

WESTERN GRAIN ELEVATOR ASSOCIATION

Ste. 1320-220 Portage Ave.
WINNIPEG, Manitoba
R3C 0A5

Telephone: (204) 942-6835
Fax: (204) 943-4328
E-Mail: wgea@mts.net

January 18, 2019

Sent via e-mail

Canadian Transportation Agency

Attention: Mr. Scott Streiner
Ms. Lidia Lebar

Dear Ms. Lebar and Mr. Streiner,

Re: Canadian Transportation Agency Own Motion Investigation – Vancouver Rail Service

The Western Grain Elevator Association (WGEA) is in receipt of your January 14, 2019 letter in which we are directed to supply information relevant to whether or not railways are fulfilling their service level obligations in the Vancouver area.

WGEA members have significant concerns with the deficient rail service provided by the railway companies in the Vancouver area since October 2018. Canada's grain industry relies on efficient rail service to maintain its position in global agricultural markets. The railway companies' failure to meet their level of service obligations in the Vancouver area since October 2018 must be addressed to preserve Canada's trusted reputation with international buyers.

The data summarized below and provided in the enclosed spreadsheet, illustrates the failure of the railways to fulfill their level of service obligations. The key indicators are as follows:

- The implementation of multiple embargoes by both CN and CP throughout the period November 2018 to January 2019;
- Continued rationing/denial of railcar orders during the period October – December 2018;
- Port terminal out-of-car time remains high overall at 11.84%, with certain terminals experiencing even higher out-of-car time percentages;
- An increase over last year in the number of cars not moving for 48+ hours during the same time period (mid-November to early January); and
- A substantial 50% increase in origin dwell times compared to the same time last year.

In addition to the above, WGEA members believe that appropriate metrics for determining the extent of the problem for Vancouver service would include actual unloads at the terminals versus planned unloads in the prescribed timeframes, and visibility on CN cycle times.

The parameters for the data provided below are as follows:

- Unload data as discussed below is a combination of Grain Monitor and Ag Transportation Coalition data;
- All data, other than unloads, has been collected as part of the Ag Transport Coalition Performance Measurement Program;
- Data is limited to member companies of the Western Grain Elevator Association including Cargill, Louis Dreyfus, Parrish & Heimbecker, Paterson Grain, Richardson International and Viterra;
- Data represents hopper car shipments only;
- Data represents all orders and cars supplied pertaining to shipments for the Vancouver corridor for transload operators located within the Vancouver terminal region served by CN, CP and SRY, as well as traffic destined to the following major grain unloading facilities:
 - Alliance Grain Terminal (CP)
 - Pacific Elevators (CP)
 - Cascadia Terminals (CP)
 - Richardson Terminal (CN)
 - Cargill Terminal (CN)
 - Kinder Morgan Terminal (CN)
 - Fraser Surrey Docks (CN)
- Data has been provided for the 2015-16, 2016-17, 2017-18, 2018-19 grains years for the months of October – January inclusive.
- We note that for the current grain year data is only available up to the first week of January 2019 and as such full period comparisons across the four years are only possible for the three months ending December.
- Given that the grain industry operates based on grain weeks, and that data is collected in this manner, we have defined the months based on grain weeks. The table below provides a breakdown of the grain weeks by month for each grain year in question.

Month	2015 - 16	2016 - 17	2017 - 18	2018 - 19
October	10 – 13	10 – 13	10 – 13	10 – 14
November	14 – 17	14 - 18	14 - 18	15 - 18
December	18 – 22	19 - 22	19 -22	19 - 22
January	23 – 26	23 - 26	23 - 27	23 - 27

As the table shows there can be a 1-week difference in the individual monthly definitions. For the October to December period in each of the four years there are a total of 13 weeks thus in total the periods provide for a valid year over year comparison.

A data file has been provided as an addendum to this document which provides a breakdown of weekly data.

- The cars supplied (and ordered) data includes only cars ordered and supplied through CN and CP car ordering systems. This would exclude any private cars moving under either railways' shuttle programs which are estimated to be minimal.

Total Car Supply

The table below provides a count of total hopper cars supplied to WGEA member companies for the time periods in question.

By Railway:

	RR	Month	2015-16	2016-17	2017-18	2018-19
CN / CP	CN	October	9,249	8,532	8,781	12,310
		November	7,537	11,487	10,783	10,109
		December	9,945	7,632	7,588	7,449
	CN Total		26,731	27,651	27,152	29,868
	CP	October	10,321	12,113	12,678	15,617
		November	11,211	13,401	11,280	12,166
		December	12,256	9,768	10,726	10,251
	CP Total		33,788	35,282	34,684	38,034

Combined:

Month	2015-16	2016-17	2017-18	2018-19
October	19,570	20,645	21,459	27,927
November	18,748	24,888	22,063	22,275
December	22,201	17,400	18,314	17,700
Grand Total	60,519	62,933	61,836	67,902

