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Using Farm Debt to Spin Farmers' Canola into Investors' Gold

Input Capital, an offshoot of the farmland investment company, Assiniboia Capital Corporation, has created something akin to a pay-day loan scheme for farmers. It is based on a financing practice used in the mining industry called *streaming*, where an investor provides upfront capital to develop a mine in return for a share (stream) of its production at a low fixed price for the life of the mine. The investor profits by re-selling the mineral on the open market at full price. *Canola streaming* is Input Capital's innovative adaptation for agriculture. The company provides an upfront sum of money to the farmer in return for a specific volume of canola from the next five to seven years' crops (in some cases purchased at a pre-determined, low price), which Input Capital then sells to elevators and canola crushers at market prices. Input Capital's canola streams are a new type of financial derivative – and an opportunity for wealthy investors to make money from canola without ever setting foot on a farm.

To illustrate the concept, here are a couple of hypothetical cases based on published information:[1]

Example 1 - Farmer A farms 1800 acres with 700 acres in canola. In return for $500,000 cash in year one, he agrees to provide Input Capital a minimum of 300 tonnes (13,200 bushels) of canola, called "base tonnes" for each of the next six years for a total of 1800 tonnes (79,252 bushels). If the crop yields above a pre-determined threshold, he must also provide 15 percent of the additional yield, called "bonus tonnes", to Input Capital.[2] If the farmer does not have enough canola to cover his commitment he can provide Input Capital with the equivalent value of another crop (to be determined by Input Capital). In addition, he agrees to hire and pay for an agrologist at approximately $5.00/acre ($3500/year) to provide advice to maximize yield, and he purchases crop insurance to cover 70% of the crop (cost depends on the farm location and farmer's production and claims history). If Input Capital is able to obtain $470/tonne[3], the average price it got for the canola it received in 2014, Farmer A's 1800 tonnes of canola will sell for $846,000.

Example 2 - Farmer B farms 9000 acres with 4500 in canola. In return for $2.5 million upfront he agrees to deliver 2000 base tonnes of canola for the next six years for $100/tonne ($2.27/bushel) - a total of 12,000 tonnes (528,000 bushels) for $1.2 million plus 15% of the yield above the pre-determined threshold (bonus tonnes) at $100/tonne, hires an agrologist at approximately $5.00/acre ($22,500/year) and buys crop insurance. The farmer obtains a total of $3.7 million; Input Capital obtains canola worth over $5.64 million if its 2014 selling price holds. Both Farmer B and Input make more money if bonus tonnes are produced.

According to 2013 records[4], Input Capital had streaming contracts with nine Saskatchewan farmers. Two involved upfront payments plus low annual payments for the committed canola; the other farmers committed to provide canola each year with no further payment beyond the initial cash up front. The 2013 commitments would require approximately 15 to 31 bushels per acre on the land they have allocated to canola.

Input Capital secures its interests by requiring the farmer to maintain crop insurance (which protects Input in the case of crop failure) and with a General Security Agreement on the farm's assets, a second mortgage on the land in some cases, as well as by purchasing a life insurance policy on the farmer with Input Capital as the beneficiary[5].

(continued on page 2...)

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[1] *Input Capital (TSXV: INP) – Initiating Coverage - First Agriculture Streaming Public Company in Canada - Focus on Canola*, by Siddharth Rajeev, B.Tech, MBA, CFA, Analyst and Daniel Iwata, BA, Research Associate, Fundamental Research Corp., August 1, 2013. http://www.baystreet.ca/articles/research_reports/fundamental_research/INP-Initiating-Aug-2013.pdf

[2] Input Capital Corp. Monthly Update - November 2013.

