Spring 2000

Was the Theme of the Sweetgrass Rally Right? An Analytical Study of the Wheat Industry Focused on Governmental Involvement, Grain Traders, the Canadian Wheat Board, and the Montana Industry

Chany Ockert

Follow this and additional works at: https://scholars.carroll.edu/politicalsci_theses

Part of the American Politics Commons, and the Regional Economics Commons

Recommended Citation

Ockert, Chany, "Was the Theme of the Sweetgrass Rally Right? An Analytical Study of the Wheat Industry Focused on Governmental Involvement, Grain Traders, the Canadian Wheat Board, and the Montana Industry" (2000). Political Science and International Relations Undergraduate Theses. 10.

https://scholars.carroll.edu/politicalsci_theses/10

This Thesis is brought to you for free and open access by the Political Science and International Relations at Carroll Scholars. It has been accepted for inclusion in Political Science and International Relations Undergraduate Theses by an authorized administrator of Carroll Scholars. For more information, please contact tkratz@carroll.edu.
Was the Theme of the Sweetgrass Rally Right?
An Analytical Study of the Wheat Industry Focused on Governmental Involvement, Grain Traders, the Canadian Wheat Board, and the Montana Industry

Chany Ockert

Carroll College Honors Thesis

April 10, 2000
This thesis for honors recognition has been approved for the Department of Political Science by:

Dennis Wiedmann

Beth Wilson

Robert Swartout, Ph.D.
<table>
<thead>
<tr>
<th>Table of Contents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preface: Back to the Farm</td>
</tr>
<tr>
<td>Chapter 2: Government’s Role in Industry</td>
</tr>
<tr>
<td>Chapter 3: The Grain Traders</td>
</tr>
<tr>
<td>Chapter 4: The Canadian Wheat Board, Primary Grain Trader</td>
</tr>
<tr>
<td>Chapter 5: The Montana Wheat Industry</td>
</tr>
<tr>
<td>Appendix I</td>
</tr>
<tr>
<td>References</td>
</tr>
<tr>
<td>References</td>
</tr>
</tbody>
</table>
List of Figures

Figure 1: Horizontal Merger Guidelines ................................................................. 18
Figure 2: Merger Enforcement Guidelines ............................................................... 22
Map 1: Grain Elevators, Major Transportation Routes, USDA Areas .................. 46
Graph 1: Grain Elevator Ownership .................................................................. 48
Figure 3: Selected T-Tests of Montana Elevators .............................................. 51
Figure 4: T-Test of CWB and Montana Wheat Bids ........................................... 51
Acknowledgments

First of all, I must thank my Lord and Savior, Jesus Christ. He sustained me in spite of my neglect of my relationship with Him. Without Him, I could do nothing. I certainly could not survive this last year of sleep depravation, overwork, and life in general. However, the work of this thesis became my first priority—before my relationship with Jesus. I desired to receive praise and show the world I could do an Honors thesis. The key word was I. And I failed. More importantly, I became unhappy with my life and who I was becoming. So, I submit this thesis incomplete in the eyes of the academic world—I could do so much more, but it is complete in the bigger picture. I will serve my Lord first.

Second, I must thank all of the people who selflessly assisted me during this project. It is so awesome that so many people in Montana, the United States, and Canada desired to share their knowledge and skills to help me. I especially thank my director and readers.

Finally, I must thank my friends and family who love me.

* * *

The only true fulfillment and love that can be found in the world is through Jesus Christ. Even though I walked away for a time from Him, God unconditionally loves me. And He loves you. If you desire to discover what this relationship means and can be for you, I encourage you to begin reading the Bible, starting in John. The Bible will show you why Jesus Christ died and rose again for all the sins—horrors of the world—to provide a way to be in a relationship with Him, so He can provide all you need. Simply acknowledge that you need Him, accept His forgiveness and love, and begin living according to the Bible, His words of protection and provision.
Preface

Once again national and international news crews and I congregated at the Montana-Alberta border to discover why Montana and Canadian farmers were gathering there. Farmers were invited by the Reclaim Rural America organization to the protest rally to speak to journalists or anyone else, for that matter, about their plight. These farmers assembled at Sweetgrass, Montana, to voice their anxiety over the low grain prices on July 9, 1999. Throughout the day, it became very clear to me that many in the crowd and at the podium blamed grain trading, the lack of government enforcement, and the Canadian Wheat Board for manipulating the wheat market to obtain excess profits.

I pondered the situation driving home. Having learned in economics that agriculture is considered the closest market to pure competition, I wondered if, at some link in the food chain, the industry had become oligopolistic or monopolistic. In other words, was the market being manipulated? Were the farmers correct in placing the blame on the grain companies, the governments and the Canadian Wheat Board?

This thesis will decipher each of these entities as they belong to the complex agricultural sector. The first chapter will explain the basics of movement and pricing associated with the wheat industry. The second chapter will analyze governmental roles in antitrust legislation and state trading enterprises to express how the grain trade arrived at its current state in America and Canada in the legal sense. The third chapter will look closer at the actual grain traders and their recent actions. Following this, a full chapter will be devoted to the Canadian Wheat Board—a state trading enterprise, an important player in the wheat industry and a concept foreign to American capitalistic ideals. The fifth chapter focuses on the specifics of the Montana wheat industry to present the
findings of a study of grain bids to determine if the differences in wheat prices were statistically significant. This study will attempt to answer whether or not grain bids are being continually manipulated by one of the players in the Montana wheat industry.
Chapter 1

Back to the Farm

The average American of the 21st Century is far removed from the physical operation of career farming. In fact, there are only 2.06 million farmers, making up only two percent of the workforce. In spite of this, the United States Department of Agriculture (USDA) has deemed American agriculture as the most efficient and productive of the entire world, quite a compliment for this sector. Though the family-inherited farm is still looked upon as an American tradition, the closest some Americans come to farming is owning a ranch as a personal hobby. For other Americans, there seems to be little connection between the plastic bag of bread and the rolling fields of wheat. American ignorance toward the American farm has caused individuals to be indifferent to the economic importance of agriculture and, at the same time, to take food for granted. Given the lack of a common knowledge of farming, this chapter will create a starting point by describing the way in which farmers are paid for their work and how wheat moves from the fields to the table.

Selling Mechanisms for Wheat

The rudimentary farming process has not changed significantly over the years; farmers plant and harvest their crops. Yet, the farming of this generation is not the same as previous generations; there have been technological advances in farm equipment. Because of the improvements in equipment, there are larger and more efficient combines and grain trucks, allowing farmers to grow more wheat and haul their harvest to more distant elevators. This technology allows farmers to have more choices when selling

their wheat on the open market. In addition, farmers can also sell their wheat to the government since 1949 through the Commodity Credit Corporation (CCC).²

The decision to sell via the open or public market is made throughout the planting, growing, and harvesting seasons. Farmers choose to sell via the open or public market, using techniques to reduce their risk, such as selling a part or all of their harvest through separate markets and at different times.³ If the farmer chooses to sell via the open market, he or she will be selling according to contracts. There are two main types of contracts: spot cash or futures contracts. The cash contract is a part of the cash market, which is based out of the Minneapolis Grain Exchange for Montana farmers.⁴ Whereas, the futures market is based out of the Minneapolis Grain Exchange and the Kansas City Board of Trade.⁵

The cash contract is the simplest selling tool available to farmers. A farmer calls ahead for a quote on the price per bushel, and takes the wheat to the elevator as set by a delivery time through this binding contract.⁶ If this contract is low, he or she can play the market by storing the wheat in an on-the-farm facility or try another elevator. The elevator quotes the price based on the selling price on the cash market, transportation costs to move the grain, and a profit margin.⁷ According to Montana Market Manager, this contract is a favorite of the majority of Montana farmers due to the ease of this selling mechanism.⁸

³ For example, a farmer can sell a portion at harvest, and store the rest until later in the year.
⁶ Clark, 1999.
⁷ Grain Contracts, unknown, p. 1.
⁸ ibid.
To manage the risks of commodity markets, futures contracts were created by the Chicago Board of Trade in 1865—currently regulated through the Commodity Futures Trading Commission, created in 1974—to provide essentially an insurance policy. The futures contract is based on what wheat is predicted to sell for at a future date and an amount. Traders of this commodity on the exchange floor, for example the Chicago Board of Trade, buy and sell contracts for a specific price, a specific amount of a specific wheat, and for a specific delivery date. This buying and selling determines the futures contract and echoes the world price. These contracts are transferable, so traders can "hedge" or balance out contracts to face the least amount of risk and gain the most amount of profit. In the larger national wheat industry, farmers are increasingly moving to the futures market as the markets may become more volatile and government subsidies are supposed to be decreasing.