- Cumulative cars supplied by CN and CP to all WGEA member companies in 2018-19 are 9.8% higher than during the 2017-18 grain year representing an incremental 6,066 hopper cars;
- The increase is comparable for both railways (CN – 10% and CP – 9.7%) although the absolute increase is slightly higher for CP by approximately 600 cars;
- To provide context for the number of cars supplied the tables below show the total hopper car orders placed by WGEA member companies during the same time period:

By Railway:

RR	Month	2015-16	2016-17	2017-18	2018-19
CN	October	9,876	9,101	10,208	12,561
	November	8,063	12,138	13,148	10,370
	December	10,009	8,478	8,048	8,463
CN Total		27,948	29,717	31,404	31,394
CP	October	10,289	11,876	12,954	15,215
	November	11,429	14,104	11,921	13,319
	December	12,216	9,223	10,799	10,362
CP Total		33,934	35,203	35,674	38,896

CN / CP Combined:

Month	2015-16	2016-17	2017-18	2018-19
October	20,165	20,977	23,162	27,776
November	19,492	26,242	25,069	23,689
December	22,225	17,701	18,847	18,825
Grand Total	61,882	64,920	67,078	70,290

- While the supply of hopper cars has increased 9.8% year over year, demand (orders) has only increased 4.7% (3,212 cars) reflecting no increase in demand on CN and a 9% increase on CP.
- The difference in the number of cars supplied by CN this year versus last (+2,716) despite no increase in demand by WGEA member companies reflects CN's improved order fulfillment performance this year for the October – December timeframe fulfilling 95% of shipper orders this year versus 86% of orders last year.

Historical information (i.e. 2015, 2016 data) may provide certain insights into the cyclical nature of service issues, mostly in the fall and winter periods. However, we would caution the Agency against using past information as a benchmark for acceptable service levels. Grain companies base their businesses on railcars ordered, committed and confirmed, and market factors are different from year to year. In addition, port grain terminals have moved to 24/7 operations in Vancouver with the expectation that service levels would improve. As a result, historical performance in of itself is not the proper measure of adequacy in service.

Cars Delivered to Vancouver Terminals

The data below reflects a blend of Grain Monitoring Program (GMP) and Ag Transport Coalition (ATC) data. We have taken the GMP unload data and added estimated Fraser Surrey Dock (FSD) and trans-loader unloads for WGEA company shipments based on ATC Railinc data.

Month	2015-16	2016-17	2017-18	2018-19
October	18,949	20,744	21,090	27,555
November	18,939	24,791	23,102	22,156
December	20,427	16,632	18,221	18,837
Grand Total	58,315	62,167	62,413	68,548

The GMP unload data reflects unloads from all shippers at these terminals not solely WGEA companies although they would be the overwhelming majority.

Denied / Cancelled Orders

The Ag Transport Coalition captures weekly hopper car orders that are denied or rationed by CN and CP. These represent orders that shippers place with the railways each week in the railways' grain car ordering systems, but which the railways choose not to plan for service in the week the shipper wishes to receive the cars. Shippers are required to place these orders in a future week through the weekly car ordering process.

The table below provides a summary count of orders (cars) placed by WGEA member companies in the October – December timeframe for each of the last three years for the Vancouver corridor that were subsequently denied or rationed by CN and CP.

Railway	Month	2016-17	2017-18	2018-19
CN	October	541	951	104
	November	542	1873	328
	December	208	599	724
CN Total		1291	3423	1156
CP	October			8
CP Total				8
Grand Total Denied/Cancelled Orders		1291	3423	1164

We specifically note that the above chart is complete. Unlike CN, CP does not make a practice of cancelling hopper car orders. CN chooses to cancel or ration orders which they do not plan to service in a given week. CP on the other hand continues to accept orders, and if they do not serve them, they carry the shortfall into the following week.

The data file provided with this document provides a breakdown to individual shipper and origin station. While car supply at origin and total terminal unloads do not cast a light on the problem, the issue of denied and cancelled orders provides the best insights into where the problem has been evident. Individual company data contained in the third tab of the attached spreadsheet labelled *Rationed Orders* is commercially sensitive and should be considered proprietary.

Out of Car Time

Port terminal out of car time represents the total number of hours terminal elevator facilities are open and staffed and the corresponding number of hours that terminals have no railcars available to unload, expressed as a percentage. The fifth tab of the enclosed spreadsheet shows terminal out of car time for the crop years, 2015/16, 2016/17, 2017/18 and 2018/19. The year 2014/15 is not included, because the Federal Grain Monitor only began measuring out of car time in 2015/16.

Month	2015-16	2016-17	2017-18	2018-19
October	13.01%	14.35%	9.57%	8.74%
November	18.13%	20.75%	12.05%	12.86%
December	17.30%	26.15%	13.15%	14.15%
January	24.52%	17.06%	10.72%	12.84%
Grand Total	18.19%	19.55%	11.37%	11.84%

Unfortunately, the combined out of car time percentages as a whole do not tell the story, since these numbers include CN and CP combined while the Vancouver service issues were because of a CN failure. As a result, *out of car time* comparisons are only meaningful in relation to the North Shore terminals which are exclusively served by CN. In considering the data provided it becomes apparent that North Shore terminals incurred significantly higher *out of car time* than South Shore terminals and significantly higher than previous years. Individual company data contained in the fifth tab of the attached spreadsheet labelled *Out of Car Time* is commercially sensitive should be considered proprietary.