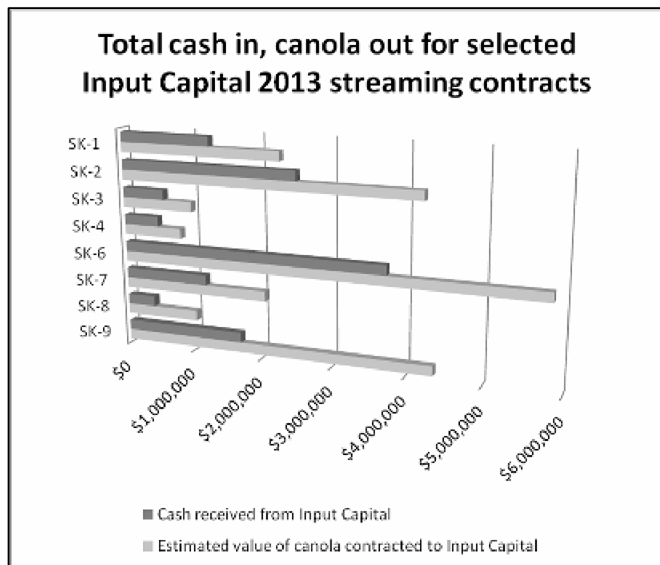
[3] Input Capital (TSXV: INP) – Increases Capital Deployment Pace in Q4, Fundamental Research Corp., June 3, 2014.

[4] *Ibid.*, Fundamental Research Corp., August 1, 2013.

[5] *Ibid.*

In its promotional material, the company appeals to farmers by telling them they can use the money to pay off debt or use it to buy fertilizer or other inputs when they are on sale, suggesting it is an alternative form of financing – not debt[6]. These streaming contracts are not traditional loans with repayment of principal plus interest, however, they certainly are debts – the farmer owes the company a fixed amount of canola produced each year at a low fixed price (which may be zero dollars).

The difference between the farmer's contracted price and canola's future selling price is unknown, and represents the company's margin (or risk) and the farmer's cost of financing. If the price of canola goes up, it is a better deal for Input Capital. If the price goes down the farmer's cost for the loan drops because the value of the contracted canola is less than anticipated, but any remaining canola left to sell for his own benefit is also worth less, so the farmer may end up in a cash crunch anyways.



Source: *Input Capital (TSXV: INP) – Initiating Coverage - First Agriculture Streaming Public Company in Canada - Focus on Canola*, Fundamental Research Corp.

If 2014 prices hold, the farmers who entered streaming contracts in 2013 will provide Input Capital with canola that is worth from 167% to 261% of the cash paid out to them over the life of the contract (more if bonus tonnes are produced), depending on the individual contract's terms. Another way of looking at it is that Input Capital's investment will probably be fully recovered within the first 2 ½ to 4 years, while it continues collecting and selling canola from the farmers for the rest of the 6 and 7-year contracts. The scheme is, in effect, a privately-funded advance payment system with unknown, but potentially very costly terms.

For comparison, the government's Advance Payments Program (cost-shared 60-40 between federal and provincial governments) will advance up to half of the average market price expected in that area, to a maximum of $400,000 per producer. The government pays the interest on the first $100,000 advanced and the full advance must be repaid by the end of the period. The interest rate used is the Canadian Imperial Bank of Commerce's prime lending rate (currently 3%). In 2014, the Advance Payments Program in Saskatchewan lent up to $210/tonne for canola. The farmer maintains ownership of the whole crop but must repay the advance with the first part of the crop sold. Producers are not allowed to dispose of any part of the crop, in any manner, before disposing of the portion of the crop upon which the advance was received[7].

Due to the risks involved, many farmers may be reluctant to enter a canola streaming contract. So far, only 20 farmers have taken up Input Capital's deal[8]. Some of these are already involved with the key players in Input Capital.

Assiniboia Capital Corp., Assiniboia Farmland Holdings LP and Input Capital are managed (and/or largely owned and controlled) by the same people. Assiniboia Farmland Holdings LP recently sold all of its farmland (119,000 acres) to the Canada Pension Plan Investment Board (CPPIB) for approximately $128 million, but continues to manage the land for CPPIB. Input Capital states that some of its streaming contracts will likely be with tenants farming land owned by Assiniboia Farmland Holdings "and some portion of the upfront payments made to farm operators may be directed to be paid to Assiniboia Partnership for rent."[9]

The company plans to fund the streaming contract advances from the very high returns it gets from selling the contracted canola. But seed money was required to

(continued on page 3…)

[6] Corporate Presentation: Building the premier agriculture streaming company. Input Capital, May 2014. http://www.inputcapital.com/what-we-do/overview/default.aspx

