

**Surface Transportation Board Field Hearing**  
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Commissioners, thank you for taking the time and expense to travel to North Dakota for a field hearing on a vital matter that is so important to people in our State and region.

I'm North Dakota Public Service Commissioner Julie Fedorchak and I'm speaking today on behalf of the citizens I serve.

Efficient and cost effective rail transportation is essential to North Dakota farmers, utilities, and other business interests. Our State depends on the railroads to transport large volumes of grain, coal, oil, fertilizers, and other essential commodities. We need the railroads and want them to succeed, but at the same time, we need them to be responsive, and to fully comply with their fundamental common carrier obligations to the public.

My fellow Commissioners and I wrote to you last month urging you to take action to address the serious backlog in grain shipments that has existed in our state and the lengthy delays shippers here experienced for months waiting for rail cars.

North Dakota's producers and shippers are captive shippers. They have a perishable product with no other rail options. They are beholden to railroads who are charging premium prices for inferior service, all the while boasting in reports to stockholders about the business's effective planning and profitability.

Berkshire Hathaway Chairman Warren Buffet described in his Feb. 28, 2014 letter to shareholders the company's "Powerhouse 5", a "sainted group" including BNSF that generated \$10.8 billion in earnings in 2013.

Later in the report he referenced "extraordinary customer satisfaction" and touted BNSF's diligence in anticipating customer needs. "Like Noah, who foresaw early on the need for dependable transportation, we know it's our job to plan ahead."

With all due respect to Mr. Buffet, I don't think BNSF has had the same level of divine intervention as Noah in anticipating and planning for the needs of the rail system serving our customers. North Dakota shippers need better and deserve better, as I think even Mr. Buffet would agree.

That said, I'm not here merely to complain, but to offer some measures to help get service back on track.

First, these service challenges beg for more transparency. In May, we asked the railroads for some simple information that should be readily available given the resources of these large, profitable corporations.

1. Monthly car totals for farm products, crude, natural gas originating in North Dakota since 2009.
2. Records for shippers in each category indicating the time elapsed from when cars are released for pick up and transported.

3. The travel time between origin and destination for the same categories of products shipped.

Both BNSF and CP refused to provide that information, and insisted they are accountable to one and only regulatory body, you. Our Commission was frankly surprised by the carriers' outright refusal to provide responsive information to our straight-forward requests. This is basic information that will help North Dakota shippers and us to better understand and evaluate railroad performance, and assist with business planning.

So today, I urge you to gather this information and other responsive data that will be requested today, and make it available to captive shippers who feel their service is falling short of the "reasonable service" and dispatch benchmarks the railroads are obligated to meet.

Please be assured that we are not seeking burdensome information that is not readily available. We understand that the Board has already ordered some bi-weekly reporting by the carriers. However, we respectfully submit that this reporting has been insufficient. It's difficult for anyone, including your Board, to evaluate if services rendered are reasonable without this data, and this includes using reasonable baseline reporting periods where service was consistently reliable.

Second, you have required the Class I railroads to provide seasonal service plans for dealing with the fall peak by Sept. 15. This is a good step, and I applaud the detail you are asking for in terms of volume expectations for all sectors, and specific plans the railroads have for deploying freight cars, intermodal, locomotives and crews. However, I understand that similar "fall peak" requests were made last year, and the responses generally predicted both increased traffic volumes, and the unquestioned ability of the carriers to meet demand. It appears that one carrier even ignored the request, and neglected to respond until February of 2014. Such responses were obviously deficient.

Today, I strongly urge you to take another step and require the railroads to submit more detailed plans and specific service commitments for the fall peak period, and beyond a simple letter response as they have in the past. I also urge you to require the railroads to update these plans every two weeks throughout the months of peak demand, and until service has returned to normal. As part of this process, the carriers should also be required to respond to any specific complaints made on the record by shippers.

As we learned this spring, it's vital for the Board to stay focused on service issues so the railroads don't back off on their efforts. Last April you held a hearing in Washington. CP said at that time service would be restored to normal in four-to-six weeks. The ND PSC met with both the railroads in late April and BNSF pledged to erase their backlog by the end of July.

Both companies fell far short of their targets with little or no explanation as to why. It wasn't until pressure increased in late July that they began to deploy the resources necessary to improve service.

We can't make the same mistake this fall. It is not enough for the railroads to generically point to planned new capital investments. The STB needs to require ongoing reports from the railroads and keep a close eye on their plans for allocating resources to meet all of the demands.

Third, I propose that you open a temporary field office in North Dakota this fall and for as long as conditions warrant it. A vast majority of BNSF's increased volumes are coming from our state. This is ground zero for service challenges involving coal, oil and agriculture commodities. Your office

should have personnel here to help monitor the situation, track progress and serve as a liaison to shippers, producers and railroads.

Finally, Chicago. During all of our discussions with the railroads this spring and summer, the one challenge that has surfaced repeatedly is the congestion in Chicago. It's like the "Black Hole" of rail challenges – purgatory where no one is clearly responsible or has a plan for fixing it.

Chicago is the intersection for so many systems, but this has always been the case, and carriers have had over 100 years of experience and the operating and planning personnel that should be able to address the situation. These are private railroad systems, that have received considerable public support, through CREATE and other public programs. The railroads need to address the congestion that exists there and find solutions for modernizing this system to address the capacity needs of our nation today. I urge the STB to hold the railroads and any other responsible parties accountable for fixing Chicago.

That concludes my suggestions. Thank you for your time and ongoing attention to these matters.