Delays in Delivery / Hand Off Between Railways

WGEA members believe it would also be valuable to track the impact of one railway's failure to delivery another railway's railcars. WGEA member companies do not hold data related to this factor.

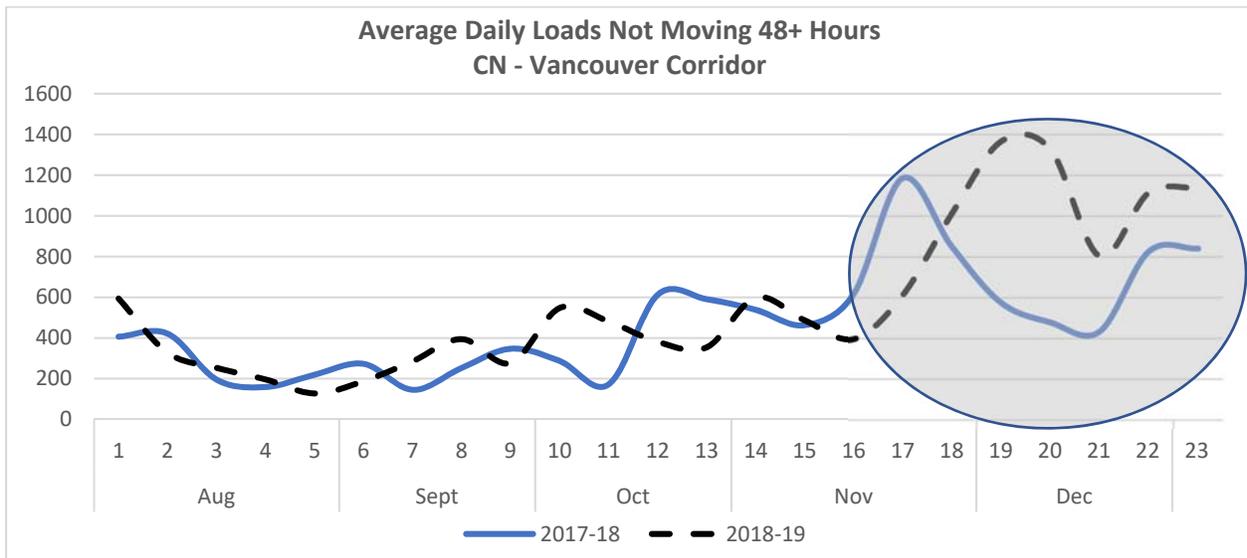
Cars Not Moving

As stated above, service issues encountered in Vancouver were CN network issues. While railcars could be spotted at country elevators and moved to Vancouver, the problem occurred once those railcars arrived in Vancouver. CN was unable to effectively spot railcars at the Vancouver terminals it serves (i.e. North Shore). As a result, these terminals were unable to receive CN and CP cars (delivered by CN in accordance with the co-production agreement). As a result, while the aggregate results of service in Vancouver suggests that CN and CP were both performing at levels comparable to previous years, they were the result of CP performing very well. The fact that CN was failing in its service gets lost unless it is considered in relation to performance at CN-served terminals.

Furthermore, past performance is not a good proxy for the determination of adequate service levels. In the case of CN, we can easily recall the poor service that existed last year. As a result, adequate service would have resulted in service levels considerably higher than those seen last year. However, the actual results, (particularly when considering service to CN-served North Shore terminals), shows a worsening of service.

The chart below shows a comparison of average daily loads on CN not moving for 48+ hours for the period August to December this year versus last year, specifically for the Vancouver corridor. This represents all shipper data but would overwhelmingly represent WGEA traffic. The data shows that while 2018-19 performance was similar to last year through the first three and a half months, it began to diverge in mid-November, reaching as high as 1400 average daily loads not moving for 48+ hours. There was a spike last year in November 2017 however it subsided relatively quickly in part because CN took steps to try and reduce traffic levels including rationing an average of 350 Vancouver orders each week for weeks 14-20. By comparison, this year CN has rationed an average of 145 Vancouver orders each week in that same time period.