[7] Canadian Canola Growers Association website, http://www.ccga.ca/CashAdvance/Pages/General-Information.aspx

[8] Media release, July 10, 2014: Input Capital Corp. Releases Q1 Operations Update. http://www.inputcapital.com/news/Press-Release-Details/2014/Input-Capital-Corp-Releases-Q1-Operations-Update/default.aspx

[9] Input Capital Corp. 2014 Year End Report, inputcapital.com

(Using Farm Debt…, from page 3)

get started. Assiniboia Capital launched Input Capital via a series of limited partnerships, where it test-drove the canola streaming concept using money raised in private share offerings. The partnerships were transformed into a private company in 2011 which was restructured by way of a complex financial transaction in 2013, allowing the now public Input Capital corporation to begin selling shares on the Toronto Venture Exchange. It has raised over $60 million through this process so far. Two subsidiaries of the Bermuda-based multinational insurance company, The Catlin Group Limited, became “strategic investors” by investing nearly $19 million in 2013.

Input Capital believes its shares are eligible for RRSP and Tax Free Savings Account funds under certain conditions. Such investments would be subsidized by the public purse because the investor’s funds are not subject to personal income tax until withdrawn, presumably many years from now when the then-retired investor is in a lower tax bracket.

In its 2014 annual report Input Capital clearly states that it has no plans to pay dividends to shareholders and may never do so. In spite of this, share prices have gone up. Interestingly, Input Capital’s share price rose sharply between January 8 and 17, 2014 then peaked on February 28, 2014, coinciding with the CPPIB’s payments to Assiniboia Farmland LP for its farmland holdings.

Companies that are traded on the stock market are not permitted to own Saskatchewan farmland due to the *Farmland Security Act*, since shares could be sold to non-residents of Canada. Alberta and Manitoba have similar restrictions on foreign ownership. Thus, if Input Capital repossesses any prairie farmland from a farmer who defaults, it must sell the land to a Canadian entity according to the relevant legislation.

While the lending practices of the chartered banks, credit unions and Farm Credit Corporation are highly regulated, it appears that Input Capital is not touched by similar regulatory oversight.

Total farm debt in Canada is now approximately $78 billion and still rising. Low interest rates and somewhat better commodity prices in recent years have not resulted in farmers paying down debt as one might have expected. Realized net farm income still remains low. While crop prices stand still or fall, farmers may try to increase their incomes by expanding, intensifying and buying more inputs and bigger equipment with the expectation of an increase in output. These strategies fuel an apparent appetite for yet more debt, which presents an opportunity for increasing the financialization of farming.

Prairie farmers are realizing lower prices due to grain companies’ ability to extract wider basis during the logistics problems that resulted from the loss of the Canadian Wheat Board’s orderly marketing system. Many farmers will face severe debt repayment concerns this year, especially if prices continue to fall or access to delivery becomes even more erratic. As debt and cash flow situations become increasingly desperate, more farmers may be willing to entertain financing arrangements with very onerous terms such as Input Capital’s canola streaming contracts.

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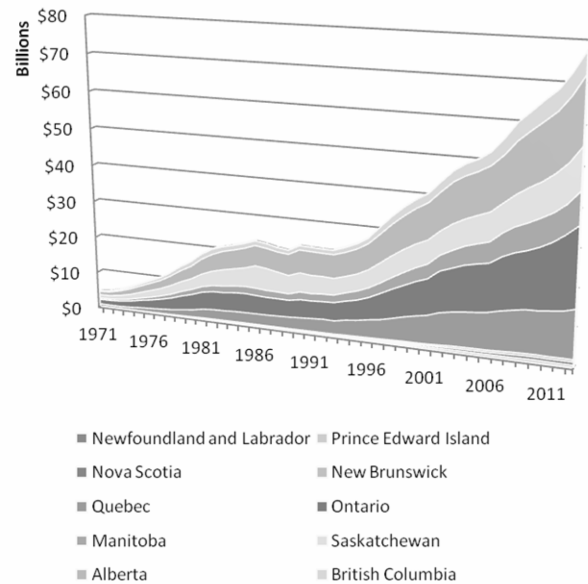

Source: Statistics Canada

Fairness sidelined in new rail regulations

Bill C-30, which became law on May 29, 2014, amended the *Canada Grain Act* and the *Canada Transportation Act*. It set minimum amounts of grain to be moved by CN and CP with daily fines if they do not comply. After it was passed, the Canadian Transportation Agency (CTA) consulted with the railways, grain companies and others regarding the specifics to be included in the new regulations. The National Farmers Union submitted a brief, which is available at https://tinyurl.com/q2jbwj5 . Several key points from the submission are summarized in this article.

