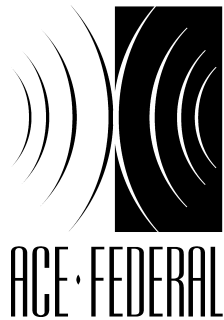


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Case: Urgent Issues in Freight Rail Service



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SURFACE TRANSPORTATION BOARD
EP 770
URGENT ISSUES IN FREIGHT RAIL SERVICE
PUBLIC HEARING

Tuesday, April 26, 2022

9:30 a.m.

Surface Transportation Board

395 E Street, S.W.

Washington, D.C.

1 APPEARANCES

2 Panel I

3 Honorable Pete Buttigieg, Secretary of
4 Transportation, U.S.

5 Department of Transportation

6 Honorable Jewel H. Bronaugh, Deputy Secretary of
7 Agriculture, U.S. Department of Agriculture

8 Honorable Carl W. Bentzel, Commissioner, Federal
9 Maritime Commission

10 Panel II

11 National Grain and Feed Association and American Farm
12 Bureau Federation

13 Michael Seyfert, President and Chief Executive
14 Officer, National Grain and Feed Association

15 Andrew Walmsley, Senior Director of Congressional
16 Relations for the American Farm Bureau Federation

17 Thomas W. Wilcox, Esq., of The Law Office of Thomas
18 W. Wilcox, LLC

19 American Chemistry Council

20 Chris Jahn, President and Chief Executive Officer

21 Jeffrey Sloan, Senior Director of Regulatory and
22 Scientific Affairs; The Fertilizer Institute

1 APPEARANCES (Continued)

2 Justin Loucheim, Senior Director, Government Affairs

3 Cargill

4 Brock Lautenschlager, North America Rail Leader

5 Growth Energy

6 Chris Bliley, Senior Vice President of Regulatory

7 Affairs

8

9 Panel III

10 Transportation Trades Department, AFL-CIO

11 Greg Regan, President

12 SMART Transportation Division

13 Jeremy Ferguson, President

14 SMART Transportation Members

15 Matthew Brukart

16 Steven Groat

17 Chris Bond

18 Brotherhood of Locomotive Engineers and Trainmen

19 Mark L. Wallace, Vice President

20

21

22

1 APPEARANCES (Continued)

2 Panel IV

3 Loop Capital Markets

4 Rick Patterson, Railroad Analyst

5 J.P. Morgan

6 Brian Ossenbeck, Transportation and Logistics Analyst

7

8 Panel V

9 Private Railcar Food and Beverage Association

10 Herman Haksteen, President

11 Robert McRae, Vice President of Transportation,

12 Univar Solutions

13

14 Panel VI

15 Norfolk Southern Railway Company

16 Cindy Sanborn, Executive Vice President and Chief

17 Operating Officer

18 Ed Elkins, Executive Vice President and Chief

19 Marketing Officer

20 Annie Adams, Executive Vice President and Chief

21 Transformation Officer

22 Raymond A. Atkins, Esq., of Sidley Austin, LLP

1 APPEARANCES (Continued)

2 Panel VII

3 Private Railcar Food and Beverage Association

4 Herman Haksteen, President

5 David Burchett, Procurement Director, Supply Chain

6 Indirects, Molson Coors Beverage Company

7

8 Daniel Elliott, Esq., of Daniel Elliott PLLC

9 American Fuel and Petrochemical Manufacturers

10 Rob Benedict, Vice President, Petrochemicals and

11 Midstream

12 Delek Companies

13 Todd O'Malley, Chief Operating Officer

14

15 Panel VIII

16 CSX Transportation, Inc.

17 Jamie Boychuk, Executive Vice President of Operations

18 Diana Sorfleet, Executive Vice President and Chief

19 Administrative Officer

20 Raymond A. Atkins, Esq., of Sidley Austin LLP

21

22

1 PROCEEDINGS

2 9:30 a.m.

3 CHAIRMAN OBERMAN: And welcome. Thank you
4 for joining us for this evidentiary hearing on urgent
5 issues in freight rail service, Docket EP-770. In
6 the interest of time this morning Board members are
7 not going to make our own opening statements, but I
8 will just briefly address by way of introduction
9 what's happening.

10 We all know why we're here. In recent
11 weeks the Board has received communications from a
12 broad range of stakeholders about serious problems
13 affecting the freight rail network. Namely
14 inconsistent and unreliable rail service, which has
15 had serious impacts on rail users, particularly those
16 shipping agricultural and energy products.

17 The Board's weekly rail service
18 performance data has corroborated these reports. We
19 are here today to have a fulsome discussion of what
20 is happening in the industry. To identify the causes
21 of these problems and to hear from railroads how they
22 plan to solve these issues and ensure that they don't

1 happen again in the future.

2 This issue is one of the utmost
3 importance, in which I and the rest of the Board are
4 intensely interested in hearing from all concerned
5 stakeholders. I want to thank the witnesses for
6 their participation in advance, and for their efforts
7 to prepare for this hearing. I also especially want
8 to thank, and say a special thank you to our IT and
9 facilities folks, and all the other Board staff who
10 have worked so hard to make sure this hearing happens
11 successfully.

12 This is our first in-person hearing since
13 the beginning of the pandemic, and it is our
14 inauguration of this hearing room which has a little
15 bit of a right leaning shift, or left depending on
16 which way you're looking, but we're all here. There
17 has not been a Secretary of Transportation address
18 the STB in over 20 years.

19 The fact that the Secretary is here this
20 morning indicates the seriousness of the problems
21 which have instigated this hearing. All in this room
22 appreciate Secretary Buttigieg's personal

1 involvement with this and all supply chain matters,
2 and his commitment of both him and his department of
3 working with us to tackle these problems.

4 So with that I would ask the Honorable
5 Pete Buttigieg, Secretary of Transportation, who is
6 our first witness, and I know he's here because I saw
7 him come in if he can take the first witness chair.

8 SECRETARY BUTTIGIEG: Good morning again
9 and thank you for the opportunity to be here Chairman
10 Oberman, members of the Board. And I want to thank
11 you for convening this important hearing on rail
12 service and supply chain issues, and for the
13 opportunity to speak with you today on behalf of the
14 Department of Transportation.

15 The movement of people through passenger
16 rail, and the movement of goods through freight rail
17 must go hand in hand. And I look forward to working
18 with the Board on both as we implement this historic,
19 bipartisan infrastructure law, including its historic
20 rail investments.

21 I also want to thank you for the vitally
22 important work that you all are doing from navigating

1 what could potentially be the most significant rail
2 merger in a generation, to the pending decision on
3 restoring rail service along the Gulf Coast, to the
4 recent proposed rule on expediting emergency relief
5 for rail customers and shippers.

6 And of course I want to thank the Board
7 for its focus on our nation's supply chain. It's a
8 focus that we share with the DOT, which is why we've
9 worked to improve throughput at ports, addressing
10 trucking workforce issues and more. And any
11 meaningful response to our supply chain issues has to
12 include freight rail.

13 Despite the unprecedented challenges of
14 the past two years, America's rail workers have
15 stepped up in extraordinary ways to keep our goods,
16 commodities and economy moving. In the fact of a
17 global pandemic, and the disruptions it created
18 throughout our supply chains, rail workers showed up
19 every day, and helped get food and life-saving
20 medical supplies to the places, and to the people
21 that needed them most.

22 Freight rail is an indispensable part of

1 our national economy. With the right federal
2 oversight it is a safe, reliable way to move goods,
3 and it has a lower carbon footprint than most
4 alternatives. The industry itself is profitable, and
5 has historically reinvested its profits back into its
6 networks and employees, most of whom are union
7 members, allowing it to remain self-sustaining.

8 Yet we know that many challenges have
9 emerged, some of them years in the making. The
10 supply chain crisis has left us moving more goods
11 with a smaller workforce leading to higher costs and
12 longer delays. American freight rail has lost a
13 significant amount of its market share, as well as
14 its workforce, which has been cut 20 percent when
15 compared to before the pandemic.

16 The share of intermodal rail traffic as a
17 whole has declined as well with congestion and
18 service issues mounting. It's been a real problem
19 for the people and industries across the country who
20 rely on rail to move their goods, particularly
21 farmers, many of whom have no other adequate way to
22 access feed and fertilizer, or to get their goods to

1 market. Addressing these challenges is a priority
2 for the Department of Transportation, and for the
3 entire administration.

4 Let me touch on a few important ways that
5 we can do just that. First and foremost we must
6 invest in the rail workers who keep our economy
7 running. Turnover is still far above normal levels,
8 which presents both safety and workforce concerns.
9 We need a full and robust workforce to keep people
10 and goods moving across the country.

11 And for our part, US DOT is investing in
12 training programs, and workforce development through
13 the President's bipartisan infrastructure law.
14 Second, we can improve service by better collecting
15 and sharing data. With the different links in the
16 supply chain, from ports to warehouses, to freight
17 companies, all use different systems, and don't share
18 data, it leads to wasted time, which translates to
19 higher costs for shippers and consumers.

20 Last month I was at the White House to
21 announce a new pilot program designed to improve data
22 sharing called Flow. We applaud those major

1 railroads that have recently proven willing to
2 voluntarily share additional data to address supply
3 chain challenges, but we can still do much more to
4 improve data collection, and sharing. And the Board
5 has an important role to play by expanding its data
6 collection to include intermodal rail specific
7 metrics.

8 Finally, we must do everything we can to
9 incentivize railroads to provide the best service.
10 We know that the Board will require service
11 improvement plans from each of the railroads, and we
12 ask the Board also to require that those improvement
13 plans take into account both the need for a larger
14 workforce, and the impact on employees of expanding
15 service without expanding the workforce.

16 After all when we overburden rail workers,
17 it only furthers turnover, worsens service, and
18 presents serious safety issues. Of course as this
19 group well knows, these are complex issues. There is
20 no single step available to deliver ideal freight
21 rail service overnight. We've got a lot of work
22 ahead of us, and thanks to the infrastructure law we

1 have a historic opportunity to transform both freight
2 and passenger rail for the better in the years and
3 decades to come.

4 So it's particularly important that we
5 make the right choices in our time. I'm grateful for
6 our partnership, and look forward to continuing to
7 work together to deliver freight and passenger rail
8 improvements that will keep our people, our goods and
9 our economy moving, while reducing costs for the
10 shippers and families that depend on their work.
11 Thank you very much again for the opportunity to
12 share this testimony with you today.

13 CHAIRMAN OBERMAN: Thank you Mr. Secretary
14 we are honored by your presence.

15 SECRETARY BUTTIGIEG: Thanks very much and
16 again look forward to continuing the partnership take
17 care, thank you.

18 CHAIRMAN OBERMAN: So I get an extra
19 microphone. So there was a terrible oversight at the
20 outset of this hearing, but I was so intent on
21 getting the Secretary out here on his schedule. You
22 may notice that Robert Primus is not sitting up here.

1 Like so many there are members of Robert's family who
2 tested positive, and Robert obviously goes the wise
3 course of participating in this hearing from home.
4 He is on our remote set-up and will be a full
5 participant, and I should have mentioned that at the
6 outset.

7 I know he is extraordinarily frustrated by
8 not being here in person, but Robert will not miss a
9 beat. So with that our next witness is the Deputy
10 Secretary of the Department of Agriculture, the
11 Honorable Jewel Bronaugh. Good morning and welcome.

12 DEPUTY SECRETARY BRONAUGH: Good morning.
13 Chairman Oberman, Vice Chairman Schulz and members of
14 the Board, the Department of Agriculture appreciates
15 your holding this hearing, and for the opportunity to
16 provide a perspective on the challenges the
17 agricultural sector faces with respect to rail
18 transportation.

19 I'm Dr. Jewel Bronaugh, Deputy Secretary
20 of Agriculture. And at USDA we work every day to
21 build more, better and fairer markets that enhance
22 competition, support resiliency, and create economic

1 opportunity across America's agriculture and food
2 supply chains, and in our rural communities.

3 Unlike other industries these producers
4 raise and grow their products where the land and
5 climate make sense to do so. They are unable to move
6 their operations closer to end markets, many of which
7 are far away. For many, rail transportation is the
8 only shipping method available for agriculture's
9 long-distance high-volume shipments.

10 Because agricultural shippers operate on
11 thin margins, and hyper competitive global markets,
12 efficient and reliable rail service is essential.
13 When railroads charge unreasonable rates and provide
14 poor service, farmers struggle to make ends meet.
15 Consumers pay higher prices at the grocery store, and
16 the United States becomes less competitive on the
17 global market.

18 In recent months rail service complaints
19 have grown in number and urgency. USDA's
20 agricultural marketing service has been at the table
21 providing technical expertise on the significant rail
22 service issues faced by agricultural stakeholders for

1 many, many years. As Deputy Secretary I'm here today
2 to emphasize just how serious these issues have
3 become for our farmers and ranchers.

4 Unfilled grain cart orders are the highest
5 on record, highlighting how poor rail service has
6 halted the movement of grain. Agricultural shippers
7 are paying thousands of dollars extra per car, just
8 to get service, easily representing a 50 to 100
9 percent increase in cost. Elevators are full, and
10 cannot purchase more grain from farmers, and
11 livestock operations are unable to receive the grain
12 they need for feed.

13 We've even heard that some producers have
14 been so close to being unable to feed their livestock
15 and poultry that they were preparing to depopulate
16 their animals. That is something a farmer should
17 never have to do. At the same time ethanol and
18 biodiesel facilities report slowdown, and even
19 shutdowns due to delays in their outbound train
20 service, delays which impact the entire supply chain
21 from farmers selling grain, to customers buying fuel.

22 Union Pacific recently announced a cutback

1 in the number of cars it has online. And we've heard
2 reports that the railroad has asked fertilizer
3 shippers to reduce their volumes by 20 percent. USDA
4 understands that with limited capacity some traffic
5 must be prioritized, and reductions in the number of
6 cars online may help the system move.

7 However, fertilizer and agriculture
8 commodities are not the commodities to be
9 prioritized, especially as we now enter the growing
10 season. Not only are rail service disruptions
11 impacting the American public and our agricultural
12 stakeholders, they're also directly impacting USDA's
13 ability to hire, and retain grain inspectors, and
14 carry out our responsibilities under the US Grain
15 Standards Act.

16 Because the grain industry can't track
17 their trains in real time companies are forced to
18 guess when to request grain inspection personnel to
19 arrive onsite, resulting in changing start times and
20 staff being placed on call for hours. It is
21 difficult to retain employees under such erratic
22 conditions.

1 USDA believes the Board has a
2 responsibility to course correct the railroad
3 industry to focus on fulfilling their common carrier
4 obligation. Railroads must provide quality, timely,
5 low-cost service. We believe the Surface
6 Transportation Board can help, and USDA encourages
7 the Board to consider both immediate and long-term
8 solutions.

9 In terms of immediate steps I want to
10 express my sincere appreciation for the Board's
11 recent decision to update the emergency service
12 rules, which will enable shippers to more quickly and
13 directly get relief when they aren't receiving
14 adequate and timely service. USDA also appreciates
15 the Board's request that railroads provide detailed
16 plans to improve service and share their expected
17 timeline for recovery.

18 And I encourage the Board to collect
19 weekly reports from the railroads to ensure they
20 follow through with those plans. Additionally the
21 Surface Transportation Board should use all authority
22 it has in the short-term to incentivize the railroads

1 to provide better service. We cannot continue a
2 system where the railroads face no consequences for
3 providing unpredictable service and shippers, and
4 ultimately farmers, ranchers, and the American public
5 pay for it when it goes wrong.

6 In the longer term we suggest three
7 things. First, USDA encourages the Board to clarify
8 railroads common carrier obligation. Without
9 transparent guidelines from the Board on what kinds
10 of requests and levels of service qualify as
11 reasonable, the task of judging whether service is
12 adequate passes exclusively to the railroads, which
13 is unacceptable.

14 Second, to directly incentivize the
15 railroads to provide better service the Board should
16 provide quick, effective, and low-cost methods for
17 shippers to obtain relief from poor rail service.
18 This effort should include finalizing the reciprocal
19 switching rule, and the final offer rate review
20 proposal, and considering penalties for their
21 inefficient use of privately owned railcars.

22 Thirdly, and lastly, the Surface

1 Transportation Board should expand its service data
2 collection to shed more light on rail service issues,
3 including first mile, last mile data, so that
4 shippers have better tools and more information to
5 use in working with the railroads to improve their
6 service, and so the Board itself even has visibility
7 over the problems shippers are facing.

8 Each of these suggestions are solutions
9 that USDA has long promoted in proceedings before the
10 Board, some of which have been open for years. Now
11 is the time to move from deliberations into action,
12 to make a real difference for agricultural shippers,
13 and ultimately for farmers, ranchers and consumers.

14 In closing, the USDA appreciates the Board
15 holding this hearing, and for this opportunity to
16 provide a perspective on behalf of agricultural rail
17 shippers. We commend the Board and its staff for the
18 work you've already begun, and USDA certainly stands
19 ready to assist the Board's efforts in any way
20 possible. Thank you for this opportunity to provide
21 comment today, and thank you all for all that you do.

22 CHAIRMAN OBERMAN: I can't turn mine on

1 while yours is on, what I just learned from my
2 high-tech staff here. First of all thank you so much
3 for being here, and for your department's commitment
4 to helping solve this problem as well. I will say I
5 think people probably know, but I think it should be
6 acknowledged publicly that I received a letter from
7 Secretary Vilsack, I think it was addressed to all of
8 us, shortly after these problems surfaced in their
9 acute fashion.

10 We've been hearing about issues for
11 months. And it was that letter where he urged us to
12 take some strong action, which was a large part of
13 what instigated us calling this emergency hearing,
14 and so I think the Agriculture Department has been on
15 top of it. We appreciate it. We know you have a
16 whole department that interacts with us on rail
17 issues, and very, very important, and we're really
18 honored that you could be here with us this morning
19 to deliver the message personally, thank you so much.

20 All right, and give our regards to the
21 Secretary, okay. Our next witness is the Honorable
22 Carl Bentzel, Commissioner of the Federal Maritime

1 Commission. So Commissioner when you sit down there
2 you turn the microphone on and it stays on until you
3 turn it off, and then I won't interrupt you.

4 MR. BENTZEL: Well thank you Mr.
5 Chairman. It's a pleasure to be here. Actually as a
6 Congressional staffer back in the 80's working for
7 the Senate Commerce Committee I had opportunity to
8 work on the ICC termination, and the creation of the
9 Surface Transportation Board, so it's a pleasure to
10 be here and see that you're doing so well.

11 Thank you Mr. Chairman, Chairman Oberman,
12 Board Members Fuchs, Schultz, Primus, and Hedlund.
13 While the primary purpose of the hearing is on the
14 potential expansion of the Surface Transportation's
15 Board authority over emergency service rules, and on
16 the notice of proposed rulemaking that would modify
17 existing emergency service rules, I will confine my
18 comments to issues related to the shipment of
19 intermodal cargo at U.S. ports. And what this means,
20 the rail service disruptions, to oversee cargo
21 shipments.

22 I've raised these concerns before with

1 Chairman Oberman, and I'm sure that the STB and my
2 agency, the Federal Maritime Commission, will have
3 much more to say on supply chain disruption in the
4 future. I'm hopeful that we can work together on
5 ways to strengthen the system of intermodal
6 delivery.

7 I'll get right to the point. The FMC
8 estimates that intermodal container shipments
9 increased in this country last year by an astounding
10 over 21 percent growth to our major port gateways.
11 Unfortunately, the railroads have not been able to
12 keep pace, or take advantage of this growth. Case in
13 point last year railroads saw a reduction of 16.8
14 percent of the intermodal rail service. This again
15 at a time when intermodal container volumes surged to
16 a 21 percent growth.

17 During this time one major west coast
18 railroad halted rail service from the west coast to
19 Chicago for a week at the height of the volume surge.
20 Another metered, or reduced the scope of services.
21 Still the Union Pacific annual report for last year
22 indicated that intermodal revenues had increased 3

1 percent. This is stunning.

2 Think how much revenue was left on the
3 table. Think how much could have been made if they'd
4 broken even, or let alone increased market share.

5 But even more than this issue, think of how much
6 smoother and more efficient the supply chain could
7 have run this past year if maritime surges had been
8 matched by rail efficiencies. While this may seem as
9 a condemnation of the railroad industry, it is in
10 fact a plea.

11 Our nation desperately needs railroad
12 service at U.S. ports. There simply is not enough
13 space or land in our major port areas that continue
14 to rely mostly on trucking distribution. Since the
15 start of the pandemic I've visited major port and
16 freight gateways in the United States, and the
17 message from the Maritime industry leaders is always
18 the same. They need expanded rail service so cargo
19 can move exponentially and efficiently.

20 Quite frankly there needs to be a better
21 coordination in the movement of boxes from ports and
22 onto rail. That means more capacity, more equipment,

1 and a willingness to communicate. I do not believe
2 that our existing port infrastructure will be able to
3 handle the international trade without committed
4 railroad investment and participation.

5 In the longer term, cargo distribution
6 must take place away from our heavily congested
7 ports. There is a nascent growth of a system of
8 inland ports and distribution centers. But much work
9 remains if we are able to hand projected volumes of
10 growth in the supply chain. U.S. railroads must be
11 engaged not only to connect the dots of the supply
12 chain, but stimulus for growth.

13 Our ports and maritime industry cannot be
14 relied upon to warehouse and distribute the nation's
15 cargo. Ports are facilitators of rates, and not
16 distribution centers. What also concerns me is that
17 other countries have figured this out. The U.S. has
18 been slow to make any meaningful investments in
19 connecting our maritime infrastructure with our rail
20 network.

21 For instance, market share for U.S. bound
22 cargo from the west coast in 2007 was dominated by

1 U.S. ports and railroads serving them, with a 60.7
2 percent share while Canadian ports had a 39.3 percent
3 market share. By 2019, for the same market U.S.
4 ports were 44.1 percent share, while Canadian ports
5 now were dominant with a 55.9 percent market share.

6 The Canadian government has enacted
7 legislation to support Atlantic and Pacific port
8 gateways, and this has hurt our ports, our railroads
9 that serve the ports, the workers who work on
10 intermodal shipping, and the railroads who serve
11 that service. In the marketplace this means the
12 investment in Canadian port infrastructure has
13 shifted cargo from U.S. ports to Canadian ports,
14 where the Canadian government has invested more
15 federal funds, and enacted more favorable policies
16 supporting their ports and their railroads.

17 We need to do a better job investing and
18 connecting our infrastructure assets. The railroads
19 need to stop bleeding stock market price, and focus
20 on revenue growth. Intermodal shipping is the growth
21 mark in the international shipping. If more nations
22 come on line with containerized shipping investments,

1 and I believe this will be the trend in the future.

2 In closing I believe the U.S. intermodal
3 railroad service will be critical in the coming
4 decade as we struggle with increased trade and
5 congested entry form. Intermodal rail services
6 provide a way to bypass the congested port areas on
7 the coast to facilitate the next leg of the
8 intermodal journey.

9 Recently railroads have prioritized cost
10 savings as opposed to revenue generation to maximize
11 intermodal market growth. All efforts should be made
12 to work with, and push the railroad industry to
13 increase market share of intermodal cargo when it
14 gets to the United States.

15 This will facility great integration at
16 U.S. ports, and more advantageously positioned
17 trucking to be more efficient moving cargo from ports
18 and railroad terminals. Thank you for the
19 opportunity to appear today, and I look forward to
20 any questions. I know you've got a tight schedule
21 and many people to hear from so, but I'm happy to
22 talk.

1 CHAIRMAN OBERMAN: You're doing a good job
2 of focusing our attention. Speaking for myself
3 listening to your opening remark, I couldn't help but
4 observe that with everything that's on our plate, if
5 more issues get dumped on our plate we might ask you
6 to go back over to the Senate and draft the STB
7 Termination Act.

8 But I think we are going to move on to our
9 first panel of shippers. We greatly appreciate your
10 being here, and please give our best to Chairman
11 Maffei and all your fellow Commissioners.

12 CHAIRMAN OBERMAN: Thank you. All right.
13 So now we're getting ready to call our first panel of
14 shippers, and let me say who they are, and I'm going
15 to make a few basic ground rule remarks, so we all
16 know where we're going. But the first panel the
17 NGFA, Michael Seyfert, Andrew Walmsey from the
18 American Farm Bureau Federation, and Tom Wilcox. So
19 where are they? There they are.

20 While they're coming up to the front let
21 me make a few procedural and technical remarks here.
22 First as always, please turn off your cell phones.

1 Although I think you'll find the service in this room
2 is so horrible they probably wouldn't ring anyway.
3 We do have a packed schedule for the next two days,
4 and we want to make sure that we really hear from
5 everyone. To allow that to happen we're going to ask
6 the parties to really focus on their allotted times
7 and in fact as the day of hearings drag on if other
8 people have made your points, if you could condense
9 your remarks, that will just facility time for
10 interaction with the Board and questions, but we
11 don't want to cut people off artificially. We want
12 to make sure you tell us what we need to hear from
13 you.

14 When you are presenting your remarks you
15 will see lights that will guide you regarding your
16 allotted time. One minute before your time expires a
17 yellow light will appear, and when you see the red
18 light your time is expired, and we ask that you wind
19 up. If you're using slides during your
20 presentation, please let us know when you would like
21 to have the slide displayed on the screen.

22 We'll provide you with a clicker to

1 navigate through the slides during your
2 presentation. And just so everybody hears the same
3 thing with the microphones, press the button to turn
4 it on, and then when you finish turn it off because
5 the other microphones won't activate as you can see.

6 For the benefit of our Court Reporter
7 please speak clearly into the microphone because
8 they're hearing remotely. The Court Reporter may
9 interject if they can't hear and tell us. Please
10 also note that only one microphone could be on at a
11 time, even for the people at the speaker's table.

12 So when you finish you have to turn yours
13 off. The Board members are also going to do our best
14 to facilitate the presentations here. We're not
15 exactly known for being shy up here, but we've all
16 promised to discipline ourselves to get through this
17 hearing. So we're going to hold our questions until
18 the end of each panel, keeping in mind that we have a
19 lot of panels to get through.

20 This hearing is also being streamed on
21 YouTube, and the link is available on the Board's
22 website. The transcript of the entire hearing will

1 be placed on the website at the close, and a
2 recording will be made available as well. As noted
3 when we issued our decision last week about the
4 order of speaking today we'll hear from speakers on
5 Panels 1 through 7.

6 Tomorrow we'll begin with Panel 8 and go
7 through the end of the speakers list. We'll take a
8 30 minute break each day at around 1:00 p.m. Eastern,
9 depending on the flow of the testimony. We'll also
10 try to take a few short breaks during the day as
11 needed.

12 There are a couple of modifications to the
13 speaker's list for today, which I just want to
14 mention. On Panel 3 in addition to -- hold on for a
15 second. Rick Patterson from Loop Capital, we will
16 also have Brian Ossenbeck from J.P. Morgan, and one
17 of the members of PRFBA, Robert McRae, for scheduling
18 reasons will be moved up to speak right after the
19 speakers from Loop Capital and J.P. Morgan, so that
20 is a slight difference.

21 We tried our best to accommodate
22 everyone's travel schedules, a problem you don't have

1 when you're remote, so we're adjusting to being back
2 here. So with that as I said we are not going to
3 make any further opening statements up here, so we
4 can proceed, and we will turn to our first panel Mr.
5 Seyfert.

6 MR. SEYFERT: Good morning.

7 CHAIRMAN OBERMAN: For some reason I just
8 overlooked the whole rest of this panel. I am sorry.
9 So let's get everybody else up here. Sorry I was a
10 little distracted. The American Chemistry Council,
11 Chris Jahn and Jeff Sloan, The Fertilizer Institute,
12 Justin Louchheim, Cargill, Brock Lautenschlager, and
13 Growth Energy Chris Bliley. Sorry about that folks.

14 You knew I would get to you eventually.
15 So that's why we have staff. So Mr. Seyfert you're
16 on.

17 MR. SEYFERT: Thank you Mr. Chairman.
18 Good morning. As the Chairman said my name is Mike
19 Seyfert, and I am the President and Chief Executive
20 Officer of the National Grain and Feed Association.
21 I'm joined by Mr. Tom Wilcox, NFGA's outside
22 transportation counsel, who will take part in the

1 question and answer portion of this panel with me.

2 I want to begin by commending Chairman
3 Oberman and the Board for holding this hearing to
4 learn about the causes of the current rail service
5 challenges, and to help find solutions. The NGFA
6 consists of more than 1,000 companies operating more
7 than 8,000 facilities.

8 Its membership includes grain elevators,
9 and feed ingredient manufacturers, biofuel companies,
10 grain and oil seed processors and millers, exporters,
11 livestock and poultry integrators and associated
12 firms that provide goods and services to the nation's
13 grain, feed and processing industry.

14 The NFGA's wide ranging membership is
15 proud to partner with the railroad industry on almost
16 15 percent of total U.S. carloads consisting annual
17 of about 4 million carloads of grain and oil seeds
18 and related production inputs in products. It's a
19 partnership critical to the U.S. agricultural economy
20 and one we value. This past November NGFA celebrated
21 it's 125th anniversary.

22 NGFA was founded on five key principles,

1 one of which was improved and reliable rail service.
2 The rail and grain and feed industries have changed
3 considerably over the last 125 years, but the
4 importance of the relationship has not. I expect
5 this partnership to remain in place another 125
6 years, therefore solutions to the current rail
7 service challenges should be crafted with the
8 long-term in mind.

9 As stated in the NGFA's March 24 letter to
10 Chairman Oberman and the Board, the NGFA's preference
11 is seek commercial solutions between individual rail
12 customers and their rail carriers, however the recent
13 rail service challenges impacting entire regions of
14 the country have led us to the Board to seek help.
15 The Agricultural Transportation Working Group, ATWG,
16 also sent a letter to the Board on April 21, signed
17 by 33 national level agricultural organizations
18 representing farmers and agri business.

19 The letter highlighted the current
20 inability of several Class I carriers to provide
21 reliable rail service, and the impact this can have
22 on both farmers and consumers. The letter goes on to

1 say that the mismatch between the importance of
2 reliable and cost effective freight rail
3 transportation to our nation's economy, and a lack of
4 effective competition between the Class I
5 railroads remains a great concern to the ATWG
6 members.

7 When you consider the domestic and global
8 situations today, the movement of NGFA member's
9 commodities and products perhaps never has been more
10 important. Almost every shipment made by an NGFA
11 member via rail will be used for either human food,
12 animal food, or fuel production in the domestic and
13 international markets.

14 The challenges NGFA members face are
15 multi-layered. Some members have experienced double
16 trip times, such as trips from the Midwest to the
17 West Coast taking 20 days when it used to take 10
18 days. One of the primary reasons for the additional
19 trip time is excessive dwell time at original.

20 We have reports of trains sitting for more
21 than 10 days when it's customary to have the trains
22 pulled the following day after loading. 7 GFA

1 members last week reported dwell times double what
2 they were in March, and triple what they experienced
3 in February.

4 Trains Magazine reported that during the
5 week of March 15, more than 6,500 grain cars in North
6 Dakota, and more than 1,500 in Nebraska were more
7 than 11 days behind schedule. We are aware of origin
8 grain elevators being restricted on their load outs
9 because loaded trains are occupying the rail siding.

10 There are instances of original grain
11 elevators needing to turn away grain sales from
12 farmers because they are full. Some NGFA member
13 companies have even put grain on the ground to keep
14 taking deliveries from producers. Feed mills and
15 integrated livestock and poultry operations have
16 experienced instances in which trains have not
17 arrived, and scheduled feed deliveries have been
18 unable to be made to producers.

19 At export destinations vessels wait to be
20 loaded to delay train delivery, and while they wait
21 the grain and oil seed exporter pays demurrage
22 charges to the shipping company, but the railroad

1 pays no demurrage to the exporter for these delays.
2 Grain and oil seed processors, such as flour mills,
3 crushing and biofields facilities have experienced
4 rail challenges on the inbound and outbound.

5 On inbound they have been run short on
6 raw, agricultural commodities and have shut down
7 operations. On the outbound their sidings have
8 become full and bloated with rail cars. Due to their
9 sidings becoming full they've had to shut down
10 operations due to having no place to load empty
11 railcars.

12 As a result of the prolonged trip time,
13 shippers and receivers have booked additional freight
14 in an attempt to move enough volume to keep their
15 operations running. This additional freight from the
16 secondary rail freight market has come at a very high
17 price, and is not sustainable in the long run. NGFA
18 members have reported paying an excess of \$500,000.00
19 in additional charges per substitute shuttle in the
20 secondary market.

21 Many NGFA members have a daily risk of
22 slowing or shutting down operations due to reduced

1 and inconsistent rail service. Some individual NGFA
2 member companies report losses and increased costs in
3 the tens of millions of dollars, and lost and reduced
4 operating days totaling weeks.

5 Based on reports from members, we
6 conservatively estimate the combined cost to the
7 grain industry to the lost revenues and additional
8 freight expenses in the first quarter of 2022 were
9 over 100 million dollars. Depending on the market
10 position of the grain industry participant, these
11 extra transportation costs are either borne by the
12 participant, reflected in the grain basis paid to
13 the farmer, or passed on to the consumer.

14 Not one of these rail service challenges
15 is beneficial for individual Americans, for the U.S.
16 or North American economies. So what caused these
17 problems and how do we address them? Our view is
18 that the carriers shed a large percentage of their
19 employees over the past five years, and now do not
20 have enough rail workers to service freight demand.

21 These reductions in force have been
22 exacerbated by COVID. We also believe lack of power

1 issues, either due to maintenance issues, attrition,
2 or delayed intervals are adding to the problems.
3 These situations apply to the majority of Class I
4 carriers, but we would like to provide credit to
5 those rail carriers that are currently performing and
6 handling the freight demand that has largely returned
7 to pre-pandemic levels.

8 We are aware that many carriers are
9 projecting year over year growth in total carloads in
10 2022, which will approach 2019 levels. However it is
11 important to note there are fewer grain exports
12 shipping out of the PNW this spring than at the same
13 time last year. Also there is less grain going
14 through the PNW ports than before the trade war with
15 China.