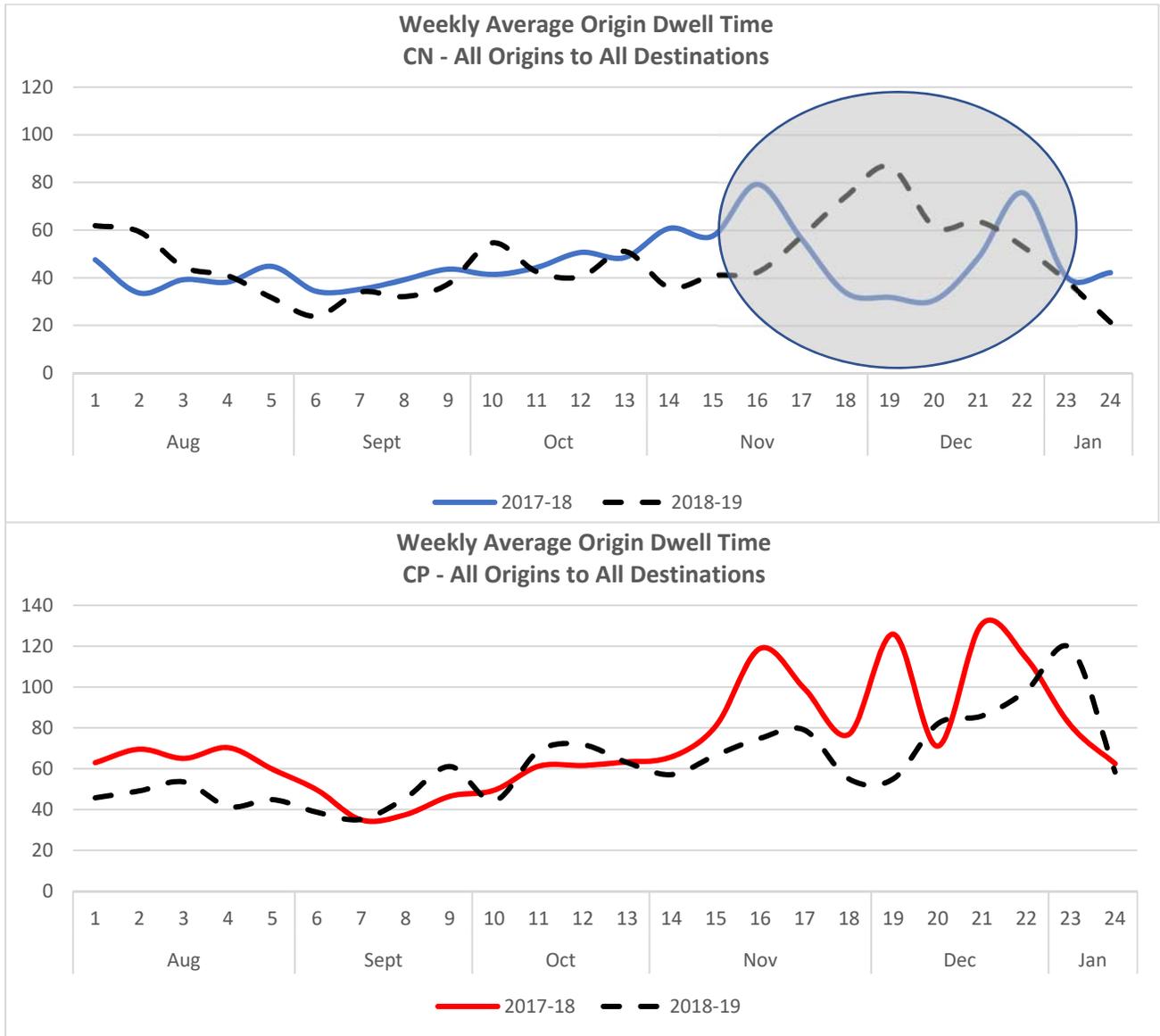
Additionally, CN made the conscious decision to reduce the number of orders they accepted for service in week 20 last year in the hopes of “resetting” their network. This had short lived benefits but did achieve reduced congestion – thus the decline in cars not moving. This year the count of cars not moving began to climb in mid November, peaking in mid December and has remained above last year’s levels into January.



Origin Dwell Times

Origin dwell times tell a similar story. Dwell performance for CN was much the same this year as last until mid November when dwell times began to increase significantly, peaking in early December at materially higher levels than what was seen last year. For instance, CN’s average origin dwell time in the month of December this year was 67 hours as compared to 45 hours last year– a **50% increase**. They have declined through December and are now below last year

