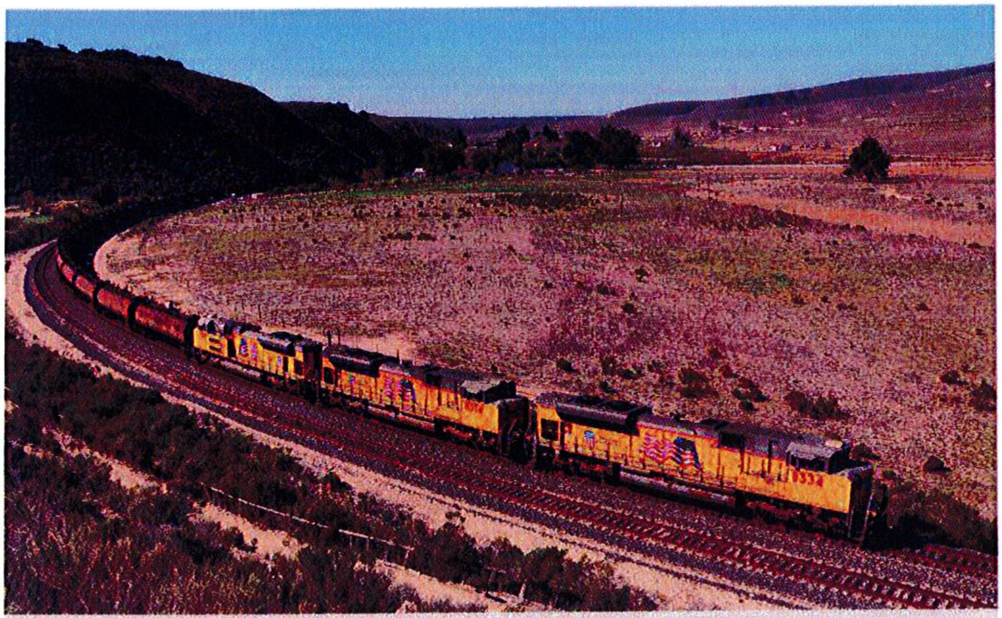
Attachment 2

Part 6 of 9

Minnesota Power's response to DOC discovery related to rail delivery issues.



Union Pacific's 78-car oil train rolls north through Casmalia, Calif., on Feb. 23, 2013. The train is headed back to Wunpost, Calif., for reloading. John Roskoski

BEFORE NORTH DAKOTA, CALIFORNIA SHOWED THE WAY

For motorists stopped at a grade crossing, watching a parade of black oil cars slowly going by is an exercise in patience (while their waiting automobiles burn fuel that will have to be replenished — perhaps even by the train delaying them).

Yet such sights are not new. Crude oil trains have been around for more than a century. And perhaps the most famous example in the latter half of the 20th century was Southern Pacific's "Oil Cans." Oil from California's San Joaquin valley was loaded into tank cars at Saco, a half-dozen miles north of Bakersfield, then moved by unit train south through the Tehachapi mountains and Los Angeles to a Shell Oil refinery in Wilmington, Calif. The train grew out of Shell's need to supply its LA-area refinery with large volumes of heavy crude, using a less expensive method than the tanker ships from Alaska it had been relying on. The oil train ran from 1983 to late 1997, when a pipeline replaced the rail operation.

On May 30, 1998, a new version of the Oil Cans began operating, on a new routing that uses Union Pacific's scenic, ex-SP Coast Line. Symboled OWPDO, the train originates at Wunpost, in the San Ardo oil field, about 30 miles north of Paso Robles, Calif., headed for a Valero oil refinery in Wilmington. This move also had been previously made by ship, until the marine terminal serving the oil field shut down.

Three General Electric high-horsepower locomotives on the head end (DPUs are rare) typically power the train, which consists of 78 tank cars, in six strings of 13 semi-permanently connected groups. The train can hold 1.8 million gallons of oil. The 300-mile trip takes about 12 hours, including a stop at Dolores Yard in Los Angeles, where a yard crew will get on to take the train to Wilmington.

The loaded train runs about every third day, on a schedule that sends it south in the middle of the night, when the line is free of passenger trains. Likewise, the empty northbound (symboled ODOWP) is also a night crawler, except on weekend runs when it can be found working its way back home in daylight. — *Bob Miller, a freelance writer from California*

hasn't gotten such loving care.

Canadian Pacific dispatches one to two unit trains a day from three loading terminals in North Dakota. One is in New Town, at the end of a 111-mile branch line, and a second one is nearby at Van Hook. The third is at Stampede, on the Dakota, Missouri Valley & Western Railroad. CP crews move the trains between Stampede and a junction of the two railroads at Flaxton, N.D., just below the Canadian border. In late 2013 about three-fourths of the oil trains ran to a Global Partners rail-barge terminal in Albany, N.Y., on all-CP routings, the Stampede trains via Canada and the New Town and Van Hook trains via Chicago, Windsor, Ont., and Montreal. The remaining CP trains were billed to the Philadelphia Energy Solutions refinery in South Philadelphia, using CSX via Selkirk, N.Y., and northern New Jersey.

CP also dispatches a Bakken shale unit train, received from short line Stewart Southern at Regina, Sask., every other day or so. Most go to Global in Albany, but a new destination is Port Westward in Clatskanie, Ore., near Portland, via BNSF from Vancouver, B.C. (CP would not talk to TRAINS for this article.)

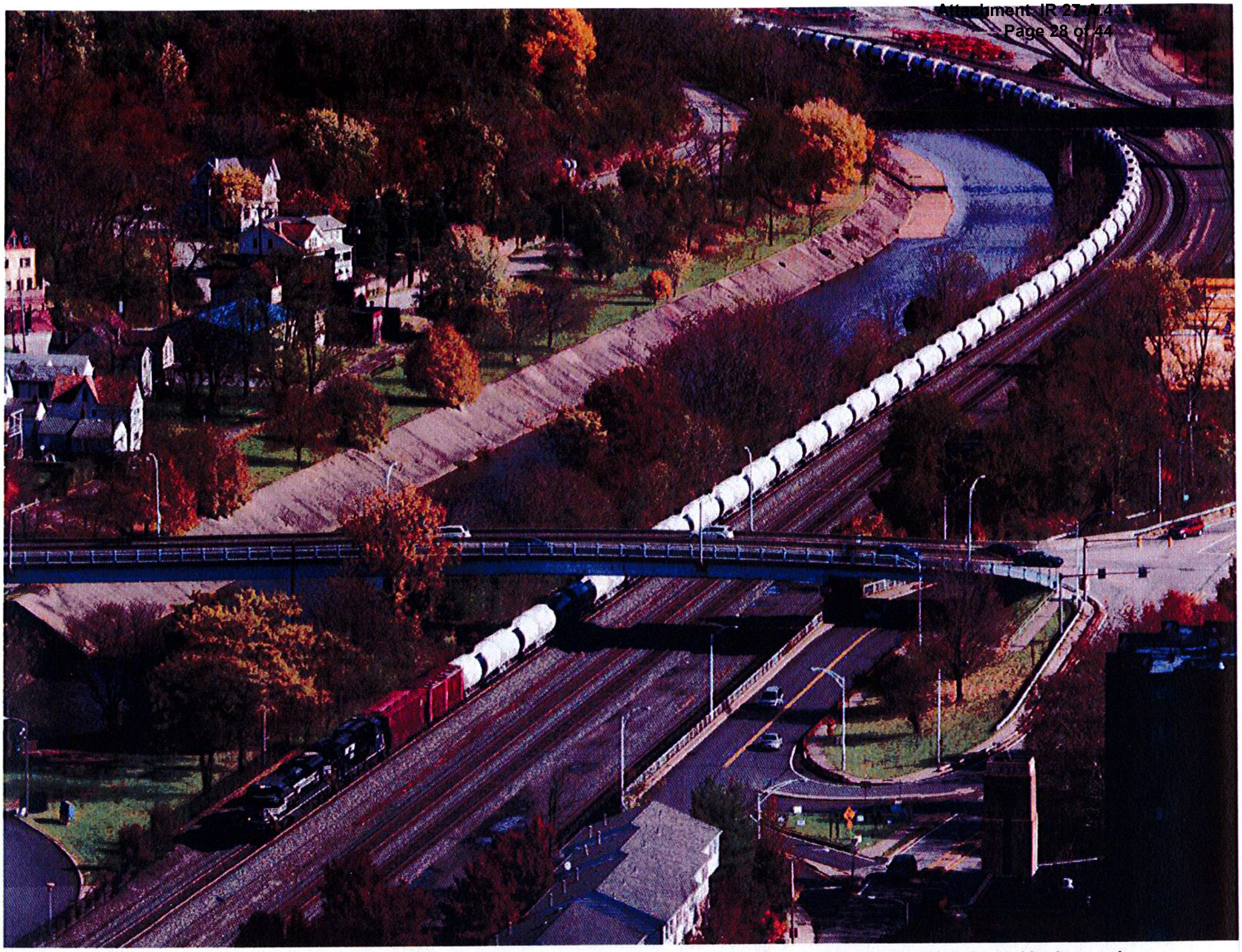
CSX Transportation and **Norfolk Southern** play similar roles, competing from Chicago for primacy at the Delaware River refineries. Both BNSF and CP hand oil trains to CSX for Philadelphia Energy Solutions, a refiner that CSX serves exclusively. CSX also gets from BNSF trains for Cleveland (where they are transloaded onto boats for Irving Oil's refinery in Saint John, N.B.) and Albany (to a Buckeye Partners distribution hub). In December 2013, CSX began delivering oil to a Plains All American Pipeline distribution hub in Yorktown, Va.

Norfolk Southern exclusively serves the PBF Delaware City refinery, which has installed a second loop track. Unit trains, received from BNSF in Chicago, run four or five days a week. A second, less frequent BNSF-fed unit train serves a Sunoco Logistics distribution center in Westville, N.J., near Camden, on Conrail Shared Assets. NS puts less-than-unit train loads from CN and CP onto manifest trains to Conway Yard near Pittsburgh, where they are consolidated into unit trains for Delaware City. (This is the only refinery in the region with a coker, enabling it to handle oil sands crude).

Up for grabs are three East Coast oil customers, two near Philadelphia, that haven't tipped their hands toward a rail provider. One is the Trainer, Pa., refinery, bought by a Delta Air Lines subsidiary to produce jet fuel. Nearby, Eddystone Rail Co. is developing a distribution hub on land that once was part of the Baldwin Locomotive Works complex. The third is the Phillips 66 Bayway refinery in Linden, N.J., whose rail hub will open in mid-2014. All three will be served by Conrail.

For both CSX and NS the crude oil is a welcome offset to the decline in coal loadings in the eastern U.S. "But I wouldn't say it makes up for it," says NS's Moorman. "It is healthy revenue, and we want as much as we can get."

Kansas City Southern is a potential artery for large volumes of oil from Alberta, particularly through its connection in Kansas City with Canadian Pacific. So far, the oil has come in cuts of cars rather than unit trains, the gateways being Jackson, Miss., for Canadian National and KC for CP. KCS will share primacy with BNSF and UP in a new Port of Beaumont rail terminal in southeast Texas that can drain 120 tank cars at a time



Led by the New York Central heritage unit, NS oil empty Z5R rolls through Wilmerding, Pa., on Nov. 1, 2013. Robert Shook

and will soon be ready to heat coil cars of raw bitumen. But KCS is also developing (with an unnamed third party) an exclusive terminal in Port Arthur, Texas, that will permit barge delivery along the Gulf Coast or export of Canadian oil (by law, U.S. oil cannot be exported). Says Darin Selby, the railroad's energy marketer: "Our goal is more." Who wouldn't approve of that?

Union Pacific has a problem. Two-thirds of its oil volume comes from the trains it gets from BNSF Railway for St. James, La. But that traffic could disappear. It's cheaper for Gulf refiners to obtain close-in light sweet crude from Texas. On Union Pacific's agenda: Partner with Canadian Pacific to move Canadian oil to California or Washington via their connection in Eastport, Idaho; find shippers in the Niobrara shale formation in Colorado and Wyoming; and carry oil from the Permian Basin in West Texas to California refineries. Will these come to pass? "We're in the very early innings of this story," Rob Knight, chief financial officer, told an investment conference in 2013.

AWAKEN, LAZARUS!

Finally, don't forget the regional railroads and short lines, including the *really* short lines, starting with W. B. Johnston Grain in Shattuck, Okla., astride the BNSF Transcon. On average, two or three cars a day of crude oil are loaded there by producers who lack pipeline access, the switching being done by a modified Electro-Motive alumnus named Pistol Pete.

Fracking brought moribund railroads in Texas to life. Texas Pacifico Transportation, the southern U.S. end of Arthur Stilwell's fabled Kansas City, Mexico & Orient, was a 1,000-car-a-year operation limited to 5 mph on many of its 376 miles from San Angelo Junction to Presidio on the Mexican border, until fracking began in southwest Texas. It expected 30,000 carloads in 2013, thanks to crude oil going out and drilling supplies heading in. The 19-mile Pecos Valley Southern Railway in west Texas mainly served its owner's sand and gravel pit until Watco leased the property in 2012 and began signing up oil producers as new customers.

The Utah Railway (a G&W property) loads about 20 cars a week of "waxy" crude that looks and feels like shoe polish, in Wildcat, Utah, near Martin. The oil is found in the Uinta Basin of western Colorado and eastern Utah and must be heated to flow. At least one unit train of waxy oil was observed in late 2013 crossing UP, CSX, and Pan Am Railways, en route to Canada.

Or consider the fortunes of two Iowa Pacific Holdings affiliates, the Texas-New Mexico and West Texas & Lubbock railroads. The 104-mile TNM, connecting with UP in Monahans, Texas, benefits from oil producers who aren't convenient to pipelines. And the WT&L has among its customers the Swiss trading company Mercuria, which found a market among refiners for pure light sweet crude that hasn't been contaminated in pipelines, and is shipping trainloads of the stuff to its storage tanks on the Houston Ship Channel. See, yet *another* reason crude oil is going by rail. 1

Kathy Benham (MP)

From:	John LeSeur <jhl@sloverandloftus.com>
Sent:	Friday, March 07, 2014 8:11 AM
To:	Kathy Benham (MP); Al Rudeck Jr. (MP)
Cc:	Maggie Thickens (ALLETE)
Subject:	FW: Railroad Service Problems

[ALERT – External Email – Handle Accordingly]

Fyi below

From: Robert Rosenberg
Sent: Friday, March 07, 2014 8:00 AM
To: Dusty Slover; John LeSeur; Daniel M. Jaffe; Peter Pfohl
Cc: Circulation
Subject: Railroad Service Problems

From Platts

Rail congestion forcing utilities to idle units due to dwindling coal stocks

Washington—Increased congestion across the US rail network due to several weeks of extreme winter cold has forced some utilities to pull coal-fired units out of service in order to preserve dwindling stockpiles, according to testimony Thursday at the Rail Energy Transportation Advisory Committee meeting at the US Surface Transportation Board.
Jeff Wallace, vice president of fuel services for Atlantabased Southern Company, told STB commissioners and energy and railroad executives the cold weather has increased the company's coal burn "significantly" and that a number of utilities are "very concerned about our ability to get [coal] supplies."
Wallace estimated coal burn this winter will be more than 15 million st above industry projections due to the cold weather.
Asked if the rail congestion would impact the typical inventory builds in the shoulder season before summer, Wallace was emphatic.
"Absolutely," he said. "The only way to [build inventories] is to take some units offline now even though it's not economical. Going into peak summer season you have to have inventories at target levels for insurance and reliability reasons."
Executives in attendance from all five US-based Class I railroads blamed the situation on freezing conditions that have been unparalleled in recent memory.
They said the cold has forced the railroads to delay trains for a variety of reasons, from operational and safety concerns to the simple fact that crews couldn't get to work. The resulting backlog has slowed the whole rail network, particularly around important interchanges such as Chicago.
Fort Worth-based BNSF Railway took most of the criticism at the hearing, with Wallace pointing to two surveys showing that both on-time delivery and customer service have fallen at the railroad in recent months.

David Garin, vice president of industrial products at BNSF, said the railroad is throwing all its resources at easing congestion on its network, particularly in the north, where it operates busy lanes that are seeing increased traffic for Bakken crude, a record grain harvest and heightened demand for Powder River Basin coal. "We have a 24-hour war room mentality," said Garin. "I know people think we are moving more oil instead of grain or coal, but we are trying our best to run it all right now."
Garin said the railroad is adding crews and locomotives and has increased its capital spending by nearly 20% from the $5 billion it originally announced earlier this year in order to add capacity to its northern lanes.
Garin said the railroad hopes to double its line capacity in the north by the third quarter.

Inventory planning by utilities knocked

Mark Hamilton, the vice president of coal transportation and planning for Norfolk Southern, said the Virginia-based railroad has been challenged by the weather, but is trying to prioritize service to customers with the greatest need while not sacrificing service for others.
Hamilton said some utilities could do a better job of planning their inventory builds, noting that a few didn't take coal deliveries in the fall in hopes of building up inventories during the winter. But the railroad is "continuing to work with our customers to keep stockpiles where they need to be because the demand is there," he said.
Kent Smith, vice president of operations for Arch Coal, said the question remains one of capacity, and what railroads, utilities and coal producers can do to better respond to demand swings.
Smith said due to depressed coal prices, most producers have had to forgo capital spending and focus instead on cost control, which leaves them little room to respond quickly to increased demand.
Garin noted the issue, saying due to increased environmental regulations and natural gas production, BNSF had worried its coal franchise may have been over-capacity.
"We have plenty of origination capacity in the [Powder River Basin], but the question is beyond the basin, with crews, locomotives, interchanges, all those issues," said Garin. "The question is making sure we have a good sense of demand to line up the resources to go where it needs to go."

Kathy Benham (MP)

From: John LeSeur <jhl@sloverandloftus.com>
Sent: Thursday, March 13, 2014 8:02 AM
To: Kathy Benham (MP)
Cc: Al Rudeck Jr. (MP); Maggie Thickens (ALLETE); Violet Struss (ALLETE)
Subject: BNSF Service

[ALERT – External Email – Handle Accordingly]

Kathy – fyi below. John

BNSF Railway working to increase coal deliveries: railroad executive

Naples, Florida—BNSF Railway offered a mea culpa Wednesday at the American Coal Council's Spring Forum for the drop in service in the past few months.

A railroad executive added BNSF is committing capital for crews, locomotives and track expansion to alleviate the ongoing network backlog that has impacted coal producers and utilities, particularly in the Midwest.

"During much of 2013 and especially 2014, we realize our service has not met customer expectations, and we are committed to restoring that service," said George Duggan, the railroad's vice president of coal marketing.

The admission that its service has fallen behind comes as a number of utilities have reported low or critically low stockpiles of Powder River Basin coal, which the railroad primarily originates from Wyoming and Montana mines.

Duggan said he would not blame the region's extremely cold weather, even though it continues to impact operations.

Instead, Duggan said the backlog started to build last year and has slowly increased due to higher demand for service from the railroad's coal, agriculture and other sectors, especially across its Northern tier.

To illustrate this, Duggan said that of the 800,000 carloads of overall traffic added to the US rail network between 2009 and 2013, roughly half of that demand was filled by BNSF.

Within the railroad's coal sector, Duggan said the number of trains dedicated to coal service rose from 335 in January 2013 to 450 in January 2014 in response to increased demand.

Duggan pointed out that while crude shipments have jumped in recent years, BNSF's crude volumes made up only 4% of its total portfolio in 2013, up from 1% in 2006.

During that same period, coal dipped slightly from 23% of total volume in 2006 to 22% in 2013, Duggan said.

"A lot of the questions I get are, 'Are all these oil trains in the way of our coal trains?' but coal is 20%-plus of our business ... and is particularly important to railways, even with the tremendous growth in crude," Duggan said.

To help get more coal to where it needs to go, Duggan said that in 2014 the railroad plans to add 5,000 new employees, add 500 locomotives to its existing fleet of 900 in service, and build 66 miles of double track to its busy northern tier.

Despite BNSF's increased focus on restoring service, Duggan warned that it could be until the fourth quarter before its service is back to normal.

BUSINESS

Surge in Rail Shipments of Oil Sidetracks Other Industries

Pileups at BNSF Railway Is Causing Delays for Shippers of Goods Ranging From Coal to Sugar

By BETSY MORRIS, JACOB BUNGE and JOHN W. MILLER

March 13, 2014 9:25 p.m. ET

A train carrying crude oil heads west through the small town of Shelby, Mont., in November. A major snarl in railroad traffic is ricocheting through the supply chains of businesses across the U.S. *AP*

A major snarl in railroad traffic is ricocheting through the supply chains of businesses across the U.S., causing delays and losses for shippers of goods ranging from coal to sugar.

Many of the problems stem from pileups at BNSF Railway Co. in a critical northern stretch of the country where it is shipping crude oil from North Dakota's booming Bakken Shale region. The railroad, one of the biggest in North America, was already taxed by the heavy demand for oil transport. But its difficulties multiplied when it ran out of locomotives and crew, as a bitter winter forced it to use smaller trains.