The new regulations unveiled on August 1 extend minimum weekly grain movement requirements until the end of November and require monthly (instead of quarterly) reporting of monitoring data. They also include provisions to ensure that delivery contracts between farmers and grain companies include penalties payable to the farmer if the company fails to take delivery on time. However, it is up to the farmer and company to negotiate such contracts and mutually agree on the terms.

Bill C-30 clarifies certain terms for shippers seeking compensation from railways for lack of service. We wonder if the big grain companies would do so, since plugged elevators, delays in car spotting, bottlenecks and demurrage can be used to justify and enforce wide basis. The new rail transport regulations do not limit the basis grain companies can demand, and there is no mechanism to ensure that transportation improvements will be reflected in better prices at the country elevators.

It is important to understand that under the *Canada Transportation Act* farmers are not shippers. Media reports often assume farmers are shippers and thus will benefit from measures that help shippers get compensation for railways' failures. It is the grain company – not the farmer – that is the shipper.

The new regulations fail to deal with several key issues, including equitable treatment for farmers regardless of location; adequate service for producer cars and independent shippers; and coordination among grain companies to promote efficient use of the transportation system in the public interest.

Equitable treatment for farmers regardless of location

The CTA is mandated to ensure the transportation system is accessible to all persons – including farmers who produce grain and depend on the transportation system to convert their year's work into income. The NFU is calling for measures to ensure that transport is equitable across the whole grain-growing area and that transportation logistics are coordinated from country elevator to port of export.

2013-14 was a bumper crop, with excellent quality all across the prairies, allowing grain companies to source suitable grain from all parts of the region. Production was up in all provinces, but the volume of crop stranded due to logistics problems was largest in Saskatchewan (Figure 1).

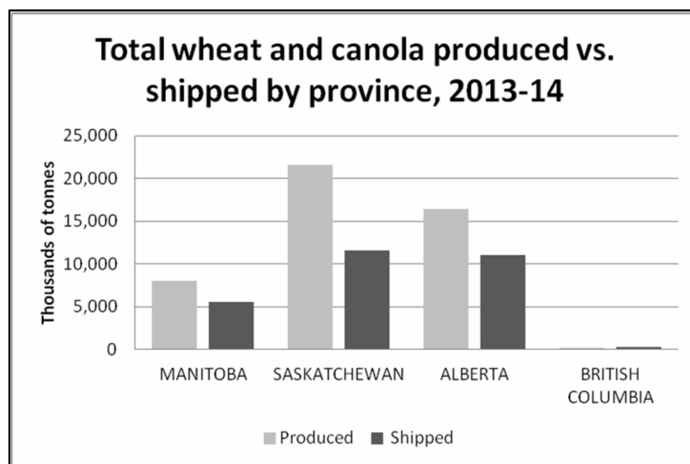

Figure 1 - Source: Statistics Canada, Canadian Grain Commission

The long-term average percentages of wheat and canola shipped from each province are roughly 40% each from Saskatchewan and Alberta, 20% from Manitoba and just under 1% from BC. CGC data shows that the balance shifted towards Alberta and BC in 2014, primarily at the expense of Manitoba (Figure 2). Without geographic parameters in the weekly shipment regulations, inequitable treatment of farmers across the prairies occurs, as railways can meet their minimum requirements and avoid penalties by giving priority to the lowest cost corridors and locations closest to port.

(continued on page 5…)

Service priority for producer cars and independent shippers

Lack of adequate railway service creates a severe disadvantage for grain companies because they are captive shippers (there is no alternative mode of transportation). Today, 70% of Canada's grain trade is controlled by four companies, and just three companies, Richardson, Viterra and Cargill, own 60% of Canada's grain terminal capacity and 59% of the prairie elevator capacity.