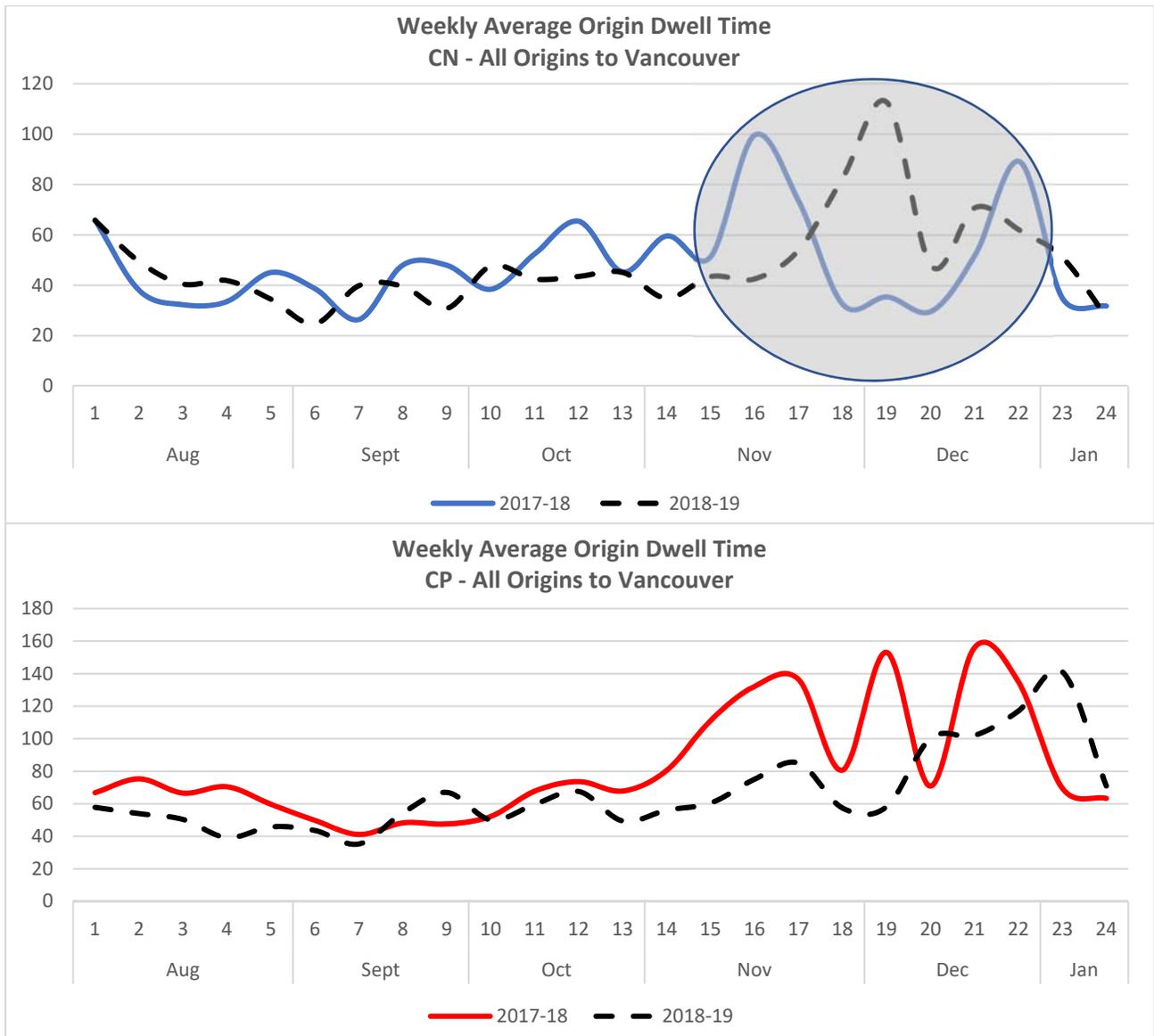
although early January last year was the beginning of CN's worst service performance of the year which lasted until mid March.



It is noteworthy that CP's origin dwell times, while having been consistent with or lower than their dwell times last year, began a steady march upwards in early December peaking in the month of January.

Looking at the Vancouver corridor specifically the picture is consistent, the principal difference being that average dwell times are even higher than the system average in December. The average dwell time in December 2018 for traffic destined to Vancouver was 75 hours as compared to 50 hours last year— **also a 50% increase.**

For CP the pattern is similar. Given that Vancouver corridor dwell times are higher than the system average and that Vancouver represents most of the traffic it is reasonable to conclude that this corridor was the principal contributor to driving up overall system performance.