The farmer's choice between cash and futures contracts depends on a number of factors. The two most simple are risk management and profit. Using the cash market, farmers can follow the trends in the market and contract the wheat as soon as they feel they will receive the best price. Therefore, the farmer has more control to base the decision on market forces. Plus, the farmer will receive payment on the spot at the elevator. However, by waiting, the market may decline and a penny drop may translate into hundreds of dollars lost. If the farmer believes the market will decline during the growing and harvesting season, the farmer can manage this risk early on through a

9 About the Exchange, unknown, p. 1.
10 There are multiple types of future contracts with options ranging from the forward contract to the no price established contract, according the Montana Market Manager.
12 ibid.
futures contract. However, if the world price increases, this farmer will not realize the difference through that futures contract. One final disadvantage of futures contact is that the farmer is legally bound to a contract, which could be a serious problem if the farmer is unable to meet specific contract requirements like the delivery date. As a result, farmers try to diversify their contracts and transfer them through the commodity exchange and/or brokers if a problem begins to arise. Every year, farmers must weigh the risks for each type of contract in the open market.

Or, farmers can move the wheat through the public market. In facilitate the various governmental objectives in the agricultural sector, the government acquired as a part of the USDA the CCC. To sustain farmers in a crisis, the CCC sets the Loan Deficiency Payment (LDP) price and the loan amount. Each year the government sets a target price for wheat. In 1999, the target price was $4.00 per bushel. If the national average price for wheat is lower than this, the government will pay the farmer the average price, plus the difference between the target price and the average price. This difference is called the LDP. A farmer may also choose to receive the county loan, and decide in nine months to either pay the loan back using the profit from selling the wheat on the open market or using the harvested wheat itself.

---

14 Grain Contracts, ibid., sic passim.
15 ibid.
16 ibid.
17 Commodity Credit Corporation, ibid. The CCC provides assistance to producers and marketers of wheat. In addition, it supplies food to other government organizations. For example, some of the food for school lunch programs comes from the CCC.
18 The LDP is based on transportation, historic market prices and the market needs of wheat producing areas.
20 ibid.
21 ibid.
22 ibid.
Wheat Movement

Open market contracts are based on a delivery point. The farmer can sell the wheat to a country elevator (the local elevator), a subterminal, or a terminal port elevator. Delivery point is chosen, based on the selling price, the transportation costs, and marketing considerations.

The country elevator may be owned by an individual, a group of farmers (cooperative), a grain elevator company, a grain processor, or a grain trading company. Private individuals, cooperatives, and grain elevator companies provide storage and also sell the wheat domestically or to exporters. These elevators are normally located near transportation routes, such as major highways, railroad spurs, or river ports.

The next facilities along the export chain are subterminal and terminal port elevators; each have higher storage capacities, and are owned by larger processing or exporting companies. According to the US Wheat Associates, “some of these elevators can store more than one million metric tons of wheat.” If the wheat is to be exported, it will make its way to the terminal port and the export elevator, where it will be shipped overseas. Prior to exportation from the subterminal or terminal port, the wheat will be inspected and graded through mandatory federal guidelines.

Market-savvy farmers make their harvesting decisions based on price per bushel of wheat, the transportation costs to another elevator, and expectations of a bull or bear market. During a low market, these farmers may rely on the buying of wheat by the

---

24 ibid., p. 3.
25 ibid.
26 ibid. This works out to be 37 bushels of unprocessed wheat or 2.7 billion loaves of white bread.
27 Mandatory vs. Permissive Services, unknown, p. 1.
government. Yet, the government serves the farmer, not just as a safety net, but also as a business regulator or as a pro-active marketer of the wheat.
Chapter 2

Government's Role in Industry

Beginning in the 1880s, in an era of relatively small government, lawmakers examined the issue of monopolies, trusts, and associations in both Canada and the United States. Each country produced a body of law from these discussions. This government involvement in the private sector was not limited to legal restrictions. Members of Congress and the Parliament were persuaded by producers to be involved in world trade to protect their product, while other citizens sought to ensure adequate food supplies for the nation. The governments of the United States and Canada attempted to protect these areas: defend the consumer and supplier from monopolies, the producer from volatile trading, and citizens from low food supplies. This legislation appeared through laws and trading boards.

American Legal Implications of Monopolies

The concentrated American business climate and the literary reaction to big business in the late 1880s and early 1900s spread the Progressive Movement across the levels of government. As a result of Progressive influence on government, the United States Congress passed a number of key antitrust bills. Antitrust legislation began with the Sherman Antitrust Act of 1890, and continued with the Clayton Antitrust Act of 1914 and the Federal Trade Commission Act of 1914.\footnote{Colander, 1995, pp. 639-642.} The Sherman Act prohibited collusion and building monopolies and the Clayton Act prohibited mergers if the mergers decreased competition.\footnote{Ibid.} Finally, the Federal Trade Commission Act created the Federal Trade Commission to "regulate competition and police markets" to prevent any non-
competitive business practices. The Federal Trade Commission and the Antitrust Division of the Department of Justice were given authority to enforce and prosecute trust law.

Beyond the definition of the Acts, it is important to understand how the government enforces these laws roughly a century later. Joel Klein, the Assistant Attorney General of the Antitrust Division in the Department of Justice (DOJ), described the role of these laws to Congress during a Congressional Subcommittee investigation into large agribusinesses:

The antitrust laws prohibit conspiracies to deny market access or otherwise suppress competition. They also prohibit the use of predatory and/or exclusionary conduct to acquire or hold on to a monopoly in a market. And they also prohibit mergers that are likely to substantially lessen competition in a market. . . . The primary beneficiary of antitrust enforcement is the consumer. . . . But antitrust enforcement also benefits the producers and marketers who want to compete in supplying products and services to consumers by enabling them to do so free from anticompetitive interference. . . . We are law enforcers, not regulators. We do not have the power to restructure any industry, any market, or any company, or stop any practice, except to prevent or cure specific violations of the antitrust laws that we can prove in court.31

The Antitrust Division may apply all or just one of the antitrust laws as they investigate. For example, the Antitrust Division uses the Sherman Act to find trends in

30 ibid.
grain contracts to see if there is any unusual behavior that only noncompetitive behavior
can explain.\textsuperscript{32} When monitoring monopoly building, the Antitrust Division must find
“proof that the firm has a monopoly—and that requires an extremely high market share
all to itself—and that it engaged in the restrictive conduct in order to acquire or maintain
a monopoly.”\textsuperscript{33}

The Clayton Act is used when evaluating a merger on its potential effects. It is
through this act that the Antitrust Division can “sue to stop the merger, or to insist that it
be modified to remove the cause for antitrust concern.”\textsuperscript{34} To come to this conclusion, the
Antitrust Division uses the Horizontal Merger Guidelines, which were created by the
DOJ and the Federal Trade Commission.\textsuperscript{35}

The introduction of the Horizontal Merger Guidelines is specific in its mission to
prevent monopolies. The following is its opening paragraph:

The Guidelines describe the analytical process that the Agency will
employ in determining whether to challenge a horizontal merger. First,
the Agency assesses whether the merger would significantly increase
concentration and result in a concentrated market, properly defined and
measured. Second, the Agency assesses whether the merger, in light of
market concentration and other factors that characterize the market, raises
concern about potential adverse competitive effects. Third, the Agency
assesses whether entry would be timely, likely and sufficient either to
deter or to counteract the competitive effects of concern. Fourth, the

\textsuperscript{32} ibid., p. 2.
\textsuperscript{33} ibid., p. 3.
\textsuperscript{34} ibid.
\textsuperscript{35} ibid.
Agency assesses any efficiency gains that reasonably cannot be achieved by the parties through other means. Finally the Agency assesses whether, but for the merger, either party to the transaction would be likely to fail, causing its assets to exit the market. The process of assessing market concentration, potential adverse competitive effects, entry, efficiency and failure is a tool that allows the Agency to answer the ultimate inquiry in merger analysis: whether the merger is likely to create or enhance market power or to facilitate its exercise.36

Figure 1 is a flowchart based on the Guidelines. As the chart indicates, each question needs to be answered before the merger can be approved as it is or with reservations. This also supplies an objective method that businesses can use before announcing a merger.