16 I bring this to your attention to let you
17 know the rail service challenges are not due to
18 increased rail service demand from grain. Due to the
19 insufficient number of employees to handle additional
20 volumes of non-ag products, we recommend the Board
21 request from the rail carriers the targeted number of
22 employees they need to hire to meet the 2022 demand.

1 If the number is short of 2019 levels, we
2 ask the Board to inquire why the rail carriers
3 believe they can handle higher volumes with fewer
4 employees. Once it is known how many employees the
5 rail carriers intend to hire, we recommend the Board
6 require regular reporting on the number of employees
7 they have hired, the number of employees going
8 through training, when the newly trained employees
9 are projected to be able to independently operate and
10 repair trains, and lastly, the number of employees
11 that have quit or retired.

12 NGFA members understand the employment
13 challenges brought by COVID. Every employer is
14 facing similar challenges. The differences that when
15 NGFA members cannot load a train because a crew is
16 out with COVID, they will be charged demurrage by the
17 rail line. If they cannot unload a train due to
18 COVID, they will pay demurrage to the rail line, and
19 face the risk of penalties or loss of contracts with
20 their own customer.

21 However, if the railroad cannot deliver or
22 move a train due to COVID or any other reason, NGFA

1 members cannot charge, and are not entitled to any
2 demurrage from the railroad. This leads to several
3 other recommendations. In addition to NGFA's
4 recommendations to focus on rail employment, we urge
5 the Board to implement the following policy changes
6 to help reduce rail service challenges, now and in
7 the future.

8 The NGFA believes utilizing the same
9 demurrage concepts that railroads use to incentivize
10 their customers would help prevent rail service
11 challenges in the future. When shippers and
12 receivers do not load a train within the required
13 time, usually within a day, they pay demurrage fees
14 to rail carriers. As a result shippers and receivers
15 pay extra wages to ensure they have enough labor to
16 load and unload trains quickly.

17 The addition of demurrage fees would
18 increase the resolve the railroads to ensure that
19 they move trains faster. The NGFA appreciates the
20 Board's recent decision to accept public comments on
21 the petition filed by NGFA, and several other
22 associations in Docket Number EP-768, seeking the

1 adoption of rules to permit rail customers to levee
2 financial penalties on railroads for their
3 inefficient use of private railcars.

4 The NGFA strongly urge the Board also to
5 permit rail customers to charge railroads demurrage,
6 and inadequate rail services provided using carrier
7 provided railcars, which make up a large percentage
8 of the railcars used to haul grain. This may seem
9 like a major policy change, but this recommendation
10 mirrors the policy employed by rail carriers toward
11 their customers.

12 The NGFA also urges the Board to
13 expeditiously conclude its work in Docket Number
14 EP-711 for the purpose of establishing reciprocal
15 switching rules that enable the creation of rail to
16 rail competition, at qualifying interchanges between
17 carriers. Recently our members have told us the
18 ability to interchange trains would help their
19 operations stay running. The NGFA commends the Board
20 for seeking comments last December on metrics that
21 measure rail service, and urges the Board to
22 implement the additional data reporting as soon as

1 practicable.

2 The NGFA believes rail service will
3 improve through additional data reporting such as
4 first mile, last mile rail service reporting. Indeed
5 we anticipate many of the railroads will discuss
6 velocity numbers in their testimony, or at other
7 times, but the real issue is how long it takes to
8 move the trains in that first and last mile of
9 service.

10 When is the train in place for loading and
11 unloading? And when is it hauled away? Is it a
12 matter of hours, or of days? There are many
13 contributing factors to the first and last mile
14 service challenges such as lack of adequate crews,
15 lack of locomotives, and bunching of cars and
16 trains, lack of any financial penalties for poor
17 service, inadequate communication, and lack of
18 market constraints such as competition that would
19 incentivize railroads to provide better service to
20 their customers.

21 These factors enable rail carriers to
22 reduce assets and crews to maximize operating ratios

1 at the expense of predicable, reliable service and
2 efficient use of shipper assets. The present lack of
3 transparency regarding the specific factors that
4 cause first mile, last mile service breakdowns, help
5 to insulate rail carriers from Board oversight, and
6 responsibility for harm to their customers.

7 The NGFA recommends expediting the
8 additional first mile, last mile data reporting
9 requirements, and adding trip plan reporting. NGFA
10 also recommends requiring reports to the Board, and
11 directly to individual shippers. This data would
12 help shippers and receivers more efficiently plan
13 operations, and more accurately gauge when
14 contingency plans are needed.

15 We also encourage the Board to develop
16 guidance on the Board's expectations for rail
17 carriers in meeting their statutory obligation,
18 provide service upon reasonable request. Exactly
19 what is meant by the common carrier obligation has
20 long been undefined.

21 The service issues highlighted by NGFA
22 members and others testifying today and tomorrow

1 indicate the time has come to put real meaning in
2 that definition. Additionally we believe some rail
3 service challenges can be forestalled by requiring
4 all the Class I railroads to develop annual rail
5 service assurance plans, which will provide a basis
6 for the Board of industry stakeholders to conduct
7 annual assessments and intended service versus actual
8 service, and to identify and address potential issues
9 that otherwise may result in future service
10 deficiencies.

11 We want to thank the Board for the recent
12 announcement to begin a rulemaking and emergency
13 service orders and to encourage the Board to
14 follow-up with other announcements to help improve
15 rail service. The emergency service order rulemaking
16 has the potential to help particularly difficult
17 individual situations.

18 Finally, NGFA recognizes these are not
19 challenges with easy answers, and there was not a
20 single individual tool in the toolbox that can solve
21 them all. We encourage the STB to use all the tools
22 available to you to improve service. If there are

1 tools that you need that you do not have, we
2 encourage you to make that known to Congress, and
3 the appropriate committees jurisdiction.

4 Mr. Chairman and members of the Board,
5 thank you for your time and attention today, and for
6 holding this hearing on these critical issues. The
7 more than 1,000 members of NGFA thank you. I
8 respectfully request that my full prepared statement
9 be included as part of the record, and Tom and I
10 would be happy to answer any questions you may have
11 at the appropriate time. Thank you.

12 CHAIRMAN OBERMAN: Thank you Mr. Seyfert,
13 and of course it will be part of the record. Do we
14 have a separate statement from Mr. Walmsley? All
15 right. See if you could keep it within the allotted
16 time. Tom were you going to speak separately, or are
17 you just there to make sure you're clients stay in
18 order, okay. All right thank you Tom. Go ahead Mr.
19 Walmsley.

20 MR. WALMSLEY: Thank you Mr. Chairman.
21 Good morning. My name is Andrew Walmsley, and I'm
22 the Senior Director of Government Affairs for the

1 American Farm Bureau Federation. I want to thank the
2 Board for holding this hearing. I also want to thank
3 Deputy Secretary Bronaugh from USDA for her comments.

4 The American Farm Bureau Federation is the
5 country's largest general farm organization
6 representing farmers and ranchers with nearly 6
7 million members in every state and Puerto Rico. The
8 domestic rail transportation network is vital to the
9 movement of products and goods supplied by America's
10 farmers and ranchers.

11 In 2019 farm products contributed nearly
12 7.4 percent, or over 6 billion dollars in total rail
13 revenue with an additional 13 percent, or 11 billion
14 dollars from the transportation of food, textile
15 mills, wood, paper and pulp products. This hearing
16 is a testament to the challenges currently facing the
17 agriculture sector when it comes to rail service.
18 This is an added obstacle to the challenges farmers,
19 ranchers and rural communities are currently facing
20 in response to the pandemic, the supply chain crisis,
21 and global geopolitical events.

22 Looking at how frequently grain railcars

1 are loaded and billed as of the first quarter of
2 2022, there is still no obvious upward trend that
3 would signify an abnormal increase in demand
4 pressuring rail systems. The number of grain cars
5 loaded and built by Class I railways in the first
6 three months are well within the average variation,
7 and suggested grain car movements are not unusually
8 high or low so far in 2022.

9 But one metric that can better reveal rail
10 service disruptions and how fluidly grain cars are
11 moving through the rail network is the number of
12 unfilled grain car orders. Between the first quarter
13 of 2021, and the first quarter of 2022, the number of
14 these unfilled orders jumped from 93,000 to 137,000
15 cars. A nearly 60 percent increase.

16 More than half of the orders, one or more
17 days overdue, were also 11 or more days overdue,
18 revealing the severity of disruption for some
19 shippers. Between the first quarter of 21, and the
20 first quarter of 2022, the number of 11 plus overdue
21 orders jumped by 107 percent.

22 When shippers were unable to receive

1 orders from railroads it disrupts agricultural
2 markets throughout the supply chain. Flour and feed
3 mills, waiting on delivery to grain that never
4 arrived could be forced to temporarily cease
5 operating, and cut off sales to customers until
6 deliveries return.

7 This is extremely important when it comes
8 to livestock operations that are reliant on feed
9 shift from these mills. They may be forced to ration
10 or stop feeding until deliveries return, or finally
11 turn to feeding options that are typically very
12 costly, stunting the production cycle, and putting
13 the health and wellbeing of our livestock at risk.

14 At a minimum, increases in unfilled orders
15 would shift some shippers from the primary rail
16 market for service contracts into the secondary rail
17 market, in an attempt to make up for delayed orders.
18 And bearing the weighted average data point between
19 BNSF and UP for the first quarters of 2018 to 2021,
20 to the first quarter of 2022, shows a near 500
21 percent increase in secondary railcar drain auction
22 bids.

1 The premium cost shippers are willing to
2 pay in the secondary market helps illustrate the
3 severe magnitude of demand for grain rail contracts
4 so far in 2022. Railways are a vital piece of the
5 supply chain, and usually are a cost effective and a
6 reliable way to get agricultural goods to their
7 destination. Current rail service disruptions
8 associated with labor shortages, railcar inventory
9 and capacity, weather and other shortfalls and other
10 global transportation networks have contributed a
11 large increase in the number of unfilled orders faced
12 by our shippers.

13 Unfilled and delayed orders mean a
14 disruption in the general delivery of agriculture and
15 other goods to buyers. Shippers scrambling to find
16 alternative methods to deliver their goods are facing
17 steep, multi-fold increases in the price to acquire
18 service contracts in the secondary rail carrier
19 market.

20 Competing transportation offices like
21 trucking have their fuel service trucks, and have a
22 far costly and often less efficient option. Speaking

1 of costs, farmers are paying for storage and grain
2 elevators when they can. They cannot be moved, they
3 cannot move product and may face additional holding
4 fees, returning to even higher marketing expenses.

5 In addition the service disruptions impact
6 local bases for cash commodities that influence the
7 price farmers receive. News of possible related
8 mergers, line closures and significant shareholder
9 earnings also reveal concerns about the impacts of
10 consolidation in the railway market, and amplify how
11 competitive market forces are actually being
12 maintained and enforced.

13 All together a handicapped railway system
14 puts the profitability of many farms, ranches, and
15 agri businesses at risk, and contributes to the
16 uncertainty in already unsettled commodity markets.
17 In any case, improvements will need to be in place to
18 prevent further disruption across the farm economy,
19 especially before we get to harvest in the fall.

20 It's not the first time in the last 170
21 years or so. We typically plant our crop this time
22 of year and rely on fertilizer, and then expect the

1 harvest in the fall. The Farm Bureau recognizes that
2 there is not a silver bullet in these challenges, but
3 appreciate you holding this hearing today.

4 Farmers and ranchers have the most
5 difficult business partner there is, and that's
6 Mother Nature. She keeps us accountable and more
7 often than not humble. We are looking to you
8 members of the STB, to help keep the railroads
9 accountable, and if necessary humble to account for
10 the service challenges we're seeing. We are prepared
11 to work with you, and if necessary Congress, to
12 address the challenges impacting freight rail.

13 Mr. Chairman, members of the Board, thank
14 you for your time and attention to this matter.

15 CHAIRMAN OBERMAN: Thank you Mr. Walmsley,
16 much appreciated. Mr. Jahn are you, is it Jahn or
17 Jahn? Jahn. We have in Chicago just recently someone
18 said Jahn, so I was a little confused. You're on Mr.
19 Jahn from the ACC.

20 MR. JAHN: Thank you Mr. Chairman. I
21 appreciate you and the members of the Board holding
22 this important hearing today on urgent rail service

1 issues. The American Chemistry Council comprised of
2 the leading businesses in the chemical industry.

3 So our members provide all of the advanced
4 materials that make our life better, and makes the
5 world healthier, safer, more sustainable and more
6 productive. We support approximately 25 percent of
7 U.S. GDP, support 4 million high-paying jobs, and
8 touch all of domestic manufacturing.

9 So today I have three key issues that I
10 want to share with you. Number one we'll discuss how
11 serious and persistent rail service failures harm our
12 industry's manufacturing operations, and magnify
13 water supply chain disruptions that we're facing.

14 Number two, I'll share a recent ACC member
15 survey, as well as additional feedback that indicates
16 that problems are getting worse not better. And
17 finally I'll outline some actions that the Board can
18 take to help address service issues so that we could
19 prevent rail service crises like this in the future.

20 So chemical and plastic shippers are among
21 the largest freight rail customers. In 2020 our
22 industry shipped approximately 2.1 million carloads.

1 The expansion of the chemical industry in the past
2 decade was announced over 200 billion dollars of
3 additional investment of the past decade, 350
4 manufacturing projects.

5 We will expect those carloads to increase
6 by at least another 200,000 between now and 2030. In
7 fact data released by the AAR revealed that chemical
8 carloads recently hit an all-time high. This growth
9 is not new. It's not unexpected, this is well-known
10 by both the industry and the railroads. In fact I
11 quote from one of the recent publications.

12 "The strength today is a function of the
13 billions of dollars invested increasing chemical
14 production capacity, particular in the Gulf Coast
15 region over the last decade. Clearly chemical demand
16 is also encouraged by an economy that is starting to
17 strengthen." This growth is good news for our
18 industry. It's great news for America's
19 manufacturing base, and our overall economy.

20 And it should be good news for the
21 railroads as well. However, ongoing rail service
22 problems are putting the brakes on both current

1 production and future growth. So late last year we
2 surveyed our members about supply chain and
3 transportation challenges across all modes. And
4 companies, our member companies reported delays and
5 service challenges across all platform railroads with
6 severe problems in certain areas.

7 At that time 78 percent of rail users
8 reported longer transit times, 60 percent reported
9 missed switches, and half reported reduced service
10 loads. So at the end of March we updated this
11 survey, and unfortunately the results show that the
12 situation is getting even worse. Approximately 40
13 percent of our members have said their circumstances
14 are worse than they were just a few months ago.

15 Only 8 percent had said that they are
16 better. So compared with the original survey even
17 more companies are reporting longer transit times,
18 missed switches, and reduced certainty. So for
19 example, one member company reported transit times in
20 the first quarter that were 15 percent worse than
21 pre-pandemic levels.

22 Another reported the degradation in

1 Norfolk Southern's switch performance in the
2 Louisville area, with late switches and a failure to
3 switch all cars called in from serving yards.
4 Another member report that UP had cut service to its
5 transloading facility in California in half. The
6 same time that they did that, and the fluidity of
7 the network decreased, they increased their demurrage
8 fees.

9 So these are just a few examples of how
10 delayed, inconsistent and inadequate service means
11 lost production for our members, and their customers.
12 And what that means it exacerbates the supply chain
13 challenges that we have as we sell into thousands of
14 customers and tens of thousands of prop manufactured
15 products in this country.

16 So as one of our member companies said
17 we've seen multiple instances where our plants had to
18 slow down because our inventory was too high, but our
19 customers had to shut down due to a lack of product,
20 and that's all because of logistics issues. Poor
21 rail service has also forced many of our member
22 companies to shift traffic to other modes when they

1 are able to.

2 In fact three-quarters of our members have
3 shifted some cargo from rail to truck to address
4 short-term or emergency situations. More companies
5 shipped over 150 trucks in the first quarter of 2022
6 to prevent customer shutdowns because of delayed
7 arrival of rail shipments.

8 Now while a few situations companies are
9 structurally moving from rail to truck. Generally
10 that's not in the interest of either our members or
11 their customers, and it shouldn't be frankly in the
12 interest of the railroads either. Poor service has
13 also forced our members to use additional railcars to
14 serve the same level of business. Now this obviously
15 increases costs and inefficiency for our members, but
16 it further strains and already strained rail network,
17 and this is a stark reminder I think of the
18 unfulfilled promise that we've seen from precision
19 scheduled railroading.

20 That was supposed to help both railroads
21 and shippers. Now I didn't invent this comment, but
22 I would echo what I've heard in the past that

1 precision scheduled railroading is doing less with
2 less. That's the situation we find ourselves in
3 right now. And as an example of that most strikingly
4 in the recent weeks UP has asked its customers, some
5 of our largest members, to reduce their shipments and
6 has said that they would mandate a permitting system
7 if they didn't meet the reduction targets.

8 This has left our members scrambling to
9 take extraordinary measures to make sure that their
10 facilities are running, and that their customers will
11 be able to continue to operate as well. I say this
12 at the same time that last Thursday UP announced, and
13 I quote from this article, "First quarter records for
14 operating revenue, operating income, net income and
15 earnings per share, at the same time it did not meet
16 operational expectations, which is having an impact
17 on the railroad customers."

18 This doesn't happen in the competitive
19 market. It's not possible. So as we move forward
20 what we would like to see is several actions, and I'm
21 going to outline those in a second, but I want to
22 echo the points I've heard earlier. This is not a

1 COVID-19 pandemic only type of situation. We're
2 dealing now with years of railroad service cuts to
3 staff, elimination of switch yards, slashing of
4 customer resources that have gutted the rail network,
5 and gutted its resilience, and making service crises
6 like the one we are facing now almost inevitable.

7 And so you know from our perspective we're
8 well passed the point where we need to rely on
9 railroad promises to fix the situation. So we
10 appreciate and commend the Board for proposing new
11 emergency service regulations last week, and we urge
12 you to complete work on other key priorities. So
13 we've got three suggestions in that regard, and
14 you've heard some of those already, so I'm just going
15 to try and summarize them very quickly.

16 Again we support meaningful data on first
17 mile, last mile service. We heard the Secretary of
18 Transportation talk about how important data was this
19 morning. We would echo those calls, and believe that
20 that's very important and we ought to move forward on
21 that as quickly as possible.

22 Second the STB should impose greater

1 accountability on railroads for service failures.
2 And a starting point for that would be adopting those
3 rules in EP 768 to make the railroads accountable for
4 inefficient use of private cars in much the same way
5 that we are held accountable for inefficient use of
6 rail owned assets. So I think that's very important
7 to move forward, and finally we feel that the best
8 way for STB to head off future challenges is to
9 promote greater rail to rail competition as called
10 for under the Stagger's Act.

11 In particular, again echo the calls for
12 moving ahead on long overdue action on reciprocal
13 switching. Competition works in every single other
14 sector of the economy. It can make the railroads
15 more efficient, and more responsive to customer
16 needs. Now I know that AAR recently issued a
17 statement characterizing calls for pro-competitive
18 rail reforms as nothing more than attempt to, and I
19 quote, "appease the rent-seeking interests of the
20 chemical sector and its allied interest."

21 Now it may seem strange to you that a
22 service industry will publicly attack its very own

1 customer base, but that's the situation we're in
2 right now. It's par for the course. We have no
3 other competitive options, nowhere else to go.
4 Again, this does not happen in competitive markets.

5 Let me close with this. In 2017 my
6 predecessor testified before this Board regarding
7 service problems at CSX, and the concerns he
8 highlighted five years ago foreshadowed the broader
9 concerns faced by all shippers today. And I'll close
10 my comments with a quote from his remarks.

11 "If I could leave you with one thought it would be
12 this. The Board should not consider its job done
13 until it has ensured an environment where rail
14 shipper have meaningful competitive options, and are
15 never forced to accept unacceptable service." Thank
16 you very much for your time and attention, and Jeff
17 and I will be happy to answer your questions.

18 CHAIRMAN OBERMAN: Thank you.

19 MR. LOUCHHEIM: All right. Thank you Mr.
20 Chairman and members of the Board for holding today's
21 hearing. It's great to be with you all. Sorry to
22 miss you Mr. Primus, I look forward to seeing you

1 again soon I hope, and I wish you and your family
2 well. Yep, yep. He knows. Anyhow.

3 BOARD MEMBER PRIMUS: Thanks for that. We
4 appreciate that.

5 MR. LOUCHHEIM: You're most welcome. So
6 I'm here today on behalf of The Fertilizer Institute,
7 TFI. TFI represents companies that are engaged in
8 all aspects of the fertilizer supply chain in the
9 United States. Half of all food grown around the
10 world is made possible due to fertilizer, hence its
11 importance to farmers and food production. About 44
12 percent of all fertilizers produced around the world
13 get exported each year, moving this material from
14 production facilities to farms requires virtually
15 every mode of transportation, and a carefully
16 orchestrated system of logistics, and serve farmers
17 on a just in time basis.

18 In the United States about over half of
19 all fertilizer moves by rail. It's a very
20 significant element of the logistics that our
21 members need to serve the farmers. So regarding rail
22 service, I think severe service disruptions are

1 well-known, they've been well-documented with a
2 variety of letters over the years.

3 Currently right now for at least for TFI
4 members, rail carrier cycle times amongst all Class
5 One carriers have been substantially slower in the
6 first quarter of this year. PFI attributes this as I
7 has already been previously stated to the
8 poor cycle times and the service problems we're
9 having right now, to implementation of precision
10 scheduled railroading, PSR, which has had several
11 consequences, including eliminating too much rail
12 carrier personnel, idling of locomotives, closures of
13 service yards, all of which has compromised rail
14 carrier operational elasticity, and the ability to
15 handle unexpected issues such as weather, and the
16 COVID pandemic.

17 This has negatively affected the ability
18 of TFI's members to ship fertilizer and pre-position
19 this essential product for the busy spring planting
20 season, which we are in the middle of right now.
21 When rail service deteriorates, which is increasingly
22 common, shippers often do not have enough cars to

1 ship the product volumes that need to move.

2 This forces shippers and producers to
3 curtail production, raises costs, and everyone except
4 of course the rail industry, which is doing quite
5 well, and was recently highlighted by Mr. Jahn. The
6 timeliness and reliability of fertilizer shipments is
7 important year round, but it is crucial during the
8 spring season because farmer's needed to apply in a
9 very narrow three to five week window.

10 Once a window closes it remains closed
11 until the next season, and if farmers do not receive
12 fertilizer it results in lower crop yields, higher
13 food prices, and more inflation. Beyond inflation,
14 excuse me, and following Russia's invasion of
15 Ukraine, the world is now facing worsening food
16 supply issues in general. It is more important than
17 ever that America's farmers get the fertilizer they
18 need to support strong crop fields.

19 As one example of what TFI members are
20 facing currently to meet customer needs for this
21 spring planting season, one fertilizer shipper may
22 have to pay over \$800,000.00 in additional freight

1 costs because of poor service on just one rail
2 carrier. Also happening just this month, rather than
3 working with their customers, and I'm doing my best
4 to sort of not point at any particular carrier, this
5 is a problem that's really fairly pervasive and
6 across the board right now.

7 Also happening this month you know one
8 rail carrier, rather than working with its customers
9 to find solutions to its issues just unilaterally
10 picked a bunch of customers, told them to curtail
11 their shipments. This has also been mentioned
12 earlier. Because it's the spring planting season,
13 this behavior further increases the chances that
14 several fertilizer uses will miss their application
15 windows.

16 While TFI strongly disputes this behavior
17 at least the carrier communicated its intentions. It
18 is entirely possible and of high concern to TFI and
19 our members right now that carriers could simply just
20 stop showing up, and not bother to communicate
21 anything. If this were to happen across the board
22 for fertilizer, as we're in the middle of spring,

1 this would be absolutely devastating to agriculture
2 and food production, and we wouldn't have the time in
3 the middle of spring to be able to address it in a
4 meaningful way, legally or through normal
5 communication channels.

6 TFI has no objections to rail carriers
7 being profitable, but it is outrageous to see
8 carriers shipping lower volumes while making record
9 profits, while not addressing their atrocious
10 service and their staffing issues. This has been
11 going on for years, it didn't just happen in the
12 first quarter of this year.

13 The letter submitted for the record by
14 rail carrier engineer from Idaho seems to indicate
15 that rail management treats its employees very
16 similar to how it treats its customers. I think the
17 following structural elements are probably worth
18 noting as we go forward. I think on rail competition
19 and capital.

20 I mean the rail sector, as carriers are
21 apt to highlight, and they should is very capital
22 intensive. The barriers to entry are prohibitively

1 high, such that Class I carriers will never
2 experience competition from a new entrant.
3 Railroads enjoy substantial power to dictate rail
4 pricing and service levels.

5 For example in the past 20 years rail
6 rates for one fertilizer product has increased over
7 200 percent. Freight car ownership -- since 1985
8 rail carriers have essentially encouraged and pushed
9 shippers to take on ownership responsibilities for
10 private freight cars used to transport commodities.
11 About three-fourths of the entire rail fleet is now
12 currently owned, leased and maintained by shippers.

13 In 1985 this was only about a third. The
14 shift really has a disincentive on railroads from
15 efficiently utilizing these shipper assets which are
16 the cars that transport commodities. In reference to
17 rail competition and freight car ownership, the rail
18 industry is simply just not customer focused because
19 it has little structural, and market based incentives
20 to do so.

21 I think the following market-based
22 incentives are needed. First enhanced rail to rail

1 competition. TFI greatly appreciates the Board's
2 focus on a number of efforts to reform the outdated
3 oversight mechanisms over the freight rail
4 marketplace, including long-pending updates for
5 reciprocal switching.

6 Reciprocal switching is an important way
7 to promote more competition in the rail industry, and
8 more closely reflect the system in Canada that
9 already allows it. It is critical that the Board
10 finalizes this rulemaking as soon as possible.

11 Reciprocity -- as rail carriers have vested
12 themselves from rail car ownership they have also
13 divested themselves out of the inherent incentives
14 that encourage the efficient use of railcars.

15 There's a significant cost for shippers,
16 and there are little to no statutory regulatory
17 remedies for it. Demurrage and accessorial
18 charges, and this has been also referenced of course,
19 along with reciprocal switching, are increasingly
20 levied on shippers. There's almost no accountability
21 for railroads inefficient use of shipper assets.

22 TFI recognizes the role that appropriate

1 and fair demurrage charges have on rail and network
2 fluidity, but reciprocity is also needed. TFI urges
3 consideration of all regulatory and statutory changes
4 that would enforce the same principle on railroads.
5 One pragmatic idea would be to allow shippers to
6 charge railroads for each time they miss a switch,
7 and for each day a carrier is late to pick-up or
8 deliver a car.

9 Emergency service orders -- TFI, we
10 greatly appreciate the Board's recent action to
11 update its regulations on emerging service orders.
12 It's really tremendously appreciated. We support
13 the proposed modifications, which reflect many ideas
14 that we've shared with the Boards task force just a
15 few years ago. And we look forward to further
16 engaging with you all on that.

17 I'll add the flip on that coin is as the
18 Board knows, and is clearly evident, serious rail
19 problems exist on virtually all the carriers networks
20 right now, so as such you know, updating these orders
21 is absolutely important. We absolutely should do it,
22 and the challenge that our members have right now

1 that will be good to get that knocked out, but we've
2 got underneath that is the fact that they'd be
3 jumping from one service disaster to amount, as
4 things currently stand now.

5 So there's sort of a general problem of
6 the entire rail sector, and what can we do to kind of
7 get them to focus in on a little more of their
8 customer service and operations. So that's why CFI
9 also stresses competition and reciprocity, to hold
10 railroads accountable.

11 In conclusion I'll just say you know
12 freight rail service reform is critical to U.S.
13 manufacturers and farmers, especially following PSR,
14 too many locomotives have been idled, service yards
15 closed, while carriers never seem to have enough
16 staff to consistently fulfill their obligations to
17 shippers. I really appreciate you all holding the
18 hearing today. I know there's a lot going on, and
19 appreciate that. Happy to try to answer any
20 questions you have.

21 CHAIRMAN OBERMAN: Thank you Justin.
22 Thank you for being here. I should say just briefly

1 noting the organizations that have already spoken so
2 far. You are among the continuous and best sources
3 of information to the Board. We hear from everybody,
4 but you really all do a very important public service
5 by maintaining your information flows to us, so I
6 much appreciate it. And I know the Board and our
7 staff does too.

8 Brock Lautenschlager from Cargill.

9 MR. LAUTENSCHLAGER: Martin can you hear
10 me? Yeah. Good morning. Can you hear me now?
11 There we go all right. All right. Good morning
12 Commissioners. My name is Brock Lautenschlager. I'm
13 the North American Rail leader for Cargill. For 155
14 years Cargill has been working with small and large
15 scale farmers, consumer packaged goods companies, and
16 retailers to source, make and move product around the
17 world.

18 I appreciate the opportunity to speak with
19 you all today on behalf of Cargill, and welcome
20 opportunities to discuss the many challenges we are
21 experiencing with recent rail service. The
22 unreliable service has an impact not only on Cargill,

1 but also every piece of the supply chain from the
2 producer, all the way to the consumer.

3 I will also share what we believe is
4 needed from the rail carriers to enable their
5 customers to make effective short-term and long-term
6 decisions to manage through their business needs
7 until rail service recovers. We believe Cargill, the
8 industry and the railroads are aligned that rail
9 service has deteriorated particularly in recent
10 months. And additional labor needs to be added by
11 the railroads to handle the increasing rail demand,
12 and to improve the historical core performance.

13 Our sweetener's business has had to slow
14 down, or shut down operations around 25 different
15 times last year due to lack of proper service
16 provided by the carriers. As we move forward we urge
17 the carriers to deliver better communication and
18 transparency of their plan to shippers as we look to
19 jointly resolve these staggering issues.

20 As additional context regarding my
21 testimony today I feel it's important to provide a
22 brief overview of the rail carriers that serve our

1 facilities in the U.S. Cargill has many locations
2 that are served by the Class I's and short line
3 carriers. For those locations served by the class
4 one carriers, almost 90 percent of the facilities are
5 served by BN, CSX, NS, and UP, with the remaining
6 served by CN and CP.

7 Current situation -- since fourth quarter
8 of 2021 rail service has deteriorated to such a
9 degree that our industry is struggling to play its
10 essential role in the food and agricultural system.
11 The disruptions have led to Cargill experiencing a 15
12 percent averaging increase in our transit time for
13 our private fleet moving on the rail carriers.

14 Increased variability in dwelling rail
15 cars, plant production slowdowns, and in some
16 cases temporarily cease plant operations because
17 there were simply no railcars available to deliver
18 inputs, or ship finished products. For complex
19 industrial production and processing facilities,
20 intending to operate 24 hours a day, such shutdowns
21 and start ups come at a significant cost. Currently
22 the rail supply chain is extremely tight with

1 shortage of supply in transit to meet or rebuild
2 supply at many destinations.

3 Between October 2021, through March 2022,
4 the average transit on our private railcar fleet,
5 moving on the rail carrier has increased by 15
6 percent year over year. This is not an increase we
7 are satisfied with. We need to lower the 15 percent
8 back to normal levels to ensure optimal performance.

9 Throughout the past six months I'm holding
10 regular discussions across our supply chain, and the
11 questions that we have a difficult time answering is
12 how much longer will these extended transit times
13 last, and do we need to lease or purchase additional
14 rail cars to add to our private fleet of
15 approximately 20,000 railcars.

16 The 15 percent increase in rail velocity
17 would imply that we need to add 3,000 cars to keep
18 product in front of our customers. We and the
19 railroads all agree that adding cars is not the
20 appropriate long-term solution, to the ongoing
21 issues we are facing because the fleet would be
22 oversized when rail velocity improves.

1 In addition it's a high cost alternative
2 for a shipper in today's market, with railcar leased
3 rates and purchase prices being relatively high. A
4 variety of factors contribute to the decline in rail
5 service, including, but not limited to the unplanned
6 events, such as derailments and track outages that
7 rail carriers experience, locomotive power shortages,
8 and the interruptions/slow downs the railroads
9 experience when operating through the winter season.

10 However, let's set these aside. We
11 believe the largest contributing factor for the rail
12 service decline is that railroads currently do not
13 have sufficient number of employees to one, provide
14 the surge capacity needed to recover from unplanned
15 events in a timely manner.

16 And two, meet increasing U.S. rail demand,
17 which is projected to be at a three year high near or
18 above 2019 pre-COVID levels. Based on employee data
19 the railroads report to the Surface Transportation
20 Board, the current Class I transportation train and
21 engine employee count is approximately 6,400
22 employees below December 2019 levels, which is

1 approximately 12 percent.

2 So in December of 2019 there were across
3 the Class I system there was 54,133 train and
4 engine employees. As of March there's 47,697, down
5 about 12 percent. This is not a situation where we
6 can focus all the blame on labor challenges. Most
7 organizations testifying today have had to adapt to
8 labor constraints to meet the strong demands. I
9 would ask the Class I carriers what are they doing
10 to adapt to labor shortages?

11 The plan ahead. As we mentioned today we
12 at Cargill are aligned that the rail service has
13 deteriorated to a strong degree in the recent months,
14 and that additional labor needs to be added by the
15 railroads to re-establish a reliable, efficient, and
16 effective rail supply chain. As we manage through
17 this crisis we believe now more than ever is a time
18 where we need to have better visibility into the
19 railroad's plan to address the labor shortages to
20 meet the shipment demand.

21 Currently the data of the railroads report
22 to the STB show historical data. Our request of the

1 Surface Transportation Board today is to focus on the
2 future. Gain feedback from the rail carriers on what
3 the root cause has been for the decline in service
4 over the last six months, and what is their plan to
5 address the root cause? It is very important that we
6 understand the plan, the time here for when actions
7 will occur, and how the railroad is performing to the
8 plan as we go forward.

9 It is important that the shipping industry
10 has a visibility so we can make more informed, data
11 driven decisions to size our private railcar fleet,
12 and make better logistical plans throughout the
13 supply chain for both the short-term and long-term.
14 Specific information and metrics we are seeing. One,
15 what is the railroad's forecasted demand for total
16 rail carloads in 2022, and how does it compare versus
17 prior years?