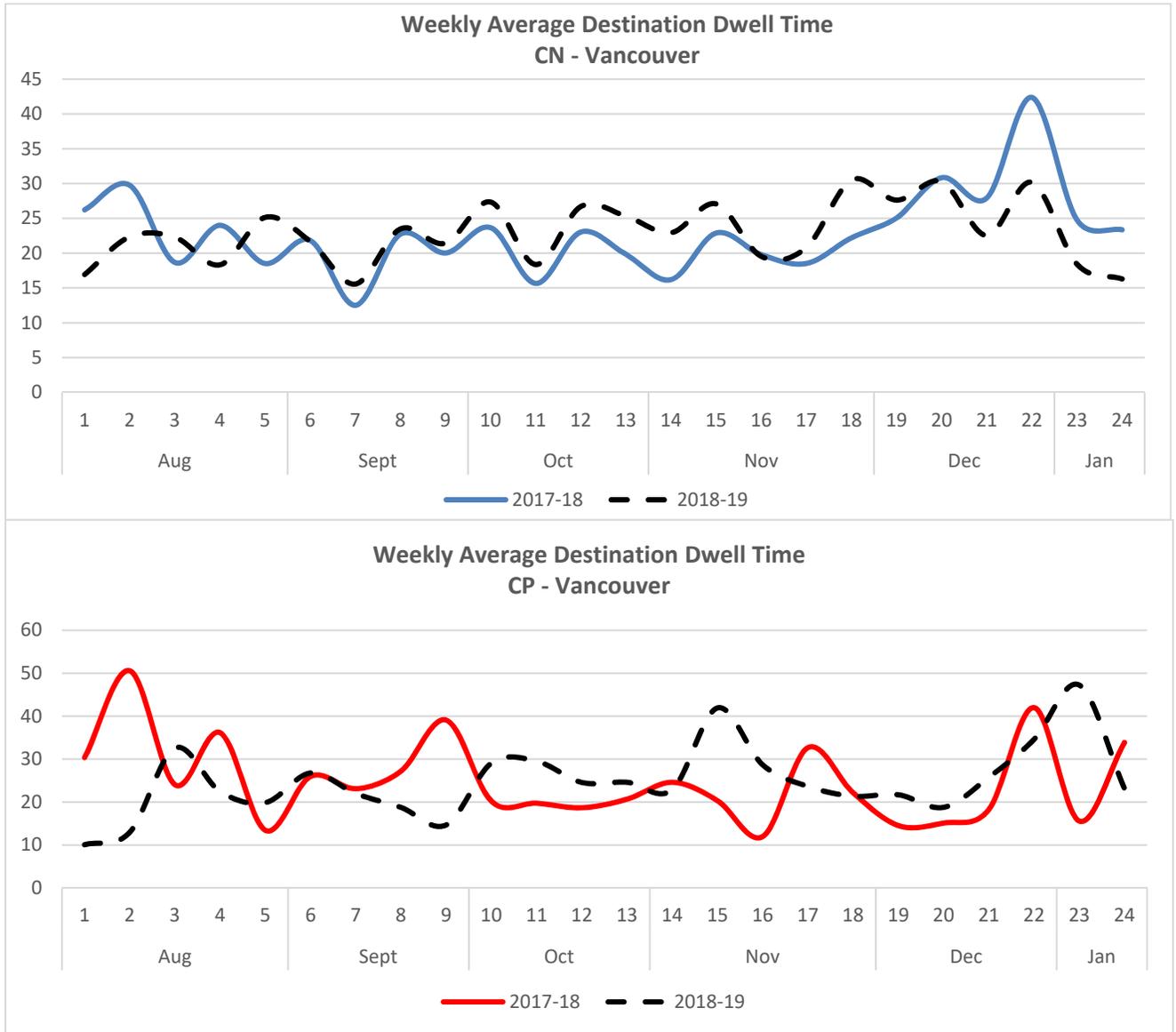


Destination Dwell

Looking at destination dwell times for Vancouver terminals is not overly instructive. For CN performance is consistent with the prior year and in some cases better. Dwell times did rise in late November for about four weeks.

For CP dwell times have generally been somewhat higher since early October with notable peaks in early October, mid November and showing a clear pattern of increasing dwell times from mid December to early January. A similar peak was seen last year although it was shorter in duration and dwell times were lower and largely concentrated during the two weeks around Christmas.

The increase seen this year was more gradual, lasted for the better part of a month and peaked at a higher level than last year. Given the inter-connectivity of CN and CP in Vancouver it is reasonable to conclude that CN congestion issues may have contributed to this although it would require a more in-depth analysis to confirm.



The fact that destination dwell times did not change materially year over is consistent with the fact that origin dwell times did rise. This is because CN and CP made the decision to hold cars at origin and “meter” traffic into Vancouver to try and not add to the congestion they were already experiencing.

Use of Permits

Below is a history of the embargo effectiveness dates:

- CN – First embargo effective: November 30, 2018
Railways invited to participate: UP, BNSF, CPRS
Commodities: Canola Meal; Canola Meal Pellets; Cake or Meal, Rape or Canola Seed
Origin: All
Destination: CN, North Vancouver; CPRS North Vancouver and New Westminster
- CN – Second embargo effective: January 3, 2019
Railways invited to participate: UP, BNSF, CPRS, SRY
Commodities: All
Origin: All
Destination: CN, North Vancouver, New Westminster, South Fraser; CPRS North Vancouver and New Westminster, Vancouver.
- CN – Embargo to BNSF, UP interchange lifted effective: January 15, 2019
- CP – First phase embargo effective: December 12, 2018
CP launched their embargo, reportedly to provide assistance to CN.
Embargo included: Ray-Mont Logistics Vancouver, Global Agriculture Trans-Loading, Lynn Terminals Eastgate, KM Canada Marine Terminal, Euro Asia Transload and Fibreco Exports
Commodities: Canola, Canola Meal, Flaxseed, Special Crops and Pulp Products.
- CP – Second phase of embargo effective: December 19, 2018
CP added permit provisions to the existing embargo for canola, canola meal, flaxseed and special crops. The pulp product embargo was rescinded.
- CP – Third phase of embargo effective: December 21, 2018
CP issued a notice that effective Dec 24th due to congestion in Vancouver, CP will be issuing an embargo application for Columbia Containers Ltd. in an effort to proactively manage the traffic into this congested area.
- With respect to BNSF and SRY, while they may be participating in CN's embargo process, we cannot find evidence that they have launched their own embargoes.

It is important to note that, while they have been employed in the past, the use of embargoes and permits are relatively rare in Vancouver, which in itself demonstrates the poor rail service that shippers have received in the Vancouver area in recent months.

The third bullet on page 2 of the Agency letter asks for information on requests, denials and approvals for permits. It should be explained that the railway companies do not specifically *deny* permits, rather, they only *issue* permits. The embargo is the denial of service access, and the permit is the permission to have access notwithstanding of the embargo. This is an important

nuance. The railway companies will not specifically refuse to issue a permit, but instead state that they have a certain number of permits available for a given week and will issue them. Therefore, it is very unlikely that shippers would have any evidence of specific permit *denial* per se. Our concern with these types of measures is they are used to prioritize traffic for the railway's own benefit, not that of the customer.