However, a merger can be deemed anticompetitive by the Guidelines, yet the company may not find itself in court due to legislative exceptions. Two such exceptions are available to agriculture through the Capper-Volstead Act 1922 and the Export Trading Company Act of 1982. The Capper-Volstead Act allows farmer cooperatives, regulated by the United States Department of Agriculture, to exist without violating antitrust laws.37 Members of Congress in voting for this Act, reasoned that this would give the individual farmers greater market power to compete against larger corporations.38

The Export Trading Company Act of 1982 is more unique. The Act provides for export trade companies to obtain “an export trade certificate of review” from the United

36 Horizontal Merger Guidelines, 1997, p. 0.2.
37 Lauck, 1996, p. 3.
38 ibid.
### Figure 1: Horizontal Merger Guidelines

<table>
<thead>
<tr>
<th>Guideline</th>
<th>Economic Principle</th>
<th>Guiding Question</th>
<th>Anti-Competitive?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1 Product Market Definition</td>
<td>Price Discrimination</td>
<td>Will a small increase in price cause the consumer to substitute the product?</td>
<td>There are no close substitutes and/or the increases will be borne by consumers or suppliers.</td>
</tr>
<tr>
<td>1.2 Geographic Market Definition</td>
<td>Price Discrimination</td>
<td>How small is the area that a consumer will not leave to substitute a product at the increase of price?</td>
<td>Consumers and suppliers cannot respond to the increase by leaving the market area.</td>
</tr>
<tr>
<td>1.3 Identification of Firms</td>
<td>Market Saturation</td>
<td>How many other companies are located within this small area?</td>
<td>There are no competing firms in that area or a possibility within a year.</td>
</tr>
<tr>
<td>1.4 Market Shares</td>
<td>Market Power</td>
<td>What are the sales and/or physical presence of other firms in this area?</td>
<td>The market shares of competing firms are not significant.</td>
</tr>
<tr>
<td>1.5 Concentration &amp; Market Shares</td>
<td>Market Concentration</td>
<td>What is the Herfindahl-Hirschman Index (HHI) for each company and the potential merging company?*</td>
<td>The HHI of a merger increases by 100 points or more or the post-merger HHI is greater 1800.</td>
</tr>
<tr>
<td>2.1 Coordinated Interaction</td>
<td>Collusion</td>
<td>Will the companies coordinate their actions to hurt the consumer?</td>
<td>Firms could be harmonizing actions to hurt the consumer or supplier.</td>
</tr>
<tr>
<td>2.2 Unilateral Effects</td>
<td>Monopoly Power</td>
<td>Will the merged company be able to unilaterally act to hurt the consumer?</td>
<td>The merged firms can alter the market price and supply.</td>
</tr>
<tr>
<td>3.1 Entry Alternatives</td>
<td>Ease of Entry</td>
<td>Will new company be able to enter the market?</td>
<td>The entrance into the market is expensive and long.</td>
</tr>
<tr>
<td>3.2 Timeliness of Entry</td>
<td>Ease of Entry</td>
<td>How quickly will other companies be able to impact the market?</td>
<td>Entering firms cannot affect the market price within two years.</td>
</tr>
<tr>
<td>3.3 Likelihood of Entry</td>
<td>Ease of Entry</td>
<td>Will entrance into the market be profitable?</td>
<td>Entering firms cannot be profitable within two years.</td>
</tr>
<tr>
<td>3.4 Sufficiency of Entry</td>
<td>Ease of Entry</td>
<td>Will the entering company be able to take advantage of market opportunities?</td>
<td>Entering firms cannot neutralize the effect of the merger.</td>
</tr>
<tr>
<td>Efficiencies</td>
<td>Economies of Scale</td>
<td>Will the merger actually help the consumer if it removes the inefficiencies of the market?</td>
<td>Efficiency can be achieved at a smaller scale than the given merger.</td>
</tr>
<tr>
<td>Failing Firm</td>
<td>Market Concentration</td>
<td>Would the acquired firm leave the market with or without the merger?</td>
<td>The failing firm has other alternatives to remain in business.</td>
</tr>
<tr>
<td>Failing Division</td>
<td>Market Concentration</td>
<td>Would the division be closed with or without the merger?</td>
<td>The parent firm has sufficient means to shore up this division.</td>
</tr>
</tbody>
</table>

*The pre-merger function is \( a^2 \) (company A)+\( b^2 \) (company B). The post-merger is \( a^2 \) (company A)+2ab (company A & B)+\( b^2 \) (company B). (Courtesy of Horizontal Merger Guidelines, Antitrust Division of the Department of Justice)
States Department of Commerce. This exemption from portions of the antitrust laws allows companies to combine for trading purposes. The goal of the certificate is to protect American companies from global competitors. Otherwise, many companies find it too inefficient and unprofitable to enter the global market. However, this is not a guarantee against the antitrust laws. An export company could be investigated if the company is suspected of using “unfair methods” to prevent trade and competition or manipulate domestic prices. Antitrust proceedings can also occur for any activity not associated with the certificate, and the Attorney General or Secretary of Commerce can revoke the certificate.

Canadian Legal Implications of Monopolies

Although surprising to some, Canada was the first industrialized nation to adopt antitrust legislation. The Canadian business climate of the late 1800s was marked by a monopoly mentality. The 1879 National Policy Tariff, to protect domestic industries, reinforced the notion, “Surely it would be in everyone’s interest to outlaw the most harmful, most wasteful forms of competition.” Businesses gathered in associations across the country and industries. However, in 1888, a Select Committee to Investigate Combinations was formed, spearheaded by N. Clarke Wallace who had first encountered the more damaging side of associations during a campaign. Upon the Committee’s recommendations, the Canadian Parliament enacted the 1889 Combines Investigation

40 ibid.
41 ibid.
44 Khemani, ibid., p. 12.
This Act was amended, replaced briefly, revived into the Second Combines Investigation Act, and finally replaced by the 1986 Competition Act.

The amendments to the Combines Investigations Acts served to strengthen the ability of the government to effectively break up combinations. Words such as "unlawfully" were removed and the investigation powers were moved from the provincial level to the national government. In spite of these actions, anti-combination prosecutions lagged behind that of the United States. One Canadian commentator responded:

Since 1910, this legislation has undergone significant amendment almost every decade. Still, our economy has remained one of the most highly concentrated in the world. One popular answer to this paradox is "we've never been all that keen on competition in Canada," or as Herschel Hardin puts it more positively, "We have an aptitude for monopoly."

Acknowledging the weaknesses of the Combines Investigation Acts, the Parliament replaced the Act with the Competition Act of 1986.

The Competition Act seeks to not only maintain efficiency, allowing the export-based Canadian economy to compete globally, but to also protect smaller domestic firms and consumers. The Competition Bureau and the Competition Tribunal monitors competition and resolves anti-competitive behavior. Heading the Bureau, the Director of Investigation and Research initiates an investigation based on the evidence, a directive by...

---

45 ibid.
46 ibid., sic passim.
47 ibid., p. 32, 75.
48 ibid., p. 47.
the Minister of Industry or the statements of six Canadian citizens. The Director, using the investigating resources of the Bureau’s bureaucracy, will decide whether the evidence, resulting from the investigation, warrants a decision by the Competition Tribunal. This evidence must show that the post-merger corporation will adversely affect Canadians, that the decision will “clarify existing law,” and that the benefits will outweigh the costs of the trial. The Director then turns the prosecution over to the Attorney General. The Tribunal can decide to allow the merger to be allowed as is, to be restructured, to be denied, or to be monitored. A merger can be supervised for up to three years to be rereviewed.

To assist business, the Bureau published merger guidelines in 1991. These Merger Enforcement Guidelines appear as a summary in Figure 2.

Like the United States, cooperatives and export trading companies are exempt. But before assuming that the Canadian wheat industry is accountable to these guidelines, it is important to note a key exemption in this Act. Legally, the industry is dualistic. Grain companies must adhere to the Competition Act, whereas the Canadian Wheat Board is considered exempt. Khemani underlines this key distinction as he writes:

But of course the Bureau has no mandate to attack the marketing boards [like the Canadian Wheat Board] because Parliament believes that they exercise restraints on cutthroat competition which are in fact in the public