18 Two, what are the railroad targeted number
19 of incremental train and engine employees that they
20 need to hire to meet 2022 demand? And incremental is
21 defined as net of attrition, so total incremental
22 employees they need to add to the system. How many

1 train engine employees have they hired year to date?
2 For those train engine employees that are hired,
3 there is a training process that they go through.

4 How many have completed the training, and
5 are now able to operate trains on the network? How
6 many are now going through the train and
7 qualification because those are not able to operate
8 trains on the network yet. And identify the number
9 of new train and engine employees by month that would
10 be able to operate trains on the network as we go
11 forward.

12 And then lastly what geographical regions
13 are the railroads experiencing the most difficulty in
14 hiring train and engine employees to meet the demand
15 in the region? It is important to understand where
16 these constraints are as certain regions will have
17 larger deficits than others. I thank you for the
18 time and opportunity to speak on behalf of Cargill
19 and our customers today.

20 CHAIRMAN OBERMAN: Thank you Mr.
21 Loutenschlager. Next up Growth Energy Chris Bliley.

22 MR. BLILEY: Thank you Mr. Chairman and

1 members of the Board. Thank you for holding this
2 important hearing. I'll be brief and echo the strong
3 comments of many of my fellow shipper panelists, as
4 well as the strong testimony of Deputy Secretary
5 Bronaugh.

6 My name is Chris Bliley, I'm the Senior
7 Vice President of Regulatory Affairs for growth
8 energy. Growth Energy is the world's largest ethanol
9 trade association, representing 89 producers of
10 nearly 9 billion gallons of American made ethanol,
11 100 businesses associated with ethanol production in
12 the supply chain, and tens of thousands of ethanol
13 supporters.

14 Today ethanol makes up more than 10
15 percent of our nation's fuel supply, and with the
16 President's recent announcement we're poised to move
17 quickly to provide 15 percent ethanol, E-15
18 throughout the country. Importantly for today's
19 hearing nearly 70 percent of all ethanol is shipped
20 by rail, with 377,000 carloads in 2018 alone.

21 Rail service is vital to get ethanol from
22 our buyer refineries in the Midwest to American

1 consumers from coast to coast. It is perhaps even
2 more important today with drivers facing high
3 gasoline crisis, and ethanol continuing to trade 80
4 cents to a dollar less per gallon than wholesale
5 gasoline.

6 In recent weeks we've heard from a number
7 of our members about the disruptions on their rail
8 shipments, and at times the subsequent impact on
9 their ethanol production. Here are a few key
10 examples. Manifest traffic has been on average two
11 to four days slower, and in some extreme situations
12 on certain lanes it has been 10 to 14 days delayed.

13 Unit train traffic has seen inconsistent
14 pulls, and severe delays on getting loaded trains
15 offsite. Unit traffic is averaging three to four
16 days of delay with multiple occasions of five to
17 seven day delays, and extremes of nine to 12 days.
18 One train sat for 12 days before moving on from its
19 origin.

20 In talking to our members as recently as
21 yesterday these delays have only continued to get
22 worse, not better. So what has been the result on

1 our industry? Across the industry biorefineries
2 whose storage is full have had to curtail production
3 waiting on delayed empty cars to arrive.

4 Destination fuel terminals have run out of
5 ethanol waiting on cars to arrive resulting in retail
6 customers unable to blend fuel for their driver
7 consumers. While we certainly understand that a
8 variety of facts have contributed to these rail
9 disruptions, including a tight labor market which has
10 also impacted our own industry, it's imperative that
11 all possible actions be taken by the nation's
12 railroads to ensure that these critical fuel
13 supplies are immediately prioritized and reach
14 markets as quickly as possible.

15 We strongly support the recent actions of
16 the Board, as well as the recommendations from the
17 aforementioned ATWG that were just submitted,
18 including, but not limited to concluding the Board's
19 work on rules for reciprocal switching that enable
20 the creation of rail to rail competition between
21 carriers. Additional data, such as first mile, last
22 mile rail service reporting, as well as requiring the

1 Class I railroads to develop annual rail service
2 assurance plans.

3 Taking steps such as these, and any others
4 that the Board deems necessary are critical to
5 restore rail service. Further delays could not only
6 impact our industry, but could ultimately increase
7 fuel costs for American drivers. I would be happy to
8 work with the Board to answer any questions and
9 provide any further information you may need. Thanks
10 in advance for your consideration.

11 CHAIRMAN OBERMAN: Thank you Mr. Bliley.
12 So we're now going to I just have some questions for
13 the Board and we're going to try to go in order and
14 keep this to a minimum. I just have a couple, and
15 I'll address it to anybody on the panel. It's been a
16 fairly consistent discussion about a number of
17 matters pending before the Board, and certainly a
18 consistent reference to the need for railroads to do
19 more hiring.

20 We all know that rail employees,
21 particularly T and E employees take months before
22 they're actually on the job because of training. So

1 other than the proposed emergency service regulations
2 which we released on Friday, and of course I don't
3 know how we're going to act on them, but if we did
4 enact it could provide some immediate relief.

5 Does anybody on this panel have any
6 suggestions, or ideas on what can be done
7 immediately to relieve what we're hearing and have
8 been hearing are very acute problems for your
9 industries, and particularly what I'm wondering, and
10 I think Justin you mentioned that given the problems
11 throughout the industry, emergency service orders
12 might just be from the frying pan into the fire.

13 But I wonder if in fact there are places
14 in the country where one railroad might be having
15 problems, but the other railroad is okay in that
16 area. It may be having problems in other areas. But
17 is there a way to shift resources on a very
18 short-term acute basis to get empty cars to the
19 ethanol plant and to get grain moved out elevators
20 and so forth. Do any of you have any ideas on that
21 score? Anybody want to address that? Justin?

22 MR. LOUCHHEIM: There we go. I mean I

1 don't know the answer to the question. I do think
2 that there's generally -- so when I say there's a
3 problem across all the Class I's it doesn't mean
4 every single line where they're operating is having
5 severe disruptions.

6 But the problems are pretty pervasive
7 across the board. A thought occurred to me, this is
8 not exactly answering your question during Mr.
9 Seyfert's testimony that the Board spends a lot of
10 time on revenue adequacy and determinations, and I
11 just thought oh gosh, maybe there needs to be an
12 operational adequacy determination of some sort.

13 That will be a while other thing, but
14 that's not a short-term project.

15 CHAIRMAN OBERMAN: And so if they're not
16 listening to this hearing are aware of what's
17 happening on the supermarket shelf and at the gas
18 station. I hope that somehow we're going to come
19 out of this with some light at the end of the very
20 short tunnel for at least temporary solutions, and
21 that's what I'd like to hear if there are any. It
22 may be in our industry there aren't, that's what I

1 want to hear, and I say that to everybody else, but
2 I'll quote the railroads and all the other
3 stakeholders, we're looking for solutions. Mr. I'm
4 sorry Lautenschlager.

5 MR. LAUTENSCHLAGER: Chairman I guess to
6 address your question, you know where there are
7 options you know, competitive options at a
8 destination that has joint access or origin, I do
9 believe industry is shifting volumes into regions
10 where you know one carrier might be performing better
11 than the other. We are making decisions in those
12 cases today.

13 CHAIRMAN OBERMAN: Are you finding the
14 railroads responsive in wanting to make those shifts
15 even if you don't have a switching tariff in place?

16 MR. LAUTENSCHLAGER: For lanes we've
17 shifted we seen that carriers have been responsive
18 except for the traffic.

19 CHAIRMAN OBERMAN: Thank you.

20 MR. SEYFERT: You know it's difficult due
21 to the long-term, short-term, but I think
22 implementing the service plans and holding them to

1 that while you work on some of these additional
2 activities, particularly on EP 768, and demurrage
3 issues and private railcars, I think if we can start
4 moving in that direction while implementing some of
5 these specific service plans, and holding them to
6 them. I think that would be an important first
7 step.

8 CHAIRMAN OBERMAN: Patrick?

9 BOARD MEMBER FUCHS: I'll follow-up on
10 that. For the service assurance plans the Canadian
11 carriers as required by law publish winter plans and
12 grain plans. Do you have an assessment about the
13 utility of those plans? How would your idea of a
14 service assurance plans compare, and what would make
15 those most useful?

16 MR. WILCOX: I'm not familiar with the
17 Canadian system, so I think a lot of the service to
18 service plans that NGFA is talking about are some of
19 the first mile, last mile metrics, and some of the
20 data, the updated data that other people have been
21 talking about, and you know more real time like data
22 that can be used to measure in the short term, rather

1 in the look back as Brock said.

2 MR. SEYFERT: And we'd also be happy to
3 you know we do have some members that are operating
4 both in Canada and U.S. We'd be happy to visit with
5 some of them and get feedback on that end and report
6 to you all back on that as well.

7 BOARD MEMBER FUCHS: And the general
8 thrust would be capture railroad traffic
9 projections, take a look at locomotive and employee
10 planning and build in metrics to monitor over time.
11 That would be the general design.

12 CHAIRMAN OBERMAN: Robert you have some
13 questions.

14 BOARD MEMBER PRIMUS: I do Marty. Thank you
15 very much, and I can tell you guys that one is truly
16 the loneliest number. I miss being there in person.
17 It's unfortunate, like I said, what happened, and I
18 want to thank those who sent emails and texted their
19 well wishes. It's a crazy time in the Primus
20 household, but we're holding it down. So I
21 appreciate that.

22 And speaking of craziness, I appreciate all

1 those
2 who are here and in person about -- and speaking
3 about our issues with service. You know there's a
4 number of things that were said that were important,
5 but I'm gonna touch on a couple real quick.
6 Actually, I'm going to touch on something that wasn't
7 spoken. Honestly, I'm gonna switch. You know we've
8 heard from, this panel had some of the top people
9 with the association related to Ag and chemical
10 folks.
11 But the issue for me that, and the issue underneath
12 is the fact that, the failure for us to actually
13 bring in individual or company, any member from
14 either of your groups here to testify in person to
15 their issues. And I think that there's something that
16 is afoot there. It's something that the board has
17 known and I think that the industry knows the network
18 knows it's been around for a long time, and it's
19 something that I want to bring to the forefront and I
20 think that I want to -- I hope the Board can start to
21 pursue this, using our investigatory powers, and such
22 about the issue of intimidation, and potential

1 retaliation.

2 And so I'm going to ask each of you, if you
3 guys
4 would comment on do you think that -- is there a
5 reason why your members decided not to come and
6 testify before us today? If so, can you allude to
7 that reasoning?

8 MR. SEYFERT: Well Robert I would say a
9 couple things. I do have one member on the panel
10 with me testifying in Cargill. And I do know at
11 least two of our members have submitted written
12 testimony I believe in ADM and Landis Cooperative. I
13 will say as well having been on both the government
14 and the private company side of the table I know
15 there are things sometimes you are hesitant to go
16 public on, or to discuss in public, particularly if
17 you are of a certain size, or have a certain options,
18 limited options available to you in certain segments
19 of your business.

20 And I think certainly there's been a
21 hesitancy on some of our members right or wrong. You
22 know I can't speak to that to be here today, but you

1 know that they feel that that's an important part of
2 why they're a member of associations like national
3 grain and feed, or ACC, Growth Energy and others, so
4 that we can come here and have those discussions and
5 those conversations with you.

6 BOARD MEMBER PRIMUS: I understand. Do
7 you think --

8 MR. SEYFERT: I do not feel I could speak
9 on behalf of my members, or know enough from them to
10 be able to say that, that yes we've noted that answer
11 sir.

12 BOARD MEMBER PRIMUS: Okay.

13 MR. SLOAN: Yeah I just want to emphasize
14 I mean I think in the situation like this right now
15 you know companies are worried about fixing their own
16 problems, and they're doing everything they can to
17 resolve you know how they're working with the
18 railroads in solving their own problems. I mean
19 frankly, that's why they hired us as trade
20 associations to represent them and talk about the
21 bigger picture policy issues.

22 So I think there's a lot of reasons why

1 companies may or may not want to and I think in past
2 hearings, certainly some of our member companies have
3 been willing to testify. You know so I don't want to
4 speculate on why some may not be here today, but I
5 think you know the biggest issue is you know they're
6 working incredibly hard to try to fix what is
7 happening with their business, and keep their
8 businesses running.

9 So you know that's where they're going to
10 focus their attention right now.

11 MR. BLILEY: I would just echo what these
12 guys have already said I mean about the importance of
13 an association. I can't speak to exactly why
14 individual companies do or do not. It is
15 situational, but I think again I think they you know
16 empower us to speak on their behalf. I would say
17 Cargill is an ethanol manufacturer. We'd welcome
18 them to Growth Energy as a member of course, but you
19 know I'm glad they're here.

20 And I know that Mike noted that ADM had
21 submitted, they're also a member, and have submitted
22 testimony as well, so but I would agree. I think

1 Mike said it well, and so did the ACC folks, so you
2 know again we certainly bring this to our member's
3 attention. We give them the opportunity, but at the
4 end of the day it's their call whether they're going
5 to come and be here in person, or submit testimony as
6 well.

7 MR. LOUCHHEIM: Yeah. A couple things I
8 could say to this to Mr. Primus in response to your
9 question. And I want to be responsive, so I'll say
10 it. The last time I think TFI sent a letter on rail
11 service to the Board the rail carrier called every
12 single one of my members.

13 I don't think it was a -- I think every
14 member's call is a little different, but they called
15 every single one of my members, and they basically
16 well why don't you talk to us first? Well our
17 members don't go to me to resolve their operational
18 issues as their first go to plan. I was probably
19 stop number 10 after repeated attempts to try to
20 resolve the situation.

21 And you know those calls I don't think
22 were completely belligerent calls. I think they were

1 probably a couple of things. Please talk to us, we
2 want to resolve this, we're sorry. But it's also in
3 response to your question Mr. Primus, I think it's
4 also the other side of the coin as well.

5 So yeah, it's a real challenge for our
6 members and I will gave Cargill is one of our
7 wonderful members as well. But yeah, our members are
8 generally sometimes they need to stand behind the
9 curtain. That is related to in a non-competitive
10 market, which you basically have a duopolistic system
11 here in the rail industry, our members, those
12 relationships are really important, you know, for
13 shippers because you know a rail carrier, I kind of
14 hinted at this earlier, sometimes will tell you that
15 they're not going to show up, at least they
16 communicated.

17 Sometimes they won't even bother
18 communicating. And so those are real challenges.
19 I'm a little nervous even sharing what I just shared.
20 But I wanted to be responsive to your question Mr.
21 Primus.

22 BOARD MEMBER PRIMUS: Well I appreciate

1 that.

2 CHAIRMAN OBERMAN: Thank you Robert. I'm
3 going to say a word on that when we finish with this
4 panel, but go ahead Michelle.

5 VICE CHAIRMAN SCHULTZ: I was wondering if
6 you could speak to how communication has been from
7 the railroads during the recent service issues? I
8 believe Michael and Justin spoke about
9 communication, but anyone on the panel is welcome to
10 answer.

11 MR. SEYFERT: I would say our members
12 would say it's been very I would say it varies by
13 members. I would say we talked to some members who
14 feel they've had decent communication. We would talk
15 to others who will tell you that they have waiting on
16 hold for hours trying to get a hold on, trying to
17 visit.

18 And so in some instances it's been good,
19 but I think in many instances it's been difficult
20 both in terms of addressing issues, but also I think
21 there's some pretty good submitted testimony from the
22 North Dakota Grain Dealers Association, which is a

1 state affiliate of NGFA that goes through the lack of
2 communication in particular on the arrival of some
3 trains, and them pulling in a crew, and having to
4 find an inspector, which Deputy Secretary Bronaugh
5 mentioned earlier.

6 And brought them in over the Easter
7 holiday. None of them were able to travel with their
8 families, and then the train didn't show up until
9 Monday. And I think that's a common complaint that
10 level of communication we hear. I have another
11 member who has a similar story from Thanksgiving last
12 year, the train was coming in late. They got word it
13 was going to come in overnight on Thanksgiving
14 morning.

15 They asked if they could delay servicing
16 it with the rail line. They were told no that they
17 would incur charges if they did, so they found an
18 inspector, brought in a crew over the Thanksgiving
19 holiday, and the train was sitting there on Monday
20 morning when they all went back to work. And so
21 those are the things that frustrate folks to no end.
22 And quite frankly when a lot of our members will tell

1 you they're in small areas. It's not a large
2 employment population.

3 And it's difficult to keep employees when
4 they don't know if they're going to be home for
5 dinner with their families, if they're going to be
6 able to go to their kids basketball game, if they're
7 going to be able to go to services with their family
8 on the weekends as well so.

9 MR. SLOAN: Okay thank you Justin. Based
10 on the feedback you know that I have heard over
11 recent months I think it's pretty mixed you know,
12 there are some companies and some situations you know
13 report that they do have pretty good communication.
14 I think overall kind of a trend has been towards
15 having less dedicated account people that know your
16 business, and can respond to the problems
17 effectively.

18 There's a mix sometimes companies say they
19 can't get a hold of anyone, sometimes they can, but
20 that person may not be as able to tell them what the
21 problem is, and more importantly tell them what the
22 planned solution is for a problem. I think that has

1 changed over time by where there's less effective
2 customer service at that kind of level, so I think
3 that is a concern, and then you know just when there
4 are you know kind of widespread problems, there may be
5 someone there to answer the phone, but they don't
6 necessarily have good information about what the
7 resolution is, what the plan is, and when they might
8 get their cars.

9 VICE CHAIRMAN SCHULTZ: What are the
10 specific steps the railroads could take to improve
11 communication?

12 MR. SLOAN: I mean I do think it is you
13 know partly goes back to staffing, and partly goes
14 back to you know dedicated customer service resources
15 that work with their customers, you know throughout
16 the process. You know that's you know difficult to
17 do in this environment, but I think that's where it
18 needs to go.

19 MR. LOUCHHEIM: I'll second that and just
20 add I would love for them to focus in on their
21 operational staff, then they maybe don't need as many
22 folks to communicate the various service problems

1 that are happening because there aren't enough people
2 to pull the train. But both are serious needs.

3 CHAIRMAN OBERMAN: But probably it doesn't
4 take six months to go through an FRA training program
5 for having somebody to pick up the phone at the
6 customer service desk. So maybe they can get those
7 people in faster. Karen you had a question.

8 BOARD MEMBER HEDLUND: Thank you. I'm the
9 newest member of this Board. I was privileged to be
10 sworn in January 7. It seems like a lot more than
11 five months ago. And when I joined the Board I knew
12 I was joining a Board that was dealing with some very
13 significant challenges. At that time I didn't dream
14 that one of them would be how the United States could
15 continue to feed the world.

16 But a month later war broke out in
17 Ukraine, potentially taking 13 percent of the
18 world's grain off the market. So we're now in the
19 most serious international crisis since World War II
20 and the service problems being experienced by the
21 railroads, I think are significantly limiting our
22 ability to respond to it. So Mr. Seyfert, Mr.

1 Louchheim, could you elaborate a little bit more on
2 the impact of these service problems on our ability
3 to export grain to the rest of the world?

4 MR. SEYFERT: Certainly. You know at this
5 time I would say most of our members would say that
6 they have been able to get the shipments out that
7 they need to get out. I think what we have seen
8 though is you know we're aware, particularly in the P
9 and W vessels that have been held, vessels that
10 haven't been able to be filled, and have had to wait
11 because of the fact that we were waiting for the
12 train deliveries.

13 And I think certainly as we move in to the
14 harvest season with wheat, there's been a lot of
15 discussion the amount of wheat that Ukraine produces
16 that's coming off the market, and then as we head
17 into the fall if we cannot get these issues addressed
18 then that is going to continue to be a concern. A,
19 of getting it moved. B, storage, and be able to set
20 the product.

21 I mentioned Landis Co-op that has
22 submitted written testimony. When you look at their

1 testimony they put in there that if their current
2 service issues continue, they believe they're going
3 to be short almost 16 million bushels of storage by
4 the time their fall harvest gets there. And so we're
5 doing okay now, but I think there's real nervousness
6 as we get into the harvest season, and if this
7 continues in Ukraine, and we'll really get a sense of
8 what kind of crop they're going to pull off there as
9 well, we may be in a couple -- three months.

10 MR. LOUCHHEIM: Thank you for the
11 question. On the input side for fertilizer I'll just
12 say for domestic producers it's been really
13 challenging this year. They've got to get
14 everything. Fertilizer really does move actually
15 fairly equally year round, but it's particularly
16 intense in the springtime where we are now.

17 And coming into this point right now for
18 this entire year rail service has deteriorated to a
19 point with really bad cycle times. I remember
20 basically some members you know they either have to
21 have -- they've contemplated slowing down production.
22 They can't ship as much product to get it

1 prepositioned for the planning season.

2 I think we're going to be okay in the
3 United States, but I mean our main focus right now is
4 making sure that all the folks that produce grain and
5 all the crops around the country can get the inputs
6 they need so they could have a strong harvest. You
7 know we really are going to need that. And it's been
8 quite challenging.

9 I think we're -- I'll spare you the whole
10 world fertilizer market sob story, but it's been
11 quite severe for at least the last 12 months, and
12 it's really quite critical that for rail that's you
13 know a lot of our domestic producers they're
14 absolutely essential to not just U.S., but world food
15 production, and we need to make sure that there's a
16 solid network that can, not just for the next few
17 months, but you know I mean we've got a long-term
18 problem.

19 We didn't wind up here overnight, and
20 we're probably not going to get out of it overnight
21 unfortunately.

22 BOARD MEMBER FUCHS: Thank you. I think

1 one of the themes that we have heard is that you all
2 prefer private sector solutions in the first
3 instance. So thinking about carrier actions, I
4 think Mr. Seyfert you, you know, pay credit to
5 carriers that are currently performing and handling
6 the freight demand that's returned from pre-pandemic
7 levels.

8 I guess I have a two-part question. One
9 is what are those carriers doing, or have done that
10 is working, and then secondly, recognizing that it
11 does take time to hire and train, and that you and
12 your members face issues with the labor market as
13 well, what specific actions do you all think that
14 carriers can take in the next 30 days to get us on
15 the right track from either a hiring standpoint, or
16 an overall service standpoint?

17 MR. SEYFERT: I'd say for those that we
18 think are performing better what we're hearing from
19 our members right now are performing a little more
20 solidly right now. I would say that they have done a
21 better job of while they've had the crew reductions,
22 they've done a better job of keeping up on their

1 employment numbers, having crews positioned where
2 they need to be.

3 I would say they have also done our
4 members would say a better job of positioning and
5 keeping equipment running. Now I will say we started
6 to hear from some of our members, and even some of
7 the ones that have been performing well. They're
8 seeing some slippage, but I think you know the sense
9 I get in speaking with our members is that that's
10 really kind of what I would call kind of what's
11 coming over on them from the challenges the others
12 lines are experiencing, particularly in areas where
13 they're sharing lines, and doing those things.

14 So I think I just wanted to say you know
15 on those that we hear from our members soon to be
16 doing a little better, at least on the grain side. I
17 don't want to speak for others up here. I in the
18 near term, in 30 days, I you know my sense, and our
19 sense, and I think and our members are talking to
20 some of them, that it's going to be hard to do.

21 I think that's why as we've all talked
22 about. There's certain training you have to go

1 through to be able to operate one of these machines,
2 and I think that's why getting a sense of what those
3 plans are, what are their employment targets, how
4 many do they have in training now, how many do they
5 plan again this year? When are they going to be
6 coming out?

7 That's what's going to be you know
8 important. I think you know when you look at the
9 amount of time, the training that it takes, other
10 than those who may be in training and coming out in
11 the next 30 days on the operational side, that
12 that's going to be hard to address. But I would say
13 though too just as we've discussed here, improving
14 the communication, working with our members to know
15 when are trains not going to move?

16 When is -- if you're going to be delayed
17 two days on a loaded train before it's moved out,
18 those are types of things that just that type of
19 communication would allow our members to be able to
20 do some planning. It doesn't solve the problem, but
21 if you can at least plan and start implementing some
22 contingencies, it will make the pinch not be as bad.

1 MR. SLOAN: I guess this doesn't exactly
2 respond to your question, but I think it's looking
3 ahead when for future situations, and putting in
4 another plug for first mile, last mile service data.
5 You know having that kind of visibility and you know
6 what we had proposed to the Board in our comments was
7 you know not just aggregate data that's important to
8 the Board, but the customer specific data that's
9 reported directly to the customer.

10 And that kind of you know visibility at
11 your level what's happening I think would give you an
12 earlier signal of a problem and you know more
13 opportunity to work through that before you know it
14 gets into the crisis situation.

15 MR. JAHN: Yeah, so if I could build on
16 what Jeff said. We're just having that side
17 conversation. If we had a silver bullet we would
18 have brought it too. But I think one of the things
19 you can charge us, and it's the right question to be
20 asking, and you should be asking everybody for the
21 next few days, and you should charge us with going
22 back to our members and seeing if you know seeing if

1 there's any possibilities to do anything in the next
2 30 days.

3 But I think Justin's -- or Jeff is right,
4 as well as Justin. In terms of trying to solve
5 future crises and prevent them, and I think that's
6 this first mile, last mile issue is really important
7 to have that visibility going forward so we can
8 surgically act in the future to make sure that we
9 don't get ourselves in the current situation.

10 CHAIRMAN OBERMAN: It seems to me this
11 question which all of us are focused on here, what do
12 we do now. Better communication can happen tomorrow,
13 there's people there, maybe not very many, but they
14 can communicate. First mile, last mile data I think
15 right now is on us. We have a lot of comments in,
16 and we're assessing them, and we I think are getting
17 a message we've got to move on that.

18 We understand that it's important, and we
19 have to figure out exactly from the Board's point of
20 view how to deal with that. I think the question
21 which will be put to the carriers when they get up
22 here about what are you going to do in the next 30

1 days, was more appropriate.

2 We all ask all of you for your ideas
3 because if you have them we want them. But you know
4 it's not your -- you don't run the railroads you just
5 pay them. I do want to echo one thing that Robert
6 raised because it has bothered me since I walked in
7 here three years ago.

8 And I appreciate the delicacy which all of
9 you have addressed this question of intimidation and
10 retaliation, and I think a measure of how serious the
11 crisis is facing the industry is now the fact that so
12 many people, including shippers such as Cargill have
13 been willing to show up. But I can tell you from
14 personal experience from the days just before the
15 demurrage hearing in 2019 to in the last two weeks
16 getting ready for this hearing, I have personally
17 spoke to major, major rail customers who have said I
18 will not come there, retaliation is palpable, subtle,
19 hard to prove.

20 It's there, and if it ever comes forward
21 in a way that can be proven as far as I'm concerned
22 it will be dealt with in the harshest way. As Robert

1 said it interferes with government functioning, it
2 interferes with our doing our job. The railroads
3 know it, and the shippers know it. So I respect all
4 of your concerns for protecting your members, that's
5 what you're doing and you're doing a great job, but
6 it is something I find completely unacceptable, so
7 for what it's worth.

8 We're going to take a break. It's 11:25
9 roughly. A ten minute break, and just to give a
10 heads up if we could get the next panel to get ready
11 to take their seats. Greg Regan, Jeremy Ferguson,
12 Matt Brukart, Steven Groat, Chris Bond and Mark
13 Wallace, and we'll be ready to rock at 11:35. Thank
14 you all.

15 (Break 11:25 a.m.)

16 CHAIRMAN OBERMAN: All right. We are
17 reconvened. And it is our next panel. I identified
18 the folks before the break, so Greg do you want to
19 start?

20 MR. REGAN: Here we go. First of all
21 thank you all for having me testify today and your
22 attention to this important matter. My five minute

1 testimony is a summarized version of a longer
2 document that I asked to be submitted to the record
3 for this hearing if that's all right.

4 I am Greg Regan, the President of the
5 Transportation Trades Department of the AFL CIO. The
6 workers represented by TTD affiliated unions have
7 been sounding the alarm on the state of the free rail
8 industry for years. It is deeply unfortunate, but
9 also completely predictable that we find ourselves
10 here today. As both railroad employees and customers
11 sit before you to express a shared simple fact, that
12 today's freight rail network is simply not working
13 for anyone other than railroad investors.

14 We hope that the Board embraces this
15 opportunity to put the freight rail industry on a new
16 path. The forces that brought us here today are not
17 the result of the pandemic, the supply chain crunch,
18 or the so-called great resignation, rather Class I
19 carriers adopted precision scheduled railroading, and
20 shrank the workforce and equipment needed to
21 effectively operate a railroad without care for
22 impacts on service, or customers.

1 As Chairman Oberman pointed out the class
2 one's collectively have reduced their workforce by 29
3 percent over the last six years. That is about
4 45,000 employees cut from payroll. TTD rejects the
5 absurd claim that the loss of 45,000 hardworking
6 employees has no impact on the quality or
7 availability of service. The elimination of jobs
8 across all crafts of the freight rail network has
9 undoubtedly contributed to operational breakdowns and
10 service degradation, including the ability to
11 operate, inspect, maintain, and repair every
12 component of a railroad.

13 Later a number of railroads will suggest
14 that the entirety of existing service problems can be
15 resolved with a few more engineers and conductors.
16 The railroads will further argue that their inability
17 to properly staff their train and engine departments
18 is representative of a problem faced by all
19 industries in a tight labor market.

20 Yet the railroads laid off thousands of
21 engineers and conductors over the last few years. In
22 fact, in the five years prior to the pandemic the NSF

1 cut its train and engine workforce by 27 percent, NS
2 by 24 percent, UP by 32 percent, and CSX by a
3 whopping 43 percent. It is no mystery why the
4 railroads can't provide flexibility or surge
5 capacity right now.

6 They eliminated those employees in the
7 pursuit of an operating ratio and higher profits, and
8 have now been caught with their hand in the cookie
9 jar. There is simply no doubt that the link between
10 service quality, including reliability and frequency,
11 and adequate employment is clear. We've seen this as
12 multiple railroads have floated with total service
13 meltdowns over the last year.

14 At different times UP suspended service
15 between the west coast and its global Ford gateway in
16 Chicago. The NSF metered service over its LA, Long
17 Beach, Chicago routes. NS shut down its intermodal
18 traffic through central Pennsylvania. Later both UP
19 and the NSF would modify service to LA, Long Beach
20 yet again.

21 As several others have already said, it is
22 galling that even after the announcement of this

1 hearing UP informed its customers on April 11, that
2 it would again be metering traffic after April 18 if
3 customers didn't voluntarily reduce their inventory.
4 For as long as the railroads continue down their
5 current path, these meltdowns and service degradation
6 will continue.

7 It is for these reasons that the Board
8 must exercise its authorities to reign in the
9 unacceptable state of freight rail service. Current
10 law requires railroads to provide reasonable service
11 at reasonable rates, known as the common carrier
12 obligation. Unfortunately, neither the statute, nor
13 the Board's regulations speak to a framework by which
14 to bring a reasonable service case.

15 The ambiguous nature of the requirement
16 has meant that railroads have operated with the
17 understanding that the STB is unlikely to yield this
18 authority. It is with this certainty they have acted
19 to decimate their workforce, and ignore the needs of
20 shippers, knowing that there will be zero
21 consequences.

22 We call on the Board to finally and

1 forcefully apply requirements of the common carrier
2 obligation, in circumstances in which service has
3 been degraded, and cannot be considered reasonable.
4 In doing so the Board should consider factors
5 including the impacts of reductions to the workforce
6 or equipment, and the maintenance of equipment or
7 other infrastructure.

8 If the Board requires more authority or
9 clarity from Congress it should request it, and I
10 assure you we will work with all of our colleagues to
11 ensure you have the tools you need to pursue those
12 outcomes. Today we look back on the catastrophic
13 loss of thousands of good middle class jobs in this
14 industry. We look to the present where rail
15 employees across the country are being forced into
16 impossible circumstances and dangerous conditions
17 every single day.

18 And we look to the future, with a
19 long-term health and viability of the freight
20 network is in serious doubt as investors seek profit
21 at all costs. It is incumbent upon the Board to take
22 aggressive and immediate action to rectify these

1 trends in freight rail service, and the rail labor
2 looks forward to being part of that process. Thank
3 you.

4 CHAIRMAN OBERMAN: Thank you, thank you
5 very much. Much appreciated. Jeremy, good to see
6 you again. And so you and your three members are can
7 just go one after the other if you could. All right.

8 MR. FERGUSON: I'm going to be a little
9 long-winded this morning, but I've got a lot to cover
10 here, so. Chairman Oberman, members of the Board,
11 thank you for the opportunity to testify today, and
12 for the opportunity to bring to light the
13 devastating effects precision scheduled railroading
14 has had on America's Class I railroad workers, and
15 their existing former, and potential customer bases.

16 My name is Jeremy Ferguson, and I am the
17 President of the SMART transportation division, which
18 is the largest railroad union in the United States,
19 representing almost 40,000 railroad freight
20 employees. Our members worked in the operating
21 crafts of certified conductor, locomotive engineer,
22 yard master, yard foreman, switchman, utility

1 employee, trainmen and many others.

2 It is with absolute pride and honor that I
3 present these remarks on their behalf, as they have
4 been the essential workers on the front lines
5 throughout the entirety of the pandemic and the
6 supply chain crisis, in which their only reward has
7 been becoming victims of the carrier's tactics under
8 precision scheduled railroading, otherwise known as
9 PSR.

10 As President my number one priority is the
11 safety of my members. And my second priority is job
12 security for them. Job security comes in the form of
13 the shipper's satisfaction in our service.

14 Unfortunately, these priorities have been jeopardized
15 by the railroad's PSR initiatives, which in turn are
16 having subsequent dire effect on the shippers we
17 serve.

18 As professionals it is painful to watch
19 our shipper gets bad service, or no service at all,
20 much higher rates, destroyed product and equipment,
21 and in some cases having to resort to shipping by
22 truck whenever possible. That is why I'm here today.

1 I wanted to make our voice heard that we stand with
2 the shippers who want our professional service to
3 keep the supply chain open, and to keep this
4 country's economy moving.