If independent shippers are hobbled by inadequate railway service, the few big companies will squeeze them out. Appropriate regulation of the grain transportation system should be used to counteract the trend toward monopoly and resulting non-competitive market behaviour.

Railways' self-interested behaviour simultaneously helps the largest grain companies. The revenue cap limits the revenue railways can earn per loaded mile. The cap includes a profit, so the more grain moved the greater the railway's profits. Railways maximize profits by charging high enough rates to use up all the room they have under the revenue cap then reduce staff and locomotive power and prioritize the lowest cost shipping points to minimize costs. Producer cars and independent shippers bear the brunt of this practice, as it is usually cheaper for the railways to serve the large inland terminals.

Each corridor should have enforceable targets to ensure all train runs get equitable service and protect the market shares of producer cars, dealer cars, small grain companies and farmer-owned terminals. Service to producer cars, farmer-owned grain terminals, small-lot markets, short-lines, and areas outside interswitching catchment areas should have priority. This would promote equity and diversity within the grain system in the public interest.

Require coordination among grain companies

A central authority is needed to balance the power between the thousands of individual farmers who rely on the grain transportation system versus the railway duopoly and the multinational grain companies that dominate the grain trade in Western Canada. The large grain companies also do business in Australia, USA, Argentina, Ukraine, etc. and can obtain supplies elsewhere when Canadian grain is not moving, so are not necessarily harmed by logistics issues within Canada. Without a central authority regulating grain movement, railroads and grain companies will behave in a self-interested manner – indeed both are rewarded by underperformance which allows them to charge excessive rates to farmers and take more of the wealth produced on prairie farms. Rail companies have been the target of public opinion, yet grain companies have quietly made unprecedented profits by exploiting the system failure.

The single desk Canadian Wheat Board (CWB) provided an effective counterweight to the railway duopoly because it controlled the flow of wheat, durum and barley through the grain transportation system. Orderly marketing of wheat provided the framework in which canola, peas, flax and other non-Board grains could also be moved efficiently. The CWB had shipper status under the *Canada Transportation Act* and acted on behalf of farmers if railways failed to meet their obligations. When the federal government eliminated the single desk CWB it created a gaping hole in the grain transportation logistics system.

The NFU is calling for a planning and coordinating authority that would step into the role of monitoring the grain trade's sales volumes and prices, which in turn the CTA could use to set the precise levels of service required for each corridor in order to ensure efficient transportation and fair prices to farmers. The

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Weekly share of wheat and canola shipments by province, 2013-14 crop year

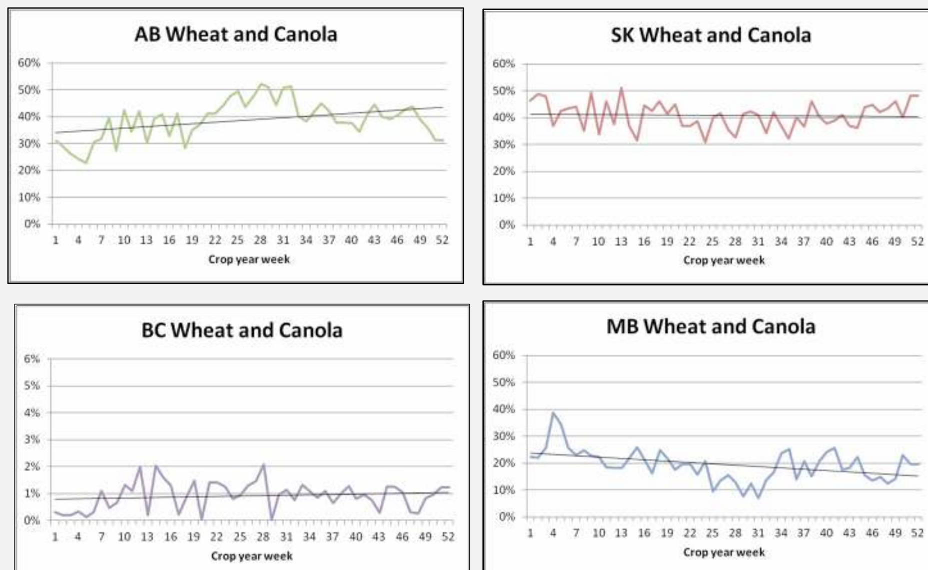

Figure 2 - Source: Canadian Grain Commission

CTA, or an agency established under its authority, could forecast the volume of grain to be moved each crop year through mandatory collection of forward grain contracts.