The embargo process is not transparent and in the WGEA's submission the use of embargoes as a device to deny rail service to shippers is a violation by the railway companies of their common carrier obligations under the *Canada Transportation Act*, and is inconsistent with jurisprudence that has been established by the Agency and the Courts. The common carrier obligations are the foundation of shipper protection against monopolistic and/or self-interested behaviour wielded as a result of the fundamental imbalance of power between shippers and railways. The WGEA notes that CN has withdrawn its embargoes as a result of the Agency's investigation. Moreover, we believe the Agency should utilize the mandated contingency plan reports for winter service provided by the railways in the fall of 2018, and determine if any of the railways have provided false or misleading information regarding their intended contingency plans in the event of winter service problems.

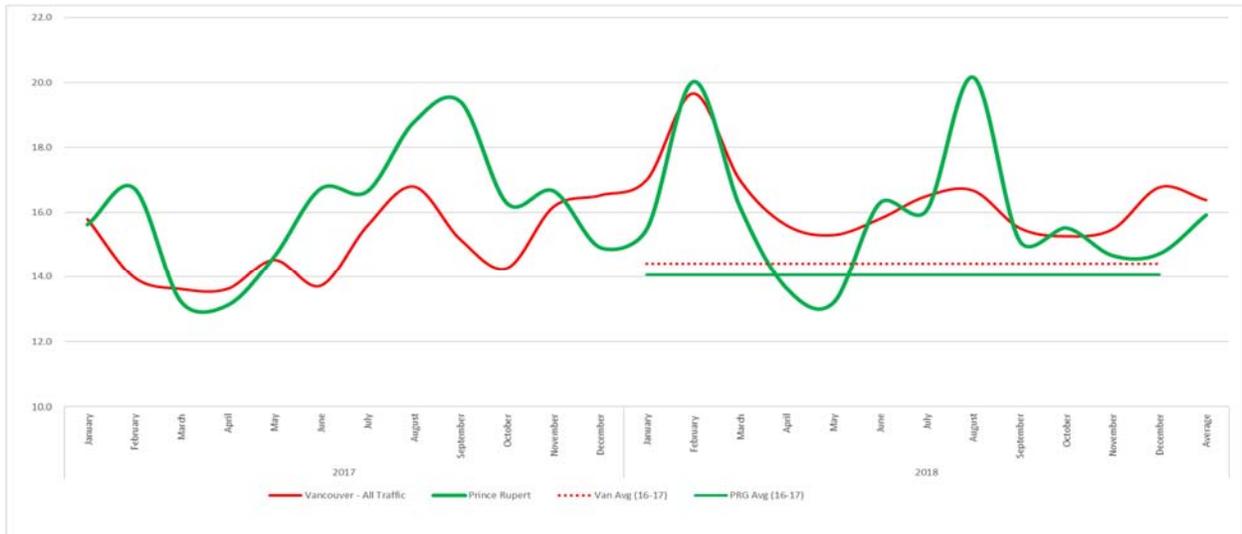
The grain industry is cyclical and there will always be increased demand from shippers to move large volumes of grain from country elevators to port terminals following harvest in the fall and early winter. Embargoes are not an acceptable tool for addressing predictable increased demand from shippers during certain times of the year.

Port Terminal Siding Length

The sixth tab of the enclosed spreadsheet shows licensed storage capacity (Source: Canadian Grain Commission) and available car spots (Source: terminal elevator companies) for each port terminal facility in Vancouver.

Cycle Times

The Federal Grain Monitor compiles railway cycle times for movements to western ports. Below is a chart the GMP produced showing aggregated CN and CP cycle times of all grain traffic to Vancouver and Prince Rupert.



Unfortunately, the information through the GMP does not break out CN from CP, however, the WGEA believes that such information would be most informative to the Agency in this process. We recommend that the Agency therefore request data on CN and CP cycle times to Vancouver on a weekly basis as part of its investigation.

Vancouver Supply Chain Visibility Project

In partnership with Transport Canada, the Port of Vancouver has initiated a *Vancouver Supply Chain Visibility Project* designed to show better end-to-end supply chain visibility, and collect rail data to enable network analysis and modelling to support operational/infrastructure improvements. A copy of the PoV’s presentation to the WGEA in November 2018 is enclosed. We would be remiss if we did not point out this project as a potential source of data.

Carry-Out

The *carry-out* of grain stocks is the amount of grain remaining either on-farm or within the grain handling network at the start of a crop year, which is August 1st of every year. The Agency should look to carry-out to tell a portion of the story. According to the Federal Grain Monitor, the carry-out of stocks was approximately 9.5 million metric tonnes in Western Canada, most of which was along the northern CN line. This carry-out created the opportunity for CN to ship heavy early in the crop year, before harvest time, when conditions were favourable to the railroad and demand was lower. It may explain why CN has been able to ship near record volumes year to date, while the grain sector and CN itself acknowledges that there has been a service issue lately. In any event, it is not a valid argument to point to good service in one period as an excuse for poor service in another.