5 Both my members and the shippers deserve
6 fair treatment and better conditions to fix this
7 alarming situation we find ourselves in. Just six
8 years ago before PSR the railroads were operating
9 with a robust workforce, and an ample supply of
10 locomotives and equipment. They were enjoying the
11 fruits of the safest, most productive era in
12 railroading history, which was born and brought by
13 the two person crew.

14 The ebbs and flows of the nation's supply
15 chain proved little challenge as the extra boards,
16 which are additional employee availability boards for
17 those that may not be familiar with this term, those
18 were adequately staffed. The locomotives were
19 plentiful. Yards were open, track space was common
20 across all systems, and trains were sized for the
21 territory in which they were to operate.

22 Additionally inspections were being

1 performed by the craft designated to do them, and the
2 industry goal was always take the safest course.
3 Fast forward to today, and that has all now been
4 sacrificed by the railroad's insatiable appetite and
5 longing to perform for Wall Street. Thousands of men
6 and women have been laid off with reckless abandon,
7 while no consideration has been given to the service
8 that has ultimately been forsaken.

9 All that is known to us and our members at
10 this point is that the railroads are dead set on
11 achieving the lowest operating ratio attainable at
12 any cost. Railroading, once revered as one of the
13 most coveted blue collar jobs in the world, is now
14 hemorrhaging employees at unprecedented rates because
15 of the abusive work environments PSR has created.

16 Later the railroads will stand here and
17 testify to this Board that they are doing everything
18 in their power to right size their employee
19 headcount. Most of these changes ironically have
20 occurred since the announcement of this hearing.
21 They will tell a tale of incentives and bonuses to
22 entice new workers, and they will allude to a

1 lucrative atmosphere in which anyone would be happy
2 to work.

3 But I will warn you to be wary. As it is
4 nothing more than smoke and mirrors, an illusion
5 designed to lead you to believe that they are doing
6 everything in their power to hold up their end of the
7 bargain in an effort to satisfy inquiring minds in
8 the hopes that this will all just go away.

9 That the bad publicity will just
10 disappear, and that no regulation or federal action
11 will need to be taken to prevent this from ever
12 happening again. The truth is employees are leaving
13 the industry faster than the railroads can hire, and
14 who can blame them? Take for example being BNSF's
15 most recent absenteeism policy known as High Viz,
16 which was unilaterally imposed upon its employees on
17 February 1 of this year.

18 The policy only allows for a worker to
19 have one day off a month, and penalizes them to sick
20 time, or needing to take care of their family members
21 when a medical emergency exists. It also assesses
22 discipline, or at the very least disincentivizes our

1 members from utilizing family medical leave, and
2 receiving necessary rest.

3 BLET President Pierce and myself
4 personally warned the BNSF not to implement this
5 policy. We were at the national negotiating table
6 discussing many issues concerning availability and
7 proper time off. The BNSF would not heed our
8 warning, and haphazardly proceeded, forcing our hand
9 to vote our respective membership to strike.

10 Did we want to shut down a railroad and
11 compromise a supply chain crisis? Absolutely not,
12 but we had no other legal option left to save them
13 from themselves. Unfortunately, the Federal Courts
14 ordered a temporary restraining order and prevented
15 strike action by the unions.

16 As of today's count BNSF has lost more
17 than 1,000 employees due to voluntary, mid-career
18 resignations over their new attendance policy. By
19 failing to listen to labor they have jeopardized the
20 supply chain in a far greater way, and one that will
21 take years to recover from, all of this so they could
22 exploit the conductor and engineers they currently

1 had, instead of hiring more in accordance with our
2 long-standing agreement.

3 For the record, the BNSF is not the only
4 railroad losing employees at record rates due to
5 harsher tenants policies and manpower shortages. One
6 exasperating the other in a never ending spiral to
7 the bottom. The BNSF just currently appears to be the
8 worst with that data that we've been able to collect.

9 By cutting to the bone carriers have
10 increased their profitability, and spent billions in
11 stock buy backs, while the men and women who serve in
12 their employment are forced to decide between sleep
13 and/or spending time with their family and children.

14 My members go to work exhausted because the
15 railroads afford them no other options.

16 Under PSR they now spent exorbitant
17 amounts of time that they are away from home
18 terminal, only to be called to work with the
19 absolute bare minimum rest the law allows for when at
20 their home terminal. All their life is given
21 absolutely no consideration, and now because of PSR
22 only two choices exist for rail labor -- work or be

1 fired.

2 If the railroads are serious about fixing
3 their crew shortage issues they would be at the
4 national negotiating table, negotiating in good faith
5 for a quick resolution to the ongoing round. Instead
6 they are delaying the process at every opportunity,
7 making ridiculous proposals for wage concessions and
8 reductions in health and welfare benefits, all the
9 while companies like Walmart are making agreements to
10 pay their truck drivers \$110,000.00 a year with
11 improved health and welfare benefits, just to keep
12 their own supply chain open.

13 Our wages as railroaders are definitely
14 disproportionate to profits that carriers are
15 currently enjoying, and they fail to recognize this
16 fact. Unsurprisingly the railroads will try to
17 compare their circumstances to the rest of the labor
18 market. They will want you to believe that their
19 difficulties are the same as the other companies, and
20 that the great resignation is somehow applicable to
21 their woefully deficient headcounts.

22 They will do their best to deflect the

1 realities that approximately 30 percent of rail
2 employees were furloughed at the advent of PSR by
3 placing blame on a pandemic that in all honesty had
4 little to no effect on railroad fluidity. In fact,
5 if anything, the pandemic provided an opportunity for
6 their corporate greed to run rampant.

7 To the outsider, the railroad's fixation
8 on the bottom line was out of focus, seeming as if
9 they were taking the necessary steps to protect their
10 own interest. The truth is however, that an
11 opportunity to make further reductions presented
12 itself, and the carriers took full advantage. At no
13 time was an actual plan evident. COVID provided the
14 cover for more cuts to be made, and they took it.

15 Had the pandemic been the honest
16 rationale, then plans and procedures to bring people
17 back at the conclusion of it would have been
18 established, and an adequate number of employees
19 would have been kept in active service in
20 anticipation of an increase in service. To this
21 point all Class I carriers have long-standing
22 agreements with our union to keep employees available

1 during periods or seasons of reduced traffic.

2 These agreements benefit both parties, and
3 ensure a quicker, smoother return to peak service.

4 However, the carriers refuse to enact any of the
5 provisions of these agreements, and instead chose the
6 cheapest course. As a result the furloughs grew
7 deeper, and the separation from service grew longer.

8 Employers that were once readily available
9 for work were now losing their qualifications, and in
10 some instances their certifications because of the
11 length and depth of the railroad's cuts. Hope grew
12 dim, and people needed to work to provide for their
13 families. The railroads did nothing about it, now
14 hardly anyone wants to return to the railroads from
15 furlough.

16 For those that are fortunate enough to
17 still be working, the service issues are very real.
18 There is no doubt that I represent the hardest
19 working, most dedicated employees in the railroad
20 industry. The men and women that belong to our union
21 take pride in their work, in the customers that they
22 serve. The understand providing a service for the

1 railroad's customer base is what keeps their employer
2 in business, and is what provides them with the
3 finances and benefits they earn.

4 Their number one priority outside of
5 working safe is getting the right product to its
6 proper destination as quickly as possible.

7 Unbelievably, which is why we're all here. The
8 railroads are preventing them from doing just that.
9 It's not a surprise that the National Grain and Feed
10 Association filed a complaint, and it is not a
11 surprise that the other shippers here today had
12 followed suit.

13 PSR has not only restricted the number of
14 locomotives and employees in service, but it has also
15 limited the shipments available to the customers and
16 services. Because the railroads are trying to do
17 more with less, or less with less, they are dictating
18 the terms for the cars that they will provide, and
19 the products they will carry regardless of what the
20 shipper's needs might be.

21 In fact, with the precision and precision
22 scheduled railroading to work it's not about the

1 customers at all, but rather about internal metrics
2 that meet self-serving goals focused strictly on
3 operating ratios which is the only way these
4 extremely low operating ratios can be achieved.

5 Daily our folks are being told to bypass
6 customers, and do everything in their power to get
7 the train yarded, instead of getting the cars to
8 their destinations. This comes as no surprise
9 however, when you consider that front line managers
10 are no longer rewarded via company bonuses for
11 service and productivity, but rather for saving the
12 company money, cutting their way to profits.

13 When faced with possible overtime for a
14 product to be delivered, or preventing the extra
15 hourly pay, the railroads choose the later every
16 time. We literally have examples of cars directly
17 passing a shipper five times before finally being
18 delivered, among others, just so they can show the
19 trains being yarded on time and meeting their own
20 internal PSR goals.

21 Our working members are also now tasked
22 with operating trains so excessive in length that it

1 is impossible for more than one train to move because
2 the territory doesn't have passing siding, or
3 alternate traffics for the two that meet. The
4 solution, stop all other trains until the very long
5 train has traversed from point A to point B.

6 The congestion this causes is wreaking
7 havoc on our ability to service customers,
8 unnecessarily extending the hours the train crews are
9 on duty, and causing more trains to have to be
10 recrewed on the line of road because the crews have
11 met or exceeded their maximum hours of service
12 permitted by law.

13 The cascading effect is an inefficient
14 railroad that masks its own re crews, so as not to
15 bring attention to their own insufficiencies when it
16 comes to moving trains. The long trains are not the
17 only impediment that rail workers face. Train
18 velocities are slowing because the railroads are
19 purposely slowing them.

20 In an effort to save on fuel costs, which
21 is sometimes guised as reducing emissions, the class
22 one carriers are instructing their train crews to not

1 exceed 40 miles per hour. We have examples with us
2 here today where you can see the instructions written
3 on the trains work order. The directive is to limit
4 the amount of horsepower or throttle used once the
5 train achieves 40 miles per hour.

6 In other words, once the speed recorder
7 shows 40, the engineers are immediately to place the
8 throttle in idle, or eliminate all powered effort.
9 Again, later in this hearing the railroads will
10 attempt to sell you a bill of goods, and lead you to
11 believe that all of this has been changed. I assure
12 you it has not. Please bear in mind that changes did
13 not occur until the announcement of this hearing for
14 the most part, and that the railroads have other
15 mechanisms at their disposal that will allow them to
16 slow a train without the manual or verbal
17 instructions.

18 Locomotive software known as trip
19 optimizer, or leader, is an energy management system
20 that is notorious for slowing freight. By simply
21 manipulating some of the algorithms, or even keeping
22 it as is for that matter, the trains will continue to

1 be slow. Yet again this has an adverse effect on the
2 supply chain as train crews commonly exhaust their
3 hours of service limits, additional crews are
4 required to move the train.

5 Overall, less crews are available for the
6 system as a whole, and the trains do not operate as
7 intended. Looking to the future under PSR the
8 horizon doesn't get any brighter. In a panic to stop
9 this PR nightmare from happening, the railroads have
10 finally conceded that an extraordinary workforce
11 shortage exists.

12 A deficiency that was created by their own
13 greed, but a PSR railroad is not like a traditional
14 railroad, training is expensive, cumbersome and
15 time-consuming, all red flags when you're performing
16 for Wall Street. The result, training programs that
17 possess sub-par standards and hurried educational
18 practices.

19 Take Norfolk Southern for example. Within
20 the last six months NS has slashed their training
21 program from 18 weeks to 6. The other railroads are
22 trying to follow suit. This not only jeopardizes the

1 safety of a recently promoted conductor, but it also
2 jeopardizes his or her fellow coworkers in every
3 community in an industry they encounter.

4 By not providing a full and enriching
5 training experience, not only are the railroads
6 endangering themselves and the public, but they're
7 also forsaking industry knowledge, or know how to
8 provide adequate service to the railroad's
9 customers. Safe and efficient train operations takes
10 time and investment, two things that PSR does not
11 allow.

12 The other issue here is that the trainees
13 are realizing the woefully deficient programs, and
14 they are quitting before the training program ever
15 has a chance to be completed. I regularly receive
16 reports of new higher classes, some as many as 25,
17 only being able to retain one or two because the
18 others quit before promotion.

19 The railroads have a problem. They have
20 created a dangerous, hostile work environment under
21 PSR that no one wants to work under. This is
22 compounded when realizing that individuals are not

1 interested in hiring as a conductor. Wherein the
2 carriers have an active campaign engaged to greatly
3 reduce or eliminate the craft from the industry, and
4 it's my members, and this nation's shippers that have
5 to suffer.

6 Members of the Board it is impossible for
7 me to depict in its entirety the breadth of PSR, and
8 just how harmful it is to the nation's supply chain,
9 as it has far too many tentacles. There is not one
10 area of the railroad that it has not harmed.

11 Managers have been eliminated, tracks have been sold
12 or removed, and yards have been closed.

13 It's not a coincidence that we are in a
14 supply chain crisis, and it's not a coincidence that
15 we are on the precipice of a supply chain collapse.
16 I have three expert witnesses here with me today that
17 are current, active, ballast level employees, and
18 officers in our union. They live and work the
19 realities daily, and they have just some of the
20 granular storages and examples of how PSR's
21 compromising the supply chain, and hamstringing the
22 shippers, and associations, that are or will be here

1 before you.

2 It is them who will give credence to the
3 shell game that PSR really is, and it is them who
4 will highlight how and where the business model is
5 truly hidden. The railroads are going to attempt to
6 persuade you into believing that things are trending
7 in the right direction, that a new day has dawned.

8 Their message will be positive, and their
9 data will be promising. They will want you to buy
10 into the argument that no other institute is better
11 suited to correct their wrongdoings than themselves.
12 They will lead you to believe that regulation and
13 oversight is not needed, and that it will somehow be
14 more harmful than good.

15 Again, I say do not let them sway you,
16 their data is deceiving. A PSR railroad cannot, and
17 does not move freight in an efficient and effective
18 manner, so what do you do when you cannot meet the
19 demands of your customers? You hide the facts, and
20 you manipulate the data. Because yards have been
21 closed, trains sit idle on the line of road for
22 hours, sometimes days, that data isn't reflected at

1 least not wholly. Why? Because they hide it.

2 Despite thousands of locomotives resting
3 in storage, trains sit without power because there is
4 none available, delaying shippers products. That
5 data isn't reflected. Why? Because they hide it.
6 Cars are shown as having been delivered when in
7 reality they're still on the train, or still even in
8 the yard. That data isn't reflected. Why? Because
9 they hide it.

10 As for the specifics, my three witnesses
11 are going to give you some insight into how they are
12 hiding it, and just how often. Members of the Board
13 action is warranted and regulation is necessary, if
14 left unbridled, there is nothing presenting PSR in
15 its current form from continuing and/or from even
16 happening again should it stop momentarily as a
17 result of this hearing. Checks and balances are
18 desperately needed in the railroad industry, and
19 common carrier obligations must be enforced.

20 Carriers should not have the ability, much
21 less freedom, to furlough employees, and store
22 locomotives disproportionate to service demand. They

1 should not be permitted to close yards, or a portion
2 thereof, without an appropriate review process, and
3 they should not be permitted to implement, or impose
4 a policy that results in an inordinate number of
5 resignations from any craft.

6 I'd ask you to please heed the warnings of
7 my members, and the shippers that are beholden to the
8 railroad services. If action is not taken Wall
9 Street and outside investors will continue to
10 pressure the industry, to make further cuts until
11 their pockets are filled, and their interest in
12 railroading profitability ceases.

13 The Board has the authority to intervene,
14 and its intervention is warranted. Thank you for the
15 opportunity to testify here today, and I look forward
16 to working with the Board to help develop regulations
17 and mandates that will resolve and prevent these
18 serious problems from ever threatening the integrity
19 of our national supply chain again. Thank you.

20 MR. BRUKART: Chairman Oberman,
21 distinguished members of the Board thank you for
22 allowing us to go ahead and tell our story. My name

1 is Matt Brukart, I am a yard master with the
2 Burlington Northern in Santa Fe. I am also the
3 general Chairman that represents all the yard masters
4 on the Burlington Northern Santa Fe, as well as three
5 short lines, roughly 500 people.

6 Now what is a yard master? A yard master
7 is the air traffic controller of the rail industry,
8 where air lines have terminals, we have terminals,
9 and we have over 40 of them across. I have from
10 Birmingham, Alabama to Seattle. We're highly
11 specialized, and there's 1,800 that's on the plant,
12 so I've got about a third of them.

13 Then I'd like to tell a little bit about
14 how I got here. So I'm a fourth generation
15 railroaders. I threw my first throttle when I was
16 four years old in Dallas, Texas on the old Rock
17 Island. So my dad put me on the engineer's lap and
18 let me run up and down the tracks there.

19 So when I got out of the Marine Corps I
20 found myself on the railroad. I hired out as a
21 conductor and a locomotive servicing engineer, and in
22 Halloween of 1997 I was promoted to a yard master. I

1 did that for about a year, and I was promoted to
2 management. I was in management for 12 years. I
3 have seven promotions reaching all the way to the
4 rank of terminal superintendent as a yard in
5 Minneapolis.

6 In the year 2008 I was superintendent of
7 the year. I had an injury frequency ratio of zero in
8 one of the harshest environments that we operate with
9 over 500 employees, so I was pretty proud of that.
10 By 2010 I got cross-wise with the Vice Presidents,
11 and they fired me. So I went back to the craft. I
12 was a yard master. I worked, and about four years
13 later the union came and recruited me. I've been
14 serving for several years now.

15 So I've been on both sides of the fence to
16 see what has happened. I've been across the system.
17 I've worked on management, I've worked also as a
18 union employee, and I've seen what it takes to run
19 these railroads. With that I've got four bullet
20 points as to why we're jammed up, why we're in
21 absolute gridlock, and why our shippers, our
22 customers are not getting serviced.

1 And it's fairly simple. Railroading is
2 not a hard concept. It takes three things to
3 railroad, power, crew and rail, that's it.
4 Something to pull it, somebody to drive it, something
5 to run on. You give those three things we can run
6 all day long, and we're not running all day long
7 right now.

8 So with that we have several focus points
9 that we have is running long trains, long trains of
10 10,000 feet, it's called units per train is what
11 their goal is. Now what's the problem with this?
12 Many of our rail yards were built in World War II.
13 The tracks are 3,000 foot long. They don't fit on
14 one track.

15 The yard that I work in right now when we
16 build the train to this 10,000 foot it's in three
17 different tracks. We have to pull it out, put it
18 together, put the middle, and then the rear, and then
19 it's still heavy. We have to put engines on both
20 sides, it's called distributed columns, about three
21 hours.

22 What happens in that three hours is the

1 trains don't come into the yard, and so those crews
2 will expire on what's known as hours of service.
3 Every time this happens we will kill three to six
4 trains, this is trains that need a second crew, or a
5 third crew to make their final destination. This
6 perpetuates our manpower issues. This is not a good
7 way to railroad.

8 I'll give you a worst case scenario on
9 these trains. When we have these trains we have a
10 bridge that we go up over towards the mountains. It
11 goes over the Platt River. It's about a half mile
12 from downtown, it's real pretty. There's a walking
13 path down the side. When we stop on that bridge
14 because of the weight of it, we need to stop and make
15 sure the cars are on the track.

16 As we shove back, we've put five cars into
17 the river to fly 50 feet down into the ground right
18 next to this walking path. There's nobody walking
19 expecting boxcars to rain out of the sky. We did it
20 this year, we did it last year, and we'll do it
21 again, as long as we continue to do these things the
22 rules of physics don't change, and it's poor

1 railroading, not to mention dangerous.

2 So the other happens to do with double
3 coal trains. And anybody that's been stopped at a
4 crossing before doesn't like to watch a train as it
5 goes by for 10 to 15 minutes. Now we have two of
6 them together, they will be 270 cars long. They're
7 250 miles away. We inspect these railcars, and
8 occasionally there's something wrong with it, and one
9 will have to be kicked out because the wheels have
10 gotten flat, or something like that.

11 As we do this the conductor will have to
12 get on the ground and use an accent radio. They were
13 never designed to go two and a half miles. Radios
14 will fail. We have had problems before, we have run
15 into the side of our own train trying to set these
16 things up. These are many of the issues that have to
17 do with units per train, just the metric with the
18 BNSF has been going on before, to go ahead and reduce
19 things.

20 I can tell you a lot of stories, but those
21 are two extreme ones. It just does not make sense,
22 there's perpetuating manpower issues, it's dangerous,

1 and it's not servicing our customers, all of it is
2 bad. Let's go to another thing. Let's go to
3 consolidation. Consolidations of terminals,
4 terminals where they said we don't really need you
5 here, we'll move to work elsewhere.

6 During the coal boom we had about 500 coal
7 sets running around. A coal train would come in,
8 quick pull into a track right up to the gas pumps,
9 they would service it, the car man would drive along
10 the track, make sure the cars were good, and the
11 train would be there anywhere from two hours to four
12 hours.

13 In places that we inspected these when
14 they thought coal was going to go away they shut down
15 Grimsey, Wyoming, Donkey Creek, Wyoming, Edgemont,
16 South Dakota, and said we don't need these anymore,
17 and they moved these two sitings in different
18 locations where the train would pull in, would pull
19 the power off and would run it to the nearest gas
20 station, and they're 24 to 48 hours.

21 What we used to do in two to three to four
22 hours, we do in 48 now. That means the customers

1 aren't getting the cold cycle time, where it goes it
2 perpetuates the problem. It's just not good sense.
3 So the other we have Wenatchee, Wisconsin, or excuse
4 me, Wenatchee, Washington. I have a rail yard there.
5 It had yard masters.

6 It has main line, it has Amtrak, and they
7 decided that it would be better to pull the yard
8 masters out of there, move them over the mountain
9 into Seattle where it's done remotely with cameras.
10 Are my people qualified? Yes. They're
11 professionals, but there's nothing like having
12 somebody onsite where it is to manage these rail
13 yards, that's why we have jobs.

14 With this there was a derailment in Amtrak
15 in Montana, where passengers were killed. They are
16 our most precious commodity, and our most precious
17 cargo that we have, and we have pulled people out
18 because it would be better to do it 100 miles away.
19 It makes no sense.

20 The workload has been put on my people.
21 We train the officers. Where the warrant officers
22 that were there, we bring them up, we teach them what

1 it is to come there, and my people are not federally
2 protected under the hours of service. We work 16
3 hours a day, and we can work 16 hours a day 365 days
4 a year. We make a lot of money okay, that's good,
5 but this makes no sense with what has been shoved
6 onto and asked of our people.

7 My people are the craft of yes, you tell
8 us we'll do it, my favorite definition of a yard
9 master is I'm solving problems you don't know you
10 have in ways you wouldn't understand, and that's what
11 we do.

12 So the last thing is that the world would
13 like to believe that the Burlington yard in Santa Fe
14 does not have PSR, and I'm telling you that that's
15 just not true. It has roots all the back to 2009,
16 2009 there was a group they called Best Way. Best
17 Way came in breaking the railroad down into six
18 different tenants with metrics, and it was based on
19 reducing headcounts of people, and it was based on
20 reducing resources.

21 It has metrics to this day, it still
22 exists. My son worked for the Union Pacific, when

1 PSR came along he was in the IT department. They
2 said dad, he says I can't do this. I either am out
3 of a job or double the workload. That's what PSR
4 meant. It makes no sense whatsoever.

5 Things like storing of locomotives, when I
6 was a terminal superintendent, they decided I only
7 needed X amount of locomotives. Well they breakdown.
8 It gets cold. It's 30 below. I would talk to Daniel
9 Midland, and they would say hey, why can't you
10 service us, and I would say as soon as I get an
11 engine I'll be there, and they would tell me why
12 don't you have engines? You're the railroad, and I
13 didn't have a good answer. It makes no sense.

14 I said we shipped them to St. Louis and
15 turned them into razorblades, that's what we did with
16 them. So what needs to be done, I'd like to look
17 backwards. I've been around here for a long time.
18 I've seen when we really operate well. 2004 the
19 intermodal business units were through the roof. We
20 could not get enough locomotives, as soon as they
21 came out of EMD they were battleship gray, we didn't
22 even wait to paint them orange, we spraypainted

1 numbers on the side and we put them in service, and
2 we serviced our customers. That is what we did.

3 We threw every resource we could, 2007
4 Australia went ahead and a drought. We needed to get
5 grain to them. There's a little port down in Houston
6 when I was stationed down there called Gate 8. We'd
7 do two trains a month. We did 60 trains in there.
8 We threw resources. It was a lot of logistics, we
9 made it work, and we got that grain exported. It can
10 be done.

11 It just takes planning, it takes common
12 sense, 2011 we were running with 500 coal sets. We
13 run 250 right now, and we could do it in two to four
14 hours of turning time, then now we're doing it not to
15 48, it makes no sense. So what is it? Railroading
16 right here if I could go ahead and ask for anything
17 there's two simple things to go ahead and legislate
18 it today, a maximum of 8,000 foot on a train.

19 That right there merchandise coal, you
20 name it, they fit on the main lines, they fit on the
21 sitings, they fit on the meet and passes we can run.
22 We don't need these three-mile-long monsters running

1 around. The second thing is we need to
2 disincentivize any reason to ever store a locomotive.
3 If you find yourself in Northern Wyoming, I don't
4 know why you would, but if you were up there, there's
5 a place called Donkey Creek.

6 In Donkey Creek we have five miles of
7 engines stored. I've seen them. Seen them with my
8 own eyes. There is no reason for a train to ever sit
9 without power, those are customers. The railroading
10 is real simple, and for 200 years we sit there and we
11 haul something from point A to point B and somebody
12 pays us to do that.

13 We're not on track. We're not doing that
14 anymore. Please help us get back on track. So I
15 thank you for letting me tell you my story. I'm
16 happy to take any questions any time.

17 CHAIRMAN OBERMAN: (off mic.)

18 MR. BRUKART: I'm at 31st Street in
19 downtown Denver, just north of the stadium.

20 CHAIRMAN OBERMAN: (off mic.)

21 MR. BRUKART: Go to where the Rocky's are
22 and you can see it.

1 MR. GROAT: Can you hear me? Chairman
2 Oberman, members of the Board thank you for having me
3 today. My name is Steve Groat. I'm an active
4 engineer. I'm also a local chairman for SMART
5 transportation division, Local 329. I've come here
6 today to give you an overview of what ground
7 employees experienced since the implementation of
8 PSR. When I talk about ground employees I talk
9 about the engineers, the conductors, the switchmen
10 and the brakemen.

11 PSR has negatively impacted our customer
12 service, and is affecting our supply chain. The
13 critical components of business. In my 18 years of
14 experience I've operated prior to PSR. I will cover
15 some of the key points of operation. From my
16 perspective as a ground employee that have been
17 negatively impacted.

18 One of the key measurements to PSR before
19 PSR was train velocity, which meant the tracks were
20 maintained for maximum authorized speed. Slow
21 orders, which are bad spots in the track, which
22 require the speeds to be reduced, were almost fixed

1 immediately. With PSR the reduction in track
2 maintenance employees, this is no longer the
3 practice.

4 If customers are allowed to continue
5 frustrations, and inadequate customer service they
6 will find other routes of transportation and storage
7 of locomotives is only adding to the transportation
8 shortage and congestion. We operate in Iowa, the
9 heart of the grain country.

10 Increased train lengths have slowed the
11 infrastructure. Average time spent working at
12 terminals have increased. Trains less than 10,000
13 feet average no more than an hour to an hour and a
14 half, setting out and picking up cars. Whereas,
15 trains in excess of 10,000 feet, the time has gone
16 from four to six hours in these terminals.

17 The main line that runs from Kansas City
18 to St. Paul is a single track main line. The sidings
19 are no longer than 8,000 feet, there is nowhere to
20 pull over in excess of 8,000 feet train to allow
21 another train to pass. Thus, the route has to be
22 cleared to allow these big trains to run, causing

1 more delays for everything else.

2 Since the increase of train lengths, I
3 have noticed more hardware. What I mean by hardware
4 is broken cars, split right in half, draw bars, which
5 is the coupler system, and knuckles which is the part
6 that opens and closes to uncouple and couple the cars
7 together on the grounds on the lines.

8 These train lengths increased the end
9 trains forces, which stresses components that don't
10 normally fail. The increased stress on these
11 components is a major part of their failure.

12 According to my state director there has been 13
13 derailments in the State of Iowa in the past five
14 months.

15 Iowa, in Iowa there is very, very few
16 places to stop these monster trains, unless you block
17 crossings, most of the time multiple crossings. In
18 some cases all the crossings in towns are blocked.
19 This not only puts the safety of our crews at risk,
20 but also the public. The increased train lengths
21 have also extended travel times. Some take sometimes
22 taking multiple crews to go the same distance as it

1 would for two shorter trains.

2 For example, a train in excess of 10,000
3 feet might take three crews to travel from Clinton,
4 Iowa to Missouri Valley, Iowa, but two 5,000 feet
5 trains can travel the same distance with only one
6 crew. Tons per powered axle, maximizing the
7 efficiency of a locomotive. We operate now with one
8 locomotive. We might have three in our consist, but
9 we're only allowed to run one locomotive. This is
10 like hooking up a 28 foot camper to a Toyota Prius
11 and trying to drive to Colorado.

12 At what time do you expect the engine to
13 fail, or a component on the locomotive to fail. With
14 the PSR plan we have a surplus of locomotives in
15 storage. The object is to run the railroad with the
16 bare minimum of locomotives. The number of
17 locomotives is in excess, and the number of
18 operating is not enough to cover the available jobs,
19 thus negatively impacting the supply chain and our
20 customer service.

21 The lack of locomotive maintenance is also
22 causing locomotive failures which increases our

1 delays. Over the past four weeks the Iowa grain
2 lines have operated with an average of 16 to 20
3 locomotives short. The following slides illustrate
4 the carriers scrambling to coordinate locomotive
5 power, and indicates those bad locomotives, and ones
6 in need of service or inspection.

7 The new two pages in your packet due to
8 time constraints, I will just point out the train
9 symbols that say G are grain trains. The train
10 symbols with the U are ethanol trains. When you go
11 through these you can see when it says spotted, that
12 means we delivered it to the facility, and when it
13 says pulled is when we came and took it from the
14 facility.

15 When you go over them there's consistent
16 five to nine day increments where they sit at the
17 facility waiting on power. The carrier fails to
18 provide adequate and proper scheduling. Locomotives
19 are being stored to increase carrier profit. This
20 shortage only provides inconvenience and frustration
21 to our customers.

22 Employees have relayed to me the customer

1 frustrations. Statements directed to our employees
2 such as why are you late, and what is going on have
3 come from the facilities. Employee morale is
4 extremely low. Many statements such as I hate this
5 place, or I just don't care anymore are being voiced.
6 If you really want to know what's going on come spend
7 a week with me, or any of the thousands of ground
8 employees, and you will understand what our
9 frustrations are with PSR.

10 In closing my opinion we need to go back
11 to railroading, and serving our customers. This is a
12 huge piece that has been lost to record profits. I
13 thank you for your time.

14 CHAIRMAN OBERMAN: Chris Bond you're on
15 next.

16 MR. BOND: Good morning. Chairman Oberman
17 and members of the Board. My name is Christopher
18 Bond. I work for Burlington Northern Santa Fe
19 Railway for about 25 years. I hired on August 17,
20 1998, in southern California. I promoted to a
21 locomotive engineer in February of 2004. Shortly
22 after that I became a union officer, and I've been a

1 local Chairman ever since. I then moved to Fort
2 Worth, Texas in 2009 when I was elected local
3 Chairman again.

4 I wanted to be very clear, yes, I'm a
5 union officer. I do represent the employees in and
6 around Fort Worth in safety issues, discipline
7 matters, pay issues and more. In addition to being a
8 local Chairman, I am actively working as a railroad
9 engineer, meaning that in addition to all my union
10 work I run, or drive trains mostly from Fort Worth,
11 Texas to Oklahoma City.

12 Over the years I've seen a lot of changes
13 at BNSF, but over the last five or six years it seems
14 to be an entirely different company. The carrier has
15 put profits over everything, over customer service,
16 over its employees, even over safety. I could bring
17 up so many issues today that would all impact train
18 movement in some way, shape or form, but I'm just
19 going to touch on a few.

20 I would be happy to answer any questions
21 that you might have along the way. The railroad has
22 its own lingo, or jargon, so I'm going to do my very

1 best to make sure I explain in detail the point I'm
2 trying to make. So if I say a term or a phrase that
3 doesn't make sense, please feel free to ask me and
4 I'll explain. I am not the best at given speeches,
5 in fact I think this is my first time ever, but I
6 welcome any questions you might have on any topics
7 that you have heard about today. I'm going to speak
8 about what I know and the area that I work in.

9 It might be specific to my part of Texas,
10 but I assure you it's very common across the system.
11 In President Ferguson's earlier testimony you heard
12 about the BNSF 40/550 fuel savings plan. You heard
13 about how us engineers have been asked to not use any
14 throttle when we get over 40 miles per hour on most
15 trains. For those of you that aren't familiar with
16 the controls of a locomotive, there are throttle
17 positions zero through 8. So when you go over 40
18 miles per hour, we are forced to reduce, also known
19 as notch down to idle, or notch zero. This is seen
20 on Exhibit A, I'll show you this here, this one here.

21 You'll see in the red box when running a
22 heavy train with a zero 40 restriction, your average

1 speed actually drops well below 40 miles an hour when
2 you notch down. This is because the engines take
3 time to load. Now by load I mean rev back up, or
4 produce tactive effort.

5 So if you happen to hit 45, 40 miles an
6 hour before you climb a hill and notch down you lose
7 your momentum, and you might climb that hill at 12 to
8 15 miles an hour depending on train size and grade of
9 the hill. In addition, if you looked at Exhibit B
10 this here in the red box, once again you'll see a
11 zero 40. Also there is a throttle limit six.

12 This means you can't use throttle over 40
13 miles an hour, but you also can't climb a hill at
14 track speed or use a throttle over notch six. Now
15 going back to Exhibit A when you look at Exhibit A.
16 I would like to point out the date of April 14, 2022.
17 At the top of the train symbol the VFTMPEA 108-A. In
18 the black header box there's a date.