That has caused a ripple effect across the country as shipments have been delayed. Deliveries of empty grain cars to farmers and grain elevators in the Midwest and Great Plains are running about two to three weeks late, the railroad says. The chief of a major sugar producer said he likes to load 50 railcars a day this time of year, but BNSF sometimes brings more than 50 and sometimes 30.

An executive close to big utility companies says coal-fired power plant inventories are running much lower than the usual 30 days. "The railroads tell us they aren't serving power plants until their inventories are in single-digit days," he said.

BNSF isn't the only railroad with capacity problems, but its woes have been aggravated by a big grain harvest and its surging crude business.

The railroad knew it was in trouble when winter hit. "We found ourselves behind the curve," said Bob Lease, vice president, service design and performance, for BNSF. "Now, we are finding we can't fill all of the demand" as quickly as usual.

The backlogs could wind up costing shippers hundreds of millions of dollars, says Steve Sharp, president of Consumers United for Rail Equity, a group representing agriculture companies, manufacturers and utilities. His group has been pushing for tougher railroad regulation.

Andrew Walmsley, director of congressional relations for the American Farm Bureau Federation, a trade group for farmers, worries that continued capacity problems could hurt U.S. competitiveness in the world arena. "Our reliability as a trading partner comes into question anytime we can't provide the most cost-competitive price in a predictable and timely manner," he said.

BNSF is scrambling. The railroad is leasing and buying locomotives by the hundreds and hiring new crews. In mid-February it began building new track on top of frozen snow-covered ground along its main oil-patch route. It normally wouldn't have attempted such a project until spring.

Mr. Lease says traffic should become more "normalized" by April 1, but he concedes that the railroad's challenges will extend through 2014. "It takes a while to unravel," he said.

BNSF, a unit of Warren Buffett's Berkshire Hathaway Inc., invented the business of carrying crude oil by rail when it launched its first long oil train, essentially a rolling pipeline, in 2009. The business has sharply exceeded its expectations. Shipments of crude by rail from North Dakota rocketed to a peak of 800,000 barrels a day last October from fewer than 100,000 barrels a day in 2010.

The surge has contributed to a tangle with potentially widespread impact. Larry Stranghoener, chief financial officer of fertilizer maker Mosaic Co. , says that transport problems, including the crunch in railroad capacity, could spell "a slower season."

"The primary preoccupation of our sales force, our supply chain and our customers frankly is getting product to them in time for the spring season," he told the Minneapolis-area company's investors Wednesday. Any delays transporting Mosaic's fertilizer to dealers could cause them to defer additional orders, he said.

Some shippers, eager to move their products, have opted to use trucks. Trucking rates compare with rail costs within a 500-mile radius, but beyond that companies can wind up paying four to five times as much on a per-ton basis, says one shipping official.

At Black Gold Farms, based in Grand Forks, N.D., Chief Executive Gregg Halverson says his company has had to pay more to hire trucks to transport its potatoes, which it sells to chip makers.

"There's more demand for truck transportation, and that hits us between the eyes," Mr. Halverson said. "It's not only the actual availability of the trucks, but trucking firms having trouble getting drivers, because of demand from the oil patch." He declined to estimate how much more he is paying for trucks.

American Crystal Sugar Co., which says it supplies about 15% of the nation's sugar, had to slow production at three of its five plants for 11 days in mid-February because it was running out of storage space while waiting for trains to ship its sugar to food companies. That has disrupted the Moorhead, Minn.-based cooperative's just-in-time delivery system, said David Berg, its chief executive. "The railroad just threw that into complete chaos," he said.

He said delays in outbound shipments of sugar have interfered with the production schedules of American Crystal's customers, many of them major food manufacturers.

While he said he wasn't aware of any food companies that have had to halt production, "They've been running on fumes for weeks," he said. "We've been humping trucks all over the U.S. to keep people in supply." American Crystal supplies General Mills Inc., Kraft Foods Group Inc., Nestlé SA, Mars Inc. and Kellogg Co. , among others.

Mr. Berg and Perry Cerminara, director of global sweetener and energy-risk management at Hershey Co. , called the problems caused by BNSF "serious" in a March 4 letter to regulators and stressed the "urgent" need to fix them. Mr. Cerminara wrote on behalf of the Sweetener Users Association, representing food manufacturers.

A spokesman for BNSF said it is working with customers individually to address their most critical issues and plans record spending on expansion this year.

Utilities are hoping railroads can improve their capacity before the busy summer season. "We try to build up inventories to around 40 days, so we're counting on spring," said one official at a coal-fired power plant. But, he added, "We're not counting on a magic bullet."

—Tony C. Dreibus, Annie Gasparro, Chester Dawson, David George-Cosh and Laura Stevens contributed to this article.

Write to Betsy Morris at betsy.morris@wsj.com, Jacob Bunge at jacob.bunge@wsj.com and John W. Miller at john.miller@wsj.com

Kathy Benham (MP)

From: Kayla Hertel (MP)
Sent: Wednesday, March 19, 2014 11:59 AM
To: Amanda Kluge (MP); David Owens (MP); Kathy Benham (MP)
Subject: BNSF Article from Agrus

Interesting article prior to our call tomorrow. BNSF seems to state that things really won't get back to normal until the end of this year. Also lays out the amount of crude oil BNSF was moving in 2013 vs. 2007.

Kayla

BNSF expects service recovery in fourth quarter

Print article Print
13 Mar 14, 14:33 - Coal

Naples, Florida, 13 March (Argus) — Full recovery in BNSF service will most likely take until the fourth quarter of this year after one of the most challenging winter freezes in February, group vice president for coal marketing George Duggan said yesterday.

The railroad is significantly boosting investment, staffing and locomotives to address existing congestion problems, which were exacerbated by a frigid winter, and to meet a surge in demand since last year for agricultural products, crude and coal transportation.

"This recovery will take us well into the second, third and most likely into the fourth quarter to get to where we were in January this year," Duggan said in response to questions at an American Coal Council conference in Naples, Florida.

BNSF began seeing performance improvements from late February into March, but has been plagued by more backlogs in and around Chicago. This has affected service in many other regions, Duggan said. "We realize our service has not been up to our customers' expectations. ... We are committed to restoring our service," he said.

Short-term actions to improve capacity have included adding around 400 staff between January and March. BNSF recently added 250 locomotives to its fleet and should obtain another 165 over the next 60 days, while senior operational managers are being moved to strategic locations like Chicago, Minneapolis and Kansas City. We want "all hands on deck for an aggressive recovery," Duggan said.

Berkshire Hathaway-owned BNSF's longer-term actions include raising capital expenditures to $5bn in 2014, a $1bn increase over 2013, to expedite the recovery process, "primarily in locomotives and people," he said. Around $2.3bn of that spending will go to core network assets like adding locomotives, unit cars, track capacity and efficiency.

"We will also put 5,000 people to work this year. … That is a big number," he said, and will add 500 locomotives and 500 other rail cars in 2014 to meet the required surge in capacity.

The improvements will be made all over all of BNSF's operations, although particular attention will be paid to the north where congestion has been the worst. More line projects are planned and in some cases double-track lines will replace single tracks.

As the economy rebounds, coal remains a crucial part of the mix for BNSF, with a 23pc share in 2013. Crude's share rose to 650,000 b/d from the Bakken Shale in North Dakota in 2013 from zero in 2007, but this is still less than 5pc of BNSF's traffic.

Volume changes in crude transportation were felt particularly sharply by BNSF in 2013 when spreads between benchmark crudes WTI and Brent widened, triggering a "tremendous increase" in demand for Bakken crude at the Gulf and west coasts. A push in October for an agricultural export program, with products being sent from ports in the Pacific northwest, also increased demand for services, he said.

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StarTribune

Rail delays hurt energy and commodities

Article by: David Shaffer
Star Tribune
March 21, 2014 - 11:49 PM

A BNSF Railway train waits on the tracks near Becker, Minn., where Xcel Energy's Sherco power plant goes through about three trainloads of coal a day.

GLEN STUBBE • glen.stubbe@startribune.com,

BNSF Capital Plan

BNSF Railway says it will invest $5 billion in 2014, much of it to reduce rail congestion. The Minnesota projects haven't be disclosed, but BNSF supplied the following details of its North Dakota plans to U.S. Sen. Heidi Heitkamp, D-N.D.

Cost est.

Project Location (in mil.)

Double track Minot, N.D. to Glasgow , Mont. $162

Sidings Fargo to Grand Forks, N.D. $26

Sidings Bismarck, N.D.to Glendive, Mont. $14

Sidings Minot to Grand Forks. $13

Sidings/interchange Canada to Pembina, N.D. $13

track

Central traffic control Bismarck to Fargo, N.D> $11

Sidings, signals Fargo to Minot, N.D. $8

In Alma, Wis., a power plant has cut electric generation and is hauling in coal with semitrailer trucks because freight trains are too slow.

A Winnebago, Minn., ethanol producer also struggles with the nation's congested railways: Unable to ship as much fuel by rail, the plant now puts more into tanker trucks.

Across the northern United States and Canada, commodities such as fuel, fertilizer and grain have been moving at a frustratingly slow pace on freight-clogged, heavily booked and winter-battered railways.

Customers of some lines, especially BNSF Railway, are unhappy. Oil trains are getting some of the blame for Upper Midwest rail congestion. But BNSF and others say freight overall is up — amid a harsh winter that slowed everything down.

"This is the worst I've seen in 20 years," said Dan Mack, vice president for rail transportation and terminal operations at CHS Inc., the nation's largest farmer cooperative whose shipping needs range from grain to propane.

With winter officially over, some of the weather-related congestion is easing. But Mack and others say rail shipping problems could persist into 2015. BNSF and other railroads are making significant investments to speed freight, but track upgrades themselves can cause slowdowns.

In New York, the wholesale price of ethanol has climbed by $1.20 per gallon this year, thanks to shortages on the East Coast attributed to slow rail shipping. In the face of the rail congestion, many U.S. ethanol plants cut production. Output is down 13 percent to 869,000 barrels per day since December, though up slightly last week, said Geoff Cooper, senior vice president of research and analysis for the Renewable Fuels Association, an industry group.

"Lots of plants completely filled their on-site storage tanks," Cooper said.

Corn Plus, one of Minnesota's first ethanol plants, has 65 tank cars to ship fuel. The problem, said General Manager Mark Drake, is that Canadian Pacific has been slower and more unpredictable about hauling empty tank cars back to the plant. "If those cars aren't returning, you are pretty much forced into the truck market," he said.

At Dairyland Power Cooperative, an electric utility based in La Crosse, Wis., coal trains from BNSF are taking two to three times longer to arrive. "Overall we are getting only about half the coal that we would normally see," said John Carr, the co-op's vice president for strategic planning.

At one point in February, he said, the utility got down to as little as 10 days of coal for some units along the Mississippi River. Plant operators prefer to have 30 days' supply or more. Dairyland has trucked coal from another plant and from a Minnesota utility to its plants in Alma, Wis., to rebuild stocks.

Minnesota utilities, including Xcel Energy, the state's largest power company with 1.2 million customers, said the rail congestion has put a strain on coal supplies, but companies were coping. Minnesota still gets about half its power from burning coal. One of Xcel's plants, in Becker, Minn., burns up to three trainloads per day.

Minnesota Power, based in Duluth, had a lot of coal on hand before winter and pressed BNSF to speed up shipments when deliveries lagged. Wind power, which was particularly strong in January, helped offset the need for coal burning, said Al Rudeck, the utility's vice president for strategy and planning.

Problems began last year

Many of the rail problems began late last summer, as track construction projects extended into fall. By midwinter, said Steve Sharp, president of Consumers United for Rail Equity, "it was a crisis."

That's when passenger service hit snags on Amtrak and the Northstar commuter line in Minnesota. Northstar's operator said its problems are over, but Amtrak said it's still facing delays in the region, though not as severe as before.

"This seems to have started with the uptick in shipping ... shale oil, especially from North Dakota," said Sharp, who also is director of fuels for Arkansas Electric Cooperative Corp., a wholesale power supplier in Little Rock.

North Dakota now ships most of its crude oil by rail, on trains of 100 tank cars or more using BNSF and Canadian Pacific tracks. Union Pacific, which delivers coal and ethanol, but not North Dakota crude oil, has not faced as many problems. A shipper survey by Argus Media, which tracks transportation and commodities, found that Union Pacific's on-time performance remained good while BNSF's dropped below acceptable in January, the most recent data available.

"They weren't prepared to handle all of the grain, all of the crude, plus the resurgence of coal when the natural gas price went up," said Todd Tranausky, U.S. transportation editor for Argus Rail Business.

BNSF and Canadian Pacific said shipping is up overall, with crude oil a small share of traffic. BNSF declined a request for an interview, but spokeswoman Amy McBeth said in an e-mail that consumer product shipments — ranging from beer to car parts to home decorations — grew the most. The railway, she said, has added employees and locomotives, has worked with shippers to solve problems, and has a record $5 billion capital plan for 2014, much of it focused on the Upper Midwest.

"It's been an ongoing, day-to-day process," added Ed Greenberg, spokesman for CP, whose U.S. headquarters is in Minneapolis. "The entire transportation system has been dealing with extreme weather as well as congestion through an important center, and that is Chicago."

'Anyplace you could park'

Clogged traffic in Chicago, a key waypoint for freight moving east and west, left trains idle on sidings and tracks as far away as Minnesota. "Trains were backed up — literally anyplace you could park a train," said CHS' Mack.

In Canada, Canadian Pacific and Canadian National are under pressure to improve grain and other shipping. In the coldest temperatures, trains can't be as long as usual because the cold diminishes the effectiveness of air brakes. That forces northern railroads to run shorter trains, requiring more crews and locomotives to ship the same amount of goods.

Canadian National said it recently improved its grain car service, delivering 4,300 cars for loading per week compared with 2,900 per week in February.

Looking ahead, the next rail-delivery worry is over propane.

A pipeline that supplies 40 percent of Minnesota's propane is shutting off permanently this month. In its place, the propane industry will rely more heavily on shipments by railroad tank cars. The new supply chain must be in place before next fall and winter, when demand peaks.

CHS, based in Inver Grove Heights, is a major wholesaler and retailer of the fuel. It is investing more than $24 million in its regional supply infrastructure and is leasing more than 640 rail tank cars at a cost of more than $7 million a year. Others in the fuel industry are adding trucks, storage and terminals, too.

But CHS's Mack said that rail is less predictable than pipelines. That could make it even harder for the industry to respond to propane shortages like the one that drove up prices this past winter.

"I don't want to be an alarmist, but it is a different supply chain," Mack said. "People in need of the product need to be aware of a significant change."

David Shaffer • 612-673-7090

@ShafferStrib

Kathy Benham (MP)

From:	John LeSeur <jhl@sloverandloftus.com>
Sent:	Friday, April 18, 2014 7:39 AM
To:	Dave McMillan (MP)
Cc:	Bill Libro (MP); Kathy Benham (MP); Violet Struss (ALLETE)
Subject:	FW: FERC and coal

[ALERT – External Email – Handle Accordingly]

Dave – fyi below. It appears FERC is now taking an interest in service issues, a development we view as positive for coals shippers since on service issues FERC usually sides with the shippers. Best regards, John

From Platts

FERC raises concern over coal supply disruption

Washington—Federal regulators are raising concerns about how supply disruptions of coal shipments in the Upper Midwest and elsewhere could create challenges for the electricity sector, particularly as a number of coal-fired power plants are set to retire in the coming years.

Calling it "an issue we're increasingly keeping our eye on," Tony Clark of the Federal Energy Regulatory Commission raised concerns Thursday about how the rail system, events during the winter and increasing crude shipments on some railroads "have caused supply disruptions for some of the operators" in the Upper Midwest in particular.

Speaking at FERC's monthly meeting, Clark pointed to an April 10 hearing of the Surface Transportation Board, which responded to a petition by the Western Coal Traffic League over concerns that service issues on BNSF Railway's system have created significant issues for coal-fired utilities. David McMillan, an official with Minnesota Power, representing the league at the hearing, said that these service issues have led to "precariously low stockpiles" of coal, trucking of coal and higher electricity costs due to reductions in available coal-fired generation.

Stevan Bobb of BNSF told the hearing that the railroad is working with utilities to address their concerns, including allowing them out of certain contractual commitments.

Clark said he took away from the STB hearing that there are some "significant issues" regarding transportation affecting coal-fired generation and that a fix for the Upper Midwest may not be taken care of for a year or more. He noted that there are capacity shortfall concerns coming in the region in 2015 and 2016 driven by retiring plants, which coincides with the compliance deadline for the Environmental Protection Agency's Mercury and Air Toxics Standards for coal- and oil-fired power plants.

While noting BNSF's steps to address the issue, Clark said "it's also important that the Class I railroads understand some of the timing issues that we may have." He said it would be good for FERC and STB to shine a light on the issue and for FERC staff to work behind the scenes on the matter, including with STB staff. He also highlighted the important work that must be done by the railroads and the power industry.

FERC to monitor the issue

Speaking with reporters after the meeting, Acting FERC Chairman Cheryl LaFleur said while FERC does not have authority over rail lines, the commission is following the issue and noted how railroad shipments affect electric generation. She added that FERC and STB staff have met and that "we'll be continuing to monitor the issue."

STB spokesman Dennis Watson confirmed Thursday that STB and FERC have been communicating on railroad service issues, but declined to comment on the nature of those discussions. Watson also said that STB has concerns "over the effect that railroad service is having on coal shippers, electric utilities, and shippers of other commodities," which is why the board called the hearing on April 10.

"The STB will consider all options that are available to it to help resolve the current railroad service issues. If there is an opportunity to improve railroad service that involves collaboration with FERC, the STB will explore that option as well," Watson said.

» Print

CORRECTED-As Buffett praises his BNSF railroad, customers rail against delays

10:14am EDT

(In May 3 item, corrects spelling of Bob Dinneen in last paragraph)

By Joshua Schneyer

NEW YORK, May 3 (Reuters) - When American investor Warren Buffett addresses Berkshire Hathaway's shareholders at the conglomerate's annual meeting on Saturday, he is sure to laud the impressive growth of BNSF Railroad, his company's largest-ever acquisition.

The railroad, which was struggling amid the Great Recession when Berkshire bought it for $26 billion in 2010, returned a $3.8 billion profit last year. In his annual letter to Berkshire shareholders in February, Buffett called BNSF, whose 32,000 miles of track spans 28 states, "the most important artery in our economy's circulatory system," handling 15 percent of all inter-city freight across America.

Praising BNSF's smooth relations with customers and regulators, Buffett wrote: "Like Noah, who foresaw early on the need for dependable transportation, we know it's our job to plan ahead." Buffett was likening BNSF's foresight to the biblical figure Noah and his vessel.

He added: "America's rail system has never been in better shape."

What Buffett didn't mention is that a growing number of BNSF's customers say the vital artery is clogged, causing economic losses for industrial firms and farmers scrambling to get their products to market.

As more U.S. goods ride the rails amid an economic recovery, delays can reverberate widely. A harsh winter bungled rail schedules this year, causing slower train speeds, terminal log-jams and stranded crews and locomotives.

Other major railroads, including giant Union Pacific Corp , also have experienced interruptions. Railyards in and around Chicago, a gateway for several major lines, have been backed up for months after record snowfall there over the winter. Even BNSF itself has suffered: Berkshire said on Friday that its first quarter rail unit's earnings, which fell 9 percent to $724 million, was "negatively affected by severe weather conditions and service-related challenges."

Some shippers believe the winter woes are only part of the problem. The concerns have been greatest across the Great Plains and the Upper Midwest, where BNSF is among the dominant rail players and has been the biggest beneficiary of a boom in shipping a high-value commodity - crude oil - from the Bakken oil patch of North Dakota and Montana.

According to a Reuters analysis of filings made to the U.S. Surface Transportation Board (STB), the rail industry's economic regulator, over the last month more than four dozen industrial trade groups, lawmakers or commodity firms who rely on BNSF and other major Class 1 railroads have lodged complaints or pleas for regulator action to improve their rail service.

One common claim is that railroads including BNSF may be de-prioritizing the shipment of other commodities to make way for higher-priced crude oil on their trains, which railroads deny.

"BNSF is not favoring crude shipments over other shippers. This is a case of rapid growth for several commodities using parts of our railroad network that hadn't previously seen that kind of volume," said BNSF spokeswoman Roxanne Butler in an email.

Amid a shale drilling boom, crude-by-rail cargoes are up by around 44-fold since 2008, to nearly a million barrels per day according to industry data. Most of the crude riding the rails originates in the Bakken. BNSF said crude still represents just 4 percent of its total traffic.

BUFFETT'S 'ALL IN WAGER'

When Berkshire bought BNSF, Buffett called it "an all-in wager on the economic future of the United States." At the time, he told TV commentator Charlie Rose that BNSF was "interwoven with the American economy in a way that, if the American economy prospers, the business will prosper."

