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Statement of
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Submitted to the
Surface Transportation Board
The Honorable Charles D. Nottingham, Chairman

Public Hearing on the Implementation of the Passenger Rail Investment and Improvement Act of 2008
(Docket EP-683-0)

February 11, 2009

Statement Submitted for the Record on November 5, 2008

The National Association of Railroad Passengers appreciates the opportunity to comment on the subject of the Implementation of the Passenger Rail Investment and Improvement Act of 2008. NARP strongly supported this legislation and looks forward to both the monetary commitment to passenger train investment and the regulatory changes that should improve reliability of service. Indeed, there is some evidence that enactment of the law already has had a salutary impact on the reliability of Amtrak trains.

Passenger train service is in higher demand now more than ever. Last summer's run up in oil prices sent record riders to Amtrak trains. Americans realize that our dependency on oil cries out for alternatives. However, many Amtrak passengers faced extensive delays this summer due to congestion from freight train interference. We applaud the new powers the law gives the SIB and urge you to diligently enforce the regulations.

Importantly, ridership has held up even as gasoline prices have fallen. We believe this is partly because the public is well aware of the volatility of oil prices and does not trust that prices will remain low indefinitely. Indeed, pump prices have begun to rise in recent days. As well, Americans are focusing more on the high total costs of driving. Tough economic times cause people to postpone replacing their vehicles, and thus to consider taking the train, including on longer trips, in order to minimize the mileage they put on those vehicles.

Our key point is to urge the Board to take full advantage of your authority under the new law to undertake investigations and take action on your own initiative rather than always waiting for Amtrak or others to come to you, just as the impetus for the provisions in the law appeared to originate on Capitol Hill and from NARP, not from Amtrak.

On July 12, 2006, we wrote to then-Chairman W Douglas Buttrey, stating in part,

"Our members are increasingly alarmed at the on-time performance of many Amtrak trains operating on tracks of the freight railroads—especially CSX and Union Pacific. This threatens repeat business and the very survival of the service. We urge you to take every action you can—including, but not limited to, investigation and public hearings—to bring about improved performance. Amtrak Acting President and CEO David J Hughes told our board in April that on-time performance of Amtrak trains on freight railroad tracks dropped 50% from 1999 to 2005. Our observations, and the data we have seen from Amtrak, indicate that things are worse this year.

"In June, 2006, for example, more than 100,000 passengers rode Amtrak trains that reached their final destinations over four hours late, the overwhelming majority of these passengers were on routes that use CSX or Union Pacific exclusively or primarily. By contrast, the Chicago-Los Angeles Southwest Chief (BNSF) and Chicago-Seattle/Portland Empire Builder (BNSF and CP) were on time (no more than 30 minutes late) 63.3% and 80.0%, respectively.

"This suggests that UP and CSX do not take seriously 49 USC 24308(c) which requires that Amtrak trains be given 'preference over freight transportation except in an emergency' or where the Secretary of Transportation, in response to a railroad's application for relief, has 'established the rights of the carrier and Amtrak on reasonable terms'."

After Mr. Buttrey forwarded our letter to CSX and Union Pacific, those railroads defended themselves in letters which evidently provoked Amtrak's then Acting President and CEO David Hughes into writing one of the strongest letters the company has ever issued criticizing the handling of its trains by host railroads.

Our original letter with the damning statistics also was circulated on Capitol Hill and was an eye-opener there. Ever since then, legislative provisions regarding on-time performance have become common-place, both in appropriations bills and ultimately in the authorization law enacted October 16, 2008.

It is not clear how much of this would have happened if an outside party (in this case, our Association) had not taken the initiative. Because Amtrak must work with all its host railroads on a daily basis, there may often be an institutional bias against "rocking the boat" and complicating that relationship. Presumably it was easier for Amtrak to respond to what it perceived as erroneous statements by Union Pacific and CSX than it would have been for Amtrak to start the conversation.

The new law with STB's new powers appears to have had a positive impact on railroad handling of Amtrak trains. While this law may also make it easier for Amtrak to speak up when necessary, the psychology that causes Amtrak to hesitate in—as some might see it—publicly castigating its operating partner railroads may not completely disappear, or may return. Hence our request that the STB be alert to needs for its action, based both on its own investigations and on information received from the general public, including this association.

One concern we have in regard to STB's new responsibilities is that the STB needs to have a source of on time performance reports that is unbiased. We suspect there are many instances where the cause of delays reported by Amtrak and the host railroad are substantially different for the same incident. Both Amtrak and the hosts should submit delay reports to the same source.

We would also like to see a mechanism for passengers to report incidents that clearly represent freight train interference. It is not expected that every single incident would be investigated, but the data would be catalogued and used in any hearings or proceedings that may come before the STB.

My 2006 letter quoted above also stated:

- “Any investigation and related public hearings should
- Identify specific, detailed causes of the freight train interference issues,
 - Determine whether and how much freight train interference delay results from actions which might have been reasonably avoided, and
 - Most importantly, identify short and long term remedial actions.”

By “actions which might have been reasonably avoided” we refer to situations where, for example, it is apparent that the dispatcher is either not competent, is responsible for more territory than he or she can reasonably handle (or too much territory the dispatcher has never visited), or where there is an obvious anti-Amtrak bias, whether or not that reflects hostility or apathy towards Amtrak by higher management, the dispatcher in question, or both.

Thank you for considering our views. As the voice of passenger train users, we stand ready and willing to assist the STB in its new responsibilities.

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