19 This is important because if you would now
20 refer to Exhibit 1, this one here. If you now refer
21 to Exhibit 1 with the train symbol of the HNYSOCK
22 115-A it has a date of 4/15/2022 in that red box.

1 You will see that the train profile states, "Exempt
2 from throttle limiting." When the BNSF first adopted
3 the zero 40 policy I asked management why would we
4 want to slow down our network like that?

5 And I was told there had been studies that
6 showed that it made no impact on our network, but
7 that makes me ask if it made no impact on our
8 network, then why when facing the Surface
9 Transportation Board Hearing did they cancel all the
10 zero 40/550 and notch limits on April 15? And that's
11 what you see on this dated with the circle on top of
12 Exhibit 1.

13 I won't go through every exhibit, but I
14 brought several examples. Exhibits with alphabetic
15 letters, Exhibit A through J are examples of zero 40
16 and notch limit trains. Exhibits with numbers
17 Exhibit 1 through 5 are all examples of trains that
18 were after April 15, 2022, and have no restrictions,
19 and show a Schedule HPT of 4.0.

20 Just one more piece of knowledge here, HPT
21 stands for horsepower per ton. This means the higher
22 the HPT number is the more power your train has, and

1 the faster it can run or climb hills. To close on
2 the throttle portion of my testimony, I have included
3 the rule from our air brake and train handling book
4 that is marked Exhibit 6 and 6 B. You will see this
5 rule referred to in the trainings lists that are
6 after April 15, the ones that were marked Exhibits 1
7 through 5 when it states from 550 throttle limiting
8 under air brake and train handling 106.7.

9 So those throttles this right here,
10 Exhibit 6, it shows the rules that they are exempt
11 from under 106.7. So that's the conclusion of my
12 throttle limiting and power limiting portion here.
13 So now for crew issues. The BNSF has stated that we
14 are having issues with not having enough manpower.
15 This was not really an issue until they adopted the
16 new High Viz attendance policy.

17 This was not negotiated with our unions.
18 This new policy has employees resigning in record
19 numbers, and I have several employees that are
20 currently facing discipline, and possible termination
21 right now. Most of these employees have never had
22 any problems under the old policy. The old policy

1 basically gave most of the employees what we refer to
2 as five and two.

3 That's five week days off, and two weekend
4 days off a month. Now with the new policy most
5 employees can only take off one day a month. If
6 you're tired or sick, or a family member is sick it
7 doesn't matter, you have to go to work, or fear
8 losing your job.

9 We are even to the point that BNSF won't
10 allow an employee to take off the day to get his
11 hearing and vision certification completed. I know
12 we're not here to talk about attendance policies like
13 High Viz, because frankly we could probably have an
14 entire hearing about this completely ridiculous
15 policy on its own.

16 But the fact is that this, that, and a few
17 other things like lack of a contract, and no raises
18 in years are driving long-time employees to quit. I
19 have had six members in my Local leave the railroad
20 in the last couple of months, and a few were kind
21 enough to write the Board members here today a letter
22 explaining why they left.

1 If you could please refer to the letter
2 from Mr. Jimmy, or James sorry, James Gribbels,
3 please take the time to read this letter and
4 understand that there are many others that expressed
5 the same feelings. With BNSF losing people, to
6 resignations and termination. They have attempted to
7 recall furloughed employees that are hearing of the
8 current work environment and choosing not to return.

9 The new conductor trainees that are hiring
10 on are quitting almost right away. The classes of
11 new hire conductors are starting with nine plus
12 people, and ending up with one or two left after
13 others quit. I'm about out of time. I appreciate
14 you guys taking the time to hear the truth about
15 what's going on with your nation's railroads, thank
16 you and have a great afternoon.

17 CHAIRMAN OBERMAN: Thank you Mr. Bond.
18 The next witness Mark Wallace.

19 MR. WALLACE: Thank you. Good afternoon
20 Chairman Oberman and members of the Board. I
21 appreciate the opportunity to appear before you this
22 morning. My name is Mark Wallace. I'm a locomotive

1 engineer, and currently I serve as National Vice
2 President of Brotherhood Locomotive Engineers
3 Trainmen.

4 The BLET is the oldest train union in
5 North America, founded in 1863 representing 33,000
6 active engineers and trainmen. I also serve as Vice
7 President of the Teamsters Rail Conference. The
8 ongoing problems that plague our nation's rail
9 service are the result of railroad business models
10 implemented in the last decade.

11 Since 1980, 40 railroads have been reduced
12 to 7 Class I carriers, now largely controlled by
13 speculators and hedge fund investors. As a result
14 customer service, safety and employment standards
15 have collapsed, making it impossible to identify the
16 service standards required to fulfill their common
17 carrier obligations. This culture of profits over
18 safety, customer service, and the lives of railroad
19 workers is now exposed as this industry's network
20 fails on a daily basis.

21 For too long the Class I carriers have
22 not been held accountable for the failure of the

1 current business model's impact on the supply chain,
2 as the nation claws it's way out of this pandemic.
3 The STB must address this situation now. To be
4 clear, today's rail service problems were not caused
5 by the pandemic, but by the Class I carriers in
6 management of their operations.

7 The core of the nation's supply chain
8 issues is the direct result of a business model known
9 as precision scheduled railroading, or PSR. PSR
10 aggressively and continually cuts costs by reducing
11 workers, reducing locomotive and car fleets, and
12 deferring maintenance on infrastructure and
13 equipment. All underlining the urgent issues under
14 review by this Board today.

15 BNSF, CSX, NS and UP have eliminated
16 nearly 25,000 train and engine employees over the
17 past 7 years, representing 35 percent of their
18 operating employees. They blame current operational
19 failures on crew availability, but they fail to take
20 the sole responsibility for creating this shortage,
21 long before COVID ever hit.

22 The PSR model has reduced the workforce in

1 two ways, furlough, and unprecedented resignations.
2 The costs and abuse draconian attendance policies and
3 willful abrogation of our agreements have caused a
4 significant number of our members, many with more
5 than 20 years in the industry, to simply walk out the
6 door, living behind the railroad retirement, and was
7 once considered the pre-eminent blue color career.

8 Our written submission gave two examples
9 of CSX employees resigning due to the instability
10 that now exists in this industry. We received many
11 more letters that did not make the deadline from UP,
12 NS, and BNSF employees, which represents only a
13 portion of the hundreds of employees that could not
14 take the environment under PSR and our now part of an
15 event named the great resignation.

16 The carriers will undoubtedly lay out a
17 grand hiring model in their presentations. What they
18 will leave out is the difficulty they now have in
19 hiring new employees. You can't attract new
20 employees with the instability created by the PSR
21 model, nor can you attract new employees when the
22 carriers are making an all out assault to eliminate

1 the positions that those employees are being hired
2 for.

3 Managers stating that one man crews are
4 here, conductors will be in a truck, the trucks are
5 already purchased, and eventually no one will be on
6 the train does not attract candidates seeking a
7 career. The current manpower shortage certainly
8 could and should have been avoided, however PSR
9 requires extreme leanness, which means furlough the
10 employees to rock bottom staffing, and forcing the
11 remaining employees to work without scheduled days
12 off, without paid sick days, without access to true
13 FMLA leave, and under threat of termination.

14 The specific goal of PSR in this regard is
15 to ensure that the small group of survivors perform
16 to the level of a much larger workforce, by denying
17 most time off and implementing intolerable attendance
18 policies. The carrier's continual mismanagement of
19 its self-inflicted undersized workforce is a major
20 factor in the current rail service problems.

21 Due to the mismanagement train and engine
22 service employees working through freight surface are

1 often required to stay away from home for more than
2 24 hours, laying over sometimes between 20 and 30
3 hours before being called to return home on a 12 hour
4 trip.

5 Our written record provides a more
6 detailed example wherein a CSX crew was on duty for
7 23 hours and 30 minutes. This crew spent 12 hours
8 looking for a hotel room. All under the
9 management's direction. Our members are often only
10 home for 12 hours before being called to perform
11 service back to the way from home terminal. Imagine
12 being at work for 40 hours, home for 12, gone for 40
13 hours, home for 12, with this cycle continuing 24
14 hours a day.

15 Making matters worse are train mount ups
16 created by the railroads which theoretically indicate
17 an estimated time when the employee would return to
18 work, based on the train traffic that was planned to
19 operate over the segment of the railroad. These
20 line-ups are paramount to crews being rested to help
21 perform service.

22 The example in our written comments

1 provided from the UP Safety Hotline report
2 illustrate the frustration all employees feel
3 because these line-ups are not accurate or precise.
4 There is a common misconception that the term
5 precision scheduled railroading means that operating
6 employees have schedules. This is just not true.

7 Pools and extra boards are required to be
8 available 24 hours a day, 7 days per week, for one
9 and a half hour to two hour notice for work. These
10 pools and extra boards are understaffed on all
11 railroads, they refuse to add engineers because they
12 don't have conductors. The result of which is fewer
13 employees working more than their agreement language
14 allows. UP has multiple disputes because they refuse
15 to add engineers to these extra boards and pools. NS
16 has a dispute because engineers are being forced to
17 protect both conductor and engineer assignments while
18 the BNSF has made working as an engineer and a
19 conductor extremely undesirable by consolidating
20 pools to protect in multiple directions, stretching
21 the limits of the true territorial qualifications
22 every day.

1 Crew shortage is just one problem with
2 PSR, train length may be the biggest issue. These
3 trains are seriously congesting the network, the
4 carrier's operational plan to run longer trains with
5 fewer employees simply makes no sense. They're
6 running trains with typical links over three miles,
7 and those trains often weigh 20,000 tons or more.

8 These mega trains are unsafe, they cause
9 major delay, they reduce train velocity, they congest
10 the network, and responsible for multiple rigs, one
11 of which killed two of our members. These trains
12 cause traffic jams in yards and major terminals that
13 were not built to accommodate these links.

14 They also cause significant dispatching
15 problems on main tracks. Train dispatchers use
16 sidings throughout trains to pass one another in a
17 single track territory, which is the configuration on
18 most rounds because sidings were not designed to
19 accommodate three mile long trains, every opposing
20 train will have to wait on the siding. Those that
21 are equally as long will have to remain in the
22 terminal. This results in only one train running on

1 long distances of the main line, delaying all of the
2 traffic and shipments.

3 If the excessively long train has a
4 failure, or the crew expires under the hours of
5 serve, all traffic on that line is at a standstill.
6 In addition to these over the road delays,
7 excessively long trains, directly hurt shippers in
8 other ways. Trains that exceed the capacity of a
9 yard are sent to the next terminal or section to set
10 off on line of road.

11 Cars that are sent to the next terminal
12 are delayed for days. Cars that are set off on the
13 line of road are flat switched by the local crew.
14 This method of switching consumes a lot of time, and
15 was abandoned years ago for hump yards that classify
16 trains and cars.

17 Under PSR these types of yards are all but
18 extinct. The most famous closure under PSR was the
19 550 million dollar investment of Brazzo's Yard on UP.
20 This was abandoned in 2019 due to PSR, and was the
21 largest single capital investment in the history of
22 Union Pacific. Instead of humping cars they now flat

1 switch in that yard, in effect railroads who
2 discourage the service in smaller shippers simply for
3 the sake of faster terminal to terminal times. This
4 impacts cars delivered to the customers.

5 Other self-inflicted delays are driven by
6 PSR, the NSF's fuel conservation restrictions are one
7 example that we expounded on in great detail in our
8 written submission. The policy of zero 40 and 550
9 that the SMART President Ferguson and speakers have
10 discussed clearly minimizes the speed of the train,
11 and greatly impacts the velocity.

12 It also impacts following trains in
13 training. Purposely slowing trains create
14 congestion that severely impacts the supply chain.
15 This fuel conservation model is utilized on all
16 railroads, not just BNSF. NS routinely operates
17 maximum tonnage trains on line segments that are
18 vital to their network with only one locomotive under
19 power, with multiple engines in the consist, the
20 result is trains operating at half of the right speed
21 at a time when getting goods to the consumer faster
22 has never been so important.

1 All Class I's are putting profit before
2 their obligations to the nation. Brother Bond talked
3 about the schedule of BNSF making changes to those
4 limitations. This shows the impact that the Board
5 can have on the behavior of Class I's. They made
6 those changes shortly after the announcement that
7 they would be at the hearing. I didn't hear him say
8 this, but my notes say that they will be -- they will
9 expire shortly after this hearing is over. So the
10 outcome of this hearing will certainly impact how
11 BNSF and all the other Class I operate moving
12 forward.

13 In closing, the Railway Labor Act was
14 passed almost 100 years ago with one of its primary
15 purposes being to prevent disruptions to interstate
16 commerce arising from labor disputes. The RLA all
17 but eliminated the ability of real labor to strike
18 except under very narrow and defined conditions.

19 Instead, a binding arbitration dispute
20 resolution process was created to stop those sporadic
21 and disruptive strikes. Class one carriers routinely
22 abused the RLA as they impose draconian policies

1 counting on legal action to prevent job action. As a
2 result there is now a movement afoot that truly
3 believes that the time has come to amend the RLA to
4 allow rail workers to strike much like they allow
5 them in the National Labor Relations Act.

6 While the carriers opine that the workers
7 might negatively impact the supply chain that they
8 were given these rights, we come before this Board
9 seeking to prevent the railroads from doing that very
10 same thing -- interrupting that very same interstate
11 commerce. Testimony today exhibited evidence that is
12 indisputable.

13 The PSR business model that each Class I
14 has chosen to implement has severely impacted their
15 employees, their customers and the nation. The
16 industry is at a tipping point in its ability to
17 provide the service to maintain a fluid supply chain.
18 The Class I carriers will undoubtedly paint a very
19 different picture by selective use of their data.

20 The facts they'll present may be true, but
21 you won't get the whole truth, and that would lead
22 you to an incorrect conclusion. The reality is that

1 the service disruptions that are being experienced
2 were and are self-imposed by the carriers themselves.

3 To protect interstate commerce the
4 industry must be appropriately regulated. Carriers
5 have proven that left to their own devices they will
6 act only to satisfy hedge fund investor's need for an
7 ever increasing profit. Stability can be improved by
8 limiting train length, defining crew signs, mandating
9 quality of life improvements that will retain current
10 employees, and attract new ones, and requiring the
11 maintenance of the infrastructure including yards
12 that have been idle.

13 This can only be accomplished by the STB,
14 FRA and Congress working to promote these measures
15 that will preserve this industry throughout the 21st
16 century. This organization desires a healthy and
17 profitable industry. This organization, while the
18 industry appears profitable, that profit is not
19 grounded in service and growth. The myth of PSR has
20 severely damaged the help for the industry. The
21 actions that we recommend today will benefit
22 shippers, employees and the nation's supply chain.

1 Inaction will permit the carriers to
2 continue down this path of profit over reliability
3 and sustainability. Thank you for this opportunity
4 and I look forward to answering any questions.

5 CHAIRMAN OBERMAN: Thank you Mr. Wallace.
6 I'm going to start out with a couple of questions,
7 but I want to hand this off to the other Board
8 members. This was extremely informative, and I
9 really appreciate the very concrete descriptions of
10 what all this means because I've personally been
11 engaged in a great deal of debate about just what PSR
12 means because almost everybody I ask has a different
13 answer.

14 And it strikes me that PSR does not mean
15 fire everybody. That may be what they're doing, but
16 you could have precision and you can have scheduling
17 and still keep people on the payroll, and locomotives
18 operating. So it's something I wonder how much of
19 this is an excuse in your point of view to just fire
20 people and how much of it could be some precision and
21 some scheduling that might help things, but still
22 have enough people online.

1 So it's just something that I want to
2 explore because I think PSR can sometimes become a
3 political distraction as to the real facts on the
4 ground which it seems to me is just labeled as PSR,
5 but it doesn't sound like a very good way to run a
6 railroad, no matter what you call it. I do want to
7 ask a couple specific questions, and I do appreciate
8 some of these examples.

9 Mr. Bond I think you're a good example of
10 somebody who has both a lot of cattle and a hat in
11 terms of what you were able to provide for us. But
12 here's what I would like to understand from one of
13 the engineers, a point of view. So one question I
14 have is can these very long trains actually travel at
15 more than 40 miles an hour?

16 I mean could you drive a three mile long
17 train at 60 miles an hour?

18 MR. GROAT: The longest train I've
19 operated was 16,998 feet long. I know I could not
20 maintain track speed for that train. Last Friday I
21 brought a coal train, a double coal train home from
22 Missouri Valley to Clinton, Iowa. It was 298 cars.

1 It was 42,000 ton. And the most track speed I could
2 get was two times in the state of Iowa, and it was
3 both downhill.

4 CHAIRMAN OBERMAN: (Off mic.)

5 MR. GROAT: I could maintain about between
6 30 and 35.

7 CHAIRMAN OBERMAN: (off mic.)

8 MR. GROAT: I had six locomotives. I had
9 two on the head, and I had three in the middle, and I
10 had one on the rear.

11 CHAIRMAN OBERMAN: And were they all on?

12 MR. GROAT: They were all on. There's no
13 way I could have moved that train without all of them
14 on.

15 CHAIRMAN OBERMAN: So I think that my
16 question is that (off mic.)

17 MR. GROAT: If you split that train and
18 run two locomotives on the head and one on the rear,
19 which is a standard 145 car train, you can operate at
20 track speed.

21 CHAIRMAN OBERMAN: (off mic.)

22 MR. GROAT: For a coal train we run them

1 at 50 miles an hour.

2 CHAIRMAN OBERMAN: (off mic.) There you
3 go. If you did not have these 40 miles an hour
4 limits, and I gather that the 40 mile an hour limit
5 applies to any train, is that the way these orders
6 work?

7 MR. GROAT: The majority of the trains.
8 Some of the -- what we call hot trains, they're UPS
9 trains, stuff like that, mail, those ones usually
10 don't have a throttle limit on them at all, but yeah.

11 CHAIRMAN OBERMAN: So if you didn't have
12 to have this -- I gather you call an artificial limit
13 of 40 miles an hour tomorrow. What would that do to
14 eliminate some of this congestion, just increasing
15 the speed or the velocity by itself. Can you kind of
16 enlighten us, and maybe the yard master has something
17 to say about how all these interactions, so maybe you
18 could enlighten us on that.

19 MR. BRUKART: Depending on which territory
20 you are on sir, whether you're on the Trans Con,
21 which is the old Santa Fe is primarily double tracked
22 from Los Angeles to Chicago. If you got rid of the

1 throttle descriptions, you can speed up your network.
2 If you were to be restricting at 40, think of that as
3 somebody that's in front of you and an interstate
4 that is slowing things down, and there's no way to
5 pass them to get to it.

6 So if you could run the train at maximum
7 track speed, at an authorized training speed, then
8 yes you can speed up the network getting it from
9 point A to point B, that is one of the issues that
10 does exist.

11 CHAIRMAN OBERMAN: (off mic.) We're going
12 to have this system improved one day. Maybe we'll
13 get one, but then no the camera doesn't work they
14 tell me. But it's not -- our IT people are doing a
15 fabulous job, I think we should get some of your
16 electrician members to come over here one day and
17 straighten this out for us.

18 So what about the eastern half of the
19 country where the runs are you know these long
20 straight lines necessarily? And what I'm trying to
21 absorb here to understand you know how this relates
22 to service problems is that even if you have a long

1 train running faster, and there's some limit, that's
2 why I asked as to how fast a long train can actually
3 move, would you still have the problems of slowdowns
4 because if the trains are longer than the sidings, no
5 matter how fast they're running, they're still
6 blocking the rest of the trains.

7 So would you have to, and again I'm
8 looking for the moment about immediate improvements
9 on the system to get beyond this crisis that we all
10 know is longer term ones, in order to try to ease the
11 congestion we're hearing about in these orders that
12 we can't take all of the fertilizer that's being
13 shipped and so forth, would you have to both remove
14 the throttle limits and shorten the trains, or would
15 just removing the throttle limits by itself improve
16 the situation? Do any of you have any insight on
17 that?

18 MR. WALLACE: So I'm a locomotive engineer
19 off the Norfolk Southern, so I ran the east coast.
20 And you would have to do both. You would have to
21 eliminate the throttle restrictions, and for east
22 coast railroads like CS and NS, they're limited to the

1 amount of engines that you can actually put online to
2 assist in pulling the traffic.

3 So one example was that between Savannah
4 and Macon they run one engine online on the head in
5 when they have three available, which allows them to
6 only run half the track speed between Savannah and
7 Macon, Georgia. That means if the speed is 60 they
8 run 30, so that means it's double the time getting
9 from point A to point B.

10 And if the train is in excess of 8,500
11 feet there's no sidings in between those two points
12 to me, therefore that puts other trains on the line.
13 I think the biggest thing right here for the -- and
14 this was mentioned I think by Jeremy earlier is the
15 railroads sort of set their own metrics of what
16 they're tracking. So they're not tracking train
17 velocity anymore.

18 They redefined what they were tracking
19 with PSR, so now their big thing is that they're
20 going to track car velocity, and fuel conservation.
21 Well they don't really care if the train velocity is
22 down because that's not a metric that they offer for

1 review by their investors. They're meeting their
2 fuel conservation metrics by conserving fuel. This
3 is a fuel conservation, and it's an intentional
4 slowdown of trains to burn less fuel, and the length
5 of trains as to use less employees.

6 CHAIRMAN OBERMAN: So from your point of
7 view, because I know we've heard already, and we're
8 going to hear from the railroads about how long it
9 takes to train new classes and even other -- lowering
10 the amount of training time, it still takes a long
11 time to get somebody off the street into running a
12 locomotive or being a conductor.

13 In terms of immediate improvements to some
14 of these problems particularly in the ag area
15 planting season, fuel issues we've been hearing
16 about, the ethanol plants. It sounds like there are
17 changes that could be made almost overnight in terms
18 of velocity, train length, and using all the power
19 that's available. Those three things in combination
20 and all of you are saying that this would ease the
21 congestion we're hearing about today?

22 MR. BRUKART: Yes sir, that would

1 significantly improve the velocity, and relieve some
2 of the bottlenecks and get the customer service
3 coming almost overnight.

4 CHAIRMAN OBERMAN: We've had a view of
5 that possibility. One thing I wanted to say Mr.
6 Wallace you said that you had a bunch of letters that
7 didn't come in by the time of the deadline, please
8 file with us yeah, I have been pouring through as
9 much as I can, I've finished all the reading you guys
10 have sent me, but we would like to have that in the
11 record, so.

12 MR. WALLACE: I would also --

13 CHAIRMAN OBERMAN: Hit your mic.

14 MR. WALLACE: So I would also add that a
15 more fluid railroad with shorter trains, and higher
16 train velocity that gets them from point A to point
17 B, and you can ask the three guys that have worked
18 them regularly, that's going to assist in not having
19 as many crews that expire on the hours of service.

20 They're burning a ton of crews, and the
21 data that they -- we don't have access to the data,
22 or we would have provided it because it's internal

1 data to the railroad. So how many crews they burn in
2 a day because of these long trains, or because of
3 this reduction in train velocity. We don't have the
4 answer to that, but from the ground level from our
5 feedback from our members is that they're burning
6 crews constantly, you know, for no reason.

7 So it's a mismanagement of the crews.
8 We're short of manpower because of self-imposed
9 railroad furloughs, but I think that we could still
10 help the supply chain if some of these measures were
11 enacted immediately.

12 CHAIRMAN OBERMAN: Thank you very much.

13 BOARD MEMBERS FUCHS: Thank you Mr.
14 Chairman. And you covered operations. I want to turn
15 to recruitment and retention. I want to start by
16 recognizing the work of rail workers, particularly
17 throughout the pandemic, you know, perseverance,
18 sacrifice, toughness, deeply appreciate it, and it's
19 been essential to this country, so thank you all very
20 much.

21 And of course you know we've been talking
22 about aggregate numbers, and those aggregate numbers

1 bear direct relationship as you all have been
2 describing to specific policies. So with that in
3 mind I'm wondering, and I know Mr. Brukart you
4 touched on your family connection, but what drew you
5 all into the rail industry, and has kept you in the
6 rail industry?

7 And as you look at members and prospective
8 members, what do you see as the most effective
9 policies for recruiting and retaining rail workers
10 beyond the operational changes that you all and the
11 Chairman just discussed, with particular eye towards
12 the recruitment and retention policies that can be
13 implemented in the next 30 days?

14 MR. FERGUSON: Well I'll go ahead and
15 start. I think that's an excellent question you
16 know. There's culture changes that need to take
17 place. The railroads just have to take slight
18 consideration of the younger generation that's going
19 to be getting hired, that they're going to require,
20 or want more time off. They're going to want more
21 family time. Some of us guys that are seniors, when
22 we hired out 28 to 30 years ago, yeah we knew that we

1 were going to be working a lot, and that we were
2 going to sacrifice weekends and days off and so on
3 and so on right?

4 But the culture is changing in the United
5 States. The railroads do not seem to want to change
6 with that. Not all of them, but you know some of
7 them are making the proper steps.

8 CSX I'll give them kudos you know they have made a
9 decent attempt at starting to change their culture.

10 And you know that's one thing that has to
11 be done for retention. Pay is another issue right?
12 If you can make the same amount of wages working at a
13 factory that's Monday through Friday, or working at
14 let's just say you know the target is probably a
15 little low because it's \$24.00 an hour, but you know
16 you get in that \$28.00 to \$30.00 range is where a
17 brakeman is going to hire out, a conductor is going
18 to hire out.

19 So if he can get a job pretty much in that
20 ballpark and just work Monday through Friday, not
21 have to you know work nights, weekends, and the list
22 goes on and on, and be on call. See that's the other

1 problem. When you don't have seniority, you're on
2 call all the time, so you can't predict anything.
3 You can't even tell your family doctor when you can
4 show up for a physical and get checked out, so these
5 guys might have something to add.

6 (off mic.)

7 MR. FERGUSON: Well a few of the things,
8 and I'll let them speak on that for the most part,
9 but what labor sees you know, is they have
10 communicated a lot to us as far as hiring, and they
11 came to us and made deals to change the rate for the
12 brakemen they are hiring out so they could increase
13 their pay and make the job more attractive right.

14 They made a recent change in the
15 attendance policy, granted it doesn't take effect
16 until January 1. I think that's a good step. It's
17 not quick enough for me, or for our members, but at
18 least they're trying. The change makes the
19 forgiveness period more what's the word I want to use
20 here, it's not as restrictive okay.

21 The forgiveness period used to be two
22 months, now it's down to a month. And there's an

1 overall 12-month forgiveness period, so if you had to
2 mark off 12 months and a day ago, that would fall off
3 your record. It wouldn't even be recognized, so.

4 CHAIRMAN OBERMAN: I think Robert Primus
5 has some questions. Robert?

6 BOARD MEMBER PRIMUS: Thank you and my
7 thanks to everybody on the panel for being here. I
8 just want to -- just a couple questions about the way
9 forward, and actually where we are right now. The
10 Chairman mentioned that there had been some
11 reductions in training time, to get folks out in the
12 field. Do you feel that that's a good thing, first
13 part of the question? And number 2, could each of you
14 sort of talk about safety issues and the concerns
15 that you have with getting these folks trained up as
16 quickly as they are and having a relatively
17 inexperienced group trained to come online, what
18 you're doing from a safety perspective?

19 MR. FERGUSON: Okay. I'll take that
20 question also. Safety like I said in my
21 presentation is my number one priority, and
22 shortening the training period is not in our best

1 interest. This equipment is too dangerous. Since I
2 took office we were on a clip of one fatality and one
3 career ending amputation every month. We did that
4 for 14 consecutive months.

5 I couldn't take it any longer. I've
6 raised a lot of cane with the FRA and anybody that
7 would listen, but I don't think we can go back and
8 try to shorten training agendas just to put them in
9 jeopardy it is too precious. The life is too
10 precious for me. So I would not advise that.

11 Now are there things we can do that would
12 say they are trained in an amount of time, on a
13 certain territory, on certain other aspects that
14 would help expedite the freight? Yes. But as far as
15 like when you went like Norfolk Southern from 18
16 weeks down to 6, they cut out a lot of the basics
17 that keep people alive, and we can't do that kind of
18 stuff. And that's in my opinion. I'm sure they're
19 going to counter that, but everything that we could
20 see in what was reported to us from our front line
21 union officers, they cut out way too much and we
22 advised them that that was not safe, and they had two

1 amputations shortly thereafter.

2 We got word of it and advised that we took
3 exception to their program.

4 CHAIRMAN OBERMAN: Do you have an example
5 Jeremy of what was set up?

6 MR. FERGUSON: I will go get that for you
7 Mr. Chairman. I don't have that off the top of my
8 head.

9 CHAIRMAN OBERMAN: I'm sorry Robert go
10 ahead.

11 BOARD MEMBER PRIMUS: Does anybody have
12 anything else to add?

13 MR. GROAT: I think it would be a huge
14 mistake because just like you guys listening to us
15 here today, when you come to the railroad, we have a
16 different language we speak. It's just like speaking
17 French. I don't know how to speak French, but I know
18 how to speak railroad. And so for a person cutting
19 that many weeks out of training, I think you're
20 setting up a dangerous position.

21 BOARD MEMBER PRIMUS: Staying on that side
22 of the table, Mr. Bond, you had talked about notch

1 limiting, throttle limiting. How difficult would that
2 be for new engineers coming on and performing that? I
3 know you talk about going up and down -- both of you
4 talked about traversing you know hills, with longer,
5 heavier trains. How difficult would that be?

6 MR. BOND: Well first of all it takes a
7 while to get the feel of running a train. The
8 locomotive program we have it takes six months to
9 make an engineer, and you're learning -- I mean you
10 learn everything about the trains. You're learning
11 territories, you're learning how to control in train
12 forces.

13 So they have what they call, I mean no one
14 would think about this, but trains have couplers that
15 have probably three or four inches of slack between
16 them, so these bigger, longer trains right, they have
17 more slack. So what happens is that if you hand a
18 train that's 10,000 feet, that train is going to have
19 a lot more slack that what could happen in trained
20 forces lives, and we talked about draft and buff, and
21 that earlier.

22 Those trains you can actually get

1 rear-ended by your own train if that makes sense. So
2 you can be going over a hill, and the rear end of the
3 trail would come over and it can pop stuff off the
4 rail, it can do all this stuff. So as a new
5 locomotive engineer, you're learning how to control
6 those.

7 Well with these throttle notch limits that
8 we were talking about, sometimes like you don't ever
9 really want to be going down a hill, and then notch
10 off to go up the other hill, because what happens is
11 the rear end of the trains coming down fast. The
12 head in to your train is the heaviest part to your
13 train, so it wants to slow down, and the rear end --
14 bam, hits you right?

15 Well they make you notch off right before
16 the hill. Like we were taught our entire time of
17 locomotive training, never ever do this, and then now
18 they make us do this, and it's just mind blowing.

19 BOARD MEMBER PRIMUS: Appreciate that.

20 MR. REGAN: Thank you for that question.
21 To be honest I mean I think we've outlined here some
22 of my colleagues here have outlined some of the

1 immediate steps that can be made to try to address
2 some of the current problems that we're seeing, but I
3 think what we are going to need is a long-term
4 sustained growth of the workforce to try to meet the
5 future needs of the country.

6 One of the things that frankly has been
7 most shocking to me in the course of the pandemic is
8 there was a huge spotlight on the supply chain issues
9 throughout the country. We all saw the problems that
10 happened with the trucking industry for example.

11 And if we're looking at a long-term
12 sustained growth of the railroad industry in a way to
13 enhance its capability, and enhance its ability to
14 serve this country, you would have thought that that
15 was an opportunity from a business perspective to try
16 to actually grow the workforce, grow our service
17 capabilities, grow our capacity when it comes to the
18 number of trains we run, the ability, the places we
19 can go, the crews to operate it.

20 A continued insistence on having leaner
21 operations, both from personnel and from equipment,
22 so I think that right there shows the entire mindset

1 is geared towards the short-term return, the
2 short-term gratification, not the long-term sustained
3 growth. So I think there has to be a broader
4 reimagining of what a sustained growth model looks
5 like for the railroad, because that's frankly the way
6 they operated for decades leading up until recently.
7 And it's frustrating for me as someone who wants to
8 see the industry grow, and wants to see us and
9 believe that plays an incredibly valuable part in our
10 national economy, to see sort of the head -- approach
11 to where there was an opportunity to grow.

12 And they haven't been taking it. And I
13 think that still exists. I think there's still an
14 opportunity to there, but it's going to require a
15 complete mind frame change here.

16 CHAIRMAN OBERMAN: Before I switch, I
17 think so, he disappeared. That's a subtle message.
18 Karen?

19 BOARD MEMBER HEDLUND: Slow learner. I
20 know that the railroad labor pool today includes a
21 lot more women and minorities than it did in the
22 past, although it's not reflected here because you

1 guys are so senior, kind of our father's railroad.
2 But what have railroad's practices done to the
3 ability of the railroads to attract women and
4 minorities?

5 MR. BRUKART: We'll say one thing that
6 BNSF has done right is tried to attract the right
7 type of people for the job. And they're a very large
8 employer of military veterans that are used to
9 atypical lifestyle that's come in with that. I've
10 had certain crews where I've had entire shifts of
11 females, which have just been phenomenal
12 railroaders, I mean they were great to work with and
13 they still are.

14 So they recruited various people from the
15 right industry to come into us. Where they failed
16 though, when my cousin came back from Iraq I got him
17 a job. He's a conductor. He went through all the
18 training. He went ahead and took two trips and was
19 furloughed. There was no job security. And he said
20 I'm not going to do this for the rest of my life,
21 there's no need for it.

22 So if they can find the right group of

1 people to draw from, wherever that is, then they've
2 hired and we've had some very strong classes of
3 people.

4 CHAIRMAN OBERMAN: Go ahead.

5 MR. BOND: You know touching on that, and
6 we're talking about the retention of the employees we
7 have. I actually currently have an investigation for
8 a single mother who under the old policy of before
9 High Viz she was fine. She never had any problems at
10 all. Well she is a single mother with I guess you
11 would say a staggered custody situation, and now
12 she's basically on her last leg before getting fired
13 for High Viz.