---

50 Competition and Antitrust in Canada, unknown, p. 1.
51 ibid.
52 ibid.
53 ibid., p. 2.
54 Khemani, ibid., p. 2.
55 ibid.
56 Competition and Antitrust in Canada, ibid., p. 5.
<table>
<thead>
<tr>
<th>Guideline</th>
<th>Economic Principle</th>
<th>Guiding Question</th>
<th>Anti-Competitive?</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.2 Product Dimension</td>
<td>Price Discrimination</td>
<td>Will a significant increase in price cause buyers to substitute the product?</td>
<td>The buyers will be unable to substitute product or the merged parties can sustain increase for profit.</td>
</tr>
<tr>
<td>3.3 Geographic Dimension</td>
<td>Price Discrimination</td>
<td>How small is the area that a buyer will not leave at a significant increase in price?</td>
<td>Merged parties can sustain profit without buyers leaving the area to substitute product.</td>
</tr>
<tr>
<td>4.2 Market Shares and Concentration</td>
<td>Market Power and Concentration</td>
<td>Is the market controlled by just a few firms?</td>
<td>The four largest firm control 65% of market or merged firm controls more than 10% of market in terms of profit, sales, production, or resources.</td>
</tr>
<tr>
<td>4.3 Foreign Competition</td>
<td>Market Concentration</td>
<td>Is there sufficient competition due to trade?</td>
<td>Buyers will not substitute foreign product or foreign companies will not increase production to meet greater demand.</td>
</tr>
<tr>
<td>4.4 Business Failure or Exit</td>
<td>Market Concentration</td>
<td>Will the acquired firm leave the market with or without the merger?</td>
<td>Firm is solvent or alternative sale is possible.</td>
</tr>
<tr>
<td>4.5 Availability of Acceptable Substitutes</td>
<td>Price Discrimination</td>
<td>Is there sufficient substitutes to the product?</td>
<td>Substitutes are not available to buyers.</td>
</tr>
<tr>
<td>4.6 Barriers to Entry</td>
<td>Ease of Entry</td>
<td>Will a new company be able to enter the market or another company be able to expand into the market?</td>
<td>No new competitors are likely to appear into the market within two years due to legal barriers, presumed cost advantages to merged firm, and start-up costs.</td>
</tr>
<tr>
<td>4.7 Effective Remaining Competition</td>
<td>Market Power</td>
<td>Is there sufficient competition to merged firm?</td>
<td>Potential competition is weak.</td>
</tr>
<tr>
<td>4.8 Removal of a Vigorous &amp; Effective Competitor</td>
<td>Market Power</td>
<td>Does the merger remove a powerful competitor?</td>
<td>Competitiveness of market is reduced.</td>
</tr>
<tr>
<td>4.10 Additional Evaluative Criteria</td>
<td>Collusion</td>
<td>Does the merger promote or encourage coordination or secrecy?</td>
<td>Market and price information is no longer available, allowing firms to coordinate actions or prices.</td>
</tr>
<tr>
<td>4.11 Vertical Mergers</td>
<td>Ease of Entry</td>
<td>Do potential competitors need to vertically integrate operations to enter the market?</td>
<td>Competitors can not effectively enter the market within two years due to need to enter second market simultaneously.</td>
</tr>
<tr>
<td>4.12 Conglomerate Mergers</td>
<td>Ease of Entry</td>
<td>Will a company enter a market with or without the merger?</td>
<td>The firm replaces the competition in the market.</td>
</tr>
<tr>
<td>5 Efficiency</td>
<td>Economies of Scale</td>
<td>Will the merger promote an efficient market, benefiting the consumer?</td>
<td>Efficiency can be gained without merger, does not benefit suppliers or consumers, or will increase substitution.</td>
</tr>
</tbody>
</table>

(Courtesy of Merger Enforcement Guidelines, Competition Bureau)
interest. To use a phrase from the 1880s these are surely "righteous combinations," and it is our policy to leave them alone. ...57

State Trading Enterprises

These marketing boards are more importantly known as state trading enterprises (STE). "STEs are government or private enterprises that have been granted special or exclusive privileges by their governments, such as exclusive trade authorities and government underwriting of operational costs," according to Karen Ackerman of the Economic Research Service of the USDA.58 Various nations use STEs to implement policy objectives, protect domestic producers, and/or maintain sufficient supply stocks of a commodity such as wheat.59

STEs can range from a voluntary pool to a mandatory domestic, export, and/or import board, which controls most or all sales of the commodity.60 The Commodity Credit Corporation is an example of the voluntary pool, while the Canadian Wheat Board is a mandatory domestic and export board for wheat and barley.61 The Japanese Food Agency is a type of import STE.62

GATT (the General Agreement on Trade and Tariffs) in 1947 recognized the desire of countries to protect their national sovereignty through these boards, and set up a guideline to prevent the distortion of trade.63 However, the guideline has been deemed weak by governments, multinational corporations, small businesses, and individuals because it did not provide a workable definition of a STE.

57 Khemani, ibid., p. 246
58 Ackerman, 1999, p. iii.
59 ibid., p. 11.
60 ibid., p. 10.
61 ibid., p. 19, 24.
62 ibid., p. 24.
63 ibid., p. 1.
To prevent the distortion of trade, the Uruguay Round re-examined STEs. The negotiations resulted in a definition and a monitoring system to create more transparent STEs. The current definition of a STE by the World Trade Organization (WTO) is governmental and nongovernmental enterprises, including marketing boards, which have been granted exclusive or special rights or privileges, including statutory or constitutional powers in the exercise of which they influence through their purchases or sales the level or direction of imports or exports.64

To accomplish greater transparency, countries are required to report STEs to the WTO.65 American government officials have complained that the Canadian Wheat Board is not transparent enough to satisfy the guidelines; therefore, it needs to be dismantled. Canadian officials retort that it cannot discuss the terms of each sale, just as grain traders do not release such information. Furthermore, the current structure of the Canadian Wheat Board is necessary to allow Canadian farmers to compete against the gigantic grain trading companies.

64 ibid., p. 2.
65 ibid., p. 10.
Chapter 3

The Grain Traders

Dan Morgan, author of Merchants of Grain, begins his tale with an introduction:

"It is difficult to understand how the international grain companies could have slipped through history as inconspicuously as they have."\textsuperscript{66} He fills the next few pages with anecdotes underlining his struggles as he endeavored to pry open the grain trade. His words imply secrecy, malice, deceit, and maybe pure evil. Readers, including many farmers, are quickly engrossed by the details. Morgan ends his introduction with a sarcastic simple sentence about the grain traders, "The time for them to stand up and take a bow is long overdue."\textsuperscript{67} Who are these companies? How are they involved in the world market? What has been the recent corporate trends? Why is Cargill, a grain trader, suddenly in the news? And, what does the news about Cargill demonstrate about the industry?

Selective Sample Biographies of Top Grain Traders

Are the grain companies as secret as Morgan has presented them? Actually, no. The American government and public has been able to track these companies for over eight decades. Beginning in 1916, the United States Congress wished to ensure the quality of American grain by creating the Grain Standards Act.\textsuperscript{68} This Act demands that all wheat being exported must be inspected to guarantee its quality. To carry out this goal, the Act "requires the registration of all persons engaged in the business of buying grain for sale in foreign commerce. In addition, those individuals who handle, weigh, or

\textsuperscript{66} Morgan, 1980, p. 13.
\textsuperscript{67} ibid.
\textsuperscript{68} Mandatory vs. Permissive, ibid.
transport grain for sale in foreign commerce must register. The 1999 Export Registrants Directory lists 87 firms, though allowing parent companies, branches, subsidiaries, and joint ventures to register separately. This directory provides a framework for analyzing the types of companies involved in grain trading. Amazingly, this large number of firms can be grouped into four types of corporate structures. These structures can be described using the examples of Cargill, Incorporated; Archer-Daniels-Midland Company; Cenex-Harvest States Cooperative; and Mitsubishi International Corporation.

Cargill, Incorporated is one of the oldest of the current grain traders, dating back to 1865 with founder W. W. Cargill, and the most valuable private company in America. By being a closely held private company, it is allowed to conduct much of its business out of the public eye, especially since it does not have to release financial information to the Securities Exchange Commission (SEC). This at times may give Cargill a competitive advantage; however, financial information is released periodically. Cargill has also embarked on a public relations campaign to reduce some of the negative images that farmers have developed toward the company, stemming largely from the “Great Grain Robbery” of the 1970s on which Morgan based his book. Cargill’s development mirrors two trends in the grain trading industry: the desire to keep financial information secret in the competitive global market by staying private, yet also easing some of the discord by creating a better image through positive publicity.

---

69 Registration Requirements, unknown, p. 1.
71 The Great Grain Robbery refers to the sale of American wheat, brokered not by the American government, but by Cargill, Continental Grain Company, and a number of others. Its nickname was coined because it was not until after the sale that the American farmer received this information. Many farmers believed this was a deliberate action to reduce their personal profits.
On the opposite end, Archer-Daniels-Midland Company (ADM) began in its current state in 1923 and has chosen to be a public company. ADM regularly releases information to the SEC and draws on the large resources available through stock offerings. It has also formed a strategic alliance with A. C. Toepfer International, a German company, to export wheat around the world. This company illustrates the use of public offerings and strategic alliances to create a powerful grain trading company.

Moving economic power from corporations, the use of cooperatives has placed more control back into the producers' hands. Cenex-Harvest States Cooperative, created in 1929—a result of the cooperative movement of the 1920s—portrays the role this type of company has in the grain trading industry. Cenex and Harvest States merged in 1998 to become the number two farmers' cooperative. Furthermore, both Cenex-Harvest States and Farmland Industries, number two and number one respectively, announced a planned merger of these cooperatives on May 6, 1999. Although this merger was rejected by the member farmers, the announcement of a possible merger attests to the desire for this company, serving most of the West to become large enough to effectively compete with the international grain traders.

The final category of a grain trader is that of Mitsubishi International. An unlikely company in the American wheat industry, its power comes from its international network. Classified as a general trading company, Mitsubishi has built its wheat commodity base, not through physical assets, such as country elevators, but through

72 ADM, unknown, p. 1.
73 ibid.
74 Cenex-Harvest States, unknown, p. 1.
75 ibid.
“paper trading.” It negotiates the sale of wheat from terminal port elevators, ships the wheat to a distant port, and sells the wheat into the foreign country. This type of grain trading gives other general trading companies the opportunity to enter the grain trade, substantially opening up the wheat market since the 1970s.