And prospered it has. Last year, amid a boost in rail cargoes, BNSF's revenue topped $20 billion and the firm invested nearly $4 billion. It plans to boost spending to $5 billion this year. And despite a weaker first quarter, Berkshire said it expects BNSF's profits to top 2013 for the rest of the year.

But some analysts say the pace of BNSF's investment has failed to keep up with demand. In a March 14 research note, Morgan Stanley analysts wrote that the winter service woes "indicate too little capex was invested given the growth."

At an STB hearing on April 10, BNSF executives apologized for winter-related delays and pledged to deploy more locomotives and crews to improve service in coming months.

Their assurances haven't convinced all customers. United Sugars, whose member firms supply about a fourth of U.S. sugar demand, informed the STB it "harbors grave concerns that BNSF will not be able to quickly resolve its service problems." Interruptions will cost it tens of millions of dollars this year, and part of the stranded beet crop may rot on the ground.

ROTTING BEETS, WAITING PASSENGERS

Among others to raise concern are producers of coal, fertilizer, ethanol and steel - even passenger train operator Amtrak. Their complaints aren't focused solely on BNSF. CP and Union Pacific have been subject to criticism as well.

But BNSF owns some key routes. On Amtrak's Empire Builder line from Chicago to Seattle, which traverses the Bakken region on BNSF track, on-time performance has dropped to 27 percent so far this year, down from 76 percent in 2009.

"We've had very frank conversations with BNSF about their performance," said Amtrak spokesman Marc Magliari. "The've been candid there are issues out there, and they are hiring more crews and locomotives."

Power utility trade group, the Western Coal Traffic League, told the U.S. rail regulator last month that BNSF was offering "declining service metrics," adding that "members fear they will run out of coal, if not now, by summer."

Nucor Corp, the largest U.S. steel manufacturer, wrote that during the first quarter rail journeys that usually take two weeks required up to two months. The delays "severely affected" profits, it told the regulator.

"We are not seeing improvement now that the weather has improved," the company wrote.

WARNING ON INTERVENTION

The STB has authority to make railroads prioritize shipping of certain goods during bottlenecks, and some customers are calling on the regulator to act. Last month it granted one such request, ordering BNSF and CP railroads to report their schedules for speedier delivery of fertilizer ahead of the spring planting season, which they did.

STB spokesman Dennis Watson declined comment on whether further regulatory action is planned.

BNSF has bristled at the possibility of further government intervention, telling the regulator in a letter last week that "the extreme step of directing recovery measures to the benefit of a particular commodity group or geographic locale" would hurt overall network speed and other customers.

However, it has acknowledged customer concerns and pledged to address them promptly. "The message that we have fallen short on executing from a service perspective was also very clear," BNSF executive vice president Stevan Bobb wrote in the letter.

Again, shippers of staple commodities are concerned railroads are neglecting their cargoes in favor of $100 a barrel oil.

"We're all paying the price for the railroads' infatuation with moving crude oil," said Bob Dinneen, head of the Renewable Fuels Association. "Oil companies aren't complaining. They think the service has been fine." (Reporting by Joshua Schneyer, Editing by Jonathan Leff, Bernard Orr)

BNSF RAILWAY

Matthew K. Rose
Chairman and Chief Executive Officer

BNSF Railway Company
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matthew.rose@bnsf.com

August 22, 2013

The Honorable Daniel R. Elliott III
Chairman
Surface Transportation Board
395 E Street, S.W.
Suite 1220
Washington, DC 20423-0001

Dear Chairman Elliott:

I write in response to your letter dated August 1, 2013, with answers to your specific questions regarding BNSF Railway Company's (BNSF) assessment of anticipated service demand and actions taken or underway to meet our customers' expectations.

Let me begin by noting that for the past several years, BNSF has been steadily increasing our capital investments as our returns have increased. Since the year 2000, BNSF has invested more than $42 billion to improve and expand our freight rail network. BNSF's record 2013 capital commitment of $4.3 billion is the largest we, or any other railroad, has ever undertaken. We are pleased that the regulatory model of the Staggers Act is working, as this creates the right incentive for increased investment in rail capacity.

For the first half 2013, overall BNSF units rose 3.4 percent compared to the same period a year earlier. We expect continued growth through 2013, with a full year forecast of 5 percent to 6 percent. While we have not yet surpassed our 2006 record for units, as I will discuss below, we have a very different railroad in 2013 than we did in 2006, and we are investing to meet this current demand profile. As we progress through the latter half of the year, we believe we have the manpower, capital and rolling stock resources in place to meet anticipated volumes. Starting with our manpower, we believe we are well-positioned to meet anticipated demand. We currently have a surplus of employees, and we are about to complete peak vacation demand. Additionally, we plan on having over 500 new hires complete training between now and the end of 2013.

Turning to capital, a fundamental component of our ability to continue growing and accommodating additional volume is our capital investment. The largest component of our capital plan is spending $2.3 billion on BNSF's core network and related assets. BNSF also plans to spend approximately $1 billion on locomotive, freight car and other equipment acquisitions. We have 94 more new locomotives to come on line and have 125 locomotives in surge capacity, ensuring that we are prepared as velocity increases and maintenance activity concludes. The program also includes about $200 million for positive train control and $800 million for terminal, line and intermodal expansion and efficiency projects.

Turning to more specific answers to your questions related to volume and service expectations in our four major business units:

In our Coal business unit, Powder River Basin (PRB) coal volumes have significantly increased this year versus 2012 due to the higher natural gas prices, lower coal stockpiles and increased coal burn. Additionally, new business has increased BNSF loadings versus prior year. Through mid-year, PRB coal burn was 12.5 percent greater than the burn in 2012. Additionally, coal stockpiles were down to 67.1 days on-hand versus the high of 89.1 days on-hand last April. As the year progresses, we anticipate the demand staying at current levels, and we have increased sets to match this demand level.

Volumes in our Agricultural Products business unit have not grown so far in 2013 but are expected to trend upward late in the year. Expected U.S. corn production, coupled with domestic soybean and wheat supplies, should lead to increased grain shipments. We are well-positioned for increased agriculture volume as we're currently pre-positioning empty shuttle sets to regions where we anticipate demand, in addition to adding 500 cars to the fleet prior to harvest peak. We have about 3,000 covered hoppers still in storage, so we have cars readily available as volumes increase.

Consumer Products has experienced fairly good volume growth this year, with domestic intermodal being the primary driver. From a domestic intermodal perspective, volume continues to be driven by over-the-road conversions. Intermodal's importance to North America's supply chain continues to expand. As cargo owners expect increased shipments with an improving economy, they are looking for capacity alternatives to mitigate impacts from increasing costs, fluctuating fuel prices and the trucking industry's challenges with attracting and retaining quality drivers. As a result, we are seeing significant volume converting from highway to rail.

Expectations for strong domestic intermodal continue through the second half of 2013, and a normal peak season is expected. International intermodal volumes are more reflective of the modest U.S. economic recovery. Continued oversupply of transpacific vessel capacity and lack of robust demand has the ocean carrier community struggling with profitability. However, expectations are for international intermodal to experience an increase in volumes during the peak season and to see modest year-over-year growth. We will have no issues accommodating intermodal volumes.

Supporting this growth, we plan to open our Logistics Park Kansas City facility in October. This new intermodal facility will improve our ability to serve the Midwest from West Coast ports in addition to other business. BNSF is also investing in additional siding and double tracking on our Avard and Cherokee Subdivisions in Oklahoma and Missouri to support Southeast intermodal growth. We will also be installing CTC signaling on the Avard Subdivision.

Concerning automotive traffic, North American sales continue to escalate, driven by pent-up demand for more fuel-efficient and technologically-modern vehicles and attractive financing. To support this growing demand, BNSF has increased its active car fleet over last year and continues to focus on velocity for the entire fleet. In addition, BNSF plans to add incremental fleet capacity through new car builds and car leases in 2013. We participate in cooperative initiatives with other Class I railroads to revise current distribution rules to improve fleet efficiency and encourage additional investment in the national fleet. Additionally, BNSF continues to work in industry forums alongside other Class I carriers and auto manufacturers to reduce fleet dwell and increase fleet velocity.

Industrial Products volumes exhibited double-digit volume growth in the first half of 2013, driven primarily by strength in energy-related commodities, specifically crude oil and sand. This trend is expected to continue for the rest of 2013. BNSF currently serves 17 crude unit train origin facilities across the Western U.S. shales, with over 25 additional facilities under development. On the destination side, we currently serve 24 unit train facilities, with more than 30 additional unit train facilities under development.

With respect to supporting this increased demand for crude oil and related oil and gas drilling commodities, we have created a dedicated unit train operations desk governing the movement of crude, sand, pipe and other unit trains. Through consistent communication with customers, we can anticipate volume expectations for crude and drilling-related products out of each facility. Additionally, we have developed online tools to support our carload customers by offering them visibility into the status of their shipments, both loads and empties, also allowing them to order equipment in advance.

From a network perspective, we plan to make significant investments to handle energy-related volume growth including expansion at our Mandan, Minot and Williston, North Dakota, yards as well as additional siding capacity and line improvements in our North and Central regions such as a second main track at La Crosse, Wisconsin. We are also continuing our work on Tower 55 in Fort Worth, Texas, in addition to improvements at our Northtown terminal in St. Paul, Minnesota, for all industrial products including crude and frac sand. BNSF recently added $200 million to the 2013 capital plan for northern line expansion to support anticipated crude volume growth, which will benefit other commodities such as agricultural products that travel in the same corridors.

In conclusion, we believe we are well-positioned to handle additional growth for the remainder of 2013 and going forward. Our record capital investment, employees and commitment to continually improving service give us confidence that we will meet our customers' expectations. Please feel free to contact me with any questions or if I can provide any additional information.

Sincerely,

Matthew K Rose

Matthew K. Rose

cc: Vice Chairman Ann D. Begeman
Commissioner Francis P. Mulvey

Surface Transportation Board
Washington, D.C. 20423-0001

February 5, 2014

Mr. Carl Ice
President and Chief Executive Officer
BNSF Railway Company
2650 Lou Menk Drive
Fort Worth, TX 76161-0052

Dear Mr. Ice:

We have been monitoring BNSF Railway Company's service data and are growing increasingly concerned about the deterioration in service that is now occurring over significant areas of your system. These service issues appear to be negatively affecting agricultural, coal, passenger, and other traffic. Therefore, we request that BNSF review with the Board the scope of these service problems and their severity, the underlying causes, and why BNSF has had such difficulty managing the increase in traffic it predicted it could handle in its August 22, 2013 letter to the Board. Most importantly, we need to understand how BNSF plans to return to appropriate service levels and its timeframe for doing so.

We are hearing concerns about delayed cars and a lack of sufficient locomotive power. Average train speed on BNSF has trended downward since January while total cars-on-line has increased. Yard dwell time has steadily increased since September. It also appears that increased cycle times for certain types of equipment are contributing to rail car shortages, particularly with regard to agricultural traffic.

While it may not be possible for a railroad to predict precisely its traffic, resource needs, and external challenges (such as weather), it appears that BNSF's current service problems are unusual and already have had a serious impact on customers. As a Class I carrier, BNSF has the experience and the ability to improve this situation. We look forward to hearing your company's plans for swift progress and are available to provide any assistance, as appropriate.

Thank you for your attention to our request. Lucille Marvin, the Board's Director of Public Assistance, Governmental Affairs and Compliance, will contact you to arrange meetings with us to discuss this serious matter. Please ensure that appropriate members of your senior management team are made available for these meetings.

Sincerely,

Daniel R. Elliott III
Chairman

Ann D. Begeman
Vice Chairman

cc: Mr. Matthew K. Rose
Executive Chairman
BNSF Railway Company
2650 Lou Menk Drive
Fort Worth, TX 76161-0052

Lucille Marvin
Director, Office of Public Assistance, Governmental Affairs and Compliance
Surface Transportation Board

WESTERN COAL TRAFFIC LEAGUE
1224 17TH Street, N.W.
Washington, D.C. 20036-3003

(202) 659-1445

March 13, 2014

BY HAND DELIVERY

The Honorable Daniel R. Elliott III
Chairman
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0111

Re: *BNSF Railway Service Crisis*

Dear Chairman Elliott:

The Western Coal Traffic League ("WCTL") is deeply concerned about BNSF Railway's ("BNSF") ability to deliver coal now and in the coming summer months. WCTL's electric utility members are charged with "keeping the lights on." BNSF's continuing service failures threaten this mission. Indeed, many of WCTL's members fear they will run out of coal, if not now, by summer. Given the critical need for reliable electric service, WCTL is compelled to advise the Board of the dire circumstances its members are facing.

WCTL is grateful that the Surface Transportation Board ("Board") recently queried BNSF on its declining service metrics and the impact these declines are having on rail shippers. The Board's letter of February 5, 2014 has hopefully led to fruitful discussions between the Board and BNSF. However, more than a month has passed since the Board's letter and WCTL's members have yet to see a turnaround in BNSF's service. The service problems have resulted in a variety of problems, including:

1. Precariously low stockpiles – often dipping below 10 days.
2. Forced price increases into electric markets to protect limited coal stockpiles.
3. Increased electric costs as a result of reduced coal-fired generation and its replacement with higher priced generation – additional costs for one utility were several million dollars in January alone.
4. Attempts to rebuild coal piles have been unsuccessful as BNSF moves from one inventory "fire" to the next.
5. Lack of train sets for shippers using railroad-provided cars.

Some WCTL members expect that the lack of coal in the hot summer months will cause many plants to shut down. For example, one WCTL member projects that it will run out of coal by July because it is unable to build its stockpile due to BNSF's service failures.

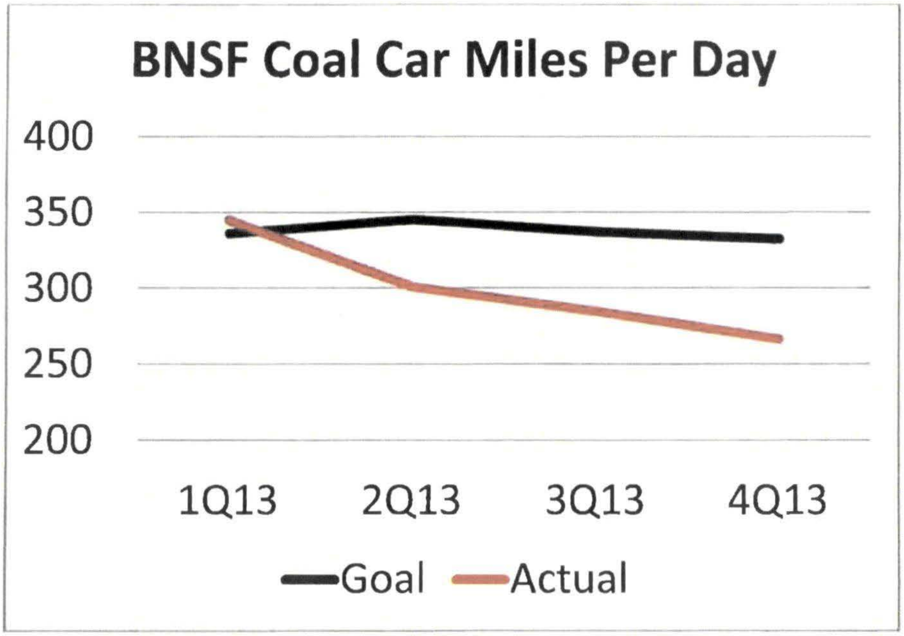
WCTL is also concerned that BNSF's capital improvements and maintenance schedule for 2014 may degrade service even further. These projects include:

1. The Tower 55 project in Fort Worth, TX (March 2014 – August 2014). This project will disrupt traffic flows by routing loaded coal trains through Kansas City and empty coal trains south and west around Fort Worth thereby lengthening already slow cycle times.
2. New facility construction and extensive maintenance in North Dakota and Montana will strain existing capacity, much of which is single track.

While such projects are undoubtedly useful and beneficial in the long run to WCTL's members, we are concerned that BNSF has not adequately explained how it will meet its service commitments while this work is being performed.

Lack of transparency into BNSF's recovery plans is also frustrating WCTL's members. All of our members are in regular contact with BNSF personnel – some are even talking on a regular basis to the highest levels of BNSF – but no clear path forward is evident. BNSF's public statements provide little detail as well, except that BNSF acknowledges that it let its customers down in 2013, and it has described a 24-hour war room mentality that it is applying to solving its problems.

BNSF's public statements also seem inconsistent with the severity of its problems. BNSF has leaned heavily on weather problems as the cause of its service problems in late 2013 and early 2014. However, BNSF's service decline started many months before. For example, BNSF tracks its performance versus its goals for coal trains. By its own statistics its service has been steadily declining since the second quarter of 2013.



WCTL is also concerned that weather problems do not tell the full story. WCTL notes below several additional items that may be contributing to the service problems its members face:

1. BNSF has approximately 7,000 locomotives in its fleet, but apparently some of these locomotives were, and possibly are, still languishing in storage.
2. Sets of coal cars go in and out of particular shipper's service as BNSF scrambles to keep up with the dwindling stockpiles of various plants.
3. BNSF announced that it hired 2,300 new crew members in 2013, but attrition rates are not mentioned. Regardless, a large influx of new staff is sure to be disruptive to operations.

4. BNSF may still be understaffed. For example, BNSF recently offered a $5,000 referral bonus to any employee that helped it fill one of 450 open positions in North Dakota, Montana and Wisconsin.
5. BNSF appears to have lost its focus on its core businesses, such as coal and agricultural products, as it chases new business opportunities.

While new business grabs the headlines, it still only represents a small fraction of all the trains BNSF's handles. Thus, WCTL suspects that BNSF is facing a multifaceted problem that may not be easily corrected.

WCTL believes that the Board can make a difference in these difficult circumstances. However, without adequate data, the Board and the shipping public will be hampered in their understanding of the problems BNSF is facing. Thus, WCTL recommends that the Board require BNSF to regularly provide important data by traffic type including:

1. The number and volumes of deficits that have arisen under contracts;
2. The volumes of traffic that BNSF has failed to transport as requested by rail shippers;
3. Any restrictions on utilization of shipper-provided equipment;
4. Crew availability;
5. Locomotive power shortages; and
6. Performance over key corridors.

WCTL also urges the Board to prepare public summaries of any private meetings that the Board has with BNSF so that the shipping public may be fully informed of the Board's and BNSF's actions.

Finally, the Board is empowered to take further action beyond mere data collection. WCTL respectfully requests that the Board take any and all further action that it deems necessary to correct this crisis.

Thank you for your attention to this matter.

Respectfully submitted,

Bette Whalen

Bette Whalen
President, Western Coal Traffic League

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March 24, 2014

BY HAND DELIVERY

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0111

Re: *Petition of the Western Coal Traffic League to Institute a Proceeding to Address the Adequacy of Coal Transportation Service Originating in the Western United States*, Docket No. EP 723

Dear Ms. Brown:

Enclosed for filing in the above-referenced proceeding, please find an original and ten (10) copies of the Petition of the Western Coal Traffic League to Institute a Proceeding to Address the Adequacy of Coal Transportation Service Originating in the Western United States.

Please date-stamp the extra copy of this cover letter and the enclosed duplicate copies of the filing and return them to our messenger. Thank you for your attention to this matter.