14 And so we're talking about I mean she's a
15 single mom. She has nobody else to watch her kid,
16 you know, we've tried to get her into yard jobs with
17 a regular schedule, she doesn't have the seniority.
18 She's a great conductor. I mean an outstanding
19 conductor that works between Fort Worth and Oklahoma
20 City, and we are fighting for her job right now to
21 keep her.

22 And so when we talk about the employee

1 retention, and hiring new people, this is a concern.
2 It's a different lifestyle, and she was fine under
3 the old policy and worked there for 16 years. And
4 under this new one she's on her last leg before she's
5 terminated.

6 So when we talk about you know women in
7 the workforce there, things like that, that's
8 definitely an issue.

9 CHAIRMAN OBERMAN: I just have one other
10 area I wanted to follow-up on, two related things
11 that were said. Jeremy you had referenced a number
12 of changes that you said the railroads have made just
13 in anticipation of this hearing, and Chris pointed
14 out one, this 415-22 lifting of the 40 mile an hour
15 throttle limits.

16 So Chris you said you thought that would
17 disappear soon. Is that in this piece of paper, or
18 is there something that tells us it's going to
19 disappear, and then I wanted Jeremy to ask you to
20 tell us what other changes have they recently made
21 besides this one if you know of any?

22 But I think -- oh, he disappeared.

1 MR. WALLACE: Well it come of Chris's
2 railroad, and he's probably got the same information
3 that my general Chairman provided me. So I mean what
4 we have is we have an email that's part of our
5 written submission to where it actually identifies
6 that it's going to expire after 15 days, so.

7 CHAIRMAN OBERMAN: (off mic.)

8 MR. WALLACE: Yes. Yeah, there's an email
9 associated form I believe Duke Remington is the
10 carrier officer's name.

11 CHAIRMAN OBERMAN: (off mic.) Are there
12 other things that the railroads have recently done
13 that you could point to, or?

14 MR. FERGUSON: No sir. That's all in
15 reflection of that. Seeing the throttle type
16 changes, and you know trying to expedite, expedite in
17 a hurry, so.

18 CHAIRMAN OBERMAN: Of all the time I have
19 been on the Board, a little over three years now,
20 this is one of the most informative pieces of
21 information I've gotten about how things actually run
22 out there. It is hard in this ivory tower to know

1 exactly how things work out there on the railroad.

2 You guys have been absolutely terrific.

3 And all the witnesses have so far. But I really
4 appreciate your taking the time. I know you've put a
5 lot of work into supplying us with information, and
6 you're not finished. We're going to come back to
7 you, but really we appreciate it. Thank you very
8 much.

9 We're going to recess until 1:45 for
10 lunch, and when we come back we will start with Rick
11 Patterson and Brian Ossenbeck. Thank you all.

12 (Lunch recess.)

13 CHAIRMAN OBERMAN: So we are now ready to
14 proceed with our next panel, which consists of Rick
15 Patterson from Loop Capital and Brian Ossenbeck from
16 J.P. Morgan, and I see you are both here. Thank you
17 for coming. I think Rick you are listed first, so
18 proceed.

19 MR. PATTERSON: Thank you Mr. Chairman. I
20 should have a slide presentation ready to go if you
21 can bring that up for me. Okay. Firstly, I'd like
22 to thank the Board for the opportunity to be here

1 today. I've been wholly focused on this issue for
2 years now and hopefully I can be of help to you in
3 this regard.

4 We all know why we're here, and I think we
5 all know what the core problem is. Shortage of train
6 crews. Now most companies in America are currently
7 struggling with hiring right now, so the railways are
8 not unique in this regard. What is unique about the
9 railroads is the fact that the network dynamics in
10 play result in service consequences from obtaining
11 any shortfalls that are longer in duration than
12 almost any other business.

13 When the railroads get this wrong it
14 usually takes a year to fix, to explain why a
15 quicker refresher on crew capacity actually works.
16 Railroads obviously return assets, but they also
17 turn train crews, if time is improved by 10 percent
18 the oversimplified math means they require 10 percent
19 fewer crews to move the same amount of freight.

20 It network train speeds slows by 10
21 percent that would require 10 percent more crews.
22 Any easy way to think about this is that a Class I

1 network that's decelerating like with a magnet,
2 sucking these two resources cruising locomotives in
3 addition to freight cars.

4 An accelerating network is like a
5 centrifuge spinning out and spinning out, crews and
6 cars. The situation you therefore need to avoid at
7 all costs is a slowdown that deflates in crews or
8 power triggering an unrecoverable meltdown. So let's
9 walk through a crew capacity crunch and we'll see why
10 it typically takes a year to restore service.

11 The railroad will often be running well,
12 but with too lean a crew capacity we'd then have a
13 triggering event that begins to slow the network.
14 This could be a major weather event, a volume surge,
15 or the current problem which was an unexpected surge
16 in attrition. As the system slows it compresses crew
17 capacity, and management has to react quickly by
18 deploying all crews, maximizing overtime, recalling
19 furloughs, and trying to bring in crews from other
20 districts.

21 If all this fails the railroad will at
22 some point run at a crew capacity at a critical

1 location. Congestion radiates out, and network
2 speeds plummet because you're now in this vicious
3 cycle where slow speed reduces crew capacity, which
4 reduces speed and so on.

5 At this point there's nothing operations
6 management can do except pick up the phone to HR, and
7 ask them to find a train 1,000 train conducted
8 trainees. That's a six month process by itself, but
9 the real delay comes from what I call the painful
10 crew capacity math.

11 If the meltdown has pushed speed down 10
12 percent you need to offset that with 10 percent more
13 crews than you had prior to the triggering event
14 before the network will unlock and begin spin up
15 again. The managing part is that once system
16 velocity is fully restored you've now got 10 percent
17 too many crews which invariably get furloughed.

18 Okay let's move to the real work, and what
19 I just described is what happened to Norfolk Southern
20 last year. The triggering event was an unexpected
21 surge in attrition in the south starting in
22 September. The company threw everything they had at

1 the problem, but they only had six weeks to react,
2 and unfortunately wasn't enough.

3 The critical location that went down was
4 Birmingham, Alabama with dwell at the Birmingham hump
5 yard gaping out in the third week of October. The
6 problem now is the painful crew capacity math through
7 March NS has increased T&E headcount by 4 percent,
8 but velocity has fallen by 12 percent. They may need
9 to offset that with another 8 percent crews, which is
10 600 people net of attrition, which is tough to do in
11 the current labor market, and will take time.

12 Okay. So let's do a natural five year
13 review. The yellow line in this chart shows system
14 speed, which correlates with service. The columns at
15 the bottom show the levels of stress on the two
16 critical resources. The blue columns show trains per
17 day hardening through crews, and the red columns show
18 trains per day hauling for power.

19 Obviously ideally you want the line to be
20 high and the columns low, but of course we've seen
21 the reverse with service the worst since 2018. Also
22 notice the higher rate columns on the far right as

1 the crew problem pushes asset turns so low it creates
2 a cascading power problem. That's Norfolk Southern,
3 and right we can move on to UP.

4 UP is the one I'm most worried about right
5 now. The NARUC is clearly under significant stress,
6 and it continues to decelerate. Service levels are
7 at lows we haven't seen since the Midwest flooding in
8 2019 when Nebraska and Iowa were underwater, and
9 again we see a network in magnet mode sucking in more
10 locomotives and private cars.

11 The BNSF looks slightly better, but asset
12 turns are also at lows we haven't seen since 2019.
13 Of the last two weeks more than 50 trains per day
14 would lead you to crew shortages and power
15 availability has tightened. Like UP the network
16 looks heavy with a gravity that stored as it turns
17 lower.

18 CSX appears to be the least bad of the
19 four, but network speeds are not far from a three and
20 a half year low. Trains hauling for crews began to
21 rise in November from five per day to nine per day
22 for January at which point the network began a

1 grinding deceleration for the third week of March.

2 The good news is that unlike its peers CSX
3 is not reporting any trains hardening for power, so a
4 crew problem has not cascaded into a power problem.

5 KCS has been the best performing network since last
6 summer, but it's also stumbled in recent weeks with a
7 big trail off in train speed since mid-February. KCS
8 does not suffer from material, labor and power
9 constraints to where the 80 percent of its business
10 is interchanged, and that reliance on the four we
11 just talked about has been part of its undoing.

12 Also when KCS and U.S. system speed drops
13 so rapidly, it's often been in the past to problems
14 of specific trackage rights in South Texas, so what
15 you're probably seeing on the far right of that chart
16 is another negative datapoint on UP.

17 CN has been struggling with the British
18 Columbia flooding late last year, leading into the
19 cold of the normal winter, then the Omicron surge of
20 course in January, the network is now in recovery
21 mode. Train speed in the U.S. is still below
22 average, and trains hardening to crews has increased

1 to an 18 month high with a number that remains small
2 and absolute terms.

3 CP has been dealing with the same
4 headwinds as CN, plus a three day labor strike in
5 Canada in March. CP's U.S. network has weathered
6 these events as well as can be expected. So you can
7 see that all of the four big U.S. Class I's are
8 dealing with significant crew shortages, but this is
9 not a unique situation. This has been happening all
10 the time. In this picture you can see that UP has
11 been short crews, leading to service failures in four
12 of the last 10 years, BN in three of the last 10
13 years Norfolk Southern in five of the last 10 years,
14 and CSX in three of the last 10 years.

15 It cannot all be bad luck. When you add
16 in other issues like power problems and CSX's top
17 pace of transition you end up with this chart. It
18 shows asset turns by quarter since 2015, and
19 basically every red square is a significant service
20 failure. This is the minefield that shippers have to
21 try to navigate.

22 Clearly what customers want from the

1 railroads is resilient operations able to provide
2 consistent service across all parts of the economic
3 cycle. What they've been getting instead is fragile
4 operations resulting in roller coaster service with
5 what they no doubt regard as insult to injury price
6 increases.

7 So the question is why. Why are the
8 railroads too often caught with too few crews? One
9 reason may simply be human nature, and over
10 confidence when things are going well. This is a bit
11 of a satirical take on how CEO's think, but the
12 point is that when the network is run well they're
13 more likely to assume it will stay that way, and they
14 can train crews, rather than worry about putting
15 through buffers.

16 Number two, maybe it's just too difficult.
17 The first conductors take six months to find, hire
18 and train, they need to forecast business levels six
19 months in advance, which is basically impossible to
20 any degree of consistent accuracy. Under forecasting
21 volumes result in too few crews when you get there.
22 Add in black swan events like the 2014 polar vortex,

1 and maybe it's a futile undertaking and nothing can
2 be done to overcome the industry core structural
3 fragility, in which case we can all go home.

4 And my view is that there will always be
5 the exceptional event that you just can't do anything
6 about, but this should be closer to once every 10
7 years, rather than every three or four, which is the
8 run rate we're on now.

9 At the very least the railroad should be
10 able to add sufficient resiliency for the single
11 weather event, or the loss of a single piece of
12 infrastructure is insufficient to trigger an
13 unrecoverable slowdown.

14 Number three, have the railroads
15 adequately adjusted capacity buffers to climate
16 change? Climate change announced itself to the
17 industry with the 2014 polar vortex, and we've been
18 averaging one of these events every two years since.
19 Hurricane Harvey started to sit on the UP and being
20 Houston Yards and running for a week, and the
21 wildfire that took out UP's Dry Canyon bridge last
22 year was the first time in my 20 year career that a

1 fire threatened to melt down a Class I railroad.

2 Other railroads seasonally and regionally
3 increasing true cushions to take the rising
4 probability of these events into account. I don't
5 know that it doesn't feel like it.

6 Number four, does the language and
7 structure of the labor contracts discourage extra
8 crews on hand? Crews that pay by the trip, so if the
9 access to current needs, they don't get paid for
10 example. I do not have access to the contract, so I
11 don't know the details, but there may be some
12 provisions that discourage crew capacity which could
13 be cleaned up in the next round.

14 Number five, are furloughs too easy?
15 There are two issues with the current furlough system
16 that may be counterproductive to healthy crew
17 capacity. Number one it makes crews quick and easy
18 to fire, and therefore enticing in that it cuts costs by
19 the management. Secondly, it might provide a false
20 sense of security when furloughed crews are out
21 there.

22 The problem of course is that you don't

1 know how many are going to come back when you call
2 making for some unpleasant surprises. This one is
3 very topical obviously, is the problem PSR? PSR
4 networks are mathematically more fragile because crew
5 and power resources are much lower per load as a
6 result of running fewer, longer trains.

7 The counter argument is that the networks
8 are easy to manage and optimize because you are
9 running fewer trains in a simple framework with less
10 car handling, so less can go wrong. Real world
11 experience tends to support the later argument
12 because they see PSR earlier adopters CN and CP have
13 had superior resiliency over the years compared to
14 the U.S. railroads.

15 In my view is that when it comes to crew
16 capacity and related resilience, PSR versus non-PSR
17 is not the primary determinant because crew capacity
18 regardless needs to be tuned district by district to
19 the individual railroad's unique set of circumstances
20 which of course include which operating model is
21 running.

22 Seventh, the cult of OR. Since the start

1 of the pricing rail Renaissance in 2004 when the
2 industry woke up to the fact that it had pricing
3 power the formula for financial success has become
4 well-established. Pricing growth and costing as in
5 volume growth if you can get it. It's been widely
6 successful with the average offering ratio plummeting
7 from 83 percent in 2004 to the high 50's.

8 We now have a generation of our
9 management's institutionalized into this way of
10 thinking. You can see how successful it's been in
11 the chart. In blue you see the performance of the
12 S&P 500, the index that almost no portfolio manager
13 can consistently beat. The railroads are being hit
14 by a factor of four to one since 2004. As an aside
15 I'll draw your attention to sad red line at the
16 bottom. That's U.S. Class I volume growth which is
17 at exactly 0.6 percent since January 2004. That up
18 .6 per year, that's .6 total.

19 While the railroads have taken 18 years to
20 essentially backfill the decline in coal, U.S.
21 industrial production is up 13 percent over the same
22 period, ATA truck tonnage is up 45 percent, and U.S.

1 GDP has doubled. If we want the railroads to create
2 jobs, help unclog our freeways, and join in the fight
3 against climate change, we need to find a way to get
4 them to grow.

5 Turning back to the Cult of OR it's also
6 become the norm that when an investor asks a rail
7 CEO or CFO where the operating ratio is going over
8 the next 12 months, the only acceptable answer is
9 lower. Additionally in the background is a constant
10 threat of shareholder activism if any of the
11 railroads operating ratios become analyzed on the
12 high side.

13 The industry now has in fact record of
14 activists consistently making money going back to the
15 TCR run in 2008. More recently TCR started seeing
16 it's high outlier operating ratio during the battle
17 with that railroad last year.

18 Now one of the problems with the operator
19 ratio game is diminishing marginal returns. When
20 operating ratios were in the 80's every 1 percent
21 improvement was a big deal because it added more than
22 7 percent to bottom line profit. As the operating

1 rush compresses from the increasingly smaller base,
2 the math changes, and every one percent improvement
3 now adds just 3 percent in net income.

4 While managements are well aware of this,
5 hence the desire among some to try to pivot to more
6 of an aggressive strategy which requires custom and
7 confidence, which requires service consistency, which
8 they don't have.

9 The pivot to growth should also represent
10 the industrial logical end game. Assuming final
11 approval of CP KCS we'd now reach what's probably the
12 end in terms of industry structure, pricing power has
13 been in place since 2004, and all the networks have
14 been pay side apart from BN. All these initiatives
15 significantly increase shareholder value.

16 What's left to do with potentially single
17 benefits? There's only one thing, which is to take
18 back market share loss to trucks. So why has the
19 U.S. pivot to growth so far failed? I can give you
20 three reasons. Number one, is the primacy of
21 operating ratio which clashes with the effect that
22 capacity buffers cost money, hence we get lean crews

1 and erratic service.

2 Number two, possible reluctance to take on
3 new business base diluted for the operating ratio.

4 For example, 35 percent of our business may be
5 perceived as bad business if management has promised
6 investors 45 percent, or 50 OR. And lastly, a low OR
7 is instant gratification financially while building a
8 truly truck competitive service platform would take
9 years in terms of a track report that customers can
10 trust before they flip the volume switch from truck
11 to rail.

12 In the interim the OR is going to be 3 to
13 4 percent higher than it otherwise would be, which
14 paints a target on the rider's back for activists.
15 That last point leads to a degree with what's
16 happened to CN in recent years.

17 Regulatory options. There's always a do
18 nothing option, but if nothing comes out of this
19 hearing we're effectively hoping that one of two
20 things will happen. Number one, that the railroads
21 have now learned their lesson during the current
22 crisis and will add the necessary padding to crews

1 going forward.

2 Number two, that over time the operating
3 ratio diminishing returns argument wins out, but this
4 is uncertain and wouldn't happen quickly if it did.
5 If nothing changes there will come a day in the not
6 too distance future when a railroad with poor service
7 and 49.9 hour walked into a customer's office and
8 extracts an above inflation pricing freeze. That
9 feels wrong to me, and would feel wrong to the
10 customer. I would ask the STB to start thinking
11 about how they feel about this as well. So that was
12 the benign option.

13 At the other end of the spectrum you have
14 this try to short circuit the Cult of OR. I was
15 reluctant to bring this up, but I felt compelled to
16 for two reasons. Firstly, if you follow the logic
17 from the prior 30 slides this is the unavoidable
18 destination. Secondly, I think the uncomfortable
19 reality is that if you truly want to change behavior
20 in this industry you need to confront this issue to a
21 certain degree.

22 I want to be clear this is not a

1 recommendation, but rather an example of what it
2 would take to shift the industry's north star away
3 from operating ratio and onto something that would
4 actually benefit shippers.

5 It might be achieved by presenting a real
6 or perceived regulatory consequence for falling below
7 a stated operating ratio red line for those railroads
8 unable to demonstrate a track record of service
9 consistency. It breaks the investor pressure points
10 on management, so when Wall Street asks for ever low
11 operating rush hours, management gets to say no and
12 keep their jobs.

13 You've essentially given them the
14 political cover they need to invest in resiliency and
15 try to pivot to growth. Such a thing of course would
16 also come with the risk of unintended consequences.
17 Sometimes the cats just reviewed to be tamed. In
18 summary there's probably no elegant solution to
19 structurally fix rail service, that we are all tied
20 going down this road, and something needs to change.

21 At this presentation is at least food for
22 thought in this regard, and thank you for allowing me

1 to participate in this important hearing.

2 CHAIRMAN OBERMAN: Thank you Rick. I'm
3 sure we're going to have some questions. We're going
4 to hear from Brian, and then we'll have some
5 questions for both of you, but very, very lucid
6 presentation, appreciate it. Brian?

7 MR. OSSENBECK: Here we go. Okay good to
8 know thank you. If you could please bring up the
9 slides for my presentation. Excuse me I apologize
10 for my voice. I have a long recovery here from me,
11 but happy to be here. Thank you for the invitation
12 Chairman, and to present our perspectives in this
13 hearing.

14 CHAIRMAN OBERMAN: Glad you could be here.

15 MR. OSSENBECK: Thank you. So for a little
16 bit of background. Been covering the rails for about
17 the last seven years. We covered trucking, less than
18 truck load parcel, and I believe an autonomous
19 trucking company. I started originally in my career
20 doing engineering construction, metals and mining,
21 and we launched basically the end market focus, you
22 know the transports, the rails, they are derive

1 demand, they don't really create demand.

2 And it is very hard to match the volume
3 variability. And when I launched it was basically
4 after the 2014 service challenges, so look at all the
5 metrics that we can. Head count was certainly one of
6 the most important now, and was taken that view
7 basically ever since the vaccine mandates started to
8 put additional pressure on what's already a
9 constrained resource.

10 And I wanted to start off by when I get the
11 slides up, by going through a bit of a more broad
12 perspective on the supply chain, and just how we look
13 at the general trends further upstream starting with
14 the ports, and then moving on down from there.

15 Hopefully they can move those shortly.
16 There we go. Okay great. Sorry for the delay, thank
17 you very much. That was a bit of a late edition.
18 But it's definitely better to walk through this than
19 to listen to hear me speak, the pictures do
20 definitely help. Let's see if we can get this
21 moving. Maybe you can just someone can navigate to
22 the second slide. Okay. I can call them out as we

1 go just to keep things moving. Okay that's a little
2 bit different, but we'll just go with it, it's fine.

3 So just to back up to start at the ports
4 and where we spend a lot of our time looking at
5 supply chain congestion, so the west coast ports I
6 think are the best proxy, and it's really been a
7 challenge of one-way imports for quite some time. So
8 you can see on the top right slide here it's just the
9 ratio of the spot rates when you send a container
10 from China's west coast versus the other direction.

11 So basically looking at 15 times more
12 profitable to send something to the U.S. than to send
13 it backloaded from the U.S. to China. So that still
14 favors heavily the east bound shipments, and so what
15 we have is just the confluence of additional demand,
16 obviously the stay at home, the additional spending
17 on goods really exacerbated this challenge, and so
18 the economics are doing what you would expect and you
19 would see a bunch of congestion showing up on the
20 ports because we've always had some one-way traffic,
21 but you've typically had some exports going back
22 full, and so the ratio has been like one to two, but

1 now it's closer you're getting for every loaded
2 import you're getting close to one empty export going
3 back. And those that aren't going back are just
4 staying around in what's already a congested
5 infrastructure.

6 So that has continued, it's moderated a
7 little bit, but the economics are still keeping this
8 very much in place. So the congestion obviously
9 starts at the west coast, but it's not necessarily a
10 west coast problem, and we expect it to spread
11 throughout the rest of the country here. It has
12 spread throughout the rest of the country rather, so
13 the bottom two graphs you can see the relative T
14 use, so 20 foot equivalent units relative to 2019, so
15 pre-COVID.

16 The west coast is actually stabilized, but
17 it's obviously remained quite high relative to prior
18 training, and the east coast has really worsened
19 after the west coast peak. So you pair that with the
20 Gulf Coast and what we're seeing in terms of even
21 truck rates that have Houston import activity up 30
22 percent.

1 In Houston, people are finding different ways to ship the goods
2 and get them to the U.S., and we're actually seeing the west coast
3 start to back up a little bit as well, because on top
4 of that we have the ILWU potential disruption with
5 their labor agreement coming to an end later this
6 summer.

7 So it gets a little bit more complicated
8 as we go throughout the rest of this year because
9 China is obviously in quite a bit of the COVID
10 lockdown. What we've seen in the transit days are
11 still long to get to the U.S., but the boxes are
12 moving, so we don't think it's completely shut down,
13 and our econ team last night actually came out and
14 said that through put is actually going four to five
15 percent in March, and then the first part of April.

16 So things are still moving, but the point
17 is a large economy shutdown, and we're a natural
18 destination for that, so one thing to keep in mind
19 when we talk about the fragility of supply chains,
20 they haven't quite recovered. Things really changed
21 in 2020. This time around the rest of the world is
22 open, China is the one that's closed.

1 So you know it could be a little bit
2 different this time in terms of the surge that
3 everybody's expecting or preparing for. We expect it
4 might be a little more spread out, but it's
5 certainly something to keep in mind. If I can't
6 navigate this myself you don't mind, there we go.

7 We'll go the next one stepping from the
8 ports into the terminals. This is where the
9 railroads start to play more of a factor. What we
10 see here is really that the west coast made a good
11 amount of progress when they basically threatened
12 fees \$100.00 per day that escalated an additional
13 \$100.00 per day. If you were a late dwelling past a
14 certain amount of time.

15 A site where they cleaned out some of the
16 congestion what we've seen here in these two charts
17 though we can make out on the bottom left is really
18 the rail serve containers, so yellow is more delays,
19 where we saw the challenge in sort of late 2020 and
20 early 21, the containers served by rail were staying
21 around for quite some time. That made some progress,
22 essentially when the western rails shut down and

1 reset some of the networks.

2 The trucks on the top right made a bit
3 more progress. Slowed down a little bit in the later
4 part of last year, but actually started to pick up
5 the pace. And what we're seeing now is the dwell
6 time starting to inch back up. So part of this is
7 seasonable, part of this is natural, but based on the
8 data that we're looking at we're seeing the rails
9 start to fall, and get behind, so we're seeing
10 fluidity coming out of the LA, the LA port, and also
11 Long Beach starting to slip from the rail
12 perspective.

13 So this is something that we are watching,
14 and you know when you think, when you hear about the
15 commentary and the trade press, we have seen fewer
16 loads going into the IPI going into the interior, and
17 you know this could be part of the reason why as
18 they're not moving fast enough off of the terminals,
19 but we would also say that the economics you talked
20 about earlier with the westbound and eastbound spread
21 is just more profitable to drop the container and get
22 it back, so that is actually adding extra stress onto

1 the system.

2 If we go to the next slide and we look at
3 inbound -- intermodal inbound, the interior rather,
4 very challenging last year. So there's multiple
5 instances of gate and terminal closures, they started
6 late in 2020, the surge again was nothing that most
7 people in the industry had predicted, and it was very
8 hard to react.

9 We have seen volumes that were elevated
10 through the first half of last year. Weather
11 challenges didn't help and one of the metrics that we
12 look at here is just how many loads that are being
13 sent to a certain region are being rejected?
14 Basically we can't take them, we don't want to take
15 them, or we're going to try to find another way to
16 move them.

17 So as you can see in these lines, the blue
18 dotted lines for some of these major hubs actually
19 got quite a bit worse in 2021. The coincided with
20 some of the rail service shutdowns. This is another
21 way to kind of monitor what's going on when we get to
22 the interior away from the ports into the major

1 destinations from where they might be sending the
2 traffic.

3 So this is relatively new for us, so
4 obviously we would like to capture every single
5 datapoint we can, that's helpful, but I guess the
6 point here is that they're more fluid, their volumes
7 are down. So again the spread between import, export
8 containers that we saw earlier is really limiting
9 some of these interior shipments we think, so they
10 are fluid, but on down volume you know that's
11 something to definitely consider.

12 And one of the things we've been watching
13 for some time now since the beginning of the year is
14 just the excess inventory, or the potential to have
15 excess inventory with all the restocking that was
16 done last year. Then you have consumers spend start
17 to change to more services, you have more inflation.
18 Other challenges, less stimulus, and what we've seen
19 is basically inventories going from we need to
20 restock the first half, to differing degrees we might
21 have enough at this point.

22 So I think that's also playing some factor

1 into this as well. So if the interior is not the
2 challenge then what is the problem? One of them we
3 think is just the equipment which you know to be
4 honest chassis weren't really something that a lot of
5 investors paid attention to until it was a problem,
6 but we kind of view this as the glue between the
7 upstream and the downstream, the physical link as it
8 were between the ports, and to a certain extent also
9 the inland side.

10 But we look at mostly the ports because
11 that's the data that's available to us, and so this
12 is another early indicator of some of the congestion
13 that at least start on the west coast and move to the
14 interior in 2021. What we see here is basically
15 chassis are in high demand, they're almost at max
16 utilization, they're dwelling longer than they have
17 been before in the terminals themselves, and also on
18 the streets, and one of the things that you see on
19 the next slide is the downstream congestion.

20 So what we hear a lot about is downstream
21 is the bottleneck, the warehouses, the shippers, the
22 ports. We can't get enough people. We can't turn

1 things fast enough, and that's where everything gets
2 backed up. So what we've seen is the chassis and the
3 street turns are the best metric to sort of monitor
4 that, and the different charts here are basically
5 just to show that yes, things have gotten a little
6 bit easier to turn.

7 We would think that the demand side
8 actually being less of a need to do all that
9 restocking would actually help some of these metrics
10 improve because you'll just have to move it as fast.
11 The fuel spike that's happened more recently has
12 changed some circuit behavior, so they're trying to
13 improve their chair utilization, they're sending
14 fewer trucks, and that would just help the fluidity
15 improve downstream as they can sort of catch up as
16 they're not dealing with this perpetual surge of
17 volume coming into the system.

18 So we are expecting a little bit more
19 improvement from that perspective, and so just some
20 of this whole view on the global supply chain,
21 obviously we think is very interconnected. There are
22 signs of congestion that are pretty much everywhere

1 triggered by COVID if you want to point to one
2 specific thing in our view.

3 Still going on with the lockdowns in
4 China. We are seeing some green sheets of stability,
5 and we think that when consumer demand shift to more
6 services, inventory is a little bit more caught up,
7 that should help reset some of the balance that we've
8 seen coming into the U.S. But in terms of what we're
9 concerned about it really is the rails on the west
10 coast ports, and then trying to see if there's any
11 relief on the chassis side as well.

12 So switching to the second part, and maybe
13 just giving a little bit of our perspective on and
14 why we care about the service metrics on the rail
15 side. It is the key engine, one of the key engines
16 for earnings growth. If there is no fluidity the
17 volumes suffer, efficiency suffers, and that affects
18 earnings outlook, and equity values of course.

19 Any time there's STB inquiries, more
20 disclosures, hearings, and potential regulations it
21 obviously affects potential evaluation and whether
22 there's an offset to some of the earnings that the

1 railroads get from demurrage of their storage fees it
2 would typically be that is an encore and not
3 sustainable, and try to value those differently, and
4 sort of look through them.

5 The truckload conversion opportunity is
6 really what the industry has been and should be
7 focused on in the future, but it really won't work
8 with inconsistent rail service. And the two graphs
9 that we have here from a report we put out a couple
10 years ago basically trying to quantify how much rail,
11 potential rail revenue there was in the rest of the
12 freight market, and when we look at the numbers
13 they're quite large.

14 It doesn't even have to be -- we don't
15 thing it's anywhere close to the market that's
16 completely addressable, but putting some parameters
17 around it we get to 45 billion, which is still a very
18 large number for the industry.

19 It will require in our view, investment,
20 partnership and consistent rail service, ESG volatile
21 truck rate cycles, higher final miles costs on the
22 personal side, and all those things favor this

1 opportunity, but it has been an opportunity for the
2 most part because we haven't seen material growth
3 from that perspective.

4 In terms of how we look at the rest of the
5 rail service in particular. You know we have a lot
6 to look at, but we try to keep an eye on certain
7 aspects of it, you know the speed and the dwell.
8 Those are where we start, the terminals in terms of
9 how we try to see if there's a seasonal aspect to
10 something that's popping up, and then we try to focus
11 on how the rails operate, which the increase they say
12 in the PSR world is on asset utilization, and
13 resource availability, which has obviously been a
14 pretty big component of the last couple of quarters.

15 So some of the telltale signs that we look
16 at obviously slowdown velocity, increasing in dwell,
17 and then more recently it's really been the
18 utilization and the resource availability when we
19 look at just how cars are moving, we're not, and then
20 how many trains are being held for the different
21 reasons.

22 We don't ignore Chicago, but you know it

1 hasn't been as much in the news of late, but we do
2 keep a close eye on it because I feel like if there's
3 a still canary in the coal mine, which we have a good
4 amount of data via the STB, this is the one we keep
5 an eye on.

6 So right now I guess the two takeaways
7 from this slide is that it never seemed to recover
8 when we look at the transit time in 2020. It never
9 seemed to recover from the surge that happened after
10 that and right now the transit time is inching up, so
11 something that we are concerned and watching. And we
12 look at it from a seasonal perspective because
13 there's always weather, there's always winter, even
14 though it often gets blamed for challenges. So I
15 think those are the -- and the other aspect would be
16 that the volume -- yeah please?

17 CHAIRMAN OBERMAN: (off mic.)

18 MR. OSSENBECK: Correct, and we -- no
19 thank you. We show a 7-day average just to kind of
20 move things out a little bit so we don't have to pick
21 apart every single graph as it comes out and update
22 it every week. But I guess the point here is it's on

1 lower volume, which is a theme from a couple earlier
2 slides.

3 You know lower volume worse service is not
4 really what we look for and what to see in these
5 metrics. Looking at the dwell times something that
6 we try to pick out the ones we might want to focus on
7 where there's again a concern that's building, not
8 something that's just a little more episodic, so the
9 top right is obviously the car miles per day for
10 Union Pacific.

11 That's something I think that encapsulates
12 the network overall very well. Unfortunately not all
13 the rails provide that, but we look at the terminals
14 what we try to see is how is it performing right now?
15 How is it performing this time last year from a dwell
16 perspective, and then how is it performing on the
17 last three months?

18 Because what we've seen is that when you
19 get those things moving in the wrong direction it's
20 worse every year, and it's worsening on a monthly
21 perspective, then it's usually a sign to dig in and
22 find maybe an answer to. But again this points back

1 to if this is variable, it's going to make it hard
2 for the rails to get consistent truck load service
3 like consistent truck service rather, that they can
4 get rid of the rail and off the highway.

5 When you look at the intermodal car
6 fluidity you know this is I think increasingly
7 important, and just to give you a sense of what we
8 look at here is basically how many loaded cars, and
9 empty cars are moving, or idled rather for more than
10 48 hours?

11 So again, some semblance of fluidity at
12 the asset level. And you know we scale this off of
13 the network itself, so we have a reference point to
14 how it is on the overall network, and what we've seen
15 is just from 2020 onward, less fluidity. And you
16 know again that's going to make it hard, especially
17 from an intermodal perspective to convert off the
18 highway.

19 There's certainly reasons that things have
20 been delayed. You know again good spending has
21 really increased quite a bit, but when you look at
22 the asset turns at the car level, and you're trying

1 to see if there's a potential to grow and to get more
2 revenue off the highway, you know it's been certainly
3 a big challenge for them. And we've seen this across
4 several of the networks.

5 Trains held I think is one of the more
6 important metrics at this point in time with the
7 weekly updates that we get. And they have been a
8 pretty good leading indicator of resets and
9 shortages. So we see here the UP and the BNSF and the
10 Norfolk. We look at them a different perspective on
11 the UP. We look at the intermodal side which is
12 actually getting you know almost as bad as it was
13 back in May when they had a reset of the network.

14 You can have weather events, derailments
15 and other things that factor into this, so again the
16 trend line is what we're more interested in, but they
17 have been pretty good in terms of leading indicators
18 for broader service challenges. Again we break it
19 apart into power, crew and other, and we can
20 certainly see, at least in the BN and somewhat in the
21 Norfolk side, that crew is becoming increasingly a
22 cited challenge for getting freight to move.