Each of these company profiles demonstrates major characteristics of the grain trading industry. A company may be private or public, depending on its financial needs. Traditionally, the largest number of grain traders were private. Yet, for newcomers, like ADM, success has come through public resources. Not only are companies depending on investor resources, but they are also depending more on fellow companies through strategic alliances, such as joint ventures, to reduce risks. The grain trading industry, although quite competitive, is made even more cutthroat with the entrance of general traders.

Recent News from the Grain Traders

Because of the fierce nature of the world trading market, the grain trading industry has historically been dynamic. John Lauck portrays some of these changes when he states, “Although the industry involved thirty-some firms in the 1920s, it came to be dominated by six companies exporting 96 percent of wheat . . . in the 1970s.”

Furthermore, seven of the top ten grain traders in 1981 disappeared from the grain-exporting list by 1998 and new ones have appeared. From 1991 to February 1999, there were ten joint ventures and two mergers (Cargill-Continental and Farmland Industries-Tradigrain) in the export division of the grain traders and seven joint ventures and 72

---

78 Wilson, 1999, p. 33.
79 ibid.
80 ibid.
mergers of grain elevators in the overall wheat movement industry. Moreover, this development seems to be continuing.

Another result of the changing nature of this industry is the trend toward vertical integration. A study, done by Wilson and Dahl, remarks:

In this industry, it is notable that grain firms are integrating into commodity processing and processing companies are integrating backward into grain origination. . . . Some of the incentives to expand into value-added processing are to reduce income fluctuations resulting from international grain trading.

Today, the average multinational grain-trading corporation is involved in a number of sectors, from grain elevators to grain processing to other products. For example, Cargill owns a portion of the market at every step of the movement of wheat and is a significant player in the meat-packing sector, among other industries.

This goal of diversification has become central to Cargill’s business philosophy. Frank Sims, the president of Cargill’s North American Grain Business, believes that this is the only way Cargill can become strong enough to compete at each level. In fact, he declares, “grain exporters must bid away grain from this resurgent [50% increase since 1980] domestic marketplace.”

81 Lauck, ibid.
82 Haygenga, 1999, p. 4.
83 Wilson, ibid, sic passim.
84 ibid., p. 33-34.
85 Haygenga, ibid., p. 3.
86 Prepared Testimony of Frank Sims, 1999, sic passim.
87 ibid., p. 1.
Cargill: A Case in Point

Keeping with that philosophy, Cargill announced a merger with Continental Grain's exporting division on November 10, 1998. At that time, Cargill was positioned as the top grain trader and Continental as the number two—together encompassing 35% of the grain exporting market. Cargill hoped to further diversify its delivery points, especially at the Chicago Board of Trade, and add 73 grain elevators to its assets from Continental’s grain division. According to Cargill's CEO Ernest S. Micek:

The acquisition makes sense for both Cargill and farmers: [i]t complements rather than duplicates our existing grain gathering network; [i]t enables us to lower costs, improve service and extend our reach to new markets; [a]nd it fits the investments we have made in feed mills, processing plants and handling facilities in importing countries. That makes us a better sales agent for U.S. farmers and a more reliable supplier to foreign customers.

Yet others were not as optimistic as Cargill's CEO about the effects of the merger. Some in government feared this would decrease competition. Senator Tom Harkin from Iowa felt that "this merger will stifle competitiveness and hurt farmers." Also, Dan Glickman, director of the USDA, was quoted as saying, "I was particularly concerned that the proposed merger would increase concentration, decrease competition,

89 Haygenga, ibid., p. 7.
90 Haygenga, ibid., p. 5.
91 Micek, 1999, p. 4.
limit farmers' storage and marketing choices and reduce purchase prices for our farmers. Glickman's concerns seem to be noted in the approval of the merger.

After deliberations, the Antitrust Division of the Department of Justice accepted the merger on July 8, 1999, calling for a few minor adjustments to maintain competition in a few selected areas that may have been hurt. To provide enforcement of those divestitures the Division filed in District Court for the District of Columbia under Civil No. 99 1875. The final judgment reflected that:

Cargill will not acquire Continental facilities in Beaumont, Texas; Caruthersville, Mo.; Chicago; Lockport, Ill.; Salina, Kan.; Stockton, Calif. and Troy, Ohio. In addition, Cargill agreed to divest itself of grain-handling facilities in East Dubuque, Iowa; Morris, Ill. and Seattle. Cargill also agreed to make one-third of its daily loading capacity at Havana, Ill., available to third parties.

Essentially, the ruling listed grain elevators in the Midwest, Texas, California, and Washington. Cargill quickly accepted these terms. Joel Klein declared, "this enforcement action demonstrates (Justice's) commitment to preserve competition in agriculture. . . . Without these divestitures, many American farmers would have faced lower prices for major crops they produce."

Are the merger wars over? Definitely not. The key phrase in the grain trading industry is "bigger is better." It can be assumed that others will try to strengthen corporate bonds to reduce the global commodity risk through more strategic alliances or

---

93 ibid., p. 3.
94 Civil No. 99 1875, 1999, sic passim.
95 Rosenburg, ibid., p. 2.
mergers. Not only is there competition from the United States, but also there are global competitors, one with considerable market power: the Canadian Wheat Board.
Chapter 4

The Canadian Wheat Board, Primary Grain Trader

"Free trade in agriculture does not exist. National governments consider food supply too important to leave to the mercy of market forces."\(^{97}\)

Because many countries wish to protect their food supply, these national governments grapple with the proper agricultural policy. Should it be state-run, state-protected, or free market? Compared to the governmental involvement of the United States, the Canadian government chose to have considerably more authority in agriculture, especially wheat. This chapter will explain the history of the Canadian wheat industry. Further, this section will explain what the Canadian Wheat Board (CWB) is, how it fits into the industry, its various mechanisms, and the legal involvement of the government. Briefly, this part will also touch on the current controversies, which could lead to drastic changes. Finally, this portion will clarify why Montana farmers protested against the Canadian wheat industry at the Sweetgrass rally.

Wheat Board History

To control a stable supply of wheat during World War I, the Canadian government intervened in the grain industry in 1916 using the War Measures Act.\(^{98}\) Given the British blockade of Germany, Great Britain was the primary buyer of wheat from the United States, allowing the United States and the Board of Grain Supervisors of Canada to sell the wheat at $2.21 per bushel, a phenomenal price for wheat farmers.\(^{99}\) When the legal authority of the Board ceased in 1919, the wheat prices fell rapidly to

\(^{98}\) Rea, 1997, p. 3.
\(^{99}\) ibid., p. 3.
$1.11 per bushel by December 1921.\textsuperscript{100} The history of stable wheat prices during World War I drew Western Canadian farmers closer toward orderly marketing, where farmers would receive the "same price for the same grade throughout the whole crop year."\textsuperscript{101} This shift was also helped by a new player on the scene—Aaron Sapiro.

Aaron Sapiro, fresh from advocating cooperative marketing across the United States, spoke to farmer meetings throughout Canada.\textsuperscript{102} He condemned the Winnipeg Grain Exchange, a futures market, and promoted the pooling of wheat to reduce the power of the middlemen, that is, the grain traders.\textsuperscript{103} As support for pooling spread, a debate arose whether to make pooling mandatory, giving the provincial pool strong market power, or voluntary, weakening the pool, allowing farmers to chose. What resulted was three voluntary provincial pools that combined for marketing purposes into Canadian Cooperative Wheat Producers, Ltd. (better known as the Central Selling Agency), established in 1923.\textsuperscript{104} In spite of its increased power, the Central Selling Agency (CSA) could not guarantee prices comparable to the WWI prices, and with the onset of the global Great Depression, the federal government disbanded the CSA in favor of the Canadian Wheat Board Act of 1935.\textsuperscript{105} However, the voluntary nature of the Canadian Wheat Board caused farmers to only market their wheat to the Board when the open market was low, draining the government of money to support the Board.\textsuperscript{106}

\textsuperscript{100} ibid., p. 3.
\textsuperscript{101} Morton, 1963, p. 446. Quote is from Rea, ibid., p. 5.
\textsuperscript{102} ibid.
\textsuperscript{103} ibid.
\textsuperscript{104} ibid, p. 6. & 1930s, 1999, p. 3.
\textsuperscript{105} ibid.
\textsuperscript{106} ibid.
Wheat pooling became mandatory once again with the War Measures Act of 1943 in response to World War II.\textsuperscript{107} The Canadian government needed a stable supply of wheat at a relatively low price.\textsuperscript{108} At this time, futures trading of grain was shut down as the Winnipeg Grain Exchange was suspended until August 1, 1945.\textsuperscript{109} Even with the opening of the Exchange, the Canadian Wheat Board had evolved into a permanent institution. Originally an integral part of the Canadian government, the Board was reorganized in 1967 as a quasi-public Crown agency with the legal power to mandate farmers to sell their wheat to the Board.\textsuperscript{110}