Respectfully submitted,

William L. Slover
William L. Slover
An Attorney for Western Coal Traffic League

Enclosures

EXPEDITED CONSIDERATION REQUESTED

BEFORE THE
SURFACE TRANSPORTATION BOARD

PETITION OF THE WESTERN COAL TRAFFIC LEAGUE TO INSTITUTE A PROCEEDING TO ADDRESS THE ADEQUACY OF COAL TRANSPORTATION SERVICE ORIGINATING IN THE WESTERN UNITED STATES	Docket No. EP 723

PETITION OF THE WESTERN COAL TRAFFIC LEAGUE TO INSTITUTE A PROCEEDING TO ADDRESS THE ADEQUACY OF COAL TRANSPORTATION SERVICE ORIGINATING IN THE WESTERN UNITED STATES

WESTERN COAL TRAFFIC LEAGUE

By: Bette Whalen, President
Western Coal Traffic League

Of Counsel:

William L. Slover
C. Michael Loftus
Slover & Loftus LLP
1224 Seventeenth Street, NW
Washington, D.C. 20036
(202) 347-7170

Slover and Loftus LLP
1224 Seventeenth Street, NW
Washington, D.C. 20036

Dated: March 24, 2014

EXPEDITED CONSIDERATION REQUESTED

BEFORE THE
SURFACE TRANSPORTATION BOARD

PETITION OF THE WESTERN COAL TRAFFIC LEAGUE TO INSTITUTE A PROCEEDING TO ADDRESS THE ADEQUACY OF COAL TRANSPORTATION SERVICE ORIGINATING IN THE WESTERN UNITED STATES)	Docket No. EP 722

PETITION OF THE WESTERN COAL TRAFFIC LEAGUE TO INSTITUTE A PROCEEDING TO ADDRESS THE ADEQUACY OF COAL TRANSPORTATION SERVICE ORIGINATING IN THE WESTERN UNITED STATES

BNSF Railway Company's ("BNSF") well-publicized service problems in the western coal transportation market place have worsened; show no signs of abating; and are beginning to adversely impact service provided by other western rail carriers. The Western Coal Traffic League ("WCTL")[1] asks that the Board institute a formal proceeding to investigate BNSF's service problems and to take two actions immediately: (1) institute a public hearing to address the problem of BNSF's service failures and (2) order BNSF to submit periodic public filings in this proceeding containing pertinent coal

[1] WCTL is a voluntary association, whose regular membership consists entirely of shippers of coal mined west of the Mississippi River. WCTL members currently ship and receive in excess of 140 million tons of coal by rail each year. This Petition is filed pursuant to 49 C.F.R. § 1117.1 (petitions for relief not otherwise covered) and, as discussed below, invokes the Board's regulatory jurisdiction under 49 U.S.C. § 721(b)(3) (granting the Board the oversight authority over rail operations, including the power to obtain information from rail carriers) and 49 U.S.C. § 11145(a)(1) (granting the Board the authority to require carries to file "special reports with the Board containing answers to questions asked by it").

service metrics, as well as any service recovery plan that BNSF has developed. In support hereof, WCTL states as follows:

BACKGROUND

On March 14, 2014, WCTL informed the Board that BNSF's service problems had reached crisis proportions for numerous BNSF coal transportation customers. *See* Letter from Bette Whelan, WCTL President, to Hon. Daniel R. Elliott III, STB Chairman ("WCTL Letter"). In this Letter, WCTL summarized the dire circumstances faced by its members:

> [WCTL] is deeply concerned about [BNSF's] ability to deliver coal now and in the coming summer months. WCTL's electric utility members are charged with "keeping the lights on." BNSF's continuing service failures threaten this mission. Indeed, many of WCTL's members fear they will run out of coal, if not now, by summer. Given the critical need for reliable electric service, WCTL is compelled to advise the Board of the dire circumstances its members are facing.[2]

WCTL also provided specific examples of how the collapse in BNSF service is adversely impacting utility coal shippers, and their utility customers:

1. Precariously low stockpiles – often dipping below 10 days.
2. Forced price increases into electric markets to protect limited coal stockpiles.
3. Increased electric costs as a result of reduced coal-fired generation and its replacement with higher priced generation – additional costs for one utility were several million dollars in January alone.
4. Attempts to rebuild coal piles have been unsuccessful as BNSF moves from one inventory "fire" to the next.
5. Lack of train sets for shippers using railroad-provided cars.

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[2] WCTL Letter at 1.

6. Some WCTL members expect that lack of coal in the upcoming hot summer months will cause many plants to shut down.[3]

Finally, WCTL expressed its concerns about the lack of transparency concerning BNSF's recovery plans:

> Lack of transparency into BNSF's recovery plans is also frustrating WCTL's members. All of our members are in regular contact with BNSF personnel – some are even talking on a regular basis to the highest levels of BNSF – but no clear path forward is evident. BNSF's public statements provide little detail as well, except that BNSF acknowledges that it let its customers down in 2013, and it has described a 24-hour war room mentality that it is applying to solving its problems.[4]

Since WCTL wrote its Letter, there has been no improvement in BNSF's service. Indeed, BNSF's service to its coal shippers is worsening as BNSF's service problems are spilling over to adversely impact the operations of other western carriers, including Union Pacific Railroad Company. While BNSF has recently proclaimed certain, general statistical service improvements, the fact remains that its western coal transportation customers continue to suffer from severe shortages of service.

REQUESTED ACTIONS

The Board is well aware of BNSF's service problems and has taken pro-active informal actions, which included the Board's request, made early last month, that BNSF officials meet privately with the Board to discuss "this serious matter."[5] At that time, the Board observed that "BNSF's current service problems are unusual and already

[3] *Id.* at 2.

[4] *Id.*

[5] *See* Letter from Chairman Elliott and Vice Chairman Begeman to BNSF President and Chief Executive officer Carl Ice dated February 5, 2014 at 2.

have had a serious impact on customers."[6] In addition, WCTL is aware that some shippers have sought informal Board intervention through the Board's Rail Customer and Public Assistance Program, which is presumably attempting to provide assistance.

These are positive steps. However, they have not solved the problem for coal shippers. More is required.

A. Institute a Formal Proceeding

WCTL requests that the Board take a necessary first step: institute a formal proceeding to address BNSF's inability to meet the demands for coal transportation. The Board clearly has the authority to institute investigations on matters of public importance involving regulated rail carriers,[7] and has not hesitated in the past to institute proceedings to address critical transportation issues of regional, or industry-wide significance,[8]

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[6] *Id* at 1.

[7] *See* 49 U.S.C. § 721(b)(1) (granting the Board oversight authority over rail operations).

[8] *See, e.g., Rail Fuel Surcharges*, Docket No. EP 661 (Notice served Mar. 14, 2006) (instituting proceeding to address railroad fuel surcharge practices) ("*Rail Fuel Surcharges*"); *Twenty-Five Years of Rail Banking: A Review and Look Ahead*, Docket No. EP 690 (Notice served May 21, 2009) (instituting a proceeding to address rail banking under the National Trails System Act) ("*Rail Banking*"); *Review of the Surface Transportation Board's General Purpose Costing System*, Docket No. EP 431 (Sub-No. 3) (Decision served Apr. 25, 2009) (instituting a new sub-docket to address rail costing issues) ("*General Purpose Costing System*"); *Policy Alternatives to Increase Competition in the Railroad Industry*, Docket No. EP 688 (Notice served Apr. 14, 2009) ("*Competition Policy*") (instituting a proceeding to address railroad competition issues); *Common Carrier Obligation of Railroads – Transportation of Hazardous Materials*, Docket No. EP 677 (Notice served Feb. 22, 2008) (instituting a proceeding to address railroad common carrier obligations) ("*Hazardous Materials*"); *Rail Capacity and Infrastructure Requirements*, Docket No. EP 671 (Notice served Mar. 6, 2007) (instituting a proceeding to address rail infrastructure issues) ("*Rail Infrastructure*").

including those addressing wide-spread service failures in the western coal transportation marketplace.[9]

The Board's initiation of a formal proceeding addressing western coal transportation failures is particularly important because, as the Board has emphasized in the past, reliable coal transportation service is critical to the nation's economic and national security:

> The Board views the reliability of the nation's energy supply as crucial to this nation's economic and national security, and the transportation by rail of coal and other energy resources is a vital link in the energy supply chain.[10]

The fact that this "crucial" supply chain is threatened requires formal and immediate investigation by the Board. *Accord Discussions with Utility and Railroad Representatives on Market and Reliability Matters*, FERC Docket No. AD06-8-000, 71 Fed. Reg. 33746 (June 12, 2006) (FERC institutes formal docket to address coal transportation service deficiencies threatening electric utility reliability in the west).

[9] *See Rail Service in the Western United States*, Docket No. EP 573 (Decisions served Oct. 2 and October 16, 1997) ("*1997 Rail Service*"); *Rail Transportation of Resources Critical to the Nation's Energy Supply*, Docket No. EP 672 (Notice served June 6, 2007) ("*2007 Rail Service*")

[10] *See Establishment of a Rail Energy Transportation Advisory Committee*, Docket No. EP 670 (Decision served July 17, 2007) at 2.

B. Hold a Public Hearing

Following the initiation of formal proceedings, the Board usually holds public hearings to address involved issues.[11] The Board should do the same here – and do so promptly – given both the urgency of the situation and BNSF's prior representations to this Board.

BNSF represented to the Board last year that it was well positioned to provide reliable service in 2014,[12] but obviously the current problems in the western coal transportation markets demonstrate that BNSF has not been able to fulfill its representations. A public hearing will afford the Board – and the public – the opportunity to learn why BNSF has failed to follow through on its representations.

WCTL is particularly interested in obtaining BNSF's answers to three critical questions: (i) why these problems came about; (ii) how long it expects the problems to last; and (iii) what it is going to do to fix it. To the best of WCTL's knowledge, BNSF management has not publicly provided the Board, or its customers, with answers to these three basic questions. BNSF's customers, and the Board, deserve answers – on the record.

In addition, a public hearing can assist the Board in developing the record necessary to determine whether it needs to take any formal remedial actions to assist coal

[11] *See, e.g., 1997 Rail Service; 2007 Rail Service; Rail Fuel Surcharges; Rail Banking; General Purpose Costing System; Competition Policy; Hazardous Materials; Rail Infrastructure.*

[12] *See* Letter from then-BNSF CEO Matthew K. Rose to the Board members dated August 22, 2013.

shippers in desperate need of service and, if so, what actions would best assist coal shippers. *See, e.g., Joint Petition for Service Order*, Service Order No. 1518 (Decisions served Oct. 31 and Dec. 4, 1997, and February 25, 1998) (STB issues remedial service orders following public hearings on 1997 service crisis in the west).

C. Collect Service Data

Coal shippers need more information to assess the scope of the current problems and to determine whether any BNSF efforts to improve service can work. The Board clearly has the authority to order rail carriers to provide service related data that would help to answer coal shippers' informational needs.[13]

WCTL requests that the Board exercise its data collection authority and direct BNSF to publicly report at least the following information on a weekly:

1. Detailed information on implementation (including timing) of BNSF's service recovery plan, if any exists, insofar as it involves coal shippers;
2. The actual number of coal cars loaded and the number of coal cars requested to be loaded;
3. The average number of coal trainsets presently in service, broken down between shipper-supplied (private) trainsets and BNSF-supplied trainsets;
4. Any restrictions on utilization of shipper-provided equipment in BNSF coal service;
5. Any restrictions on the availability of train crews for coal service;
6. Any shortages in locomotive power available for coal service; and

[13] *See* 49 U.S.C. § 49 U.S.C. § 721(b)(3) (Board may obtain information from regulated carriers); 49 U.S.C. § 11145 (Board may obtain "special reports" from regulated carriers "containing answers to questions asked by it"); *Rail Service* (Decisions served Oct. 16 and Nov. 21, 1997) and *Joint Petition for Service Order*, Service Order No. 1518 (Decision served Dec. 4, 1997) (directing rail carrier to file weekly reports covering more than 20 operational categories in response to on-going rail service crisis).

7. Average cycle times for coal trains operating over any portion of the routes between mine origins in Wyoming and Montana and (a) Council Bluffs, IA; (b) Chicago, IL; (c) Minneapolis/St. Paul, MN and/or Superior, WI; (d) Kansas City, MS; and (e) Fort Worth, TX.

WCTL believes that the requested information also should aid the Board in its independent monitoring of the crisis and, in conjunction with the requested hearing, provide the Board with data it needs to determine whether to issue specific remedial orders.

CONCLUSION

WCTL respectfully requests that the Board grant this Petition for the reasons set forth above.

Respectfully submitted,

WESTERN COAL TRAFFIC LEAGUE

By: Bette Whalen, President
Western Coal Traffic League

William L. Slover
C. Michael Loftus
Slover & Loftus LLP
1224 Seventeenth Street, NW
Washington, D.C. 20036
(202) 347-7170

Of Counsel:

Slover and Loftus LLP
1224 Seventeenth Street, NW
Washington, D.C. 20036

Dated: March 24, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have this 24th day of March, 2014, caused a copy of the foregoing Petition to be served by overnight delivery service upon:

Roger Nober
Executive Vice President, Law & Corporate Affairs
BNSF Railway Company
2650 Lou Menk Drive
Fort Worth, TX 76131

William L. Slover

William L. Slover

43733 SERVICE DATE – LATE RELEASE APRIL 1, 2014
EB

SURFACE TRANSPORTATION BOARD

NOTICE

Docket No. EP 724

UNITED STATES RAIL SERVICE ISSUES

Decided: April 1, 2014

AGENCY: Surface Transportation Board.

ACTION: Notice of Public Hearing.

SUMMARY: The Surface Transportation Board (Board) will hold a public hearing on April 10, 2014, at its offices in Washington, DC, to provide interested persons the opportunity to report on recent service problems in the United States rail network, to hear from rail industry executives on plans to address their service problems, and to discuss additional options to improve service.

DATES: The hearing will be held on April 10, 2014, beginning at 9:30 a.m., in the Hearing Room at the Board's headquarters located at 395 E Street, S.W., Washington, DC. The hearing will be open for public observation. Any person wishing to speak at the hearing shall file with the Board a notice of intent to participate, identifying the party and the proposed speaker, no later than April 7, 2014. The notices of intent to participate are not required to be served on the parties of record; they will be posted to the Board's website when they are filed.

ADDRESSES: All filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the "E-FILING" link on the Board's website at "www.stb.dot.gov." Any person submitting a filing in the traditional paper format should send an original and 10 copies of the filing to: Surface Transportation Board, Attn: Docket No. EP 724, 395 E Street, S.W., Washington, DC 20423-0001.

Copies of written submissions will be posted to the Board's website and will be available for viewing and self-copying in the Board's Public Docket Room, Suite 131. Copies of the submissions will also be available (for a fee) by contacting the Board's Chief Records Officer at (202) 245-0238 or 395 E Street, S.W., Washington, DC 20423-0001.

FOR FURTHER INFORMATION CONTACT: Valerie Quinn at (202) 245-0382. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

The Board has been closely monitoring the rail industry's performance metrics, and is concerned about the service problems that have been occurring across significant portions of the nation's rail network, particularly on the Canadian Pacific Railway Company (CP) and BNSF Railway Company (BNSF) systems. The Board Members have written to CP and BNSF[1] to express concerns that poor service is negatively affecting agricultural, coal, passenger, and other traffic. Per the Board's request, senior management representatives of CP and BNSF met individually with each Board Member, and the Board requested certain additional data from CP and BNSF.

The Board's Office of Public Assistance, Governmental Affairs and Compliance (OPAGAC) has also been working with CP and BNSF to address and correct service issues as they arise. Representatives of OPAGAC have held numerous meetings and conference calls with affected parties to better understand the specific problems shippers are facing, and to help facilitate a quick resolution whenever possible. Board staff has facilitated meetings in Fargo, North Dakota, on service issues with shippers from North Dakota, South Dakota, Minnesota, and Montana. We anticipate that, following this public hearing, additional field meetings in other affected areas will be held. The Board's hearing is not intended to replace the informal and confidential process facilitated by OPAGAC, and shippers and railroads are encouraged to continue communicating through that office.

The Board will hold a public hearing beginning at 9:30 a.m., on April 10, 2014,[2] at its offices in Washington, DC, to provide an opportunity for interested persons to report on the

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[1] See Letter from Daniel R. Elliott III, Chairman, and Ann D. Begeman, Vice Chairman, Surface Transportation Board, to Carl Ice, President and Chief Exec. Officer, BNSF Railway Company (Feb. 5, 2014) (on file with the Board), available at http://stb.dot.gov (open tab at "E-Library, select "Correspondence", select "Fall Peak Letters", follow "02/05/2014" hyperlink, and select the ".pdf" icon); Letter from Daniel R. Elliott III, Chairman, and Ann D. Begeman, Vice Chairman, Surface Transportation Board, to E. Hunter Harrison, Chief Exec. Officer and Dir., Canadian Pacific Railway Company (Mar. 6, 2014) (on file with the Board), available at http://stb.dot.gov (open tab at "E-Library, select "Correspondence", select "Fall Peak Letters", follow "03/06/2014" hyperlink, and select the ".pdf" icon).

[2] Our regulations at 49 C.F.R. § 1012.3(c) provide generally for at least seven days' advance notice of a public meeting. This decision is being served more than seven days in advance of the April 10 hearing. Although Federal Register publication will not be effected until April 7, 2014, we find that the service issues discussed above require that this hearing be held as soon as possible. See 49 C.F.R. § 1012.3(e).

status of rail service and to discuss ways to remedy the current service problems.[3] The Board will direct executive-level officials from CP and BNSF to appear at the hearing to discuss their ongoing and future efforts to improve service on their railroads and to provide an estimated timeline for a return to normal service levels. The Board particularly encourages impacted shippers and/or shipper organizations to appear at the hearing to discuss their service concerns and to comment on the railroads' plans.[4] Also, given the service disruptions that have hindered nearly all carriers that connect through the Chicago area, other Class I railroads are also invited to file notices to appear at the hearing.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. A public hearing will be held on April 10, 2014, at 9:30 a.m., in the Board's Hearing Room, at 395 E Street, S.W., Washington, DC, as described above.

2. CP and BNSF are directed to appear at the hearing.

3. By April 7, 2014, any person wishing to speak at the hearing shall file with the Board a notice of intent to participate (identifying the party and the proposed speaker). The notices of intent to participate are not required to be served on the parties of record; they will be posted to the Board's website when they are filed.

4. This decision is effective on its service date.

By the Board, Chairman Elliott and Vice Chairman Begeman.

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[3] The Board and other agencies have held similar hearings in the past to address transportation service issues. See, e.g., Rail Transp. of Res. Critical to the Nation's Energy Supply, EP 672 (STB served June 6, 2007); Notice of Discussions, AD06-8-000 (FERC issued May 30, 2006); Discussions with Utility & R.R. Representatives on Market & Reliability Matters, AD06-8-000 (FERC Transcript dated May 23, 2006).

[4] On March 24, 2014, the Western Coal Traffic League (WCTL) filed a Petition to Institute a Proceeding to Address the Adequacy of Coal Transportation Service Originating in the Western United States, Docket No. EP 723. The concerns raised in WCTL's petition will be addressed as part of this docket.

American Public Power Association | Edison Electric Institute Power by Association | National Association of Regulatory Utility Commissioners | National Rural Electric Cooperative Association A Touchstone Energy Cooperative

April 9, 2014

BY E-FILING

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Re: STB Docket No. EP 724, United States Rail Service Issues

Dear Ms. Brown:

The American Public Power Association (APPA), the Edison Electric Institute (EEI), the National Rural Electric Cooperative Association (NRECA), and the National Association of Regulatory Utility Commissioners (NARUC) commend the Surface Transportation Board for initiating this proceeding. We further urge the Board to continue monitoring the situation actively, and to require BNSF, Canadian Pacific, and other affected railroads to provide full and accurate information regarding the status of their operations and their efforts to improve service. We also urge the Board to monitor the railroads to ensure that service to critical sectors, such as electrical generation, is not further undermined by the railroad service problems.

APPA, EEI, and NRECA represent virtually all of the U.S. utilities (governmental, consumer-owned, and investor-owned) that provide electric power to the nation's businesses, farmers, public infrastructure, and individual consumers. NARUC represents state public utility commissions serving all states and territories that regulate the retail rates and services of many electric utilities.

Coal remains a critical baseload fuel for the United States' electricity supply; approximately 39% of the megawatt hours of electricity generated in the United States in 2013 was coal-fired. Most of that coal moves from mine origin to power plant destination by railroad. Electric generators using coal are painfully aware that rail service for the transportation of coal in the western portion of the country has deteriorated over the past six to ten months. During some of the periods of extreme cold experienced this winter, utilities in many parts of the country saw their coal inventories dwindle to unprecedented low levels. Some utility generators have had to curtail their coal generation in an attempt to preserve their stockpiles, costing utilities tens of millions of dollars. Most of that burden will ultimately be borne by individual consumers. Furthermore, continuation of these problems through the summer peak season could jeopardize the ability of some utilities to supply electric power in a reliable manner.

We recognize that the carriers and the Board have made some data concerning railroad service metrics available to the public and that BNSF has been taking steps to address its difficulties. However, we and our members do not believe that there has been full transparency as to the performance shortages, the underlying causes of those problems, the current level of service and related deficits, exactly what measures are being taken to address those problems, and the means by which the effectiveness of those measures may be evaluated and monitored. We ask the Board to address all of these areas.

Unfortunately, this is not the first time that electric utilities and their customers have been harmed by railroad service problems. Electric utilities are subject to demanding federal reliability standards, which include planning and operating to meet contingencies without loss of load, and are subject to regulatory penalties if they fail to comply with those standards or merely lack documentation of their compliance. As the electricity sector is dependent upon adequate railroad service, it is imperative that the railroads meet their responsibility to operate in a reliable manner.

Sincerely,

Susan N. Kelly
President and Chief Executive Officer
American Public Power Association

Thomas R. Kuhn
President
Edison Electric Institute

Charles D. Gray
Executive Director
National Association of
Regulatory Utility Commissioners

Jo Ann Emerson
Chief Executive Officer
National Rural Electric
Cooperative Association

McMillan Statement

Chairman Elliott and Vice-Chairman Begeman:

Good morning. I'm Dave McMillan, Senior Vice-President, External Affairs for ALLETE and Executive Vice President for Minnesota Power. I am appearing here today on behalf of the Western Coal Traffic League, and Minnesota Power. The Coal League is comprised of shippers of coal mined in the Western United States. Currently Coal League Members pay to transport approximately 140 million tons of coal annually.