1 And in the case of the BN it's looking,
2 based on this perspective, they're having almost the
3 highest number of trains held per week on record. So
4 certainly something that we're mindful of. We boil
5 it down to probably one slide. It really comes down
6 to this one. It's probably the most important at
7 this point, rail crew variability.

8 Obviously it's all interconnected, but
9 this one certainly stands out to us, and again we put
10 this on a seasonal perspective to show the five year
11 range in the last couple of years, and you know when
12 you see more and more trains being played, and again
13 fewer trains, less volume, lower earnings, all this
14 matters quite a bit from our perspective.

15 You know you have seen some pretty big
16 spikes, and again we did a lot of work around the
17 vaccine mandate which we were initially concerned
18 about making the problem worse. I certainly don't
19 think it helped, even though the federal mandate has
20 been suspended, but if you look at for example the UP
21 graph, you can see the spike in 2021, a couple of
22 them that actually coincided with some of their

1 service challenges in May from the intermodal side
2 and then in fall on the coal side.

3 Norfolk Southern is running in similar
4 levels to 2018 when it had some challenging service
5 performance as well. The BNSF had a very big spike
6 the end of last year, they haven't seemed to recover
7 from, and then CSX you know was the first one to call
8 this labor issue out about a year ago, but even they
9 will say that they're about nine months behind where
10 they thought they would be.

11 So you know ultimately -- oops I skipped
12 one, all right. I guess that last slide didn't make
13 the cut. I'll take the hint. But basically you know
14 the last slide was going to show that you know from
15 an investor perspective, decreasing headcount has
16 usually been a good thing, and you know it's the
17 productivity, it's the benchmarking, it's all those
18 things that you know that you look at from a company,
19 especially one that you can benchmark against each
20 other pretty well like the railroad.

21 But T&E and headcount is a long lead time
22 item. We'll hear that through the proceedings today.

1 So getting the right amount of people in the right
2 place at the right time has always in my opinion been
3 challenging. You know just look at coal this year.
4 No one really expected it to be a growth engine. No
5 one expected it to be \$7.00 natural gas, so that
6 network's been paired down over time because of the
7 secular headwinds there, now all of a sudden to try
8 to turn around and deal with it you can imagine is a
9 pretty big challenge.

10 So we've been saying the rails need to
11 hire since the third quarter of last year, and you
12 know they do have an easier time managing down. The
13 question is you know how can they manage up? How can
14 they grow? And you know if they are going to convert
15 more trucks off the highway, how do they do that
16 consistently? How do they have the service that
17 customers will give them that volume and keep that
18 with them throughout the cycle? So thank you very
19 much for your time. Hopefully that was helpful.
20 Appreciate it.

21 CHAIRMAN OBERMAN: (off mic.) Well that I
22 think both of these presentations were extremely

1 enlightening and my guess is you guys didn't talk to
2 each other, but you overlapped perfectly, each
3 focusing on something really that was really, really
4 very helpful to us.

5 I have a couple of very general questions,
6 and then you know we'll turn it over to some other
7 Board members. So what seems interesting to me, and
8 maybe I just don't understand Wall Street very well.
9 You know Brian you have a slide that talks about what
10 Wall Street looks for in rail service metrics, and
11 Rick talks about the -- I'll get the page out here,
12 the Cult of the OR.

13 And what I'm sort of maybe you can
14 enlighten me on this. You know the railroads have
15 been -- at least since I began Chairman, have been
16 talking about a pivot to growth which I'm waiting to
17 see. Yeah time is running out on us here. So does
18 Wall Street not look to growth?

19 You know Rick you had this figure that the
20 reductions in OR are reducing benefit. If there
21 really were growth, and both of you talk about this,
22 would that impress Wall Street? And would they

1 reward the CEO's and not get them fired? That seems
2 to be the mystery here that I'm not following, so
3 either, both of you might want to address it.

4 MR. PATTERSON: Yeah, the short answer is
5 it's easier to derive earnings with price and volume
6 right? Price has no associated cost. So while you
7 can grow the margin you grow the margin, but again we
8 are hitting in this diminishing marginal turns
9 argument, so that I'm surprised there hasn't been
10 activity growth more aggressively so far.

11 Now there are some reasons why there's
12 inertia from pivoting away from operating ratio. And
13 also it's the timeframe. You know for these
14 railroads to regain credibility with customers.
15 They'll fix a service in Q4, Q1. If they're running
16 well for two, three, four years, at that point
17 customers will likely give them more basis truck to
18 rail. That's a huge investment in time.

19 So it's an unwillingness to think
20 long-term to invest in resiliency, and do the hard
21 work frankly.

22 MR. OSSENBECK: Sure. And I would just add

1 at least from our perspective there's -- we've heard
2 about the pivot to growth, we've heard about the
3 truckload conversion, but you know what sort of dots
4 on the map do you need to put, do you need to extend
5 the reach of the network? Do you need more onramps?
6 You know however they want to put it, it's just a
7 little unclear in terms of what types of investments
8 need to be made physically, and again to Rick's point
9 that does take a good amount of time.

10 I think the other thing to point out
11 though is that we do talk to investors who even you
12 know this year and last year who think that you know
13 the golden age of rail stocks is over, and they would
14 like to see more growth.

15 So you know I don't think it would be a
16 very quick process, but if you can actually put
17 numbers behind you know the 45 billion, even if it's
18 30 billion, whatever the number is like that's a huge
19 number, and to get it sustainable and to put ESG
20 behind it, like all of these things that have been
21 brought up, you know, to actually show it I think
22 would be pretty impactful because there certainly are

1 people who are waiting for that.

2 CHAIRMAN OBERMAN: I actually have some
3 follow-ups, but I have a message that Robert Primus
4 wants to ask a couple questions and he's got to duck
5 out for a second. So we're going to switch to
6 Robert, and we'll come back, and I think Patrick also
7 has some follow-ups, but Robert you're on.

8 BOARD MEMBER PRIMUS: Thank you Marty and
9 thank you for the indulgence and time. Rick I want to
10 say, real quickly, I want to thank you for -- both
11 you I thank you for being here, but Rick in
12 particular, you said in your update dated March
13 29th, and you said it here, that resilient operations
14 able to provide consistent service across all parts
15 of the economic cycle. I mean that's where we hope
16 the railroads -- you know, that's where we want them
17 to be. In the next paragraph you say, but this is
18 where we are, fragile operations resulting in a
19 rollercoaster service, the financial reserves
20 consistently expressed by pricing power. I think you
21 hit the nail on the head. I think that's the biggest
22 challenge for us here today.

1 It's how do we -- you know, turn the ship. How
2 do we get them away from this rollercoaster and this
3 fragility that is causing, not just the customers,
4 but our economy, to go into shock. I just have a
5 question; you know you talk about the year recovery.
6 Considering the labor challenges that we're under
7 now, do you expect the recovery to be a year in this
8 instance, or do you think it's going to be longer
9 before the railroads can adequately get the labor,
10 they need to address the service issue there in front
11 of them?

12 MR. PATTERSON: Robert thank you for your
13 comments, much appreciated. When railroad networks
14 meltdown they become locked. Right, a locked class
15 one network is starved of critical resources, and
16 it's like a car engine that can't get into first
17 gear. It's running rough and can't get into first
18 gear. You have to unlock it.

19 And you unlock it by fully offsetting the
20 decline in speed with the rise in that critical
21 resource right, it's based on double digits, and
22 double digit increase in crews. And that's the

1 timeframe. It can move with volumes obviously, but
2 that's also pressure. So it's a race to hire, and no
3 one knows the answer right? The rails will give
4 their best guesses, but no one knows the answer.

5 My best guess, the eastern two guys you
6 know sort of fell away faster than the west. So
7 those should lead the recovery as well. So we've
8 probably got an unlocking event in late Q3, best
9 guess for CSX and NS, and then an unlocking event for
10 Q4 for the western guys.

11 And then you've got a three month spin up
12 to get back to normal, and that's why I said you know
13 late 2022, early 2023.

14 BOARD MEMBER PRIMUS: Is that the best
15 case scenario you've got?

16 MR. PATTERSON: Yep.

17 BOARD MEMBER PRIMUS: And so, given the
18 thought of what Brian just said about, the imports
19 coming in and China starting to reopen, as you know
20 what's going on in Ukraine and the fact that there
21 may be a greater demand on our agricultural products
22 or seeds. Are we potentially walking into and Brian

1 you can address this to -- are we walking into a
2 perfect storm in those Q3 and 4 of this year? Without
3 hitting those employment targets and with demands
4 being higher potentially, because of these issues?

5 MR. PATTERSON: Yeah it's going to be a
6 tough time. They're all running ragged. They're
7 going to hit hurricane season. They're going to hit
8 California wildfire season. If customers defect to
9 trucks at a faster pace that removes pressure, and
10 that reduces the number of crews you need to hire to
11 offset the decline in speed.

12 So ironically you know the more the
13 customers defect and the faster they recover, which
14 is strange. But yeah, the answer is yes. We're
15 going to have a tough, tough next six months.

16 MR. OSSENBECK: The truck market, at least
17 from a spot perspective had weakened quite
18 significantly here in the last call it month or so.
19 So it there will be a little bit more fungibility
20 going back to that system if there is a need, but if
21 things like commodities, the hard assets that the
22 grains, those sorts of things happen, it won't be

1 moving in that stage.

2 We are a little more optimistic than I
3 think most people with the China reopening that it
4 won't just come in a deluge, and we see that, and the
5 data is already starting to trickle out. But I think
6 we'll be watching that crew viability very closely.

7 BOARD MEMBER PRIMUS: Thank you.

8 CHAIRMAN OBERMAN: Thank you Robert.
9 Patrick had a couple of questions, and then I'm going
10 to come back.

11 BOARD MEMBER FUCHS: Thank you all, and
12 you all both presented service and other data with
13 great clarity, and I'm wondering what metrics do you
14 not have that you would find useful, and would those
15 metrics help you better evaluate railroads and
16 improve capital allocation?

17 MR. PATTERSON: Thank you Patrick. You
18 know the railroads report a ridiculous amount of data
19 as it is, so they do a good job frankly, or they're
20 meant to do a good job. So you know you can read the
21 tea leaves fairly well as it is. First mile, last
22 mile, as it's been discussed certainly, and in which

1 a while ago the number of data train stops right?

2 We know how many trains will help the
3 crews fill in what base, what percent is it right?
4 Being able to get a percentage idea of trains holding
5 and other metrics would be useful. So I reach out to
6 train stops.

7 MR. OSSENBECK: I would say anything that
8 can help us look at it from the shipper perspective,
9 just as we try to marry you know the on time service
10 things shipped on the car basis, anything that would
11 help us kind of bridge that gap in terms of what they
12 report, what the customer experiences, I think that
13 would be helpful just to fill in you know what we
14 don't have, because we certainly do have a lot of
15 information already but it seems like if we're going
16 to look for a stronger period of growth, more
17 conversion, grid reliability, the on time
18 performance, the trip plans, you know those things
19 certainly would add another element.

20 We did get a lot so it would be one piece
21 of it, but I would be interested to see it.

22 BOARD MEMBER FUCHS: CSX recently

1 presented to the Board a change in their long-term
2 incentive program, and I think they shifted from
3 operating ratio and return on assets to operating
4 income growth rate, and cash earnings growth, and
5 maybe not the volume growth that you all were talking
6 about, but a type of growth.

7 Is this the type of change that is
8 evaluated favorably? And if so why?

9 MR. PATTERSON: Yes, yes it is. That's a
10 positive change. Anything that can be driven by
11 something in addition to margin is what you're
12 looking for. Anything that has a growth component is
13 the short answer.

14 MR. OSSENBECK: I would agree in terms of
15 you know just from other companies we cover as well
16 if there's metrics, if they're incentivized it's only
17 natural to expect behaviors to follow those, and so
18 we've seen some interesting things over the years,
19 but I think going down that route would help broaden
20 the discussion. It wouldn't just be focused on OR,
21 because we didn't talk about it yet, but OR can be
22 impacted by the price of fuel like OR has improved

1 during the financial crisis. Well that really wasn't
2 OR improving, it was just fuel collapsing.

3 And there's mix in even pension accounting
4 forum which happened in 2017, and all of a sudden the
5 Canadian rails were much less efficient because there
6 was 300 to 400 basis points of pension income that
7 went out and moved somewhere else on the income
8 statement. So anything to make it more holistic I
9 think in general for any company, railroad or others,
10 would certainly be well received.

11 CHAIRMAN OBERMAN: To follow up on a
12 couple things we were talking about. So from this
13 question about growth takes time, so I gave a talk at
14 Rail Trends last November, and I was ranting about
15 OR's on what to do. And my friend Tony Hatch got up
16 and said, "Mr. Chairman you know not everybody on
17 Wall Street is a short-term investor, there's
18 long-term investors too." And I said well the
19 short-term guy seemed to be winning.

20 So when you talk about what's in your
21 report about pivoting to growth, are there in your
22 view long-term investors on Wall Street who are

1 responding to the kind of analyses you're making who
2 might find it useful to be putting their own input
3 into management and boards of directors to stop
4 worshipping at the Cult of OR. I mean how does that
5 happen I guess is the question.

6 MR. PATTERSON: Good question. There's
7 not many investors that have a three or four year
8 timeframe. They can't, they need returns 12 months,
9 24 months. They're not going to sit around and wait
10 for a railroad to repair its service for a year, and
11 then build customer credibility two or three after
12 that. That's too long because you know that can
13 still rail. I need to buy something else, right. So
14 I think that's been part of the inertia frankly.

15 MR. OSSENBECK: Yeah and I found even yeah
16 the longer term investors do have to be very mindful
17 of the short-term volatility which of course has been
18 quite high recently. But I think it does take time.
19 You can look at the comments from someone like CSX
20 who bought a trucking company, quality carriers.

21 I think that's been well-received so far,
22 so you get more transloads, you get better service,

1 and you know I think people will gravitate to that
2 because you know just like the improvement of the OR,
3 the downward trend of the OR is something you can get
4 behind and believe in for whatever the reasons were
5 at the time.

6 If there's improvement in growth it's
7 going up into the right for conversion for service
8 for the fly well that could potentially happen in
9 that. Then I think that could be very interesting,
10 and from a long-term perspective as well.

11 CHAIRMAN OBERMAN: So I don't mean to put
12 you on the spot. Maybe I am putting you on the spot,
13 but you are two of the guys who investors look to.
14 And you know your reports are remarkably on point it
15 seems to me based on what we're seeing and what
16 you've heard from shippers and labor this morning,
17 about employment levels and so forth.

18 But you seem to be not moving all the
19 other Wall Street observers. I mean I don't know if
20 you're outliers, and you've just got more insight, but
21 it makes me wonder do the Wall Street observers like
22 yourselves move railroad management, or does

1 management move the Wall Street observers?

2 So in your example you just answered
3 Patrick by saying when CSX moved away from using OR
4 as a compensation measurement that was favorably
5 received by Wall Street. So I'm a little confused as
6 to how it works because everything we've been told is
7 that Wall Street is driving this call it OR, not
8 management.

9 And I have had railroad executives,
10 current ones, say very privately we don't like being
11 pushed around by Wall Street. We'd rather run the
12 railroad the way we want to run it, but we don't have
13 a choice. Not a lot of them confronted me, but one
14 or two have. So how does it work? I mean in terms
15 of who's moving who here in terms of the operations?

16 MR. PATTERSON: You know at the end of the
17 day they're publicly owned companies, and the owners
18 let's say you know, have the most influence. So
19 you've got shareholders that are looking for 12 month
20 returns. You've got some CEO's that probably said
21 privately you know I don't want bad service. I want
22 to grow. I want to grow this business, and have a

1 platform we can be proud of.

2 That can be incompatible again because it
3 takes time. And it takes, and you need to run an
4 operating ratio three or four or five percent higher
5 than you are now to make that investment, and then
6 wait. And you're vulnerable when you're waiting.
7 And you'd be taking arrows from your owners frankly,
8 but that's how I see it.

9 MR. OSSENBECK: Yeah I would just add that
10 excuse me, that the track record was one that as an
11 investor you could look at the first PSR iteration,
12 and then go to the second and the third. When you
13 look on the growth side you know there's been I guess
14 Canadian National did more investing in growth, and
15 then they had a service challenge you know not too
16 long after, so there's probably what I would just add
17 is there's probably a little bit of a disconnect from
18 an okay we know we can implement and be more
19 efficient, but in terms of growing and made
20 sustainable, there just isn't that track record so to
21 speak in terms of how it's been done across the
22 industry.

1 But again it does take time, but we've
2 heard about it for quite some time as well, so I
3 think you know that is going to be an interesting
4 dynamic as we go throughout the next couple years.

5 CHAIRMAN OBERMAN: I've got two more
6 questions. I realize -- the lights on no? I forgot.
7 I'm trying to keep it clean here. Rick I took it
8 that you made this point only for analytical
9 purposes that somehow if we passed a law or
10 regulation that said no OR's beginning with four are
11 allowed, then executives could go to Wall Street and
12 say hey, I'd love to help you out, but I can't.

13 I'm not ruling anything out, but I don't
14 think that's in the cards in the near future. But
15 the question is, is there anything else that the STB
16 could do that you could think of which would give the
17 executives some backbone to go to the investors and
18 say I can't do it anymore, you know, we're ruining
19 the system. What else could we do?

20 MR. PATTERSON: That's why we're here
21 right? The last resort, it's the last resort when
22 all else fails, and we're not there yet. But it also

1 tackles the core issue. So what's the elegant
2 solution? I don't know because the owner's dancing.
3 The idea I heard earlier that may be some sort of
4 financial penalty when they turn product cars
5 slower, that sounds good to me because then they can
6 still chase OR by turning the cars fast. That's a
7 good idea. So I'd reinforce that one, then after
8 that there's no no-brainer.

9 CHAIRMAN OBERMAN: The other question, and
10 you both impressed me with your understanding of
11 railroad operations, but if I'm going a step too far
12 for you feel free to tell me. Your analyses of what
13 happens with crew shortages and how that creates
14 congestion and so forth, was there anything you heard
15 from the folks from labor about increasing velocity,
16 putting more power and shortening trains that they
17 suggest would improve the congestion problem quickly
18 without you know while we're waiting to hire up more
19 people which takes some months.

20 Was there anything you heard in what they
21 said that struck you as improving the metrics that
22 you both reported on?

1 MR. OSSENBECK: They there was an
2 interesting point from the prior panel because I
3 think there are you know enough locomotives, and
4 even the various calls last week it's just been
5 cited as a crew challenge. UP believes, and publicly
6 said they're going to put more locomotives into
7 place, and so maybe you know that will be the first
8 case. We can see that potentially happening, but you
9 know I don't think everything should be on the table
10 at this point it seems, given where service levels
11 are, and some of the comments we've heard from
12 shippers.

13 But I think without knowing exactly where
14 it's going to be put into place is hard to say
15 categorically I would hope, but I would also think it
16 probably wouldn't hurt at this point.

17 MR. PATTERSON: Anything local and
18 tactical could have value. But you can be careful
19 because you know you're changing the operating plan
20 which creates domino effects, and it's got to work
21 everywhere in a synchronized fashion. So you don't
22 just, you know, you can just mandate it or whatever

1 and then see what happens.

2 But it's something the railroads will need
3 to plan for, for several weeks, if not months, to
4 try and do it properly. It's also a you know again
5 it has merit, but it's a small solution to a much
6 bigger problem, it's a band-aid in short-term.

7 CHAIRMAN OBERMAN: We're bleeding, so a
8 band-aid might not be a bad idea for the moment until
9 we can get the stitches in.

10 VICE CHAIRMAN SCHULTZ: Thank you both for
11 your insightful testimony today. Mr. Patterson you
12 had mentioned that the railroads have experienced
13 crew shortages for as long as they've been around. I
14 wondered if maybe you could speak to how the crew
15 shortages historically have compared to what's
16 happening today.

17 MR. PATTERSON: Thank you for your
18 question. You don't get a pandemic every three or
19 fourth years, you get one every 100. The 2014 polar
20 vortex was a real serious problem that no one saw
21 coming. So they're worse, they're worse than the
22 historical average. But they should have been the

1 only things right? There should not have been the
2 three, four, five, you know, individual railroads
3 falling over because of lack of crews in addition to
4 those things.

5 So I'm hope that answered your question,
6 but basically we had a couple of real doozy's in the
7 last 10 years, but this has been a problem.

8 BOARD MEMBER HEDLUND: If you can indulge
9 me in an over generalization. Regulatory activism is
10 something that is not usually welcome on Wall Street,
11 or at least not by the Wall Street Journal, but in
12 the situation that we are facing today what little
13 regulation to help as you put it, unlock the
14 railroads, possibly be greeted with some forgiveness
15 by Wall Street.

16 MR. PATTERSON: No. Under no
17 circumstances no. No, I think I've come off of --

18 CHAIRMAN OBERMAN: You're not under oath.

19 MR. PATTERSON: I think I've come off of
20 a couple Christmas cards myself today, so we're in
21 the same boat.

22 MR. OSSENBECK: No. And just to give an

1 example in July of last year when the executive order
2 came out in terms of the excuse me, the supply chain,
3 and you know a lot of this was focused ultimately on
4 the ocean side, but you know the rail stocks were all
5 down 5, 6, 7, percent even though the aim for that
6 wasn't necessarily on the railroads, so that
7 certainly it was probably the best example I could
8 think of in this sort of a situation.

9 CHAIRMAN OBERMAN: I think that's it. Let
10 me say it again. We hear from a lot of stakeholders.
11 We don't usually get to hear from your points of
12 view, and I for one, I think all of us have really
13 found it exceptionally helpful and enlightening, and
14 we'll probably be back to you, and I appreciate your
15 taking the time to put these presentations together,
16 thank you much.

17 All right. We're running a little bit
18 behind where we were all hoping to be, but we're
19 going to move ahead expeditiously. Robert McRae is
20 going to be -- Robert oh there you are. You were
21 hiding behind -- Herman was shielding you. We're
22 going to hear from Robert, and then we're going to go

1 to NS and then we're going to take a break, Robert?

2 MR. HAKSTEEN: I've watched enough of the
3 hearing, so I think I've got the microphone thing
4 figured out. Thanks gentleman for making a quick
5 second for us, and to adjust the schedule a little
6 bit to give Rob a chance to say a few words before he
7 has to depart.

8 So we are PRFBA, the Private Railcar Food
9 and Beverage Shippers Association. I will save the
10 full introduction for when our panel comes on after.
11 The Norfolk Southern, I just I wanted to make a
12 minute. If there are questions I can help Rob
13 address those questions, but Rob's been a valuable
14 member of PRFBA for many years.

15 He was brave enough in his company,
16 supportive enough to let him come here today and
17 speak openly about some of the situations. It's
18 very important that he be heard, and so with a
19 little affair here's our Vice Chairman Rob McRae.

20 MR. MCRAE: All right. Chairman Oberman,
21 members of the Board, thank you for holding today's
22 hearing on urgent issues and freight service, and for

1 the opportunity to speak as a shipper, and as a
2 member of the Private Railcar Food and Beverage
3 Association, or PRFBA. As many of you know I'm Rob
4 McRae, Vice Chairman of the Board of PRFBA, Secretary
5 of the Railroad Shipper Advisory Council, or RSTAC,
6 and Vice President of Transportation for Univar
7 Solutions.

8 Univar Solutions is a global chemical and
9 ingredient distributor, and provider of value added
10 services with a purpose to help keep our communities
11 healthy, fed, clean and safe. In large part of how
12 we achieve the purpose is through our distribution
13 efforts utilizing the invaluable railroad networks
14 here in the U.S. and North America at large.

15 For perspective, as a company we own or
16 lease about 2,200 railcars, and utilize another 4,000
17 or so system railcars, and do business with every
18 Class I railroad, and many short line railroads in
19 the U.S. and North America. We are a purpose driven
20 and value based company that prides itself in
21 distributing some of the most critical products that
22 can be found in nearly every industry and application

1 that helps supply the American consumer with
2 essentials for life.

3 Importantly, some of our most strategic
4 products are directly used by many U.S.
5 municipalities in conjunction with water treatment
6 and other important areas that help make the broader
7 backbone of our society. We take pride in knowing
8 that the produces we distribute every day are
9 critical to society, and also knowing that in some
10 cases 100 percent of the product is distributed via
11 railcars.

12 As freight railroads account for just half
13 of 1 percent of total U.S. greenhouse gas emissions,
14 according to EPA data, and just 1.9 percent of
15 transportation related greenhouse gas emissions.
16 Like many backbones to society, distribution is a
17 highly time sensitive industry, competition is
18 strong, and the battles for market share almost
19 always come down to availability of product, and the
20 consistency to get product where it needs to be when
21 it needs to be there, all at a competitive price
22 point.

1 In the globalized environment of today,
2 rife with supply chain headwinds, and over-burdened
3 transportation eco-system, it's an imperative for
4 shippers to diversify, and actively manage their
5 modes of transportation, ensuring equilibrium and
6 effectiveness and efficiency for their businesses,
7 customers, and for society as a whole.

8 This isn't about padding pockets, but it
9 is about doing what's best from an environment,
10 social and governance, or ESG perspective. That's
11 why companies like Univar Solutions have a
12 responsibility to be good stewards to the environment
13 and the communities we serve. We take this
14 responsibility seriously, and as such we advocate
15 towards the environmental benefits of shipping via
16 rail, which are well established and understood by
17 shippers and railroads alike.

18 As our business and sales volume continues
19 to grow Univar Solutions, we've made significant and
20 tangible long-term investments in additional railcars
21 and capital improvements at our facilities to
22 facilitate the large, long-term volume growth on the

1 railroads. For decades the railroads have provided a
2 reliable, safe and efficient alternative to truckload
3 freight, and have welcomed with open arms, shippers
4 who wish to grow their volume footprint on those
5 railroads.

6 However, since the adoption of precision
7 scheduled railroading, or PSR, the shipping community
8 has seen a noticeable shift from providing strategic,
9 reliable, and effective service across all the major
10 railroads to an overly aggressive focus on profits
11 above all else.

12 Perpetual crew shortages, and inconsistent
13 service have created a climate in which non-captive
14 shippers are fleeing the railroads in favor of
15 truckload alternatives, thus flooding the truckload
16 market with even more demand at a time of well-known
17 driver shortages. Companies that do continue to ship
18 by rail have watched their service levels plummet and
19 their rates explode with hyperinflation.

20 More immediate has been the ongoing
21 congestion at the maritime ports of entry across the
22 U.S. While the railroads have been quick to site the

1 truck driver shortage as the primary cause, the irony
2 here is that their own failures as a result of
3 migrating to an aggressive pursuit of profits through
4 PSR has only served to exacerbate the demand on truck
5 load freight in an already overburdened environment.

6 The railroads must acknowledge that the
7 modes of transportation all reside in a delicate
8 eco-system that is easily distressed by reckless
9 actions of another modal community. I'd like to take
10 a few minutes and cite some specific examples of
11 significant and/or perpetual service failures from
12 various railroads.

13 You'll note that these all occur across
14 all of the railroads, and while there are financial
15 risks and penalties that we as a company absorb,
16 these delays only serve to put more volume on the
17 already overburdened truckload market with the real
18 cost coming to the American consumer who is exposed
19 to longer delays for goods, all at an inflated price.

20 This stretches beyond the everyday
21 conveniences, and reaches the full spectrum of
22 products that help keep our society healthy, fed,

1 clean and safe. In Florida local crews are
2 perpetually running out of time to make scheduled
3 switches at one of our branch locations resulting in
4 three emergency switching requests as product
5 supplies reach critical levels this year alone.

6 In the Carolinas and Virginia region
7 chronic issues with on time service and placing
8 critical loads onsite at two of our customer
9 locations have resulted in near plant shutdowns. In
10 West Virginia, facilities switched services at our
11 local car track movements have been erratic, causing
12 delayed shipments and supply chain emergencies for
13 hydrochloric acid, nearly shutting down two customer
14 plants.

15 In Texas, delayed loads in and around the
16 Houston area as a result of crew shortages have
17 resulted in total output from one of our suppliers of
18 caustic soda -- keep in mind this is used for water
19 treatment facilities, being reduced. Switching days
20 being changed with less than one week's notice to
21 ensure that the railroads were operating within
22 efficient guidelines.

1 In Arizona, multiple trip plans have been
2 delayed as a result of customers shutting down twice,
3 in back-to-back weeks with these critical loads being
4 mishandled. There's a note we received from one of
5 our railroads. Our network has experienced some
6 setbacks, including numerous service interruptions,
7 crew shortages in select areas, and delays to our
8 network.

9 As we have seen our operating inventory
10 continue to climb over the last 60 days. This
11 additional inventory has led to congestion in our
12 yards, and an imbalance of our own resources, and
13 further slowed down our operational performance. In
14 northern California perpetual transit delays with our
15 cars helped the railroads in their temp storage,
16 typically on average about five days.

17 Congestion in the California area, plus
18 the train schedule reductions, which have caused us
19 to source from other supply chains, and supply chain
20 points across our network adding cost and carbon
21 emissions to the environment. And perhaps the latest
22 and most disruptive issue however is the recent calls

1 from two of our carriers to limit rail volumes from
2 us and our suppliers.

3 These extreme measures were taken with
4 little notice, just as the summer peak season is
5 getting underway. This represents a significant risk
6 to water treatment activities, and will invariably
7 lead to higher inflationary pricing as product supply
8 is constricted. How did we get here? And more
9 importantly how do we get back to rail being an
10 effective and efficient alternative to truckload
11 freight?

12 In a national resource that shippers can
13 use to mitigate their carbon footprint the railroads
14 need to shift away from the archaic hiring practices,
15 and allow for and promote hiring crews and
16 furloughing them for extended periods of time, all in
17 the name of chasing optimal operation ratio, or
18 overly aggressive profits.

19 They must learn to invest in their
20 employees, and the service those employees provide to
21 the railroad customers year round, like nearly every
22 other business does. Only with the tangible

1 commitment to these employee based, will they regain
2 the trust and excitement that used to be synonymous
3 with acquiring a job at a railroad.

4 However, the railroads must acknowledge
5 the predicament that they have put themselves in with
6 investors, their customers, and ostensibly the
7 American consumer at large. By reducing their
8 reliability in true, on time performance, while at
9 the same time passing on rate increases that are
10 outpacing the truckload market, the railroads have a
11 difficult and painful pill to swallow if they're to
12 change.

13 They must make the necessary investments
14 in headcount year round, and do so without passing
15 those costs on to the customer base. Only then will
16 they see the shipping community at large begin to
17 migrate back to rail. The STB has a critical role to
18 play here, by establishing clear guidance on how the
19 service is measured to indicate to include first and
20 last mile, creating easier standards for shippers to
21 utilize reciprocal switching, addressing the
22 exorbitant demurrage practices from the railroads,

1 and establishing clear guidelines for crewing
2 standards across the railroads.

3 These actions can help ensure railroads
4 operate transparently and in full view of critical
5 supply chain customers. Without such action these
6 railroad service issues will continue to increase.
7 As they grow worse the American consumer suffers.
8 This extends way beyond simply a business issue, as
9 the railcar movements are critical to providing clean
10 water throughout North America.

11 And this is just one example of the
12 essentials being provided by this valuable service.
13 So if these growing concerns aren't addressed by the
14 STB, I ask who will? This isn't about recovering, or
15 removing profits from an industry to another, or
16 about padding pockets. It's not. This is about
17 providing consistently, effective and efficient rail
18 freight capacity to the American public.

19 Thank you again for holding this important
20 meeting, and thank you again for allowing me to
21 speak.

22 CHAIRMAN OBERMAN: Thanks. Robert, first

1 of all I should have said at the outset, Robert is an
2 esteemed member of -- , and so we get his insights,
3 other than at these hearings, and maybe that's why we
4 don't have any immediate questions for you. Actually
5 I see Robert Primus, Robert do you have some
6 questions?

7 BOARD MEMBER PRIMUS: I just have one and
8 just an observation. Robert, I was going to say and
9 Marty I was going to say that as well. I've always
10 appreciated Robert's input and his contributions on
11 RSTAC and I just observed that honestly he's always
12 been, forthright and very transparent and to have you
13 here today is important and it must be really
14 important to UNIVAR to have you sort of say what you
15 had to say. I just want to ask you -- thank you for
16 that but I also want to ask you, you know you've
17 heard other witnesses talk about how it's going to be
18 in another six months or at least longer to recover.
19 What does that mean to your organization?

20 MR. MCRAE: Thank you for those comments.
21 The quick answer is that the truckload market as
22 you've heard is beginning to soften, so the reality

1 is we may have a unique opportunity in front of us,
2 but the other reality that we're confronted with is
3 that this is the peak season.

4 And as municipalities and American
5 citizens look to clean their pools right, all the
6 products that we source and service beyond you know
7 the chemicals that you never heard of, really begin
8 to be constricted in the supply and distribution
9 across the U.S. to the various different customers
10 that supply the American consumer.

11 So those delays invariably lead to
12 inflated costs as people compete for the demand of
13 that product. So six months to answer your question
14 is a long ways away, and poses some risk. But the
15 other side to it is that the truckload market and our
16 supply chain you know is robust enough to handle it.

17 And I think when I look at this Board, and
18 I tackle this topic, and hopefully it's come across,
19 is that you know we would prefer to ship via rail.
20 We are certainly as a supply chain capable of
21 mitigating and not doing it, but we feel a
22 compelling commitment to the environment, and to the

1 American public, to do so in the most efficient,
2 effective manner possible, in the most
3 environmentally friendly way possible.

4 And that is to ship via rail. Rail is
5 absolutely our preferred choice, and the railroads at
6 large are great institutions. I think very openly on
7 the record that it's been an aggressive pursuit of
8 profit over purpose.

9 CHAIRMAN OBERMAN: All right any other
10 questions for Robert? Robert thank you much. Get to
11 the airport, we appreciate your coming by. All
12 right. We are going to move directly to Norfolk
13 Southern.

14 VICE CHAIRMAN SCHULTZ: Thank you all for
15 joining us today. Our Chairman is on a brief
16 intermission, but he should be right back, but he
17 said to go ahead without him.