Commodity Mix

Below is a chart once again acquired from the Grain Monitor. It shows that the change in grain tonnes through the Port of Vancouver between 2017 and 2018 was down 2.51 percent year over year.

	Tonnes (000)					TEU's (000)	Tonnes (000)
	Coal	Chemicals	Fertilizers	Forest Prod	Total (1)	Containers	Grain
2015	35,147	12,404	11,315	7,613	66,479		21,615
2016	32,991	12,490	10,648	7,654	63,783	3,113	21,513
2017	36,805	13,424	9,853	7,018	67,100	3,336	23,413
2018	N/A	N/A	N/A	N/A	N/A	N/A	22,874
Chg – 17 / 16	11.60%	7.50%	-7.50%	-8.30%	5.20%	7.20%	8.83%
Chg - 18 / 17	N/A	N/A	N/A	N/A	N/A	N/A	-2.51%

* All data from Port of Vancouver Stats Reports except Grain from GMP reporting (Shipments from Port)
(Port of Vancouver has not published 2018 statistical data as of this time)

This occurred in spite of the fact that grain supply between 2017 and 2018 was up 0.1% year over year:

	Tonnes (000)		
	Production	Carry In	Total Supply
2015	64,739	9,163	73,901
2016	72,581	7,505	80,086
2017	71,977	8,574	80,551
2018	71,101	9,495	80,596
Chg – 17 / 16	-0.80%	14.20%	0.60%
Chg - 18 / 17	-1.20%	10.70%	0.10%

Evidence of Costs

For the majority of export sales, grain companies must meet a fifteen (15) day shipping window at the port terminal. In particular, the industry standard for bulk sales FOB (free on board) the port terminal is for a thirty (30) day delivery period which is narrowed one month in advance to a fifteen (15) day call period.

If a grain company is late in loading the vessel because of delays in rail service, the vessel owner will charge demurrage, which is a penalty that the grain company will be responsible for. The demurrage penalties are an addition to any contract penalties that the grain company must pay to its buyer as a result of being late in delivering the grain.

In light of the significant cumulative penalties, loss, damage and demurrage caused by the railways' failure to fulfil their level of service obligations, WGEA members have no choice but to restrict and reduce otherwise available export sales.

Please see the attached demurrage invoices, as supplied by WGEA member companies, as a sample of costs incurred due to the CN service issues at Vancouver's North Shore during the time period in question. This information is commercially sensitive and should be considered by the Agency to be proprietary.

WGEA Commentary

Although CN service in the Vancouver area has improved within the month of January it remains far from meeting customer needs, and indeed planned service. This is the second year in a row that CN service has been reported by shippers as being insufficient, with a significant negative impact on shipper operations directly resulting in costs and penalties. Data from the 2017-18 crop year shows that CN's failure last year was, in many respects, comparable to the rail transportation crisis of 2013-14.

Our understanding is that CN believes that their ability to move 170 plus railcar train units through the mountains is an advantage. However, the majority of grain shipped from CN stations is shipped in unit trains of 100 car blocks. CN regularly breaks up portions of trains, thereby leaving components of shipments at various places along the route. This is a practice they refer to as *manifesting* traffic. It creates major issues because train segments are left in CN's railyard, shipments arrive out of sequence, grain grades and quality blends arrive in the wrong order and the terminal facility is forced to hold product and vessels while waiting for the rest of it to arrive.

When the event is isolated to a single railway (CN), it can be very hard on the other railway (CP) where there are points of contact. When CN cars must be delivered to CP for furtherance, these segments create problems for CP as well, and cause congestion issues in their network. We understand this may be the reason why CP embargoed Columbia Containers, for example. CN had been failing to meet its commitments for some time, and then has been delivering all the late train segments to CP for furtherance to Columbia Containers in a very short period of time. Columbia Containers can only unload about 40 cars per day. Having to switch from commodity to commodity makes them even less efficient. Furthermore, we understand that the CN event has put stress on the co-production agreement in the Vancouver corridor, an agreement which creates significant efficiencies for all shippers.

While we can speculate on the causes behind service failures, the reality is that there is a lack of clarity for shippers on what exactly is causing the issue. For example, a shipper does not know the reason CN might have broken up a train in Edmonton and left half the railcars behind. We just know that they did, and the cars did not make it in time to hit a vessel as had been planned and expected. We believe this investigation is consistent with the rationale for the inclusion of an own motion option in the recently passed legislation and have confidence that the Agency has access to the right tools to identify the causes of the problem, which we hope will in turn both identify solutions for the current circumstance and experience for inclusion in future contingency planning. The WGEA encourages the Agency to actively engage with the Ag Transport Coalition and the Grain Monitoring Program in its spectrum of sources.

Thank you for your attention to this important matter. Please do not hesitate to contact me for a further discussion.

Yours truly,

A handwritten signature in blue ink, appearing to read "W. Sobkowich", written in a cursive style.

Wade Sobkowich
Executive Director