Definition of the CWB

The Canadian Wheat Board in their 1995-1996 Annual Report wrote that the three “pillars [of CWB marketing] are single desk selling [monopoly power over wheat and barley for export and domestic human consumption], price pooling [combining farmers to reduce risk], and partnership of farmers and government.”\textsuperscript{111} First, it remains the largest STE in the world, controlling 98 percent of Canadian wheat exports, making it the largest Canadian exporter.\textsuperscript{112} Second, its purpose as declared through legislation is to “market these grains to get the most money it can for farmers” by pooling the wheat to have more market power.\textsuperscript{113} Third, the government underwrites loans to cover the administrative costs, including the initial payments, then the Canadian Wheat Board “returns all sales revenue, less the costs of marketing to farmers in Western Canada.”\textsuperscript{114}

\textsuperscript{107} After the harvest, the storm, 1995, p. 1.
\textsuperscript{108} Mulawka, 1997, p. 1.
\textsuperscript{109} Levine, 1987, p. 201.
\textsuperscript{110} Mulawka, 1997, p. 1.
\textsuperscript{111} A Proud Past and a Promising Future, 1997, p. 1.
\textsuperscript{112} Canada, Australia, & New Zealand, 1996, p. 32.
\textsuperscript{113} About the Canadian Wheat Board, unknown, p. 1.
\textsuperscript{114} Martin, 1999, p. 2. Quote from Canada-United States Joint Commission on Grains, 1995, p. 46.
The Canadian Wheat Board is a quasi-public entity (no longer a Crown agency) because it does not implement the policies of the Canadian government. However, it is held accountable to the government through mandatory reports to the Parliament by the Minister of Agriculture. Yet the CWB is free from the Access to Information Act. To hold the CWB accountable to the public, the Bill C-4 amended the Canadian Wheat Board Act in 1998 to allow the election of ten of the fifteen directors to the Board of Directors, responsible for the administration of the CWB.

Current CWB Mechanisms

There are three primary players in the movement and pricing of wheat: the farmers, the grain elevators, and the Canadian Wheat Board. The wheat farmers are subject to the rules of the Canadian Wheat Board Act. The grain companies are accountable to the CWB Act and the Competition Act. The Canadian Wheat Board is answerable to the CWB Act and WTO rules on state trading enterprises. Each of these entities operates in concurrence to export wheat, each with its separate roles.

In the spring, Prairie farmers begin to make planting decisions. These decisions are based on data provided in two primary sets of news releases: the Pool Return Outlook (PRO) and the Estimated Pool Returns (EPR). Both news releases contain the estimated price per bushel on each variety of wheat based on weather, production, futures trading, and contract reports to help the farmer make an informed decision about the amount and type of wheat to grow and harvest. In July, the farmers begin to report expected harvested acres, which the CWB uses to sign a series of four contracts with the

---

115 Canada, Australia, & New Zealand, ibid., p. 35.
118 Understanding the PRO, unknown, p. 1.
producers. Once the Canadian Wheat Board opens up delivery, farmers can begin to off-load holdover stocks and harvest wheat according to the contract that has been called. At the grain elevator of choice, the farmer will receive an initial payment, ranging from 65-80 percent of the total payment. This payment includes the sale of the wheat minus the transportation, handling, and grain cleaning costs. Later, the farmer will receive an adjustment to complete the total payment. To directly sell the wheat, a farmer can also obtain an export permit from the CWB, but without the license, the wheat is legally the property of the CWB.

The CWB uses grain companies to acquire the wheat. There are two general categories of grain companies in Canada: cooperatives and multinational corporations. Of these twenty-three companies, the grain storage industry is dominated by Sask Pool (Saskatchewan Wheat Pool), Agricore (the former Alberta and Manitoba Wheat Pools), Cargill, Pioneer Grain, and United Grain Growers, controlling over 90 percent of the market. Grain companies are bound by law to purchase the wheat at the initial payment price of the contracts, clean it, and store it until the wheat is called to be transported by rail to Vancouver, British Colombia, or Thunder Bay, Ontario; costs then are compensated by the CWB.

Grain elevators are also bound by the Competition Act. Although in the past, the Competition Bureau has had little involvement in this industry, the increasing concentration is leading the Bureau to play a greater role. For example, Sask Pool has become a semi-public company and the Alberta and Manitoba pools attempted a hostile

---

119 Canada, Australia, & New Zealand, ibid., p. 38.
120 ibid., p. 39.
takeover of United Grain Growers, which the Bureau reviewed. It is likely that this portion of the wheat industry will be plagued by merger issues that the Competition Bureau will need to resolve.

The final link in the wheat industry is the Canadian Wheat Board. Throughout the year, the CWB negotiates the sale of wheat to domestic processors, foreign buyers—including import STEs—and government agencies, such as the Canada Food Grains Bank. The CWB may also choose to sell some of the wheat to accredited exporters, who will negotiate contracts with their own buyers. Many of the CWB sales contracts remain secret. The Canadian Wheat Board has stated that the release of this information would damage the relationships of long-term agreements and long-standing buyers and, moreover, commercial information is generally considered proprietary. At this time, the CWB is also negotiating with the railroad companies—Canadian Pacific and Canadian National—to transport the grain to fulfill the sales contracts.

Current Controversies

Recently, the Canadian Wheat Board has faced considerable opposition. The Albertan provincial government under the leadership of Premier Ralph Klein and the Farmers for Justice have called for greater reform of the CWB to allow Prairie farmers to make greater marketing choices. Several hundred farmers have sought to force reform by directly trucking their wheat to American grain elevators without an export permit. However, during the trials of the grainrunners, as they are known, the federal courts,

123 Canada, Australia, & New Zealand, ibid.
125 Canada-United States Joint Commission on Grains, ibid.
127 Why grain sales are more secretive than spying, ibid.
including the Canadian Supreme Court, have rejected every legal avenue including the matter of private property as a guarantee under the Canadian Charter of Rights and Freedoms. Furthermore, a number of independent studies such as the book, The Federal Government and the Prairie Grain Sector: a Study of Over-regulation, has raised serious questions as to the accuracy of the claims of the Canadian government that the CWB is an efficient means to market grain, providing Prairie farmers with an advantageous wheat price.

Although the Canadian government has resisted substantial reform, the political pressure continues. The areas of reform have ranged from more local control to a completely open market. An example of a local control reform is the move by Alberta MLA Mark Hlady to introduce a bill to create an Alberta Wheat Board, tied to the province. Although this would not be allowed under federal law, another marketing system was proposed—a dual marketing option, permitting farmers to sell their wheat on the open market or the CWB. Opponents of this idea state that this would lead to the collapse of the CWB and, therefore, some simply call for open marketing. Even if all grains are not opened up to the open market, a possible reform could allow for more types of wheat and barley to be released to the open market.

Montana Protests Against the CWB

Montana farmers' protests over the Canadian Wheat Board can be classified into two general areas: lack of transparency and the way in which Canadian wheat enters the American market. The distrust of the CWB due to the lack of transparency results from

the American belief in an open government. Specifically, Montana farmers question why it is necessary to have such a high level of secrecy, whether this is a ploy by the government to grant additional farm subsidies, or whether the CWB is breaking American rules against monopolies. The second, and greater, distrust is over the movement of Canadian wheat into American grain elevators, considered by some to be dumping by the CWB and renegade grain-runners, driving down the price of wheat at the elevator.

Explaining the first distrust, it is important to note how the issue of transparency appears in international circles. It has already been mentioned that the WTO requires notifications by all STEs—compliance has occurred by Canada. Furthermore, United States Trade Representatives have called for more transparency in bilateral negotiations. Problematically, the CWB exists according to two separate standards. It operates as a commercial enterprise, following international norms for sales contracts and the periodic release of financial information. The CWB also operates by governmental standards, as it is accountable to the Parliament in Ottawa.

Because of the two standards that the CWB has been called to meet, it can become difficult to judge whether Canadian farmers are receiving additional farm subsidies. According to the findings of the Canada-United States Joint Commission on Grain, “... Canadian support levels are falling relative to those in the United States ... [furthermore] domestic support programs in Canada will soon have little, if any, impact on trade.” Since this 1995 Report, the Canadian government removed the largest farm

134 ibid., sic passim.
136 Canada-United States Joint Commission on Grains, ibid.
137 ibid., p. 81-82.
subsidy by repealing the Western Grain Transportation Act, otherwise known as the Crow Rates.\textsuperscript{138} Lastly, as indicated by a 1998 Organization of Economic Cooperation and Development (OECD) Report, Canadian farmers are provided with far less government support than American farmers. The OECD computed the production supports equivalent (PSE) for Canadians as $8,000 per farmer, whereas the PSE for each American farmer was $14,000.\textsuperscript{139}

Moving to the next reason for distrust is the American view of the CWB as a monopoly. In accordance with the Foreign Sovereign Immunities Act of 1976, the CWB is subject to the American federal antitrust guidelines since the CWB is involved in commercial activities.\textsuperscript{140} However, this is only if the actions have a direct effect on the United States market; otherwise, the activities are considered within “their own sphere of authority.”\textsuperscript{141} To determine the effect, the International Trade Commission, along with the United States Department of Commerce, would investigate the behavior of the CWB to determine if any actions are anti-competitive, and then forward this information onto the American Antitrust Division. The issue of dumping was also examined by these two agencies. The International Trade Commission scrutinized export records in 1995 to determine if dumping was indeed occurring.\textsuperscript{142} Much of the overflow of wheat entering American elevators was coming from either renegade grainrunners or accredited exporters. While grainrunners face prosecution for their activities, accredited exporters negotiate contracts with the CWB, at times regrade the wheat, and then resell it into the

\textsuperscript{138} Canada, Australia, & New Zealand, ibid., p. 42-43. The Crow Rates were a transportation subsidy.
\textsuperscript{139} Production Supports Per Farmer, 1998, p 1.
\textsuperscript{140} Antitrust Enforcement Guidelines for International Operations, 1995.
\textsuperscript{141} ibid.
\textsuperscript{142} Koch, December 9, 1998, p. 2
American market. However, many American farmers have labeled all Canadian wheat entering into U.S. elevators as an attempt by the CWB to push down grain prices.

