal Sugar Co. says it is slowing down sugar production at three of its five factories immediately because of slow rail service. Some agricultural industry officials feel they're losing out to oil traffic.

David Berg, American Crystal's president and CEO, says the word went out Monday that the company will slow sugar production in East Grand Forks, Minn., and Hillsboro and Drayton in North Dakota, by a "sizeable" amount, but declined to quantify it for competitive reasons.

The slow-down is an unprecedented impact of rail issues for the co-op's 40-year history, Berg says. "We're looking at a phased-in response, depending on how fast the storage situation gets solved."

In Hillsboro, crews were just about out of storage space on Jan. 27 "just up to the rafters on those storage silos," Berg says. He says in the past two weeks, United Sugars Corp., American Crystal's marketing entity with two other co-ops, has been behind in shipments to customers from this region by 150 to 200 cars at a time, well above the usual zero late deliveries. United Sugars is a joint venture between Crystal Sugar, Minn-Dak Farmers Cooperative and U.S. Sugar Corp., a sugar cane co-op based in Clewiston, Fla.

Several hundred empty cars are sitting on tracks somewhere between United Sugars and its customers, Berg says. "This is completely out of bounds. We're looking for 100 to 120 cars," Berg says. "What do you do? Do you put the product on the ground? No."

About three-fourths of Crystal's 2.5 billion pounds of sugar goes out in trains, and a quarter by truck and in consumer packages. The company has increased its truck hauling as much as possible to offset the rail problem.

The "physical supply of bulk (truck) trailers doesn't exist," Berg says. "The country was founded on rail cars."

### Flood of competitors

Berg says there is a glut of sugar on the market, so there is no shortage of sugar for customers. "But if we can't get it to them they're going to go and buy it somewhere else," he says, but acknowledges he doesn't know if that has happened yet.

If production slows significantly for an extended period — say, another month — it could add time to the sugar processing campaign. A week off at a factory could mean beets processing goes longer into the spring or summer, causing millions or tens of millions of waste and loss. "It's not an inconvenience, it's a massively disruptive problem," Berg says.

There have been unrelated, exacerbating problems, Berg says. Many industrial sugar users take a week or 10 days off at Christmas time. "This year two of our biggest customers said they were going to have a longer shut-down," Berg says. "In one case it was two weeks, and other case three weeks. They ordered the cars and neglected to tell us they were extending the shut-down."

This isn't the first rail issue of the season. Starting early in the current processing campaign, the company had problems with coal cars, a problem that BNSF has worked to address.

### Earlier coal problem

All five American Crystal plants are fired with Wyoming coal, Berg says. The company built a loop track at Ardoch, N.D., about seven years ago and purchased a 114-car train set for the purpose. BNSF pulls the train into Ardoch, American Crystal off-loads the train into trucks and hauls it to individual factories. They start stockpiling it in the summer so they can last through the processing season. In October and November, the depletion rate was faster than the company could stand.

American Crystal needed the coal train to "turn" every six days, to keep up with the processing needs through the season. The "turns" started going to nine, 10 and 11 days. That meant the inventory was depleting faster than the deliveries.

At Christmastime, BNSF added a second train set to the mix — this one owned by BNSF — putting two coal trains on the road at the same time for American Crystal. While that's welcome, BNSF hasn't been quick to assign a locomotive, engine crew and track time for the train.

"We're staying even, but less than desired" with the coal cars.

Crystal isn't alone among critics of the railroad this winter.

### Other railroad critics

Steve Strege, executive vice president of the North Dakota Grain Dealers Association, says his members are dealing with serious problems. The association's 110-car shuttle trains typically can make three trips to the West Coast in a month. Some elevators report as few as 1.6 to 2.3 turns, which is "about two-thirds the speed they normally would be," he says.

Strege says competition for business is an issue for agriculture. "There's only so many crews, so many locomotives, so much track time. You give more to somebody, you give less to somebody else. It sounds like the oil industry is growing faster than the railroad is growing to keep up with it."

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Its expensive because elevators have commitments to exporters, and exporters have ships coming in. "They're dependent on this constant flow and when it slows down, they have problems with their commitments."

Berg declines to assign blame, but says it is intuitive that oil might have something to do with it. BNSF has explained to American Crystal that its problems are also weather-related, but Berg says weather is part of a normal seasonal cycle.

"Yes we've had a difficult winter, but not enough to completely run us out of rail equipment, in my estimation," he says.

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