In 2013-14, port terminal capacity frequently went unused while vessels waited in the harbour. Lack of coordination among terminal companies, each seeking its own private benefit at the expense of efficient movement of grain, may be at the root of the matter. Cooperation between companies could promote expeditious shipments, for example, by filling ships with grain from two or more companies, depending on which had grain of the required grade in store at the terminal. An exchange system could rebalance the totals later. Planning and cooperation among grain companies could also reduce the intensity of peak terminal and rail capacity requirements following harvest.

If this year's situation is the beginning of a trend and not an aberration, it will lead to structural changes in prairie agriculture. If grain transportation is not regulated effectively, slight changes in relative freight rates between commodities (oil vs grain, potash vs grain, etc.) will affect access to service for farmers and increase volatility within the agricultural economy. While we think of the Canadian prairies as the breadbasket of the world, Canada's combined wheat (35 M t) and barley (9.5 M t)[1] production is actually less than the state of Iowa's annual corn crop (47 M t in 2013)[2]. Canada's grain economy developed within specific conditions shaped by policy and public institutions which have allowed us to compete successfully in export markets in spite of our small size. Inadequate rail regulation not only hurts farmers, but it puts our international position in jeopardy.

For the NFU's full brief, please see *NFU Response to CTA Questions on Western grain transportation* on our website at http://www.nfu.ca/policy/nfu-response-cta-questions-western-grain-transportation .

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What is *basis?*

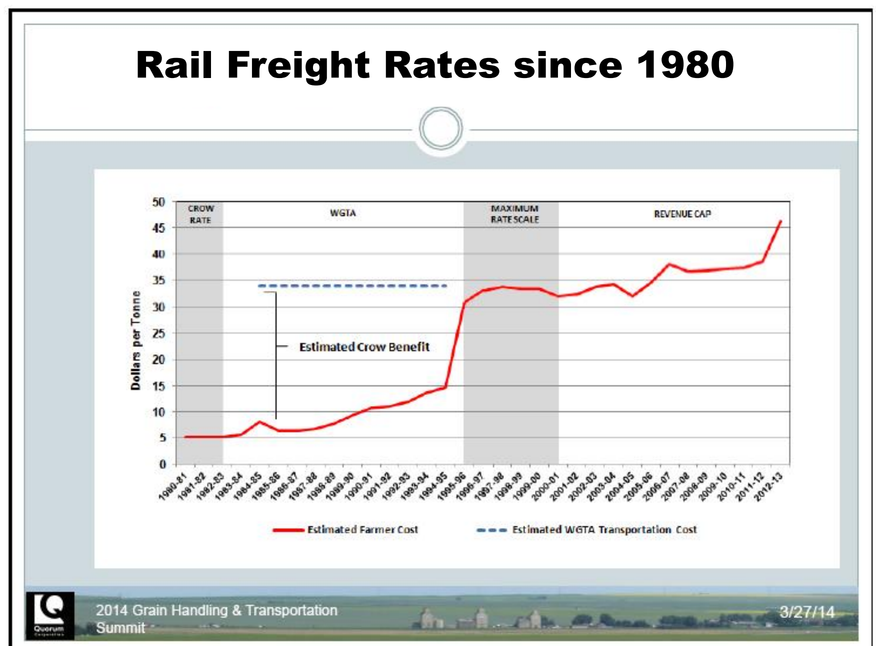
Basis is the difference between a futures market price for a commodity and its local cash price. Basis is influenced by the cost of getting grain from a local delivery point to the point of use and levels vary over time and among locations due to differences in transportation costs, local demand and competition between buyers. Basis levels are the prerogative of the grain buyer and are not subject to government regulation.

[1] Statistics Canada, Table 001-00101, 31 - Estimated areas, yield, production and average farm price of principal field crops, in metric units
[2] Crop Production 2013 Summary (January 2014) USDA, National Agricultural Statistics Service

Why the Revenue Cap must be kept in place

The railways, as well as some agriculture commentators, are advocating a "market-driven" rail pricing system that would raise, or even remove the current revenue cap, which is the regulatory limit to freight rates today.