143 Canada, Australia, & New Zealand, ibid., p. 47.
Chapter 5

The Montana Wheat Industry

You wake up every morning, knowing your job is important. Because you love your job, you don’t mind the long hours you are forced to work. You receive constant praise for your work. And you are considered one of the best in the world. Yet, you are only paid once a year. At the end of the year, you are called into your boss’s office. He tells you that you have done a fine job once again, but you will receive a pay cut.\textsuperscript{144}

Those were the words of Bobbie Rouns, as she spoke of the life of the Montana farmer at the July rally. This breed of Montana farmers is disappearing rapidly, leaving only 15,700 full-time farmers—a two-percent decrease since 1992.\textsuperscript{145} The land left idle by farmers exiting the business then is bought by developers or larger, more successful farms. In fact, Montana agriculture is dominated by farms that each generate $100,000 annual sales—they own 80 percent of the land, but only make up 22 percent of the population.\textsuperscript{146} For those less successful farmers, according to the Director of the Montana Department of Agriculture Ralph Peck, three sequential bad years can bankrupt the farm.\textsuperscript{147} The bankruptcy can be caused by low wheat prices, especially since 62 percent of crop acreage is planted with wheat.\textsuperscript{148}

If Montana farmers are only paid when they sell their wheat, which may be only once a year, it is important to compare what their wage is to that of the rest of Montana and the “rivals” to the North. This study will look at the assumption that the market

\textsuperscript{144} Rouns, 1999.
\textsuperscript{145} Montana State-Level Data, 1997, p. 1.
\textsuperscript{146} ibid.
\textsuperscript{147} Peck, 1999.
power of grain traders and the Canadian Wheat Board continually influence the grain bids at the local elevators. To understand how these entities could influence the grain bids, this section will first detail the specifics of the Montana wheat industry. Next, this technical chapter will analyze the statistical data received from grain elevators, the United States Department of Agriculture, and the Canadian Wheat Board’s payments the farmers. This analysis will attempt to determine if the differences in grain prices are statistically significant, leading some to wonder if the government needs to take a more proactive role in utilizing the antitrust trust legislation available in each country.

Montana Wheat Industry

The Montana wheat industry has been just as dynamic as the national grain trading market. Montana grain elevators have undergone a severe decline over the last 20 years.149 Paul Nordstrom of the Montana Department of Agriculture points to the decrease of railroad spurs and the increase of the trucking ability of farmers resulting in more distant elevators.150 As it stands, the average Montana farmer must haul his or her wheat between 15 and 25 miles.151 To relieve part of this decline, access has been opened up to Canadian elevators through the Canadian Wheat Access Facilitation Program for Montana farmers.152 Using this information, plus a commodity dealer list maintained by the Montana Department of Agriculture (the closest to a pure elevator list at the level of state government), there are 177 dealers.153 This figure though includes seed and ranch suppliers, along with grain elevators. To narrow this list to only grain elevators, the names were compared to the grain elevator list in the Montana business phone book and a

148 Montana State-Level, ibid.
150 ibid.
151 ibid.
phone survey. With this information, it is possible to deduce that there are at least 117 grain elevators available to Montana farmers. Moreover, some companies, such as Schulz Grain, have set up offices in Montana to coordinate the delivery of grain to a contracted elevator, thereby entering the Montana market without owning a physical elevator in the town they are receiving the wheat. Map 1 graphically displays the location of grain elevators in Montana.

Some important facts can be observed from this map. Each dot represents one or more elevators. Great Falls and Shelby have the most elevators due to the size of Great Falls and the location of both towns in the Golden Triangle, a primary wheat area of Montana. Moreover, the thin uneven lines refer to major transportation routes, pointing to the fact that most elevators are located along these routes. The final features on this map are the box-like dotted lines that approximate the wheat areas as designated by the USDA. These areas are labeled Billings, Golden Triangle, Great Falls, Northcentral, Northeast, and Southeast. There are 18 elevators located in the Billings area, 22 in the Golden Triangle, 13 in the Great Falls area, 22 in Northcentral, 27 in Northeast, and, finally, 17 in Southeast.

Given the location of the majority of the elevators, it is important to determine the number of elevators that each company operates. The top four elevator companies by physical assets in Montana are Cenex-Harvest States with 28 sites, General Mills, Incorporated with 26, Columbia Grain International holding 16, and ConAgra, Incorporated & Peavey owning 14. Cargill is listed as a commodity dealer located in

---

152 Canadian Wheat Access Facilitation Program, 1999, p. 3-4.
153 Firms Registered, 1999, sic passim.
155 These borders are designated as approximate to protect the confidentiality of the elevators by the author.
Map 1: Grain Elevators, Major Transportation Routes, USDA Areas
Billings; similar to Continental, however, it does not operate any elevators (pre- or post-merger). Graph 1 demonstrates this break down.

As portrayed, four elevator companies dominate the market. However, this percentage is deceiving because most wheat farmers live within 25 miles of two or more grain elevators. Moreover, if the price warrants it, the farmer can call for a pickup from another more distant elevator, thereby pitting, for instance, the demand of a grain trader against a grain processor and obtaining a better price per bushel.156

Once the wheat enters the elevator, it begins the journey to be exported or processed. Seventy-six percent of wheat is moved along the Columbia River Barge System for export or processing.157 The rest of the wheat is shipped to the Midwest to be processed for domestic use.158 If the wheat is destined to be exported, it will leave the country from either Portland or Seattle, though Portland handles more Montana wheat than Seattle.159 Louis Dreyfus Corporation, Columbia Grain, and Cargill own the three terminal port facilities in Portland.160 Harvest States Cooperatives, Peavey Company, Cargill, Tacoma Export Marketing Company, and United Grain Corporation control the elevators at the Seattle/Tacoma port.161

Although there are few companies located at the port, it is important to note three pieces of information. One, the facility may sell the wheat to a “paper trading” grain exporter. Two, these elevators do not run at full capacity, according to the CEO of Cargill; therefore, it would be useless to determine market power based on storage

156 Clark, ibid.
159 All Wheat, ibid.
160 Export Elevator Directory, 1999, sic passim
161 ibid.
Graph 1: Grain Elevator Ownership

- Other: 28%
- ConAgra, Incorporated/Peavey: 12%
- Columbia Grain International: 14%
- General Mills, Incorporated: 22%
- Cenex-Harvest States Cooperative: 24%
Three, by the time the wheat reaches the port, there is a greater amount of wheat being bought and sold; hence, the selling company has significantly greater market power than the individual farmer, especially given the number of “paper trading” companies that can be used to bid the contracts against the port facility companies. For that reason, it should not be assumed that any grain companies from its terminal elevator can automatically create a monopoly over Montana farmers based simply the numbers. But do the grain traders and the CWB manipulate the price Montana farmers receive for their wheat each time wheat is bought and sold?

Research Design

This research seeks to test the null hypothesis that there is no significant difference in the grain bids quoted by elevators to the world market. This project compares the means from grain bids given by Montana elevators to the price per bushel quoted by the USDA for each wheat area and the Canadian Wheat Board payments for 1999. The data for grain bids of Montana elevators comes from a weekly phone survey of 21 elevators over five weeks of 13 percent protein Hard Red Winter wheat. The Canadian Wheat Board payment is the total payment—the initial and adjusted payments—to the Prairie farmer. The total sample of bids is 93, bringing the number of data to be analyzed to 135. Finally, to test the significance, the means are compared using the paired-sample and a one-sample T-test to a level of significant of .01.

Results

This project first focused on the grain bids from each elevator and the given price per bushel that the USDA was quoting for each region. Through the T-test, only three groups of bids from the elevators were found to be significant. Two of these elevators

---

162 Prepared Testimony of Frank Sims, ibid., sic passim.
are independently owned and one is a multinational grain processor. Of the two independents, one is a cooperative. Figure 3 highlights these three tests (appendix 1 contains all of the tables). It is important to note that the independent cooperative is the only elevator to bid significantly lower than USDA price. The other two elevators bid significantly higher than the USDA price.