ALLETE is a diversified energy company, headquartered in Duluth, Minnesota. ALLETE's principal operating division, Minnesota Power, generates, transmits and distributes electricity in a 26,000 square mile region in northern Minnesota to 144,000 customers, 16 municipalities and some of the nation's largest industrial customers. Coal is Minnesota Power's primary fuel source for its electric generation. The company currently operates three coal-fired plants that utilize approximately 5 million tons of coal each year. This coal originates at mines located in Wyoming and Montana and is transported by BNSF either in single-carrier, or joint-carrier, service.

Minnesota Power is a long-time member of the Coal League. I am joined here today by a second Coal League member, Bob Kahn. Bob is the General Manager of Texas Municipal Power Agency. Bob's remarks will follow mine. On behalf of the Coal League, Minnesota Power, and TMPA, I want to thank the Board for holding today's timely and important hearing.

The Coal League has submitted two filings with the Board, one dated March 13, and a second dated March 24, that graphically depict the problems faced by many coal-fired utilities in recent months due to BNSF's ongoing service issues. These problems include:

- Precariously low stockpiles – often dipping below 10 days;
- Emergency trucking of coal; and
- Reduced coal-fired generation, and its replacement with higher-priced generation resources, resulting in increased wholesale and retail electric costs.

Minnesota Power has experienced all of these problems first hand.

- Our stockpiles at all three of our coal-fired plants dipped to dangerously low levels earlier this year, including levels as low as 4 days at our largest plant.
- We were also forced to begin emergency, high-cost trucking of coal we had in storage at the MERC dock in Superior, WI to our second largest plant at Taconite Harbor.
- We were forced to curtail generation, both last year and earlier this year and replace it with higher-priced purchase power.
- Overall, our customers have incurred approximately $10,000,000 in additional electric costs due to BNSF's service failures to date.

These costs have been borne mainly by our large industrial customers. These customers, who operate global organizations and compete in international markets, include ArcelorMittal, United States Steel, Cliffs Resources, UPM Kymmene, Sappi, Gerdau Ameristeel, NewPage (who is here today) and others.

Other WCTL members have experienced similar problems. Bob Kahn will discuss TMPA's service problems, and three other WCTL members, Kansas City Power & Light Company, Wisconsin Public Service Corporation and Western Fuels Association, Inc., have asked me to briefly describe their current service problems to the Board.

- Kansas City Power & Light Company's BNSF-served stations have experienced cycle times in 2014 that are between 27% and 39% longer than comparable times in 2013, with performance worsening steadily from the Fall of 2013. Coal inventories at the BNSF-served plants have not been at target levels since July 2013, and have decreased precariously over the past 7 months. Actual BNSF deliveries during this period have been as much as 22% lower than nominations.
- Wisconsin Public Service Corporation's Weston station is served by UP and CN. At the start of December 2013, coal inventory was at 107% of target levels. By year end, it had fallen to 72%. It kept falling in 2014, so that by March, Wisconsin Public Service had to reduce burn in order to prevent inventory from reaching zero. Over the same December to March time period, tons delivered by UP/CN fell short of nominations by more than 375,000 tons and transit times increased from 176 hours to 372 hours.

- Western Fuels purchases coal transportation for several BNSF-served cooperative utilities. WFA reports that BNSF's current cycle times are up to 50% higher than historical averages; stockpiles at many plants are extremely depleted; several of its member companies have had to engage in very expensive coal service mitigation measures, including emergency coal trucking and generation curtailment; and, unless BNSF service improves soon, even with conservation efforts, some of its members may run out of coal this summer.

While the unfortunate and costly results of BNSF's service failures are well known to utility coal shippers, what is far less clear to Traffic League members is:

- Why did these service problems occur?
- What are the carriers doing to fix them? and
- How long will they last?

We will be listening with great interest to hear the carriers' responses to these three basic questions. The Coal League also requests that the Board take four immediate steps:

- First, direct BNSF to publicly submit on a bi-weekly basis the coal service data we identified in our March 24th filing.
- Second, direct BNSF to publicly submit a specific service recovery plan, along with periodic bi-weekly progress reports.
- Third, closely monitor developments and exercise its broad authority, as necessary, to issue specific remedial service orders.

- Fourth, collect interchange dwell times and yard dwell times in IL and WI for UP and CN, as well as UP coal train cycle times from the PRB and Colorado to Chicago.

WCTL may supplement the record with additional specific requests following today's hearing.

Finally, at Minnesota Power, we try to approach problems with creativity and optimism; I want to end my comments in that spirit. Minnesota Power has had a long relationship with BNSF that dates back to 1968. We were BNSF's first western coal unit train shipper, and we have enjoyed a long and mutually beneficial partnership with BNSF. In recent years, Minnesota Power and BNSF have been proactively looking for ways to address the infrastructure side of service issues. For instance, we are working together in energy rich and energy friendly states like North Dakota to support new investments aimed at reducing congestion with new infrastructure. We are also exploring loop track enhancements at our largest station.

During the recent service crisis, we have been in constant communication with BNSF concerning its service problems, and the impact of these problems on our operations and on our customers. BNSF has made its people available to us – from the CEO down. For example, BNSF's Chief Marketing Officer, Steve Bobb, traveled to Duluth in February and spent half a day with our largest electric customers, explaining the current situation. So, while BNSF has listened to us, and has taken some steps this year to address its problems, they still have a long way to go.

Like all successful long-term relationships – sometimes one partner needs to hear frank feedback from the other.

Providing that feedback is my primary purpose for being here today. Electric consumers in Northern Minnesota depend upon Minnesota Power and BNSF for reliable and affordable electric service. It is up to us —and this Board— to assure that our customers' energy needs and expectations are met.

I thank the Board for the opportunity to participate in this important hearing and am happy to answer questions or provide further information.

43743
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SERVICE DATE – LATE RELEASE APRIL 9, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 724

UNITED STATES RAIL SERVICE ISSUES

Decided: April 9, 2014

By decision served on April 1, 2014, the Board scheduled a public hearing for April 10, 2014, at its offices in Washington, D.C., to provide interested persons the opportunity to report on recent service problems in the United States rail network, to hear from rail industry executives on plans to address their service problems, and to discuss additional options to improve service. In its decision, the Board indicated that the hearing would begin at 9:30 a.m.; however, in order to accommodate the large number of notices of intent to participate received, the hearing will begin at 8:30 a.m. The schedule of appearances, with allotted times, is in the Appendix to this decision. Any party wishing to file written comments may do so by April 17, 2014.

If a party wishes to enhance its presentation by using visual displays and/or handouts, it may do so. Parties may copy computer presentations to a Board-supplied laptop for viewing on the hearing room's television screens. Staff will be available to demonstrate the hearing room's screen system and to assist in the copying of visual presentations onto the hearing room laptop computer on April 9, 2014, from 2:00 p.m. to 4:00 p.m. Please call (202) 245-0238 to make arrangements.

Instructions for Attendance at Hearing

The STB requests that all persons attending the hearing use the main entrance to Patriots Plaza I at 395 E Street, S.W. (entrance on E Street closest to 4th Street). There will be no reserved seating, except for those scheduled to present comments. The building will be open to the public at 7:00 a.m., and participants are encouraged to arrive early. There is no public parking in the building. The two closest Metro stops to the Board are on the Blue and Orange Lines at Federal Center SW, 3rd and D Streets, S.W., and on the Yellow, Green, Orange and Blue Lines at L'Enfant Plaza, 6th and D Streets, S.W.

Upon arrival, check in at the 1st floor security desk in the main lobby. Be prepared to produce valid photographic identification (driver's license or local, state, or Federal government identification); sign in at the security desk; receive a hearing room pass (to be displayed at all times); submit to an inspection of all briefcases, handbags, etc.; and pass through a metal detector. Persons choosing to exit the building during the course of the hearing must surrender their hearing room passes to security personnel and will be subject to the above security procedures if they choose to re-enter the building. Hearing room passes likewise will be collected from those exiting the hearing upon its conclusion. Those persons testifying must check in with the clerk at the front of the hearing room.

Laptops and recorders may be used in the hearing room, but no provision will be made for connecting personal computers to the internet. Cellular telephone use is not permitted in the hearing room; cell phones may be used quietly in the corridor surrounding the hearing room, or in the building's main lobby.

Members of the media should contact Dennis Watson in the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0234, if they plan to attend the hearing.

The Board's hearing room complies with the Americans with Disabilities Act, and persons needing such accommodations should call (202) 245-0245, by the close of business on April 9, 2014.

For further information regarding the hearing, contact Valerie Quinn at (202) 245-0382. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The hearing will be held on April 10, 2014, beginning at 8:30 a.m., in the Board's hearing room, at 395 E Street, S.W., Washington, DC.

2. Time for the hearing is allotted as reflected in the Appendix to this decision.

3. Any party wishing to file written comments may file their comments with the Board by April 17, 2014.

4. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings

APPENDIX
SCHEDULE OF APPEARANCES

THURSDAY, APRIL 10, 2014 (COMMENCING AT 8:30 A.M.)

Party	Time Allotted
The Honorable John Thune (to speak upon arrival) United States Senate, South Dakota	as needed
Panel I	
The Unites States Department of Transportation and the Federal Railroad Administration (FRA) Joseph C. Szabo, FRA Administrator	as needed
State of South Dakota Lucas Lentsch, Secretary of Agriculture	7 minutes
Panel II	
Western Coal Traffic League David McMillan, Senior Vice President, ALLETE External Affairs Bob Kahn, General Manager of Texas Municipal Power Agency	15 minutes
North Dakota Grain Growers Association Bob Wisness, President	5 minutes
The American Chemistry Council Thomas E. Schick, Senior Director, Regulatory & Technical Affairs	15 minutes
National Railroad Passenger Corporation (Amtrak) DJ Stadtler, Vice President of Operations	10 minutes
Panel III	
Alliance for Rail Competition, et al. Terry C. Whiteside	15 minutes
The American Soybean Association and the Minnesota Soybean Growers Association Lance Peterson, American Soybean Association Bill Gordon, Minnesota Soybean Growers Association	15 minutes

CHS Inc. d/b/a Midwest Cooperatives Milton Handcock, General Manager	5 minutes
Dennis Jones, farmer and producer	5 minutes
National Farmers Union Roger Johnson, President	15 minutes
The National Grain and Feed Association Kevin Thompson, Chairman, Rail Shipper/Receiver Committee	15 minutes

Panel IV

BNSF Railway Company Stevan Bobb, Executive Vice President and Chief Marketing Officer Robert Lease, Vice President, Service Design and Performance	20 minutes
Canadian Pacific Railway Keith Creel, President and Chief Operating Officer	20 minutes

Panel V

The Association of American Railroads Jeffrey Harris, Co-Chairman of the Chicago Planning Group	10 minutes
Canadian National Railway Company Jeff Liepelt, Senior Vice-President Southern Region	10 minutes
CSX Transportation, Inc. Cressie Brown, Vice President – Service Design and Advanced Technology	10 minutes
Norfolk Southern Railway Company Rush Bailey, Assistant Vice President of Service Management	10 minutes
Union Pacific Railroad Company Thomas C. Haley, Assistant Vice President – Network Planning and Design	7 minutes

Panel VI

North Central Bean Dealers Association John Berthold, Director Brian Schanilec	15 minutes
Plains Grain & Agronomy Keith Brandt, General Manager	5 minutes
South Dakota Farmers Union (SDFU) DuWayne Bosse, farmer and SDFU Marshall County President	15 minutes
South Dakota Wheat Growers Cooperative Hal Clemensen, President of the Board of Directors	5 minutes
United Sugars Corporation John Doxsie, President	5 minutes

Panel VII

The National Coal Transportation Association Tom Canter, Executive Director	10 minutes
TUCO Inc. and NexGen Coal Services, Ltd. Mark L. Adkins, Vice President, NexGen Coal Services, Ltd.	5 minutes
Xcel Energy Thomas A. Imbler, Vice-President Commercial Operations	5 minutes

Panel VIII

Consumers United for Rail Equity Paul Gutierrez, Senior Principal, Legislative Affairs for the National Rural Electric Cooperative Association	5 minutes
Growth Energy Chris Bliley, Director, Regulatory Affairs	15 minutes
Renewable Fuels Association Ed Hubbard, General Counsel	5 minutes

Northern Tier Energy LP Kei Rietz, Commercial Manager Jason Akey, Commercial Operations Manager Charles H. Banks, President, R.L. Banks and Assoc., Inc.	5 minutes

Panel IX

Occidental Chemical Corporation Robin A. Burns, Vice President – Supply Chain	5 minutes
NewPage Gretchen Clark, Director of Logistics and Warehousing	5 minutes
West Linn Paper Company Scott Dalesandro, Columbia River Logistics Inc.	5 minutes
Normerica Inc. and Northdown Industries Inc. Adam Manna, General Counsel	5 minutes
AMCOL International Corporation Jeff Burket, Global Supply Chain Manager	5 minutes
VBR Tours, LLC Todd Powell, President	5 minutes

Rail Service in the United States

STB Ex Parte No. 724

April 10, 2014

STATEMENT OF BOB KAHN
General Manager, Texas Municipal Power Agency

Chairman Elliott and Vice-Chairman Begeman, my name is Bob Kahn. I am the General Manager of Texas Municipal Power Agency ("TMPA"). Established in 1975, TMPA is a non-profit municipal utility that serves the cities of Bryan, Denton, Garland, and Greenville, Texas. TMPA and its Member Cities serve over 183,731 electric meters, including 161,924 residential and 21,789 commercial meters. The electric generation provided by TMPA is vital to these communities.

TMPA has only one generation asset, the base load coal-fired Gibbons Creek Steam Electric Station located near Iola, TX. Gibbons Creek has a net generating capacity of 470 megawatts. TMPA also operates transmission facilities that are tied into the Electric Reliability Council of Texas ("ERCOT") system and other electric providers to deliver electric energy to the Member Cities' residents and businesses. TMPA performs the typical duties of a utility system, except that the power it generates is sold exclusively to the cities it serves.

Gibbons Creek burns approximately 1.57 million tons of Powder River Basin ("PRB") coal a year. BNSF Railway ("BNSF") delivers all of TMPA's coal.

TMPA's reliance on BNSF has significant consequences. Only a year ago, TMPA had a full coal pile with nearly 60 days inventory at Gibbons Creek. Today, TMPA's coal inventory is below 10 days based on normal operational parameters, and the inventory continues to decline. Our stockpile is obviously influenced by generation requirements, and last year TMPA generation increased 18%. We had anticipated that 2014 would see a generation increase of 33%, but that is obviously in jeopardy.

In any event, BNSF's service began its persistent decline in May 2013. BNSF regularly struggles to provide locomotives, crews, and rail cars in adequate amounts to move our coal needs. On two occasions, December 2013 and April 2014 (just days ago), when inventory levels dropped below 10 days, TMPA filed DOE (OE-417) reports declaring fuel supply emergencies. The OE-417 notice is filed when the utility believes that fuel supply difficulties could impact electric power system adequacy or reliability.

Simply put, TMPA is facing a real possibility of running out of coal mid-summer when the ERCOT grid and our Member Cities' residents need our electric output the most. The harsh reality is that TMPA will be forced to either shut down the plant or significantly curtail its production. In turn, TMPA's members will be forced to buy much more expensive power off the grid, which means potentially millions of dollars in extra costs to TMPA's consumers. It's also possible that BNSF's service issues may threaten the availability of electricity across ERCOT. As a side note, I am a former CEO of ERCOT, and I am keenly aware of the consequences of coal-fired electric generating stations having to curtail generation during the summer months in Texas. Those consequences could be significant, painful and headline-making news.

What is most disconcerting is that no resolution of BNSF's problems seem imminent. In fact, in our experience, BNSF says all the right things, but falls short in execution. For example, at a BNSF coal meeting last fall one executive after another stated to the attendees that they were not happy with their railroad's performance and that they would improve service, but service has actually gotten worse since then.

BNSF's cycle time performance dropped by 15% in 2013. Consequently, BNSF came up 84,000 tons short of our total nominations, which left us with only 15 days of coal on the ground. Even if BNSF somehow manages to "right the ship" and deliver the balance of the coal we nominated this year, our stockpile will still be below 15 days.

TMPA's is also concerned that planned construction and maintenance activities on BNSF will further impact service right before the summer months. Specifically, the Tower 55 construction project in Fort Worth, is forcing TMPA's loaded trains to be routed via Kansas City – a longer route than BNSF normally uses – and then return to the mines by another longer route. The rerouting also requires shorter trains. To minimize the impact of the Tower 55 project, in December, on the advice of a BNSF executive, we requested that BNSF increase our first quarter 2014 deliveries to build up our coal pile in anticipation of the slower cycle times resulting from the Tower 55 project. Despite its own suggestion, BNSF has failed to deliver on TMPA's request. BNSF has delivered approximately 112,000 tons less than our December nomination for January through March and missed the mark by 66,500 tons in March alone.

In light of BNSF's service problems, TMPA's Member Cities have already spent hundreds of thousands of dollars to deploy energy conservation methods, which preclude Gibbons Creek from running on an economical basis in order to minimize coal burn and build inventory. But as soon as TMPA enacts coal conservation measures, BNSF pulls train-sets from our service and sends to other customers in worse situations, jumping from problem to problem. As an example, BNSF pulled a train from TMPA the day after a meeting with them discussing our dire situation.

On the upside, BNSF has communicated well, and in recent weeks it has seemed to focus more on the seriousness of TMPA's situation, including delivering a plan to put four trains in TMPA – the bare minimum given BNSF's current performance. However, with slower cycle times there is no margin for BNSF system interruptions (i.e., flooding, derailments, unplanned track outages, etc.) or generation output increases if the summer demands are higher than normal.

TMPA has not just pressed BNSF to improve. TMPA has also asked BNSF to consider other remedial measures that might help TMPA. Specifically, on March 11th, TMPA requested that BNSF grant permission for us to pursue alternative service with Union Pacific and place TMPA-leased coal cars in service, but BNSF has failed to provide a written response. Instead, BNSF continues to reassure us "TMPA will not run out of coal," and that it would like the opportunity to solve this problem. While BNSF's cooperative efforts are appreciated, coal is desperately needed.

I understand the Board has considerable power and discretion to aid shippers when severe service issues arise. As Mr. McMillan mentioned, WCTL has several specific requests for the Board with respect to data collection from BNSF. TMPA also urges the Board to consider any other actions it believes will aid all of the shippers impacted by BNSF's service crisis. On behalf of TMPA, its Member Cities and WCTL, I thank you for allowing us this opportunity to testify today. Mr. McMillan and I are happy to answer any of your questions.

Congress of the United States
Washington, DC 20515

April 30, 2014

Mr. Daniel R. Elliott III
Chairman
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Dear Chairman Elliott,

We write in regards to the Surface Transportation Board's April 10, 2014 public hearing on recent service problems in the U.S. rail network and wish to thank you for listening to our producer's concerns while seeking solutions to address this important issue.

As Members of Congress from the Midwest, we have heard from a wide range of stakeholders impacted by rail delays: ethanol producers who experienced dwell times which jumped 40% in late December and remained 25% above normal through the first quarter of 2014, electrical utilities with precariously low stockpiles, often below 10 days, grain elevators who normally expect to ship 800 cars per month, currently averaging around 300. If this poor rail service continues it will cost farmers millions of extra dollars at the very time of year when they are dependent on sales to finance spring planting. It goes without saying that dependable rail service is of crucial importance. Congestion drives up the costs of our products and hurts local economies.

We are encouraged with the short term efforts of BNSF and Canadian Pacific to hire workers, purchase more capacity and make infrastructural improvements. We hope these efforts continue until the current congestion is resolved. In the long term, we urge the STB to work in concert with the railways to plan for the future needs of rail shippers in light of the projected growth in crude shipment. Rail shipment of crude is up 1363% since 2010. This increase comes at the expense of other shippers. We simply urge that commodities, other than crude, be treated fairly and equitably.

Thank you again for addressing this critical situation. We ask that you take the concerns and issues raised in the April 10th, 2014 hearing seriously, and that you work with the railroad industry and shippers to find a long-term solution to these service delays.

Sincerely,

Tim Walz
Member of Congress

Collin C. Peterson
Member of Congress

Rick Nolan
Member of Congress

April 30, 2014

The Honorable John Boehner
Speaker of the House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Democratic Leader of the House of Representatives
Washington, DC 20515

Dear Speaker Boehner and Democratic Leader Pelosi:

We are writing to you on behalf of a broad array of American businesses, including representatives from the manufacturing, agriculture and energy sectors that represent some of the nation's largest customers of freight rail service. We depend on safe, reliable, and cost-effective rail transportation to deliver our products, which are essential to consumers and serve as the foundation of the U.S. economy. We believe it is time to review key aspects of rail policy to ensure that the U.S. is on course to meet the needs of rail carriers, shippers, and the public.