The graph (right) of estimated farmers' cost of rail transportation shows that railways have historically charged the maximum rail freight rates permitted under the regulations at the time. Increases in freight rates for grain are inevitably passed on to farmers in the form of wider basis.



Source: Quorum Corporation

Bill C-18 would expand the neonicotinoid market

If Bill C-18, the *Agriculture Growth Act*, becomes law it will help build and reinforce the corporate agribusiness platform for co-selling, cross-promotion and tied-selling of neonicotinoid insecticide seed treatments and other seed-based products.

Monsanto's packaging of genetically modified corn, soy and canola seed with its brand-name glyphosate herbicide is the probably the most well-known expression of this sales strategy, but neonicotinoid producers, Bayer and Syngenta, also co-sell chemical products with their seed. Bayer, with 32 registered canola varieties, sells its "Liberty-link" canola seed to go with its brand of glufosinate herbicide. Syngenta, which breeds corn and soybean varieties, sells the seed pre-treated with neonicotinoid seed treatment. According to its annual report, Syngenta's seed treatment sales volume increased 13 percent in 2013, with significant growth coming from Canada. Bayer not only sells neonicotinoids seed treatments under its own brand names, but has also licensed its imidacloprid neonicotinoid to Monsanto to sell under its brand, Acceleron. Bayer's 2013 annual report states that its 5% growth in North America in spite of a reduction in actual seed sales is due primarily to its corn and soybean seed treatment business along with increased herbicide sales.

The *Competition Act* defines tied selling, but discourages it only if it could prevent other companies from competing in the market. It is silent on protecting the customer's right to obtain a product as a stand-alone item, other than in the case of financial services where tied selling is prohibited.

"*tied selling*" means:

(*a*) any practice whereby a supplier of a product, as a condition of supplying the product (the "tying" product) to a customer, requires that customer to

(i) acquire any other product from the supplier or the supplier's nominee, or

(ii) refrain from using or distributing, in conjunction with the tying product, another product that is not of a brand or manufacture designated by the supplier or the nominee, and

(*b*) any practice whereby a supplier of a product induces a customer to meet a condition set out in subparagraph (*a*)(i) or (ii) by offering to supply the tying product to the customer on more favourable terms or conditions if the customer agrees to meet the condition set out in either of those subparagraphs.

- *Competition Act*, Section 77 (1)

Most of Canada's corn, soybeans and canola are genetically modified varieties that contain patented gene sequences, allowing the companies that own the patents to control access to the seed. If farmers save part of a GMO crop for use as next year's seed they would violate the patent owner's rights. Consequently, the only source for new seed of GMO varieties is through the patent-holding company or its licensee.

Bill C-18 would provide companies with a way to control access to new varieties of non-GMO crops, including cereals and pulse crops, by providing for enhanced, UPOV '91-compliant Plant Breeders Rights (PBR) protection. If Bill C-18 passes, breeders will gain exclusive control over new varieties for 20 years, as well as 20 years' exclusive control over varieties "essentially derived" from its PRR-protected varieties. (The bill's farmers' privilege provision to allow farmers to save seed for their own use on their own land is tenuous, as the Bill also allows the government to claw back the farmers' privilege by passing new regulations.) Bill C-18 would, in effect, provide seed companies with legal tools to require farmers to purchase new seed every year, while nothing prevents them from offering only seed that is treated with their own products – and of course, to charge more for the treated seed. Syngenta and Bayer plan to expand their cereal crop breeding activities, and both also sell neonicotinoid seed treatments for cereal crops: Cruiser Maxx (Syngenta) and Gaucho and Stress Shield (Bayer).

Bill-C-18, in conjunction with other recent seed sector regulatory changes and federal funding cuts to public breeding, facilitates *de facto* tied selling of seed-treatments, which has implications for both farmer autonomy and ecology. With fewer options for using farm-saved seed, buying pedigreed seed from independent seed growers or buying public domain common seed from other farmers, the seed companies obtain a very solid platform for tied selling of seed treatments, brand-name herbicides and fertilizers.