The second phrase of the project focuses on the Canadian Wheat Board price. Using the average currency conversion of the Canadian dollar to the American dollar from January 27 to February 24, 2000, it is found that the difference between the bids of the Montana elevators are statistically significant compared to the payments given to Canadian farmers by the Canadian Wheat Board. This is portrayed in Figure 4. Moreover, the payment for the wheat is higher for Montana farmers than for Canadian farmers.

* * *

Conclusion

Based on the analysis of these grain bids, most of the bids fall within the bounds of a normal curve. Since only three elevators result in significant differences, it seems to point that the grain bids are not being continually manipulated by grain companies. Moreover, none of the bids from grain traders resulted in significant differences. It would be difficult to state that grain traders are attempting to continually manipulate grain bids in Montana given this data and analysis.

Furthermore, the analysis of the Canadian Wheat Board payments points to two details; Montana farmers are receiving more for their wheat than Canadian farmers, and the Canadian Wheat Board did not drive the bids down for Montana farmers. Based on
Figure 3: Selected T-Tests of Montana Elevators

<table>
<thead>
<tr>
<th>Pair</th>
<th>Mean</th>
<th>Standard Deviation</th>
<th>Std. Error Mean</th>
<th>99% Confidence Interval of the Difference</th>
<th>t</th>
<th>df</th>
<th>Sig. (2-tailed)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Lower</strong></td>
<td><strong>Upper</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pair 1</td>
<td>VAR00014-VAR00024</td>
<td>7.250E-02</td>
<td>1.258E-02</td>
<td>6.292E-03</td>
<td>3.575E-02</td>
<td>1092</td>
<td>3</td>
</tr>
<tr>
<td>Pair 2</td>
<td>VAR00018-VAR00019</td>
<td>-1.025</td>
<td>2.500E-02</td>
<td>1.250E-02</td>
<td>-.1755</td>
<td>-2.9489E-02</td>
<td>8.200</td>
</tr>
<tr>
<td>Pair 3</td>
<td>VAR00001-VAR00002</td>
<td>8.700E-02</td>
<td>4.281E-02</td>
<td>1.914E-02</td>
<td>-1.1417E-03</td>
<td>.1751</td>
<td>4</td>
</tr>
</tbody>
</table>

Figure 4: T-Test of CWB and Montana Wheat Bids

<table>
<thead>
<tr>
<th>Test Value = 2.37</th>
</tr>
</thead>
<tbody>
<tr>
<td>t</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>VAR00002</td>
</tr>
</tbody>
</table>
this data, it is important to note that this period of bids was not during the time of suspected dumping in the years of 1994-1995.

Finally, because Montana and the Prairie provinces are dominated by a few elevators, there needs to be a continual monitoring of the grain bids. If at any time, the grain bids appear to be manipulated, then both the Antitrust Division and the Competition Bureau need to strongly consider any further mergers or possibly break up a company. Along with this, the International Trade Commission needs to monitor for any dumping on the American market by grain traders or unfair practices by the Canadian Wheat Board. Montana farmers, already disappearing, would be severely affected by either of these two actions. Lastly, this thesis points to the fact that there is not just one cause of the farm crisis. Further studies need to be made in other areas to identify possible linkages.
Appendix I

T-Test of Montana Elevators

<table>
<thead>
<tr>
<th>Pair</th>
<th>Paired Differences</th>
<th>Mean</th>
<th>Std. Deviation</th>
<th>Std. Error Mean</th>
<th>99% Confidence Interval of the Difference</th>
<th>t</th>
<th>df</th>
<th>Sig. (2-tailed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pair 1</td>
<td>VAR00002 - VAR00003</td>
<td>4.0000E-02</td>
<td>3.342E-02</td>
<td>1.671E-02</td>
<td>Lower: -1.376, Upper: 5.759E-02</td>
<td>-2.394</td>
<td>3</td>
<td>.096</td>
</tr>
<tr>
<td>Pair 2</td>
<td>VAR00002 - VAR00004</td>
<td>1.3000E-02</td>
<td>1.891E-02</td>
<td>8.456E-03</td>
<td>Lower: -5.1931E-02, Upper: 2.593E-02</td>
<td>-1.537</td>
<td>4</td>
<td>.199</td>
</tr>
<tr>
<td>Pair 3</td>
<td>VAR00002 - VAR00005</td>
<td>7.5000E-02</td>
<td>5.523E-02</td>
<td>2.761E-02</td>
<td>Lower: -8.6287E-02, Upper: 7.046E-02</td>
<td>2.716</td>
<td>3</td>
<td>.073</td>
</tr>
<tr>
<td>Pair 4</td>
<td>VAR00002 - VAR00009</td>
<td>2.5000E-02</td>
<td>2.082E-02</td>
<td>9.874E-03</td>
<td>Lower: -2.0462E-02, Upper: 7.046E-02</td>
<td>2.353</td>
<td>4</td>
<td>.065</td>
</tr>
<tr>
<td>Pair 5</td>
<td>VAR00002 - VAR00016</td>
<td>1.0000E-03</td>
<td>1.782E-02</td>
<td>7.969E-03</td>
<td>Lower: -3.5689E-02, Upper: 3.769E-02</td>
<td>1.251</td>
<td>4</td>
<td>.906</td>
</tr>
<tr>
<td>Pair 6</td>
<td>VAR00002 - VAR00017</td>
<td>5.7000E-02</td>
<td>5.461E-02</td>
<td>2.442E-02</td>
<td>Lower: -1.694, Upper: 5.545E-02</td>
<td>2.334</td>
<td>4</td>
<td>.080</td>
</tr>
<tr>
<td>Pair 7</td>
<td>VAR00002 - VAR00027</td>
<td>1.0000E-02</td>
<td>2.273E-02</td>
<td>1.137E-02</td>
<td>Lower: -7.6383E-02, Upper: 5.638E-02</td>
<td>-2.880</td>
<td>3</td>
<td>4.444</td>
</tr>
<tr>
<td>Pair 8</td>
<td>VAR00006 - VAR00007</td>
<td>1.7500E-02</td>
<td>4.573E-02</td>
<td>2.287E-02</td>
<td>Lower: -1.511, Upper: 1.161</td>
<td>-1.765</td>
<td>3</td>
<td>5.000</td>
</tr>
<tr>
<td>Pair 10</td>
<td>VAR00010 - VAR00011</td>
<td>4.4000E-02</td>
<td>5.225E-02</td>
<td>2.337E-02</td>
<td>Lower: -6.3582E-02, Upper: 1.516</td>
<td>1.883</td>
<td>4</td>
<td>.133</td>
</tr>
<tr>
<td>Pair 11</td>
<td>VAR00010 - VAR00012</td>
<td>4.0000E-03</td>
<td>8.944E-03</td>
<td>4.000E-03</td>
<td>Lower: -2.2416E-02, Upper: 1.442E-02</td>
<td>-1.000</td>
<td>4</td>
<td>.374</td>
</tr>
<tr>
<td>Pair 13</td>
<td>VAR00010 - VAR00025</td>
<td>2.2500E-02</td>
<td>3.594E-02</td>
<td>1.797E-02</td>
<td>Lower: -8.2460E-02, Upper: 1.275</td>
<td>1.252</td>
<td>3</td>
<td>.299</td>
</tr>
<tr>
<td>Pair 14</td>
<td>VAR00010 - VAR00026</td>
<td>1.667E-02</td>
<td>2.309E-02</td>
<td>1.333E-02</td>
<td>Lower: -1.115, Upper: 1.140</td>
<td>1.250</td>
<td>2</td>
<td>.333</td>
</tr>
<tr>
<td>Pair 15</td>
<td>VAR00014 - VAR00015</td>
<td>3.5000E-02</td>
<td>2.887E-02</td>
<td>1.443E-02</td>
<td>Lower: -4.9306E-02, Upper: 1.514E-02</td>
<td>2.425</td>
<td>3</td>
<td>.094</td>
</tr>
<tr>
<td>Pair 17</td>
<td>VAR00021 - VAR00022</td>
<td>7.0000E-02</td>
<td>3.742E-02</td>
<td>1.871E-02</td>
<td>Lower: -1.793, Upper: 3.927E-02</td>
<td>-3.742</td>
<td>3</td>
<td>.033</td>
</tr>
</tbody>
</table>
References


Nankivell, Neville. (1998, January 31-February 2). Opposition to Wheat Board’s Monopoly continues to grow: many farmers think they should have the right to freely sell what they grow at their own financial risk. Financial Post. v. 91 (5). p. 23. CPIQ: Canadian Periodicals Index: AN: 4045645. [7/9/1999].


Peck, Ralph. (1999, October 7). Director. Montana Department of Agriculture. [Personal Interview].