Today we are experiencing a renaissance in American industry that is bringing investment and jobs back to our country. In order to fully realize the benefits of this much needed boost to our economy, we must be sure that there are freight rail policies in place that will help us capitalize on growth opportunities.

The first goal for our national rail network must be assuring the safe transportation of our products. Along with our rail partners, we invest billions of dollars in safety improvements, including upgrades to new and existing rail cars, making us a significant stakeholder in the nation's rail infrastructure. We are unequivocally committed to safety improvement, and stand ready to continue our efforts to further enhance the safety of our nation's railroads.

Additionally, we urge Congress to move forward with much needed policy reforms to address the vast transformation that has occurred throughout the rail industry. Since the passage of the Staggers Rail Act of 1980, freight traffic has nearly doubled, investment in rail infrastructure has increased, and the economic strength of railroads has greatly improved. At the same time, the rail industry has consolidated, reducing the number of Class I railroads from 26 to seven, with only four dominating the market. With these dramatic changes in the rail sector, it is appropriate to reexamine and modernize our regulatory framework to meet present and future needs.

Our organizations support the adoption of policies to promote greater competition between railroads and to improve the efficiency and effectiveness of the Surface Transportation Board (STB). Increasing competition among railroads would help ensure that commodities, including grain, coal, fertilizer, steel, and manufactured goods, can be shipped efficiently to both domestic and international markets.

Unfortunately, most shippers lack access to competitive rail service. As a result, railroad rates have surged over the last decade, rising nearly three times as fast as inflation and trucking rates. A shipper who lacks competitive service has little recourse in the face of skyrocketing rates. Challenging a rate before the STB is extremely expensive and complex, and it is especially burdensome to small businesses. While the STB has adopted some incremental improvements, congressional action is needed now to further promote economic vitality and growth for both freight railroads and their customers across the nation.

We look forward to working with Congress to advance our common goals in ensuring rail policy is updated and balanced to ensure future growth and prosperity.

Sincerely,

Agricultural Retailers Association
Alliance for Rail Competition
American Chemistry Council
American Forest & Paper Association
American Public Power Association
Arkansas Electric Cooperative Corporation
Arkema, Inc.
BadgerCURE
Celanese
Chlorine Institute
Consumers United for Rail Equity (CURE)
Dairyland Power Cooperative
The Dow Chemical Company
DuPont
Edison Electric Institute
The Fertilizer Institute
Growth Energy
Lincoln Electric System
Missouri River Energy Services
National Association of Chemical Distributors
National Industrial Transportation League
National Rural Electric Cooperative Association
Nucor Corporation
SPI: The Plastics Industry Trade Association
Steel Manufacturers Association
The Vinyl Institute
Wisconsin Electric Cooperative Association

cc: The Honorable Harry Reid
The Honorable Addison McConnell
The Honorable John Rockefeller, IV
The Honorable John Thune
The Honorable Richard Blumenthal
The Honorable Roy Blunt
The Honorable William Shuster
The Honorable Nick Rahall, II
The Honorable Jeff Denham
The Honorable Corrine Brown

ASSOCIATION OF
AMERICAN RAILROADS

Office of the President
Edward R. Hamberger
President and Chief Executive Officer

May 7, 2014

The Honorable John Boehner
Speaker
U.S. House of Representatives
H-232, United States Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
H-204, United States Capitol
Washington, DC 20515

Dear Speaker Boehner and Minority Leader Pelosi:

You recently received a letter from a group of rail shippers and shipper organizations regarding freight railroad pricing and competition issues. That letter contained a number of misleading and incorrect statements.

For example, the letter claimed that "most shippers lack access to competitive rail service." That's simply not true. Rail shippers, including those served by a single railroad, almost always have access to competitive forces they can use to their advantage in negotiations with railroads.

These competitive forces include competition from trucks, barges, and/or pipelines; the ability to substitute one product for another in its production process; and the ability to obtain the same product from, or ship the same product to, a different geographic area.

The letter writers' real complaint is that they are not always happy with the rates they are able to negotiate with railroads. Virtually every purchaser of goods or services, including railroads, would like to get a better deal than what they have from their suppliers. But there is no question that the vast majority of rail rates are driven by competition.

Prices for rail transportation services are not based on input costs, but rather on the value rail transportation provides to customers. This market-based approach to pricing allows railroads to balance the desire of each customer to pay the lowest possible rate with the requirement that the overall rail network earn enough to pay for all the things needed to keep it functioning now and growing in the future. Indeed, treating railroads as a sort of public utility, with prices based on input costs, would make it impossible for railroads to earn enough to cover the full costs of their systems.

That's critical, because unlike trucks, barges, and airlines, America's privately-owned freight railroads operate almost exclusively on infrastructure that they own, build, maintain, and pay for themselves. In recent years, railroads have been reinvesting more than ever before — including more than $25 billion per year in 2012 and 2013 — back into their systems. Absent massive government subsidies, market-based pricing of rail transportation services is essential if America is to have a viable national freight rail system.

Value-based pricing is not unique to railroads. In fact, firms in virtually every industry, including firms that signed the letter to you, practice it. For example, an executive from a chemical company that is a member of the American Chemistry Council, which signed the letter to you, has said that "We continue to implement value pricing across the entire portfolio to insure that we're getting paid for the value our products bring to our customers' businesses."[1]
Likewise, an executive from DuPont, which also signed the letter to you, says that "We have a very thorough process to evaluate the amount of value that we create and that we ultimately deliver to a customer. We price for that value."[2] In this light, it is disingenuous for the letter writers to complain that railroads are doing exactly what they themselves are doing, and what most other firms do.

It's also important to note that railroads do not have unlimited freedom to charge whatever they want for rail transportation. If a customer complains, the U.S. Surface Transportation Board can, and does, set maximum-allowable rates for rail transportation services where there is no effective competition for those services.

The letter to you also claims that, over the past decade, rail rates have risen nearly three times as fast as inflation (as measured by the CPI). As noted above, railroad transportation services are not priced based on input costs, but rather on the market. That said, rail rates closely track rail input costs, which have risen far faster in recent years than the CPI. Indeed, a comparison to the CPI has no relevance.

And once again, the letter writers criticize railroads for what also applies to them. According to data from the Bureau of Labor Statistics, for example, producer prices for many types of chemicals have risen over the past decade at rates comparable to, or greater than, the rail rates the letter writers complain about.

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[1] Patrick Prevost, CEO, Cabot Corp., at the Q2 2011 Cabot Corp Earnings Conference Call, April 27, 2011.

[2] Paul Schickler, President-DuPont, at the UBS Global Agricultural Chemicals & Seed / Biotech Conference, May 5, 2010.

The bottom line is that because of a market-based approach involving balanced government intervention, today's U.S. freight railroads add up to a network that, comparing the total cost to shippers and taxpayers, gives the world's most cost effective rail freight service. It would be foolhardy to adopt policy proposals, like those advocated by the signatories of the recent letter to you, that would put the existing system at risk by imposing unnecessary and harmful artificial regulatory limits on rail rates and rail earnings. To do so would mean declining rail investments, deteriorating rail infrastructure, worsening rail service, fewer rail jobs, and eventually the loss of rail service completely on an increasing number of rail lines throughout the nation. That's an outcome our nation neither needs nor deserves.

Sincerely,

Edward R. Hamberger

Edward R. Hamberger
President & CEO

cc: The Honorable Harry Reid
The Honorable Mitch McConnell
The Honorable John Rockefeller, IV
The Honorable John Thune
The Honorable Richard Blumenthal
The Honorable Roy Blunt
The Honorable Bill Shuster
The Honorable Nick Rahall, II
The Honorable Jeff Denham
The Honorable Corrine Brown

July 10, 2014

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

Dear Majority Leader Reid and Minority Leader McConnell:

In April, a broad coalition of railroad customers representing a range of U.S. manufacturing, agricultural, and energy industries wrote to your office to highlight the need for rail policy modernization. Today, we write to you in support of the attached specific reforms that would increase competition among railroad companies and make the Surface Transportation Board (STB) a more effective and efficient regulatory body.

The lack of competition for rail services has become a critical problem for American industry, as more than three-quarters of U.S. rail stations are now served by just one major rail company. This consolidation has given the remaining railroads unprecedented market power, and has denied many rail-dependent companies the benefits of cost-effective and reliable rail transportation service. Unreasonable rate increases, service breakdowns, and diminishing competition, all act as headwinds on the many industries that require rail to do business in the United States.

In the past, the rail industry has inaccurately portrayed efforts to reform rail policy as "reregulation." This coalition does not support a return to the 1970's when all freight rates were automatically subject to strict government scrutiny. Because the nation's freight rail network is vital to the strength of the economy, this coalition supports policies to create a more competitive and market-based system, while ensuring the STB has procedures to settle disputes efficiently.

There is no question that the United States needs a strong rail network to compete globally. Railroads are a remarkably efficient means for transporting bulk commodities over long distances. According to the Association of American Railroads (AAR), rail companies can now move one ton of freight 476 miles on one gallon of diesel fuel. Surprisingly, these increases in productivity have coincided with sharp increases in rail rates and declining service performance.

Several factors have contributed to the increasing imbalance in railroad market power, most importantly the dramatic consolidation of the nation's freight rail network since Congress passed the Staggers Rail Act of 1980. There were 26 Class I rail companies in 1980; now, four corporations control more than 90 percent of the market. Staggers helped the industry regain profitability, but unchecked consolidation has led to dramatic increases in rates. In fact, according to AAR data, rates spiked 94.8 percent from 2002 to 2012, which outpaces increases in inflation and truck rates by about a factor of three. Furthermore, the STB held an emergency hearing and intervention this spring to address systemic rail service problems, while rates increases continue.

The STB process for rate cases can and should be improved by Congress. Although railroad rates may be challenged for being "unreasonably high", shippers large and small who desire to bring a rate case face tremendous economic barriers. A major case at the STB is extremely complex, involves a multimillion dollar investment in lawyers and consultants, and takes several years to obtain a decision. During the rate case, shippers are forced to pay extremely high tariff rates in the hopes of recouping those costs at the end of the case if they are successful. Many shippers cannot afford to challenge a rate at the STB under current procedures, and for those that can afford it, the economics of filing a complaint are dubious.

Simply put, the current policies do not achieve the goals that Congress established in 1980, including promoting effective competition between rail companies, maintaining reasonable rates where there is an absence of effective competition, and providing expeditious resolution of all proceedings. In our view, it is the responsibility of Congress to ensure that the STB is perceived as an effective and viable intermediary between railroads and their customers who currently have no truly competitive option to ship.

We hope you will take a look at the attached document where we have outlined specific policy proposals that would help to modernize the U.S. rail policy framework. We look forward to working with Congress and the rail industry to ensure the nation's freight rail works-- both for rail companies and the large and small American businesses that rely on them.

Sincerely,

Agricultural Retailers Association

Alliance for Rail Competition

American Architectural Manufacturers Association

American Chemistry Council

American Forest & Paper Association

American Public Power Association

Chlorine Institute

Consumers United for Rail Equity (CURE)

Edison Electric Institute

The Fertilizer Institute

Growth Energy

Institute of Scrap Recycling Industries, Inc.

Louisiana Chemical Association

Manufacture Alabama

National Association of Chemical Distributors

National Rural Electric Cooperative Association

Plastic Pipe and Fittings Association

Portland Cement Association

PVC Pipe Association

Resilient Floor Covering Institute

SPI: The Plastics Industry Trade Association

Steel Manufacturers Association

The National Industrial Transportation League

The Vinyl Institute

Enclosure

cc: The Honorable John Boehner
The Honorable Nancy Pelosi
The Honorable John Rockefeller, IV
The Honorable John Thune
The Honorable Richard Blumenthal
The Honorable Roy Blunt
The Honorable William Shuster
The Honorable Nick Rahall, II
The Honorable Jeff Denham
The Honorable Corrine Brown

RAIL POLICY PROPOSALS

ENHANCE EFFICIENCY OF STB OPERATIONS

- **Allow direct communication between STB Commissioners:** Government "sunshine laws" prohibit a quorum of the STB (currently, any two members) from discussing pending matters with each other, forcing members to work via staffs. Congress should address this problem by expanding the STB to five Commissioners or by providing a limited exception that allows appropriate discussions of pending issues by STB members.
- **Study STB staffing and resource requirements:** Congress should initiate a study to determine whether the STB has adequate resources to fulfill its statutory mission.
- **Eliminate railroad revenue adequacy determinations:** As demonstrated by the industry's high levels of capital investment and shareholder returns, the STB's annual "revenue adequacy" calculations for Class I carriers are no longer necessary and may inappropriately shield railroads' pricing power from STB scrutiny. Congress should eliminate this outdated requirement.
- **Publicly report the status of STB proceedings:** Rail stakeholders would benefit from regular reports from the STB detailing the status of pending rate cases, rulemakings, and complaints. Reports should include key STB actions and expected timelines for final resolution.

REFORM STB RATE CHALLENGE PROCEDURES

- **Review the STB's rate-reasonableness standards:** Congress should direct the STB to review its three types of rate-reasonableness reviews. Significant concerns involve not only the cost and length of STB reviews, but also the fundamental principles on which each standard is based. Reformed standards should recognize that the Staggers Rail Act's goal of restoring financial stability to the U.S. rail system has been achieved.
- **Provide arbitration as an alternative means to resolve rail rate challenges:** The STB's rate review procedures are costly for railroads and shippers and, therefore, are rarely used. Binding arbitration, which has been used successfully under Canadian law, could provide a quicker and less expensive approach to resolve rail rate disputes.
- **Prohibit "bundling" of contract rates that can prevent rate challenges:** In some instances, a railroad will "bundle" rates in a single contract proposal for a group of origin-destination pairs and *refuse* to quote tariff rates for individual movements. This all-or-nothing approach effectively forces a shipper to agree to the complete package of contract rates and deprives them of the ability to challenge specific rates that it believes are unreasonable. The STB must be empowered to address this problem and fulfill its mandate to resolve rate disputes.

- **Review STB commodity exemptions:** Since passage of the Staggers Rail Act, numerous categories of rail traffic have been exempted from STB oversight. The rail industry and the state of rail competition have changed significantly since many of these exemptions were granted. Congress should direct the STB to conduct a comprehensive review of existing commodity exemptions and remove any exemptions that are no longer appropriate.

REMOVE BARRIERS TO FREIGHT RAIL COMPETITION

- **Provide competitive switching to shippers:** Competitive switching agreements facilitate the efficient movement of traffic between carriers and are critical to a competitive rail system. Consistent with existing authority under the Staggers Rail Act, the STB should be directed to provide competitive switching service to shippers, without requiring evidence of anti-competitive conduct by a rail carrier from which access is sought. The availability of switching should not preempt STB authority to review rates.
- **Allow shippers to obtain service between interchange points on a rail carrier's system:** Current STB policies and precedents effectively block many shippers served by a single Class I railroad from obtaining competitive service. In order to provide effective competition among rail carriers, a Class I rail carrier should be required to quote a rate and provide service between points on that carrier's system where traffic originates, terminates, or may be reasonably interchanged.

ASSOCIATION OF
AMERICAN RAILROADS

Office of the President
Edward R. Hamberger
President and Chief Executive Officer

July 17, 2014

The Honorable William Shuster
Chairman, Committee on Transportation and Infrastructure
United State House of Representatives
Washington, DC 20515

The Honorable Jeff Denham
Chairman, Subcommittee on Railroads, Pipelines, and Hazardous Materials
Committee on Transportation and Infrastructure
United State House of Representatives
Washington, DC 20515

The Honorable Nick Rahall, II
Ranking Member, Committee on Transportation and Infrastructure
United State House of Representatives
Washington, DC 20515

The Honorable Corrine Brown
Ranking Member, Subcommittee on Railroads, Pipelines, and Hazardous Materials
Committee on Transportation and Infrastructure
United State House of Representatives
Washington, DC 20515

Dear Chairman Shuster, Ranking Member Rahall, Chairman Denham, and Ranking Member Brown:

You recently received a letter, dated July 10, 2014, from a group of organizations purporting to speak for freight railroad customers. The letter asks you to support a number of "policy proposals" that would supposedly "increase competition among railroad companies" and "make the Surface Transportation Board (STB) a more effective and efficient regulatory body."

The July 10 letter is just the latest in a long line of missives over the years from these same groups whose purpose, notwithstanding the letter's rhetoric, is basically to use the power of government to force freight railroads to lower their market-based rates for certain favored rail shippers at the expense of other shippers, rail labor, and the public at large.

The letter writers go to great lengths to sound reasonable; but, in fact, the policy proposals they advocate would radically transform the existing balanced system of railroad regulation that protects rail customers against abuse of market power by the railroads while allowing railroads and their customers to work together without undue government interference.

Indeed, if enacted, the policy proposals the letter writers espouse would mean the transfer of billions of dollars of revenues per year from the rail industry to select favored shippers. If this happened, it would be much more difficult for our nation's freight railroads — who already offer the world's most cost-effective and productive freight rail service — to make the massive private investments required year after year to meet our nation's rail transportation needs. Over time, freight service would deteriorate and divert to highways, which would become overcrowded and more costly to build and maintain. Environmental degradation and shipping costs would rise as well.

Policymakers should not let this happen, which is why we urge you to disregard the shipper groups' requests that are based upon misleading representations.

To be sure, not all of the shippers' policy proposals involving the efficiency of STB operations warrant immediate dismissal. Specifically, railroads agree that the STB should have adequate resources to fulfill its statutory mission. Railroads also agree that there may be ways that would allow STB commissioners to more effectively communicate with each other regarding pending issues. And it is probably worth considering whether the annual revenue adequacy determination has outlived its usefulness and should be discontinued.

However, most of the other proposed policy reforms involving rate challenge procedures and rail competition simply rehash what Congress has considered and soundly rejected, on a bipartisan basis and for good reason, many times in the past.

For example, one of the policy proposals calls for the use of Canadian-style binding arbitration which is a "final offer" process to resolve rate disputes between railroads and their customers. The vast majority of rail rates today are set by the economics of the competitive marketplace. On the other hand, a binding arbitration process essentially ignores sound economic principles and allows for rates untethered to competitive or market conditions. As far as the Association of American Railroads is aware, no private U.S. industry, including the writers of the July 10 letter, is required by the government to use binding final offer arbitration to resolve disputes with its customers.

Another of the shipper groups' policy proposals would reverse existing "bottleneck" policy. If this happened, it would lead to potentially huge disruptions in railroads' physical operations because it would force railroads to route traffic without regard to network efficiency. In essence, a few shippers would be in the position to disrupt rail operations and raise costs for other customers. In addition, reversing existing bottleneck policy would mean several billion dollars in rail revenue would be lost each year to a few favored shippers. Again, this would make it much more difficult for railroads to make the investments in new tracks, bridges, terminals, and tunnels that America and the rest of the shipping public desperately need.

A third policy proposal asks you to force railroads to "switch" another railroad's traffic at the shippers' sole discretion, regardless of whether a railroad is engaged in any sort of anti-competitive conduct, regardless of the rate the railroad charges, and regardless of the problems to other shippers that would result from the shippers' choices. Enacting this policy would mean a reduction in the quality of service for most rail shippers, and far less efficient rail operations.

It would also force the STB to pick winners and losers among shippers and override market forces in many areas of the economy. None of these outcomes is desirable.

These and other misguided policy proposals are assuredly supported by the letter writers based on the claim that railroads apparently have excessive market power. It's difficult to square that claim when you consider, for example, that:

- Using the chemical industry's own figures, railroads account for only around 21 percent of the costs of chemical transportation and rail revenue from transporting chemicals is equivalent to well under 2 percent of chemical industry revenue.
- According to U.S. Department of Agriculture data, trucks account for far more grain movements than railroads do.
- According to U.S. Department of Energy data, coal delivered by railroads accounts for only around 25 percent of the electricity generated in the United States and rail revenue from hauling coal is equivalent to only around 4 percent of U.S. electricity retail sales.

The signatories of the July 10 letter keep making the same tired claims: railroads don't have enough competition and they charge too much. That's simply not true. The business model of privately-owned freight railroads competing fairly in an increasingly sophisticated transportation marketplace has served America incredibly well. It has produced what is, by virtually any measure, the best national freight rail system in the world. It is best for shippers in price and service; best for employees in compensation and safety; and best for the public in reduced pollution and highway gridlock.

We urge you to keep in mind that no amount of rhetoric about "competition" can change the fact that if railroads cannot cover their costs, they cannot maintain their infrastructure and provide the services upon which their customers and our nation depend. Self-serving pleas to change the regulatory structure railroads operate under, or to confer special advantage to certain groups of shippers, must be rejected within this context.