In 2014, approximately 29 million acres were seeded to predominantly GMO crops (canola, corn and soybeans), 33 million to cereals and 7 million to pulse crops. For the global seed and agro-chemical companies, Bill C-18 holds out the prospect of obtaining access to an annual seed and seed treatment market for most cereal and pulse acres. *(See Figure 1 on page 8)*

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(Bill C-18..., from page 7)

The landscape impacts of mass adoption of seed treatment formulations due to the lack of few available alternative seed sources are significant.

Health Canada's Pesticide Management Regulatory Agency requires users to apply pesticides according to label specifications. The labels for neonicotinoid seed treatments say these insecticides may contaminate groundwater, particularly in areas where soils are permeable (e.g., sandy soil) and/or the depth to the water table is shallow. The labels also state that these chemicals are toxic to bees, wildlife, aquatic organism, birds and small wild animals and instruct users to keep them out of lakes, streams, ponds or other aquatic systems. It is difficult to comprehend how a farmer could avoid contaminating groundwater, and thus aquatic systems, if virtually all available seed for major field crops was treated.

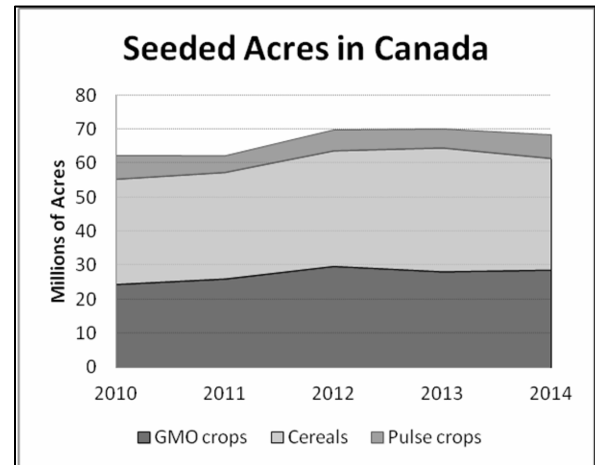

FIGURE 1: Source: Statistics Canada

While seed companies may be seek a larger and more secure market for both seeds and chemicals, both farmers' incomes and Canada's pollinators are at risk from the expanded use of neonicotinoids – a plausible outcome of Bill C-18 if it is allowed to become law.

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(Note: Bill C-18 passed Second Reading in the House of Commons on June 17. It will go to Committee some time after Parliament resumes sitting on September 15. For more about Bill C-18 and other seed-related information, please visit http://www.nfu.ca/issues/save-our-seed)

Partners in Wheat Biotechnology?

On June 5, 2014, 16 organizations from the USA, Canada and Australia released a statement promoting synchronized commercialization of biotech wheat in all three countries. The Canadian groups that signed it are the Canadian National Millers Association, Cereals Canada, Grain Farmers of Ontario, Grain Growers of Canada, and the Western Canadian Wheat Growers Association. Their statement (see https://tinyurl.com/ows6oyn) calls for continued public and private investment in "innovation", streamlined approval processes, acceptance of low level presence (LLP) of unapproved GMOs in imports and exports, "co-existence" via acceptance of some level of contamination, and no new regulatory measures regarding the food safety of genetically engineered wheat, while promoting the use of biotechnology in wheat to feed the world. Except for the Millers, the groups that signed the statement are also members of *Partners in Innovation*, the lobby group set up to promote Bill C-18's unpopular changes to Canada's Plant Breeders Rights Act. For more information, see the NFU's report, "What is behind the *Partners in Innovation* PR campaign?" at https://tinyurl.com/qcr5ely

In 2009 a similar call for coordinated introduction of GMO wheat in these three countries was issued. In response the NFU, along with 232 other organizations from at total of 26 countries, signed the following statement*: "In light of our existing experience with genetic engineering, and recognizing the global consumer rejection of genetically engineered wheat, we restate our definitive opposition to GE wheat and our commitment to stopping the commercialization of GE traits in our wheat crops."* The level of international alarm, along with Japan and South Korea's quick suspension of US wheat imports, that followed the discovery of unapproved GE wheat growing in an Oregon farmer's field in May, 2013 suggests that worldwide opinion is still strongly opposed to GE wheat.