Sincerely,

Edward Hamberger
President and CEO

cc: The Honorable Harry Reid
The Honorable Mitch McConnell
The Honorable John Boehner
The Honorable Nancy Pelosi
The Honorable John Rockefeller, IV
The Honorable John Thune
The Honorable Richard Blumenthal
The Honorable Roy Blunt

REPLY TO:

- 135 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-1501
(202) 224-3744
e-mail: grassley.senate.gov/contact.cfm

- 721 FEDERAL BUILDING
210 WALNUT STREET
DES MOINES, IA 50309-2140
(515) 288-1145

- 111 7TH AVENUE, SE, BOX 13
SUITE 6800
CEDAR RAPIDS, IA 52401-2101
(319) 363-6832

United States Senate

CHARLES E. GRASSLEY

WASHINGTON, DC 20510-1501

236360
EP 724

REPLY TO:

- 103 FEDERAL COURTHOUSE BUILDING
320 6TH STREET
SIOUX CITY, IA 51101-1244
(712) 233-1860

- 210 WATERLOO BUILDING
531 COMMERCIAL STREET
WATERLOO, IA 50701-5497
(319) 232-6657

- 201 WEST 2ND STREET
SUITE 720
DAVENPORT, IA 52801-1817
(563) 322-4331

- 307 FEDERAL BUILDING
8 SOUTH 6TH STREET
COUNCIL BLUFFS, IA 51501-4204
(712) 322-7103

July 22, 2014

ENTERED
Office of Proceedings
July 25, 2014
Part of
Public Record

The Honorable Daniel R. Elliott III
Chairman
Surface Transportation Board
395 E Street SW, Suite 1220
Washington, DC 20423-0001

Dear Chairman Elliott:

Enclosed please find a communication I recently received from Dairyland Power Cooperative regarding two power plants in Wisconsin, which provide electricity to people in Illinois, Iowa, Minnesota and Wisconsin, that are extremely short on fuel due to delivery issues by the Burlington Northern Santa Fe. I ask that these concerns be given all due consideration. Any information or assistance you could provide me with respect to this issue would be greatly appreciated.

Thank you for your time and effort on this matter. If I may be of any assistance with this issue, please contact my office at 202-224-3744.

Sincerely,

Chuck Grassley

Charles E. Grassley
United States Senator

Committee Assignments:

RANKING MEMBER,
JUDICIARY

AGRICULTURE
BUDGET
FINANCE

CO-CHAIRMAN,
INTERNATIONAL NARCOTICS
CONTROL CAUCUS

DAIRYLAND POWER
COOPERATIVE

Coal Supply Crisis

Dairyland Power Cooperative provides electricity to over 600,000 people in Wisconsin, Minnesota, Iowa, and Illinois. The two major sources of that energy are power plants in Wisconsin along the Mississippi River at Alma and Genoa.

Due to fuel delivery failures by the Burlington Northern Santa Fe (BNSF) railroad, both these plants are dangerously short on fuel in the midst of the summer cooling season and with the winter heating season looming close behind.

The problem is epitomized by the crisis situation we now face at our Genoa plant.

Our Genoa power plant is not served directly by rail lines but rather can only receive fuel by barges that are loaded from rail cars at a dock in southeast Iowa and delivered north via the Mississippi River. Because the barge shipping season is limited due to the river freezing (approximately May-to-October), Dairyland must receive enough fuel during the short shipping season to last until the following spring when the river thaws again. Right now half the barge shipping season is past and Genoa's coal supply is less than half what it should be and falling further behind with each passing week.

If this trend continues, Dairyland's Genoa power plant will run out of coal and will be unable to generate power after January 2015.

Issues with BNSF deliveries began in the fall of 2013 at our plants at Alma and have only deteriorated since, bottoming out in the heart of last winter's ***Polar Vortex***, when inventories at those plants fell to dangerously low levels. Dairyland was forced to take drastic steps in light of this situation, all of which directly impacted our members as we are a not-for-profit electric cooperative. Since the BNSF has not provided solutions, Dairyland has had to:

- Truck hundreds of loads of coal over local roads from two sources over 80 miles away;
- Reduce generation at our power plants in order to conserve coal inventory;
- Purchase higher-priced power from other sources.

These measures have resulted in increased costs to our members in the form of higher electric rates.
Now the rail delivery problems have expanded to our Genoa power plant.

With only a few months remaining in the barge delivery season there is a very narrow window to resolve this situation.

3200 East Ave. S. • PO Box 817 • La Crosse, WI 54602-0817 • 608-788-4000 • 608-787-1420 fax • www.dairynet.com

To reduce this serious inventory shortage at Genoa the BNSF will need to reverse their substandard performance and *triple* the normal pace of deliveries for the remainder of the shipping season.

The BNSF has publicly stated to overcome delivery challenges they will focus resources to avoid a customer having to halt operations. Unfortunately, Dairyland has not seen any such focus of resources from BNSF to ensure our plants are not forced to shut down. BNSF has had at least three years to prepare for this shipping season, based on the contract negotiated with Dairyland in 2011. BNSF has clearly had plenty of time to plan and prepare but has simply failed to do so.

Dairyland continues to work with the railroad in an attempt to resolve these issues and remains hopeful the railroad will respond. BNSF has acknowledged they are not meeting Dairyland's requirements and frequent communications are occurring. We value our relationship with BNSF since they play a very important role in helping us provide reliable and reasonably priced electricity to the region. However, our continued discussions with BNSF on these matters have not resulted in any meaningful change in service. In fact, conditions seem to have gotten even worse in the past several weeks.

Continued poor service by BNSF will pose a significant risk to the reliability of the electric grid in the Midwestern region, as well as increase the likelihood of much higher electric rates for our members.

Given these circumstances we request you:

1. Call or write BNSF and insist they take any steps necessary to improve service to Dairyland Power Cooperative, especially to dramatically increase deliveries to the Hendricks' coal harbor that serves the Genoa site, to ensure that power plant is fully supplied by the end of October in preparation for what could be another harsh Midwestern winter.

   Contact: Amy C. Hawkins
   Vice President, Government Affairs
   Burlington Northern Santa Fe Railroad
   202-347-8662
   amy.hawkins@bnsf.com

2. Call or write to the Surface Transportation Board (STB) and request they take whatever actions possible to ensure BNSF meets its obligations to Dairyland Power Cooperative.

   Contact: Daniel R. Elliott III, Chairman
   Surface Transportation Board
   Suite 1220
   395 E Street, S.W.
   Washington, DC 20423-0001
   202-245-0220
   Daniel.elliott@stb.dot.gov

Congress of the United States
Washington, DC 20515

236359
EP 724

July 24, 2014

ENTERED
Office of Proceedings
July 25, 2014
Part of
Public Record

Mr. Daniel R. Elliott III
Chairman
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Dear Chairman Elliot:

We write in regards to the service delays Dairyland Power Cooperative (Dairyland Power) is experiencing at its Genoa power plant and ask for your assistance in resolving this matter. Our constituents depend on the electricity generated at Dairyland Power's Alma and Genoa, Wisconsin power plants.

As you know, a wide range of commodity shippers have experienced rail delays in the last year. Dependable rail service is critical to all commodities, and congestion drives up the costs of products and hurts local economies. We recognize the number of challenges facing railroads, including weather and the recent increased demand for crude oil, and we appreciate the steps the Surface Transportation Board (STB) has taken to address these delays.

In the recent weeks, we have received concerning reports regarding Burlington Northern Santa Fe Corporation (BNSF) service delays. According to Dairyland Power, BNSF has not met their obligations to deliver fuel shipments to the Hendricks, Iowa coal harbor that serves their Genoa power plant site. Dairyland Power has stated the lack of service to the Hendricks' harbor has put their coal supply at a perilous level.

In the past, BNSF has committed to escalate and focus resources when a customer is facing a severe service issue that could halt operations. This commitment is commendable, and we believe it is a starting point for solving these current service delays. To facilitate communication about this problem and coordination of possible solutions, we believe STB leadership is needed.

Hence, we ask that the STB work with BNSF, Dairyland Power Cooperative, and our offices to quickly resolve these delays at the Genoa plant and ensure the stability of the electric grid in the Midwest region. Our offices would be happy to provide whatever assistance is needed to help this issue come to a resolution.

Please contact Carina Marquez-Barrientos with Mr. Walz at carina.marquez@mail.house.gov or Natalie Mamerow with Mr. Kind at natalie.mamerow@mail.house.gov if you need more information.

Sincerely,

Tim Walz	Ron Kind
Member of Congress	Member of Congress

Xcel Energy®
RESPONSIBLE BY NATURE™

236377

Benjamin G. S. Fowke III
Chairman, President and Chief Executive Officer

414 Nicollet Mall, 5th Floor
Minneapolis, Minnesota 55401

ENTERED
Office of Proceedings
July 31, 2014
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July 23, 2014

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0111

RE: *United States Rail Service Issues*, EP No. 724

Dear Ms. Brown:

My name is Ben Fowke and I am Chairman, President and CEO of Xcel Energy, a combination gas and electric utility serving 3.5 million electric and just under 2 million gas customers in seven states. As you would expect, one of my primary responsibilities is to ensure the delivery of reliable gas and electric service to our customers.

I am writing to you to express my concern over the ability of the BNSF to deliver sufficient coal to our electric generating stations. The coal-fired Sherco generating station, located 45 miles north and west of Minneapolis, is critical to maintaining the electric reliability of the upper Mid-West. As the third largest plant in the region, its nearly 2,500 MWs of generating capacity can serve 1.9 million homes. Literally 24% of the electricity consumed by our customers in Minnesota, North Dakota, South Dakota, Wisconsin, and Michigan is normally produced at this facility.

This plant has single carrier rail service from the BNSF. Beginning in October 2013, we saw greatly reduced deliveries. In the 4th quarter of 2013, the BNSF delivered 486,000 tons below our monthly minimum ratable deliveries. Since the beginning of 2014, the BNSF has continued to deliver less than the minimum ratable deliveries, resulting in a delivery deficit of 325,000 tons of coal. Combined, this has resulted in a total delivery deficit of 811,000 tons or an amount equivalent to 40 days of normal coal consumption. Substituting natural gas at this generating station is not an option so when we run out of coal, the plant can't produce electricity. And we are right in the middle of summer when air-conditioning load creates our highest levels of electric demand.

We are aware that following the hearing in April, the STB has been paying close attention to rail service issues and has taken certain steps with the purpose of focusing railroad attention on particular areas of concern. In April, the Board required a specific plan for moving large quantities of fertilizer into the market during the planting season. At the end of June, the STB again ordered detailed reporting on past due grain orders to be submitted on a weekly basis, into the near term. If the Board is going to continue to issue reporting or other requirements benefitting specific commodity groups, then circumstances certainly warrant formal STB focus on the measures the railroads are taking to reduce the backlog of coal deliveries that have the potential to impact the reliability of our electric grid.

Respectfully,

Ben Fowke
Chairman, President and CEO

43996 SERVICE DATE – LATE RELEASE AUGUST 28, 2014
DO

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 724

UNITED STATES RAIL SERVICE ISSUES

Decided: August 28, 2014

By decision served on August 18, 2014, the Board scheduled a public field hearing for September 4, 2014, at the Hilton Garden Inn in Fargo, N.D., to provide interested parties the opportunity to report on service problems in the United States rail network, to hear from rail industry executives on their efforts to address service problems, and to discuss additional options to improve service. In its decision, the Board requested notices of intent to participate in the hearing. The schedule of appearances, with allotted times, is in the Appendix to this decision. If a party did not request a specific amount of time, five minutes have been allotted. BNSF Railway Company (BNSF) and Canadian Pacific Railway Company (CP) each will appear during two separate intervals, as follows: during Panel II, BNSF and CP will address the Board and respond to questions from Board members; the purpose of the latter panel is for BNSF and CP to respond to concerns raised during the hearing and answer any additional questions from Board members following the testimony of all other participants.

A live video broadcast of the hearing will be available via the agency's website at "www.stb.dot.gov" under "Information Center: / Webcast / Live Video" on the home page.

Any party wishing to file written comments may do so by September 11, 2014. Comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the "E-FILING" link on the Board's website at "www.stb.dot.gov." Any person submitting comments in the traditional paper format should send an original and 10 copies of the filing to: Surface Transportation Board, Attn: Docket No. EP 724, 395 E Street, S.W., Washington, DC 20423-0001.

If a party wishes to enhance its presentation by using visual displays and/or handouts, it may do so. Parties should bring sufficient copies of handouts for Board members and their staffs. Parties may copy computer presentations to a Board-supplied laptop for display in the hearing room. Staff will be available to demonstrate the hearing room's projector system and to assist in the copying of visual presentations onto the laptop computer at check-in. Parties wishing to use the Board-supplied laptop should provide presentations to staff at check-in, on a flash drive and ready to download.

Instructions for Attendance at Hearing

The hearing will begin at 8:00 a.m. in the Iris Conference Room at the Hilton Garden Inn located at 4351 17th Avenue South, Fargo, ND. Those persons speaking at the hearing must check in with the clerk.

Laptops and recorders may be used, but no provision will be made for connecting personal computers to the internet. Cellular telephone use will not be permitted in the hearing room.

Members of the media should contact Dennis Watson in the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0234, if they plan to attend the hearing.

Persons needing accommodations under the Americans with Disabilities Act should call (202) 245-0245 by the close of business on September 3, 2014.

For further information regarding the hearing, contact Valerie Quinn at (202) 245-0382. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. A public hearing will be held on September 4, 2014, beginning at 8:00 a.m., at the Hilton Garden Inn located at 4351 17th Avenue South, Fargo, ND.

2. Speaker time allotments are in the Appendix to this decision.

3. Any party wishing to file written comments may file their comments with the Board by September 11, 2014.

4. This decision is effective on its service date.

By the Board, Joseph Dettmar, Acting Director, Office of Proceedings.

APPENDIX

SCHEDULE OF APPEARANCES

THURSDAY, SEPTEMBER 4, 2014 (COMMENCING AT 8:00 A.M.)

Party	Time Allotted
The Honorable John Hoeven (to speak upon arrival) United States Senate, North Dakota	as needed
The Honorable Heidi Heitkamp (to speak upon arrival) United States Senate, North Dakota	as needed
The Honorable Kevin Cramer (to speak upon arrival) United States House of Representatives, North Dakota	as needed
The Honorable Jack Dalrymple (to speak upon arrival) Governor of North Dakota	as needed
Panel I	
State of South Dakota Lucas Lentsch, Secretary of Agriculture	10 minutes
The Honorable George Sinner North Dakota State Senate	5 minutes
The Honorable Tyler Axness North Dakota State Senate	5 minutes
North Dakota Public Service Commission	
Commissioner Julie Fedorchak	5 minutes
Commissioner Randy Christmann	5 minutes
Minnesota Department of Agriculture and the State of Minnesota Commissioner Dave Frederickson	5 minutes

Panel II

BNSF Railway Company Stevan Bobb, Executive Vice President and Chief Marketing Officer Robert Lease, Vice President, Service Design and Performance	15 minutes
Canadian Pacific Railway Company John Brooks, Vice President, Market and Sales (Bulk)	15 minutes
Genesee & Wyoming, Inc. David A. Brown, Chief Operating Officer	5 minutes

Panel III

National Coal Transportation Association Thomas C. Canter, Executive Director	15 minutes
Western Coal Traffic League David J. Wanner, Manager – Fuel Services for Wisconsin Public Service	10 minutes
Tennessee Valley Authority David L. Owens, Vice President of Coal & Gas Services	5 minutes
TUCO INC. and NexGen Coal Services, Ltd. Mark L. Adkins, Vice President, NexGen Coal Services, Ltd.	15 minutes

Panel IV

Alliance for Rail Competition, et al. Terry Whiteside	15 minutes
South Dakota Grain & Feed Association Jerry Cope, President	10 minutes
Minnesota Grain & Feed Association Robert Zelenka, Executive Director	5 minutes
North Dakota Grain Growers Association Dan Wogsland, Executive Director	5 minutes
North Dakota Grain Dealers Association Stuart L. Letcher, Executive Vice President	5 minutes
Minnesota Farmers Union Bryan Klabunde	5 minutes

Panel V

National Railroad Passenger Corporation (Amtrak) DJ Stadtler, Vice President of Operations	5 minutes
Brotherhood of Maintenance of Way Employes Division – International Brotherhood of Teamsters Bruce G. Glover, Vice President	5 minutes

[BREAK]

Panel VI

American Soybean Association and Minnesota Soybean Growers Association Lance Peterson	15 minutes
North Dakota Soybean Growers Association Eric Broten	5 minutes
Trinidad Benham Corporation Christine O'Connell	5 minutes

Panel VII

Wisconsin Electric Power Company d/b/a We Energies Randall Van Aartsen, Director, Fuel Supply	10 minutes
Muscatine Power & Water Ted Barker, President, Maxeefish, LLC	5 minutes
Redfield Energy, LLC Dana Siefkes-Lewis, Chief Administrative Officer	10 minutes
Glacial Lakes Energy, LLC James Seurer	5 minutes

Panel VIII

North Central Bean Dealers Association and Northarvest Bean Growers Association John Berthold Brian Schanilec	10 minutes
Gavilon Global Ag Holdings, LLC Ed Prosser, Vice President of Agriculture Trading	5 minutes
North Dakota Farmers Union Roger Zetocha	5 minutes
North Dakota Corn Growers Association Kevin Skunes	5 minutes
Todd Reisenauer, North Dakota Public Service Commission Candidate	5 minutes

Panel IX

BNSF Railway Company
Stevan Bobb, Executive Vice President and Chief Marketing Officer
Robert Lease, Vice President, Service Design and Performance

Canadian Pacific Railway Company
John Brooks, Vice President, Market and Sales (Bulk)

Statement of Dave Wanner
on behalf of
Western Coal Traffic League and Wisconsin Public Service Corporation
EP 724 – *United States Rail Service Issues*
STB Public Field Hearing
September 4, 2014
Fargo, ND

I would like to thank the Surface Transportation Board for allowing me to speak today about the service problems my company has been experiencing and their effect on our customers, as well as the broader impacts on Western Coal Traffic League members whom I am representing today.

My name is Dave Wanner. I am the Manager of Fuel Services for Wisconsin Public Service Corporation, WPS for short. WPS serves approximately 445,000 electric customers and 323,000 natural gas customers, primarily in Northeastern Wisconsin. During 2013, approximately 82% of the electricity we generated and 55% of all electricity we provided to our customers came from our WPS's coal-fired power plants or those we jointly own with other utilities. Our coal-fired plants burn coal from the Powder River Basin in Wyoming. All of the coal is transported by rail and there is no viable alternative mode of transportation.

Events that began in late 2013 and continue to this day illustrate both the importance of rail to our business and our customers and the need for improvement on the part of our rail service providers. The majority of my comments will be based on events at our Weston site, located in north central Wisconsin, which is our largest source of coal-fired generation. The coal for this facility is delivered through a joint Union Pacific Railroad/Canadian National movement.

At the beginning of December 2013, our coal inventory at Weston was at about 105% of our targeted level. Rail deliveries during 2013 had been generally reliable. Then rail service began to degrade. Our December railroad cycle times increased over 25% compared to the year-to-date average. By the end of December 2013 our inventory was down to 72% of target.

By this time we were in the midst of a severe winter. Electricity production at reasonable prices during such trying times is critical to our customer base, and our coal-fired plants are essential because they are the only major generation source where we are able to store significant fuel on site and thereby guarantee a consistent and cost effective method of providing electricity during a bitterly cold winter. However, with rail service having declined precipitously, we were relying on supplementing our production with natural gas. Unfortunately, delivered natural gas prices into parts of Wisconsin had skyrocketed. At times the cost of natural gas in our territory was five times higher than the commonly quoted Henry Hub price, which was itself on the rise.

Rail service to Weston continued to be substandard throughout January and February of 2014, so that by the end of February, our inventory was down to 23% of target. At the beginning of March, we instituted coal conservation measures in order to avoid completely running out of coal. We also began providing weekly updates of our Weston inventory to our Public Service Commission and filed a Form OE-417 with the Department of Energy on March 6, 2014. The OE-417 was filed to notify DOE of a fuel supply emergency that could impact electric power system adequacy or reliability. Our coal conservation measures increased the cost of providing electricity to our customers since lower cost coal-fired generation was replaced with more expensive alternatives.

Our coal conservation measures did little more than stop our inventory erosion as cycle times continued to degrade. During the first quarter of 2014, cycle times were more than 65% greater than the 2013 January through November average. Weston's inventory finally recovered significantly during a lengthy planned May 2014 outage at our largest Weston unit. Nevertheless, coal conservation measures remained in place given our concerns about our rail service and the impact a hot summer might have on the coal inventory at Weston.

Initially, UP and CN indicated that severe winter weather was the primary cause of the service degradation. However, after winter ended, rail service to Weston did not significantly improve. Cycle times during the second quarter of 2014 were almost 50% greater than the 2013 January through November average. A cool start to summer helped us retain inventory to some extent and we temporarily removed our coal conservation measures in June. However, as rail service continues to lag, we have lost an amount of inventory equal to about 17% of our target during July 2014 and to about 20% more of our target during August 2014. As a result, we reinstituted coal conservation measures in mid-August, which is adding to the millions of dollars these measures have already cost our customers during 2014.

Our customers have been affected by other rail service shortfalls as well. We are joint owners of the Columbia facility, which is located approximately 40 miles north of Madison, Wisconsin and which is operated by the co-owner. This facility is sole-served by the BNSF. Despite it being served by a different railroad, Columbia has experienced the same type of rail service shortfalls as Weston. We have also implemented coal conservation measures at Columbia, which continue to this day, creating replacement energy costs for our customers. We are also concerned about having inadequate inventory heading into winter.

Other WCTL members have experienced similar problems. Many WCTL members have seen their coal stockpiles depleted to the point where coal conservation measures were required, and many have been conserving coal for extended periods of time. The STB heard about such measures back in its April hearing. WCTL members have also experienced:

1. Significant increases in cycle times from the same periods in 2013.
2. Sets of railcars parked for weeks – BNSF apparently had 100 or so sets parked sometime in June 2014.
3. Inability to add railcar sets.
4. Millions of tons of coals requested but not delivered.
5. Inability to plan for future periods due to poor rail service performance.
6. Millions of dollars of replacement energy costs.
7. Increases in dwell times at plants.
8. Increases in interchange times.
9. Switching units to alternative fuel, taking units offline or running units at very low levels just to keep them in service if a spike in requirements occurs.

Many WCTL members are particularly concerned about the reassurances from railroads, such as BNSF, that they will not let the utilities run out of coal. These reassurances are not very meaningful considering that utilities will take action to conserve coal well before completely running out of coal.

BNSF has suggested that it will spend its way out of this problem – Matt Rose made this point just two weeks ago. However, most WCTL members have been told that service may not return to "normal" until 2016. Other carriers, such as UP, have largely flown under the radar on service issues. However, WPS's situation demonstrates that problems persist with many carriers, and the Board must be vigilant in all quarters.

WCTL has requested on several occasions that the Board require additional reporting from BNSF and other railroads as necessary. These coal-specific statistics are vital to utilities trying to understand and track the recovery of the railroads, and WCTL submits that the Board would also benefit greatly from this data. Moreover, agencies and entities charged with electric system reliability are also keenly interested in such data. As such, WCTL requests that the Board require the following information from BNSF on a bi-weekly basis:

1. The actual number of coal cars loaded;
2. Coal cars requested;
3. The average number of coal trainsets presently in service, broken down between shipper-supplied (private) trainsets and BNSF-supplied trainsets;
4. Any restrictions on utilization of shipper-provided equipment in BNSF coal service;
5. Any restrictions on the availability of train crews for coal service;
6. Any shortages in locomotive power available for coal service; and
7. Average cycle times for coal trains operating between PRB mines and (a) Council Bluffs, IA (b) Chicago, IL (c) Minneapolis/St. Paul, MN and/or Superior, WI, (d) Kansas City, MO; (e) Fort Worth, TX (for delivery to customer facilities at or served via those points).

The Board should also consider requiring BNSF to supplement and detail any recovery plans it has for coal service on a bi-weekly basis.

As for other railroads, WCTL requests that the Board order UP to provide interchange dwell times and yard dwell times in IL and WI for UP and CN, as well as UP coal train cycle times from the PRB and Colorado to Chicago, IL, CN's average coal train speeds to and from Chicago, IL, and any restrictions on the availability of crews of coal service on UP and CN. Likewise, UP should provide cycle time data for coal trains moving from the PRB to Chicago, Kansas City or Fort Worth.

WCTL also urges the Board to consider any other actions it believes will aid all of the shippers impacted by BNSF's service problems and other railroads' service issues as well.

On behalf of WPS and WCTL, I thank you for allowing me this opportunity to testify today, and I request that a copy of my testimony be included in the record. I am happy to answer any of your questions.

Allan S. Rudeck Jr, 09-30-2014

Rudeck Statement

Minnesota Legislative Joint Hearing

(Chairs Senator Dan Sparks and Representative Frank Hornstein (or Rep Joe Atkins):

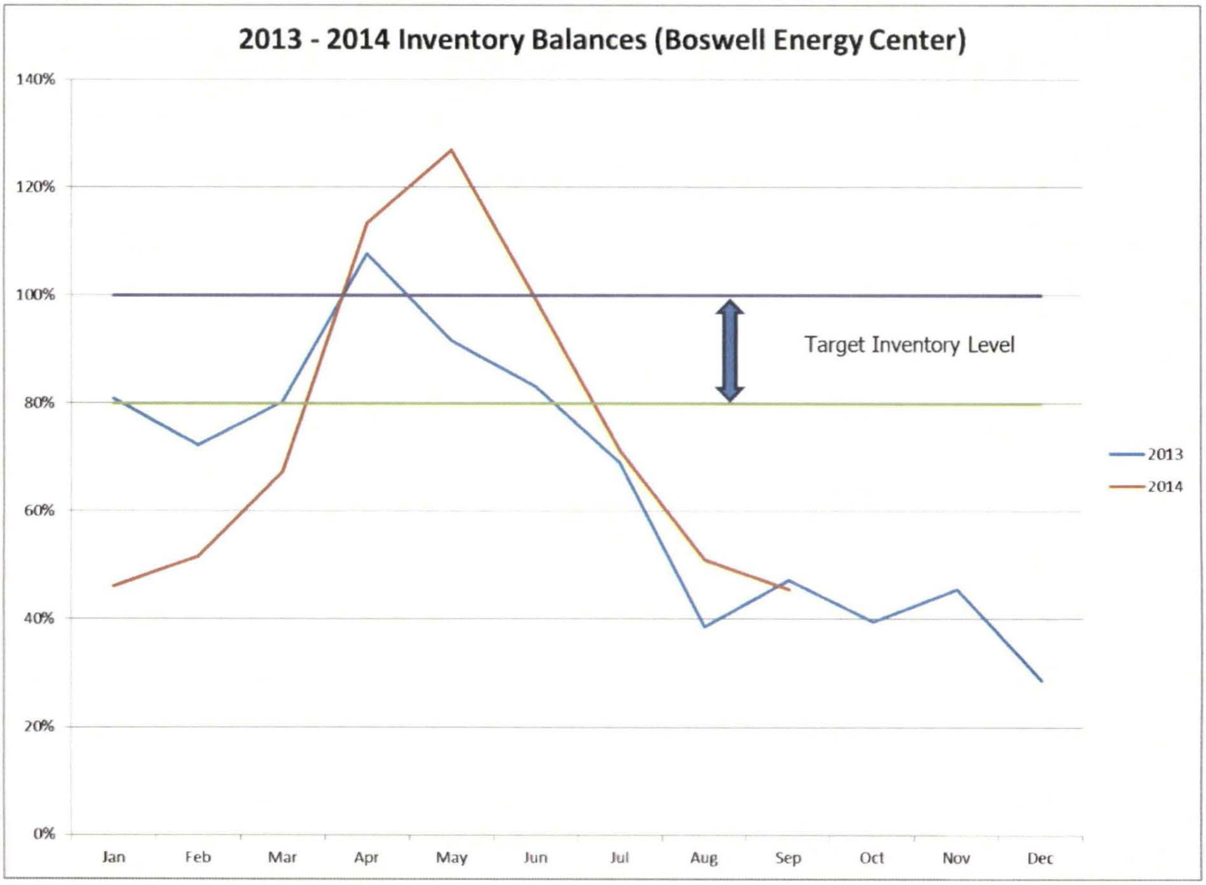
Good morning Mr. Chairmen and Committee members. Thank you for the opportunity to address this joint hearing of the MN House Transportation, Finance and Commerce Committees and Senate Transportation and Public Safety Policy, Commerce and Jobs, Agriculture and Rural Development Committees.

I'm Al Rudeck, Vice-President, Strategy and Planning for Minnesota Power, an operating division of ALLETE, which is a diversified energy company headquartered in Duluth. I am appearing today on behalf of Minnesota Power customers to share serious concerns about eroding rail service essential to upholding our obligation to provide reliable and affordable electric service to our customers in Northeastern Minnesota and Northwest Wisconsin.

Minnesota Power, generates, transmits and distributes electricity in a 26,000 square mile region in northern Minnesota to residents, businesses, municipalities, and some of the nation's largest industrial customers as well as Superior Water Light and Power electric customers in Douglas County, Wisconsin.

While we are in the midst of a significant diversification of our power supply, coal presently is Minnesota Power's primary fuel source for electric generation. We operate three coal-fired facilities representing about 1,400 MW of capacity that utilize approximately 5-6 million tons of coal each year. This low sulfur, low mercury western US coal originates at mines located in Wyoming and Montana and is transported by BNSF either in single-carrier, or joint-carrier service. We are well on our way to diversifying our supply mix, moving from a 75% coal mix at year end 2014 to a balanced supply of 1/3 renewables, 1/3 gas and 1/3 coal under our *Energy**Forward*** resource strategy. Even as we transition our power supply mix, the fact remains that coal has been and will remain an important base-load fuel that is critical to the region's electric reliability and affordability for the foreseeable future.

Minnesota Power has experienced serious rail service problems over the past twelve months, and despite extraordinary steps we have taken to remedy BNSF's service problems, we are concerned about low fuel inventory levels as we head into another Minnesota winter. As you can see in the displayed inventory chart, not only did poor rail service create inventory shortfalls in 2013 at our 1,000 MW, Boswell Energy Center, the same pattern has developed here in 2014.



We take our obligation to serve seriously, and have worked diligently with BNSF to turn things around in terms of coal deliveries. In fact, BNSF demonstrated they can deliver if focused on our business. After a difficult stretch last fall and winter, BNSF restored Minnesota Power's inventory levels **from** *very low levels* **to** *target levels* by June of this year. Since that time, inventory levels have dropped precipitously, placing MP 's units , once again, at risk of not having enough fuel to meet customer demand outlooks unless rail deliveries quickly improve. This sporadic service is causing significant and unnecessary financial and reliability risk for us and our customers.

- Our stockpiles at all three of our coal-fired power plants dipped to dangerously low levels early this year, including levels as low as 4 days at Boswell, our largest plant, in January 2014.

- We were forced to begin emergency, high-cost trucking of coal we had in storage at the MERC dock in Superior, WI to our second largest plant at Taconite Harbor throughout the winter months of 2014.

- We were forced to curtail generation in order to conserve coal, both last year and earlier this year, replacing it with higher priced purchased power.

- In an effort to conserve coal in anticipation of the upcoming 2014-15 winter, MP took the unprecedented step of idling four of our eight coal units, representing about 20% of our generating fleet, or 225 MW of generation, for several months this fall, and are purchasing higher priced replacement power from the market.

- Further and most recently, MP filed a required notice of fuel supply emergency with the US Department of Energy on September 22, 2014. DOE was informed via this notice that we had reached a level of fuel supply that could impact electric power system adequacy or reliability as a result of declining coal inventory levels at our 1,000 MW Boswell Energy Center.

- As a result the need for mitigating actions to address poor rail service from 2013 through February 2014, our customers have incurred approximately $16,000,000 in additional electric purchase costs.

These costs have been borne mainly by our large industrial customers. These customers, who operate global organizations and compete in international markets, include ArcelorMittal, United States Steel, Cliffs Resources, UPM Kymmene, Sappi, Gerdau Ameristeel, Magnetation, NewPage and others. These industries support the employment of thousands of people directly and indirectly in NE Minnesota and are vital to our regional economy.

While we believe the BNSF has been working hard on this problem, they have not yet turned the situation around. At Minnesota Power, we seek to solve problems with creativity and a focus on positive solutions; *I want to end my comments about rail service concerns in that spirit.* Minnesota Power has had a long relationship with BNSF that dates back to 1968. We were BNSF's first western coal unit train shipper and we have enjoyed a long and mutually beneficial partnership with BNSF.

During this rail service crisis, we have been in constant communication with BNSF concerning its service problems, and the impact of these problems on our operations and on our customers. For example, BNSF's Chief Marketing Officer, Steve Bobb, traveled to Duluth in February and spent half a day with our largest electric customers, explaining the current situation. We have met with BNSF repeatedly for many months, holding peer to peer conversations between staff at each company – ranging from logistics desks all the way to the CEO level regularly about service status and potential solutions. We have even testified at the US Surface Transportation Board about our industry rail service concerns.

Though BNSF has listened to us, and has taken some steps to address its problems, they still have a long way to go. They MUST focus on our business in order to ensure we have adequate fuel supplies to meet and expected customer electric demand. Otherwise, if BNSF cannot meet our needs, making arrangements for other service providers may be our only alternative.

In recent years, and prior to the more recent and urgent circumstances I described earlier, Minnesota Power and BNSF have been proactively looking for ways to address the infrastructure-side of service improvements. For instance, we are exploring ways to work together in North Dakota to support new investments aimed at reducing congestion with new infrastructure. We are also exploring loop track and siding enhancements in Minnesota at our largest power station that will aid logistics and improve cycle times. Finally, we believe the ALLETE Energy Corridor, a concept of co-locating energy infrastructure such as oil and gas pipelines adjacent to our DC Line corridor from western ND to Duluth MN would bring congestion relief and safety improvements at the same time.

We believe you can help to address the serious rail service problem I have described in a few of ways:

1) We respectfully request that you write the **Surface Transportation Board to ask that rail companies be required to provide a service recovery plan and that they add coal deliveries to their weekly public reporting status**, as suggested by utility representatives at the STB's recent hearing to bring greater transparency to this critically important function.

2) Further, we respectfully request that you make **competitive rail** and **rail infrastructure expansion a funding priority in the 2015** legislative session. Just like other state infrastructure, the rail system in Minnesota was built decades ago and clearly is inadequate to support the 21st century economy Minnesotans have worked hard to build and sustain. We have heard from many Minnesota Iron Range companies that would benefit from **expanding rail infrastructure** and **competitive rail options** for shippers.

3) We would ask for the DC line corridor route be evaluated as a preferred route for oil and gas pipeline routing, and work collectively with North Dakota Regulators and Legislators to advance this in parallel path in the

MN and ND 2015 legislative sessions – as a means for our states to work together to solve this energy challenge/crisis we face together.

Like all successful long-term relationships – sometimes one partner needs to hear frank feedback from the other. As you've heard, we have been sharing that kind of feedback constructively with BNSF. BNSF has listened and responded, though their response has not been reliable nor sustained.

We have also made federal regulators, our Congressional delegation and Minnesota Governor aware of these service issues and their impacts and we continue to keep them informed and seek their support as we work to solve this problem at multiple levels.

As key stakeholders with oversight of rail transportation in Minnesota, we appreciate the opportunity to make you aware of the challenges poor rail service is causing in the state and our ongoing pursuit of sustained solutions.

Electric consumers in Northern Minnesota depend upon Minnesota Power for reliable and affordable electric service and we, in turn have for many years relied upon and presently we continue to depend on BNSF for reliable and affordable rail service to deliver on our commitments to those customers. In our ongoing efforts to ensure reliable and affordable power for all of our customers, we respectfully ask for the support of your committees in helping us to ensure adequate rail service within the state.

I thank you Chairman and Committee members for the opportunity to participate in this important hearing and am happy to answer questions you may have.

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October 6, 2014

The Honorable Mark Dayton
116 Veterans Service Building
20 W 12th Street
St. Paul, MN 55155

Re: Power Plant Fuel Supply Shortages

Dear Governor Dayton:

Minnesota Power is writing to share its ongoing and heightened concern about BNSF Railway Company's continuing poor rail service, particularly the delayed coal deliveries to our three electric generating stations located in Itasca, St. Louis and Cook Counties. Slow coal deliveries have resulted in critically low inventory levels and idled facilities, despite repeated appeals and demands for improved service, from all levels of our Company, to the BNSF. We are asking for your assistance to gain effective action from BNSF to solve this problem.

As part of the state's energy transition and under our Energy*Forward* Plan, Minnesota Power has evolved its power supply from one that was 95% coal in 2005 to 75% coal/25% renewable today. Our progress continues toward an ultimate balance of 1/3 renewable, 1/3 natural gas and 1/3 coal. Even within this dramatic transition, coal is and will remain a critical fuel to assure affordability and reliability for customers while being utilized in an emission-reduced and environmentally responsible way.

As we plan for the winter season and consider strong industrial customer electric demand outlooks, MP has taken the unprecedented step of shutting down four of its eight coal-fired units for several months this fall in order to conserve coal in efforts to build system-wide inventory to serve our customers reliably this winter season. Presently, we have purchased replacement energy from the wholesale market to economically cover the plant shutdowns though this is not a viable, ongoing solution to poor rail service. If the BNSF doesn't improve rail service, additional generation curtailments could result.

Minnesota Power is the region's premier energy provider, delivering reliable, safe and affordable power to residents, businesses, municipalities and some of the largest industrial customers in the nation. These customers depend on us for reliable, affordable electric power. We take our obligation to serve seriously, and have worked very hard with BNSF to turn things around in terms of coal deliveries. In fact, BNSF demonstrated they can deliver if focused on our business. After a difficult stretch last fall and winter, BNSF restored Minnesota Power's inventory levels from very low levels to normal inventory by June of this year. Since that time, inventory levels have dropped precipitously through BNSF's operating decisions, placing MP customers, once again, at risk of not having enough fuel supply to meet demand outlooks unless rail deliveries improve.

We believe you can help to address the serious rail service problem I have described in a couple of ways:

- We respectfully request that you write the Surface Transportation Board to ask that rail companies be required to provide a service recovery plan and that they add coal deliveries to their weekly public reporting status, as suggested by utility representatives at the STB's recent hearing, to bring greater transparency to this critically important function.

- Further, we respectfully request that you call a face-to-face meeting with BNSF's executives to discuss rail service issues as soon as possible.

- Consider competitive rail and new rail infrastructure funding priorities in the 2015 legislative session. Minnesota's mining industry, agriculture and energy sectors would all benefit from expanded rail infrastructure.

- Create an opportunity for Minnesota Power to demonstrate the benefits of creating an energy corridor in conjunction with our existing west-to-east electric transmission lines coming from North Dakota across Minnesota and into the Duluth are. Again, more rather than less energy infrastructure will benefit all Minnesotans.

Minnesota Power customers have already been harmed by poor rail service, despite extensive efforts on our part to make the BNSF perform. Your leadership and engagement on rail service issues is vitally important, as we need adequate coal supplies in order to deliver the electricity that powers our mines and paper mills, lights and heats our cities, and keeps Minnesotans safe and secure.

Sincerely,

David J. McMillan
Executive Vice President

C: Beverly Jones Heydinger, Chair, Minnesota Public Utilities Commission
Mike Rothman, Commissioner, Department of Commerce
Lori Swanson, Attorney General
Representative Tom Anzelc, Iron Range Delegation
Craig Pagel, President, Iron Mining Association
Wayne Brandt, Minnesota Forest Industries

43850 SERVICE DATE – LATE RELEASE OCTOBER 8, 2014
EB

SURFACE TRANSPORTATION BOARD

Docket No. EP 724 (Sub-No. 3)

UNITED STATES RAIL SERVICE ISSUES—DATA COLLECTION

Digest:[1] The Board is requiring all Class I railroads to publicly file weekly data reports to promote industry-wide transparency, accountability, and improvements in rail service. The Board is taking this action in response to concerns raised at the hearings held under United States Rail Service Issues, Docket No. EP 724, and in related communications.

Decided: October 8, 2014

The Board held a public hearing on September 4, 2014, in Fargo, N.D., to give interested persons the opportunity to report on rail service problems, hear from rail industry executives on plans to address those problems, and discuss additional options to improve service. The Board also held a hearing regarding rail service problems on April 10, 2014, at its offices in Washington, D.C. Because service problems for many commodities have been particularly acute on the systems of Canadian Pacific Railway Company (CP) and BNSF Railway Company (BNSF), the Board directed representatives of those carriers to testify at both hearings. Given that the service disruptions have hindered nearly all carriers, all Class I railroads and other affected carriers were also invited to appear at the hearings.

During and after the hearings, shippers expressed concerns about the lack of publicly available rail service metrics and requested access to certain performance data from the railroads to help them better understand the scope, magnitude, and impact of the current service issues.[2] Following the April hearing, the Board directed BNSF and CP to provide weekly status reports on fertilizer shipments and the transportation of grain on their networks (for CP, on its United States network). See U.S. Rail Serv. Issues—Grain, EP 724 (Sub-No. 2), slip op. at 3 (STB served June 20, 2014); U.S. Rail Serv. Issues, EP 724 (Sub-No. 1), slip op. at 1 (STB served Apr. 15, 2014). At the September hearing, stakeholders expressed a need for greater industry-

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[1] The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

[2] See generally Hr'g Tr. 154-55, U.S. Rail Serv. Issues, EP 724 (Apr. 10, 2014); Western Coal Traffic League Letter, U.S. Rail Serv. Issues, EP 724 (filed Apr. 17, 2014); National Grain and Feed Association Letter, U.S. Rail Serv. Issues, EP 724 (filed May 6, 2014); Western Coal Traffic League Statement 5-6, U.S. Rail Serv. Issues, EP 724 (filed Sept. 5, 2014).