18 MS. ADAMS: Thank you. Members of the
19 Board thank you for the opportunity to appear before
20 you today and testify on behalf of Norfolk Southern
21 Railway Company. My name is Annie Adams, and I serve
22 as Executive Vice President and Chief Transformation

1 Officer at Norfolk Southern.

2 My responsibilities include oversight of
3 the company's human resources as well as technology,
4 communications, and sustainability functions.

5 Joining me today are Ed Elkins, the Executive Vice
6 President and Chief Marketing Officer, and Cindy
7 Sanborn, Executive Vice President and Chief
8 Operating Officer.

9 At Norfolk Southern we understand the
10 essential role we play in supporting our customers'
11 businesses, and the national economy. We're in
12 business to provide an efficient, reliable
13 transportation service, and we recognize that our
14 current service levels do not meet our customer's, or
15 our own expectations.

16 We are highly motivated to restore the
17 level of service our customers expect, and handle
18 higher volumes. Recovering our service is our
19 highest priority, and we assure you that we are
20 taking action to achieve this as quickly as possible.
21 Cindy will discuss our service challenges, and the
22 initiatives our operations team is focused on to

1 deliver service improvements to our customers.

2 Essential to our success is having the
3 right number of train and engine employees at the
4 right location, at the right time, to meet the
5 demand. As we noted in our letter to you of June
6 18, 2021, we made headcount reductions at the onset
7 of the COVID-19 pandemic when customer demand for
8 rail transportation was significantly reduced, and
9 there was considerable uncertainty about the future.

10 As business levels increased we recalled
11 our furloughed employees, all of them have either
12 been recalled, or offered an opportunity to transfer
13 to locations of need, and we also started hiring. As
14 you know the pandemic altered the labor market in
15 profound and unexpected ways. Not only in the
16 transportation industry, but in all sectors of the
17 economy.

18 According to the Bureau of Labor
19 Statistics the country experienced the largest mass
20 exodus of employees on record with over 47 million
21 workers voluntarily quitting their jobs in 2021. A
22 phenomenon that's come to be known as the great

1 resignation.

2 At the same time there's intense
3 competition for workers, with the Bureau of Labor
4 Statistics reporting nearly 11 million job openings,
5 posted on the last day of each month in the fourth
6 quarter of 2021, far outpacing the six to seven
7 million unemployed people looking for work. At
8 Norfolk Southern we did not experience a mass exodus
9 system-wide. In fact, the overall turnover rate for
10 qualified train and engine employees has remained
11 relatively steady over the past three years.

12 However, we did experience significantly
13 higher turnover in key locations. That turnover
14 compounded by the challenge of hiring big numbers
15 quickly in an extremely tight labor market has led to
16 meaningful workforce shortfalls on critical portions
17 of our network.

18 As we noted in our letter to you of
19 December 10, 2021, the shortfalls were primarily
20 concentrated in Birmingham, Alabama in our C&O TP
21 corridor between Cincinnati, Ohio and Chattanooga,
22 Tennessee, and along a certain portion of our

1 southern tier line between Buffalo and Binghamton,
2 New York.

3 As a result of these workforce shortfalls
4 we faced yard congestion in Birmingham and
5 Chattanooga and slower train flows over both the C&O
6 TP and the southern tier. Unfortunately the stress
7 we experienced in those areas created collateral
8 impacts in other parts of our network, which further
9 strained our resources.

10 Anticipated turnover is an important
11 factor in our workforce planning. I'd like to take a
12 few minutes to explain how a cross-functional team
13 uses customer inputs and predictive analytics to plan
14 our workforce needs, recognizing that even a
15 streamlined process for recruiting and training new
16 conductors takes several months.

17 One of the most important inputs in our
18 modeling comes from our customers. As you'll hear
19 from Ed, we are in constant communication with our
20 customers to better understand not only their current
21 business requirements, but also their future needs.
22 We use customer feedback to develop and revise our

1 forecasting, which in turn informs our workforce and
2 asset planning process.

3 With timely and accurate information from
4 our customers we can better anticipate workforce
5 needs ahead of increases in business demand. Our
6 cross-functional teams that include representatives
7 of our human resources, labor relations, network
8 planning and operations, transportation, marketing
9 and financial planning and analysis departments make
10 data driven decisions about where we need to add
11 employees to meet future demands.

12 Forecasting needs for this population is
13 particularly challenging since train and engine
14 employees can't easily be deployed to different
15 locations. There's a tendency to think of this as
16 one big group of employees, but this workforce is
17 really a collection of 95 distinct groups of
18 assignment within certain geographic boundaries,
19 which limits our flexibility in how we deploy our
20 employees.

21 We call those groups hire groups, and we
22 have to forecast our needs by hire group. In

1 addition to business demand we factor in workforce
2 productivity, and turnover, to project hiring needs
3 for each hire group. Because conditions are
4 constantly evolving, the cross functional team meets
5 on a weekly basis to review key inputs.

6 The process of forecasting our hiring
7 needs is complex. We leverage data-driven science,
8 but we also have to react to real time events.
9 Importantly, team members representing each
10 department are decision-makers, empowered to quickly
11 take action. They determine priority hiring
12 locations, implement financial incentives such as
13 retention bonuses, or availability bonuses, and can
14 activate short-term resources such as go teams, and
15 temporary transfers.

16 Go teams are a group of employees who can
17 be deployed quickly to serve short-term assignments
18 in areas where the railroad is congested, or refaced
19 crew shortages. Temporary transfers incentivize
20 employees to serve such an area for months at a time.

21 In order to onboard as many new conductors
22 as possible, as quickly as possible, we added

1 significant resources to our talent acquisition,
2 health services, and technical training teams, to
3 handle much higher volumes of job applications and
4 conductor trainees.

5 We have streamlined the hiring and
6 onboarding process, trimming weeks from when we
7 identify candidates, to when they start training.
8 Contrary to what you heard this morning it takes
9 trainees about three and a half months to complete
10 the rigorous training program, demonstrating that
11 they're able to safely perform their work, and
12 qualify as conductors.

13 We've been starting new classes of
14 conductors every week this year, and expect to
15 continue at that rate for the foreseeable future. In
16 order to handle that volume we're training on two
17 shifts at our technical training center in McDonough,
18 Georgia. To support those efforts we employed 35
19 additional full-time, and contractor trainers, and
20 are leveraging former conductors and engineers who
21 are currently in other roles in the company.

22 We've had over 20 of those employees

1 volunteer to spend two weeks as adjunct instructors,
2 who can support the full-time staff, for example by
3 coaching trainees on tasks such as properly mounting
4 and dismounting equipment, throwing switches, lacing
5 air hoses, and changing knuckles. Currently we have
6 over 850 employees in conductor training. In fact
7 we've hired more conductor trainees in the first
8 quarter of this year than we did in all of last year,
9 and we're continuing to hire.

10 Late last year and early this year, most
11 of our hiring was concentrated in about a dozen or so
12 locations with significant needs that were critical
13 due to their impact on the performance of the overall
14 network. It included places like Birmingham,
15 Alabama, Chattanooga, Tennessee, Louisville,
16 Kentucky, Binghamton, New York, and others in the
17 corridors I mentioned earlier.

18 After making significant progress at those
19 locations we've shifted our focus to other hot spots,
20 and continue to prioritize based on changing needs.
21 For example, Fort Wayne, Indiana and Bellview, Ohio
22 are among our highest priority hiring locations right

1 now.

2 Having described some of the decisive
3 actions we've taken to onboard and train large
4 numbers of conductor trainees, I want to talk more
5 about how we're responding to evolving labor market
6 conditions. The Bureau of Labor Statistics data
7 suggested there's close to a two to one ratio of
8 jobs to job seekers.

9 With an abundance of job openings, start
10 bonuses are not prevalent, and particularly
11 attractive to candidates. Consequently, we combined
12 an increase in conductor trainee pay, with bonuses
13 paid at key milestones early in their tenure.
14 Successful completion of exams, successful completion
15 of training, and nine months after training is
16 completed.

17 We also launched an employee referral
18 bonus program, since referrals tend to produce
19 candidates that are more successful and maintain
20 employment longer. Employees who refer conductor
21 trainees are eligible for incentives that match those
22 new hire bonuses. These new hire incentives are an

1 on ramp to a career with great pay, best in class
2 healthcare benefits, technical training, and
3 professional growth opportunities.

4 According to the U.S. Bureau of Economic
5 Analysis railroaders earn higher average pay than
6 employees in 94 percent of U.S. industries. At
7 Norfolk Southern newly hired conductors are
8 guaranteed minimum annual pay of \$52,000.00, are
9 covered by the railroad retirement system with
10 benefits that are significantly higher than those
11 provided by social security, and have a 401K savings
12 option.

13 They also participate in the Railroad
14 Employees National Health and Welfare Plan, which
15 offers the best in class healthcare coverage that
16 exceeds typical government and private sector
17 employee coverage. At Norfolk Southern locomotive
18 engineers earn a minimum of \$94,000.00 per year, and
19 in 2021, our highest earning locomotive engineers
20 made over \$200,000.00.

21 While these are demanding jobs that
22 require working outdoors in all types of weather, day

1 or night, on weekends and holidays, we attract
2 employees from a wide range of backgrounds who are
3 looking for more than just a job. They're seeking a
4 career that offers a high degree of responsibility,
5 significant autonomy, and a tremendous sense of pride
6 in the work.

7 We're pursuing an aggressive campaign to
8 communicate the value of a railroad career. We're
9 leveraging a variety of creating paid advertising
10 campaigns with ESPN, Google search, radio and others
11 to supplement our usual job postings. We've also
12 engaged with local newspapers and television stations
13 to highlight the benefits of a career at Norfolk
14 Southern.

15 In addition to augmenting our team,
16 offering new hire and employee referral bonuses, and
17 targeting creating advertising campaigns to attract
18 conductor trainees, we're also focused on the
19 effective utilization of our current workforce. And
20 I want to be sure to recognize the contributions of
21 our employees who have worked safely, and resolutely
22 throughout the pandemic, and in a challenging supply

1 chain environment to deliver for our customers and
2 the national economy.

3 Initiatives with our current workforce
4 include availability bonuses, retirement deferral
5 incentives, and vacation buybacks. We've grown the
6 ranks of our go teams, and reprioritized their
7 deployment to the areas of our network experiencing
8 the most critical need.

9 We've also offered temporary transfer
10 incentives to help address localized needs for months
11 at a time, as well as permanent transfer incentives.
12 These targeted, localized approaches give us more
13 flexibility to respond to strained segments of our
14 network.

15 In conclusion, there is nothing more
16 important than restoring our service, and that
17 entails having the right number of employees at the
18 right location, at the right time to meet the demand.
19 We can assure you that we are leaving no stone
20 unturned in this extremely tight labor market to
21 ensure that we have the necessary resources in place
22 as quickly as possible to serve our customers.

1 Thank you again for the opportunity to
2 appear before you today and talk about the efforts we
3 have underway. I'll pass it over to Ed.

4 MR. ELKINS: Thank you Annie. Chairman,
5 members, good to see you again many of you. As Annie
6 mentioned my name is Ed Elkins. I've worked for
7 Norfolk Southern for 34 years, and had the privilege
8 of working there my entire career after leaving the
9 U.S. Marines. I answered an ad in the paper, and I
10 started on the ground as a road brakeman back when
11 those were still the name.

12 I was promoted to conductor, and then
13 spent the next six years in transportation working as
14 a locomotive engineer. So I understand the
15 transportation side of the business. After that
16 period I moved over to our marketing department, and
17 I spent well the balance of my career working in our
18 intermodal and automotive departments, as well as in
19 our industrial products division, so I feel like I've
20 got a very round up level of experience with many
21 supply chains, and I understand the importance of
22 rail service to our customers.

1 I want you to know that I appreciate the
2 opportunity to speak with you today about how we've
3 reshaped our customer service function at Norfolk
4 Southern, to deliver value for our customers, and
5 support our long-term vision for growth. But the
6 first thing I want to do is I want to make sure that
7 I share the core values that guide our team at
8 Norfolk Southern.

9 I think it's incredibly important to
10 understand where we're coming from, and when we think
11 about how we should treat each other, what our
12 expectations are for ourselves, and with our
13 customers. We've captured these values in four
14 simple, but very powerful statements that we
15 challenge ourselves to live up to every day.

16 At Norfolk Southern we built connections.
17 We work together to achieve our goals, and that
18 includes not only Annie, Cindy and myself, but also
19 our teams of course. It includes our customers as
20 well as other stakeholders in the supply chain. It's
21 very important. Secondly, we always aspire to find a
22 better way. We try to be agile.

1 Challenging the status quo and finding
2 innovative solutions to the problems that our
3 customers face, and that the supply chain in general
4 faces. Thirdly, we do what's right. We do what we
5 say. We do what we say we're going to do, and then
6 we communicate openly and honestly. We believe it's
7 the only way to do business.

8 And lastly, we aspire to get it done. We
9 serve our customers. We emphasize our commitment to
10 deliver the highest quality service that we can to
11 our customers, no matter what the obstacles are that
12 we have to overcome.

13 The second thing I want to reiterate here
14 is we have a strategy to grow. And I understand that
15 that may fall flat in light of our current service
16 challenges, and many of the testimony you've heard
17 here today, but we stand by this strategy. Our
18 opportunity is defined and driven by the service
19 sensitive, consumer oriented markets that really are
20 defined by that 800 billion dollar truck and
21 logistics market that you heard about.

22 To execute this strategy we know we need

1 to do two things. First, we must have a good service
2 product for our customers. That's defined by how
3 well we move a shipment from point A to point B, and
4 does it arrive when it's supposed to? Secondly, we
5 need a good customer service experience. How well we
6 provide logistical support to proactively solve our
7 customer's problems across the supply chain, that
8 includes problems that we're engaged in, and perhaps
9 problems that manifest themselves elsewhere, but our
10 responsibility is to our customers.

11 As some of you may recall when we shared
12 our customer experience journey with you last year,
13 our customer's needs continue to evolve. That's
14 especially true in this post-pandemic environment
15 that we find ourselves now. We have to continue to
16 evolve with them.

17
18 We've made several strategic changes to
19 our approach in customer service, and these changes
20 were made as a result of feedback from our customers
21 first of all. First, we redesigned our
22 organizational structure to be more customer centric

1 with the creation of our customer operations group,
2 and that was a little over two years ago.

3 We positioned this group within the
4 marketing division to allow our customer service
5 function to be closer to the customer. Secondly, we
6 created a field sales marketing team which is
7 deployed across our entire network. This boots on
8 the ground approach not only gave our operations team
9 a go to person to connect with the customer, but more
10 importantly it provided a direct platform to better
11 interact with our many small customers of which there
12 is over 3,000.

13 So why do these changes matter? Our
14 customers operations organization transformed how we
15 interact with our customers. Our customer facing
16 teams are now composed not only of marketing people
17 and our sales teams, but also our customer operations
18 group.

19 And together these three pieces interact
20 with our customers in a way that delivers exceptional
21 value we believe in terms of delivering innovative
22 solutions. We believe that these strategic changes

1 differentiate us in the industry. The creation of
2 these groups with an investment in people and
3 resources by Norfolk Southern, and we believe it
4 signifies our commitment to deliver value to our
5 customers, despite the challenges that we currently
6 face.

7 Now the next question you might ask is has
8 this made a difference? And even though our service
9 performance is not where we want it to be, nor where
10 our customers need it to be, our customer service
11 experience has continued to be a differentiator in
12 our experience.

13 Customer communication is always
14 important, but it's incredibly and critically
15 important when we're in a time of service
16 challenges. We make every effort to tell our
17 customers early and often about what we can and can't
18 do. These can be very difficult conversations as you
19 might imagine. But we believe transparency allows
20 our customers to adjust their plans accordingly, and
21 of course goes back to those values that I talked
22 about previously.

1 There are numerous anecdotal examples that
2 I can share with you where we've developed solutions
3 for our customers throughout the pandemic, and even
4 afterwards. Over the past 18 months we've worked
5 very closely with some of our largest shippers,
6 including one of our largest shippers who is a steel
7 producer, and we have consistently worked with them
8 on a day-in, day-out basis to develop innovative
9 solutions to address the challenges in our own
10 service.

11 On the other hand we worked consistently
12 with a large chemical shipper to help develop
13 solutions for them for a problem that really
14 emanates outside the rail network, but that we can
15 help provide a solution for. In both examples our
16 customer operations group, along with our marketing
17 team, and our transportation teams, evaluated the
18 situation, raised the matter internally, held and
19 came together, and helped solve these customers
20 problems.

21 The customer operations group is really
22 the advocate for the customer within Norfolk

1 Southern, and it's a responsibility that we take
2 very, very, seriously. I want you to know that we
3 understand that building consistent and reliable
4 service that's supported by superior customer service
5 experience, we believe is essential for sustainable
6 long-term growth which I think you've already heard
7 about.

8 We remained focused on our ability to
9 drive highway to rail conversions through this value
10 proposition, and that value proposition is very
11 simple really, it's providing the simplicity of
12 truck, with the efficiency of rail. We think that's
13 a very, very powerful combination that has
14 sustainable and intrinsic value for many, many
15 shippers.

16 We're also enhancing customer centricity
17 through technology to make it easier to do business
18 with us, and we think that's again a very important
19 part of the recipe. Our voice of the customer
20 survey, which we provide on a very, very, systematic
21 basis, gives us a clear picture of how we're
22 performing.

1 We ask three simple questions when we
2 issue that survey. Did we resolve your customer
3 service issue? Everyone has probably had some
4 experience with some version of this type of survey
5 when you've engaged with the company. If we didn't,
6 then the survey ends, and the customer is advised
7 that they're going to receive a call from us as soon
8 as possible.

9 If we did resolve it, how easy was it for
10 them to get the issue resolved? And then lastly, did
11 the customer service representative meet your
12 expectations? With those three very, very simple
13 questions, we think we are painting a fairly
14 substantial picture of what our customer's experience
15 is, and in 2020 since we started, we've conducted
16 over 3,000 of these surveys with our customers.

17 And a majority of our customers actually
18 almost 90 percent, say that we have resolved their
19 situation, and please understand resolution might
20 mean that they don't like the answer, but we gave
21 them one. It was the best answer we could come up
22 with, and we would love for that to be 100 percent of

1 the time when our customer service representatives
2 meet our customer's expectations.

3 That's not the case, but it is very close,
4 93 percent of the time based on our recent survey.
5 We understand that our service is challenged, and I'm
6 not trying to make light of that, or step away from
7 it, but we believe that the customer experience can
8 be a differentiator even in times of significant
9 service stress.

10 So in summary our goal is to be customer
11 centric, and service focused in every single thing
12 that we do. This is driven by a large group of
13 talented employees who are leading the way with their
14 dedication in a very dynamic landscape. Our mission
15 is very simple, grow our business profitably by
16 offering the most customer centric, and value
17 logistic solutions period.

18 Delivering reliable and predictable
19 service, helping our customers achieve their
20 sustainability goals, and making it easier for our
21 customers to ship by rail will ensure that we and
22 our partners throughout the supply chain are able to

1 succeed going forward.

2 We know we have work to do. We're eager
3 to continue to engage with our customers and other
4 stakeholders to deliver the value that they need.
5 Now I have to be honest, I have to address one issue
6 which I heard on an earlier panel, I believe it was
7 Member Primus who brought up the issue of fear of
8 retribution, and I appreciated him bringing up that
9 very important issue.

10 I will only speak for Norfolk Southern
11 when I say this, if you reflect back on the four
12 values that I've talked about at the beginning there,
13 there is zero tolerance inside Norfolk Southern for
14 anything that looks, smells, walks, talks, or acts
15 like retribution. Let me be even more clear. The
16 three of us serve at the pleasure of our Board of
17 Directors, but all three of us serve our customers.

18 That's our reason for being here. Our
19 customers are what delivers value for Norfolk
20 Southern. The only product that we manufacture and
21 service, and we believe very strongly that our
22 customers are the most important part of that

1 equation that we talked about earlier, so with that I
2 very much appreciate the opportunity to speak to this
3 group on a topic for which I am very passionate, and
4 I hope you can tell that, and I'm going to now turn
5 it over to Cindy Sanborn, our Chief Operating
6 Officer.

7 MS. SANBORN: Thanks Ed. I'm Cindy
8 Sanborn, Executive Vice President and Chief
9 Operating Officer for Norfolk Southern. I've been
10 with Norfolk Southern for a little over 18 months,
11 but I spent over 30 years in the industry working for
12 two other Class I railroads, the preponderance of
13 my time was at CSX for over 30 years, and I've spent
14 three and a half years with Union Pacific.

15 I appreciate the opportunity to testify
16 before you today. There is no greater priority at
17 Norfolk Southern than restoring service, and I
18 recognize we are all here today because our service
19 is not where any of us, including our customers, and
20 including all of you expected to be.

21 I've had the opportunity to meet with each
22 of you over the last few months to talk about our

1 service, and you've asked me the same questions I
2 would be asking if I were in your shoes. Where are
3 we today? How did we get here? And what are we
4 doing to get out of it?

5 I will address each of these in turn over
6 the next few minutes. First where are we? In short,
7 we are not currently delivering the type of service
8 product that our customers expect from Norfolk
9 Southern, and that we expect from ourselves. We also
10 know that while we work diligently every day to
11 provide service to our customers, we are not
12 currently able to reliably execute our service plan
13 with the resources at hand.

14 In these times of network stress we are
15 faced with the need to allocate those resources where
16 they can provide the most benefit to the overall rail
17 network. I recognize that that's not a satisfying
18 response for all of our customers, and that some
19 customers may seek individualized remedies for their
20 service challenges.

21 That's certainly their right. I will
22 caution that in a network environment like the

1 railroad, optimization of certain pieces of the
2 network can result in suboptimizing the whole.
3 Second, how did we get here? Annie has spoken to
4 that from her perspective, and the challenges we have
5 faced in this tight labor market, and I certainly
6 echo her thoughts.

7 In my over 30 years of experience in the
8 U.S. rail network, I've never seen this sort of
9 market shock that we are experiencing today as a
10 result of the pandemic related worldwide supply chain
11 disruptions, changes in consumer spending and market
12 flows, and a historically challenged labor market. I
13 do believe that our service pressures today, which
14 are not unique are at bottom caused by the tightness
15 in the labor market, and Annie has done a great job
16 explaining what we are doing to alleviate those
17 pressures.

18 I want to address what some stakeholder
19 groups are saying about their suggestion that PSR is
20 to blame for today's service challenges. To varying
21 degrees they are urging you to turn back the clock
22 and return to operating models of the past.

1 Operating models that are more resource intensive,
2 and less efficient. I think that would be a grave
3 mistake.

4 Our competitors in the trucking industry
5 aren't moving backward. They're not even standing
6 still. They wake up every day thinking of new ways
7 to leverage technology, to implement operational
8 innovations that will improve the customer experience
9 and improve efficiency.

10 And railroads must also think this way.
11 If the railroad industry, which as you know is the
12 most environmentally sustainable mode of surface
13 transportation, and doesn't move freight over
14 taxpayer funded highways, is to stay in the game with
15 truck, they can't return to the old ways of doing
16 things.

17 Our greatest advantage over truck, our
18 ability to run a whole lot of freight very
19 efficiently will begin to erode, and over time you
20 will see less freight on the railroad, and more on
21 the already overstressed highways. Far from being
22 out of step with the interest of our customers and

1 the public interest, I strongly believe that a
2 simplified, efficient railroad operation promotes
3 network fluidity, and a reliable service product that
4 is good for everyone, our customers and the public
5 alike.

6 It is important to remember that NS was
7 delivering on the promises of PSR. As Norfolk
8 Southern prepared to implement its top 21 operating
9 plan, which was in place by mid-2019, we took a no
10 surprises approach to PSR. We took our time, we
11 communicated extensively with our employees and
12 customers, and ultimately had success in ruling out
13 that program with very little service disruption.

14 In fact, Norfolk Southern posted our best
15 service metrics ever following the rollout of top 21
16 in 2019. A short eight months following the launch
17 of top 21, we all entered a global pandemic that has
18 reshaped the freight and labor markets in many ways.
19 Since that time we have worked for further optimize
20 our operations, ramp up our hiring efforts, and
21 invest in technologies that help us be more
22 resilient.

1 The goal of these efforts is to create a
2 platform for growth for our customers through a safe
3 and efficient operation. I'll be the first to admit
4 that we aren't delivering that today, and I know it's
5 tempting at a time when our service is under pressure
6 to say there must be something wrong with our
7 operating model. But at times like these when the
8 pressure is greatest, we must be very careful not to
9 misdiagnose the problem.

10 And based on my 30 years of experience
11 working this industry, I don't believe we are facing
12 a problem with an operating model. We are facing an
13 execution problem for all the reasons Annie, and I
14 have talked about. We must devote our energies to
15 putting the resources in place to solve that problem,
16 not return to a way of doing things whose time has
17 passed.

18 Now I'm not saying any of this to excuse
19 our service issues. Our customers aren't interested
20 in excuses, and you aren't either. They want our
21 service to get better, and I know you do too, but no
22 one wants it more than us. At the end of the day we

1 are in business to provide one thing, transportation
2 service, just as you've heard Ed talk about.

3 The sooner we fix it, the sooner we can
4 take advantage of the opportunities presented to us
5 by the current macroeconomic environment, increasing
6 consumer demand, construction activity and
7 sustainability trends, and move more freight for our
8 customers. That is something where I think everyone
9 in this room is aligned. We are absolutely committed
10 to the success of our recovery plan, and to getting
11 our service right.

12 With that I will now address the third
13 question, what are we doing to get out of the current
14 service challenges? Each employee at Norfolk
15 Southern is laser focused on improving service for
16 our customers. I can say with great certainty that
17 we are all working every day to make the changes
18 necessary to keep traffic flowing.

19 As Annie outlined in her testimony hiring
20 and training conductors is the number one priority,
21 and the key ingredient for NS's service recovery. We
22 are hiring at historic rates to address attrition in

1 critical areas, with new classes of conductor
2 trainees starting every week.

3 Currently we have over 850 employees in
4 conductor training as those conductors trainees
5 complete their training, and are deployed to the
6 field. They will have a direct, positive impact on
7 service. We have seen the impact that new employees
8 can have on our system. One thing I do want to call
9 attention to, and we heard it in the panel with
10 labor, is the amount of extreme dedication,
11 resilience and pride that our employees have, that
12 have been working through the pandemic and times that
13 we are going through now where we're short of
14 employees with tremendous amount of intensity and
15 dedication.

16 And that comes from both T&E to our
17 engineering department employees, signal
18 maintainers, car inspectors, electricians, and across
19 the board, and we would not have a business without
20 them. In addition to hiring and customer outreach
21 efforts that Annie and Ed have discussed, on the
22 operating side we have specific focus initiatives for

1 improving service in 2022, enhancing terminal
2 performance, minimizing car dwell, and improving
3 cycle times on both trains.

4 Traffic fluidity at rail terminal supports
5 broader service improvement and productivity across
6 the network. NS has seen early successes at some of
7 our terminals as a result of close coordination
8 between departments and prioritizing resources. Our
9 focus on improving fluidity at these terminals has a
10 ripple effect. It produces a direct benefit to the
11 network as a whole.

12 Our second priority when it comes to
13 service recovery is minimizing car dwell. I think we
14 can all agree that nobody benefits when cars dwell on
15 the railroad. We have seen modest improvement in
16 idled cars since fourth quarter 2021, and we're using
17 technology and analytical tools to help us unlock
18 further improvements in this regard.

19 This is another area where we're leaving
20 no stone unturned to deploy our increasing workforce
21 where the most good can be done. On the bulk side,
22 our unit train side of the business, we are focusing

1 on lowering cycle time which drives efficiency for
2 both NS and our customers.

3 Norfolk Southern believes that by
4 prioritizing these initiatives together with
5 leveraging our strong pipeline of conductor trainees,
6 we are positioned to deliver service improvements to
7 our customers. We believe that this can and will be
8 successful.

9 The approach Norfolk Southern is taking
10 today will ultimately result in service recovery for
11 the network as a whole, which ultimately benefits all
12 of our customers. To further the optimization of the
13 network, and to speed our service recovery, Norfolk
14 Southern has recently announced that it will be
15 developing a next generation operating plan, top SPG,
16 where SPG stands for service, productivity and
17 growth.

18 Top SPG will incorporate our intermodal
19 service into our operating plan to make our entire
20 operation simpler and more executable. As we did
21 with top 21, we are taking a deliberate
22 customer-centric approach, and we are taking our time

1 to make sure we communicate with our customers, with
2 our employees, and others.

3 That's our no surprises approach to rail
4 operations, which is the same formula that we
5 utilized in 2019 with great success. We have work to
6 do, but we have a talented, experienced team
7 dedicated to getting the job done, and I have no
8 doubt that we will deliver on our commitments. Thank
9 you for your time, and we'll be glad to take
10 questions.

11 CHAIRMAN OBERMAN: Good afternoon, thank
12 you for coming. As you might imagine I have some
13 questions, and I know the rest of the Board has some
14 questions too. So I'm going to ask a few, and then
15 circle around and come back. So I know you all want
16 us to take seriously what you tell us, but I'm
17 looking at a press release that Norfolk Southern
18 issued on April 5, which was just three weeks ago
19 exactly, announcing a promotion of a person I won't
20 name because I don't think she's a person who we want
21 to criticize in any way.

22 And in your press release you refer to the

1 "flawless execution of our PSR plan." Do any of you
2 want to sit here and tell us that your PSR plan has
3 had a flawless execution given the numbers that we've
4 been looking at for the last year? I mean how am I
5 supposed to take that really anyone?

6 MS. SANBORN: I'll be glad to answer that
7 Chairman Oberman. I think the reference that I made
8 in my prepared remarks to 2019 implementation of top
9 21, where we saw tremendous improvement and fluidity,
10 as well as velocity across the network, coming out of
11 2018 is what we're referring to.

12 And the gentleman that was referenced in
13 the press release had a very strong part of making
14 that happen for Norfolk Southern. Our performance
15 was very, very strong when you look back in time, and
16 the pandemic, and you know as we rolled into 2020 and
17 into 2021, is really the performance that you're
18 thinking of, and I think of them as being two
19 completely separate things.

20 CHAIRMAN OBERMAN: Well Cindy, it's my
21 view exactly that although we are really here to talk
22 about what do we do now we've got problems? I think

1 it's almost impossible without examining how we got
2 here. In my view how we got here is a little bit
3 different from what the three of you said.

4 I'm looking at your employment numbers,
5 and I'm specifically looking at your T&E employees.
6 In February of 2019, according to our data, you had
7 11,556 T&E employees, that was just before your
8 flawless execution of PSR. By March of 2020, which
9 is just before the pandemic hit, you had dropped
10 3,126 people, or 27 percent reduction.

11 So from what I can tell you were operating
12 at a bare minimum number of people to operate your
13 flawless PSR plan. And while it's true the pandemic
14 itself was unexpected, as some of the previous
15 witnesses pointed out, interruptions with rail
16 service and employee availability are not unique to
17 the outdoor sport which you all operate in.

18 You have polar vortexes, you have forest
19 fires, floods, hurricanes, all of these affect
20 employee availability. So to drop from 11,000 to
21 8,000 roughly, leaves you no cushion. When the
22 pandemic hit, and somebody said, I think Annie said

1 that shipments went down because all businesses were
2 affected, and you didn't know what was going to
3 happen. That's true. No one knew what was going to
4 happen.

5 We didn't know if the pandemic was going
6 to last a month or 10 years. But you didn't wait to
7 see what would happen, you dropped another 8 1/2
8 percent beyond the 27 percent you had already
9 dropped. You dropped from 8,400 to 7,700, another
10 700 people over from March to June.

11 And in fact, long before the pandemic
12 ended, because it hasn't ended yet, traffic started
13 to come back by the summer of 2020. Now I've never
14 run a railroad, but it only took me five minutes of
15 getting here to understand that it takes about six
16 months, you say three and a half months, to get
17 somebody new into a locomotive, or into a conductor's
18 job.

19 So when you drop 700 people in three
20 months were you thinking about what would happen if
21 traffic came back, how you were going to get those
22 700 back? And the question I would ask, and I'm

1 going to ask every railroad, now that we've been
2 through this have you figured out that going from
3 11,000 to 8,000 may not have been a good business
4 operating plan, and I don't talk about PSR.

5 I know the labor folks do, and other folks
6 do, and it has good aspects and bad aspects. I don't
7 hear an operating plan require you to have too few
8 people on the payroll to run whatever plan you have.
9 So what I would like to know is have NS, and have the
10 others figured out you know what this idea of
11 dropping 25 or 30 percent of our workforce, not a
12 good idea.

13 We need a cushion. And I have no idea how
14 many people you need. I don't know if you need to go
15 back to 11,000. But I know this, you need more than
16 8,000. And all that I hear is you've got trainees
17 you've got conductor courses. I haven't yet heard a
18 number, and I'd like to hear it. How many people
19 have actually come out of the course over the last
20 year and are at work now, and how many have otherwise
21 retired and left and what's the net?

22 Because when I look at the net numbers I

1 don't see much increase. And do you have a corporate
2 plan to say as hard as it is to hire, we all
3 understand it's hard to hire. We're going to go back
4 up to 9,000 -- I don't know what the number is, so we
5 don't have this problem again because it's pretty
6 clear we're going to have more pandemics, and this
7 one may keep going. We're in the middle of a surge
8 right now. I'm pretty sure there's going to be a
9 polar vortex next winter, so that's what I want to
10 hear.

11 I don't want this problem to come back
12 again to a flawless PSR plan. I have some other
13 questions, but this is the area that I think is at
14 the heart of the acute problem that faces the country
15 today, so anybody who wants to answer that please
16 enlighten me.

17 MS. SANBORN: All right I'll start. So
18 when we go back in time to the 2018 into 2019 where I
19 discussed in my remarks around flawless, and moved to
20 put implementation of PSR and headcount came down.
21 That was a function of longer trains. It was a
22 function of terminal consolidation that the demand

1 for people wasn't as strong.

2 And so the whole change in reduction was a
3 function of being able to move the traffic
4 effectively and efficiently by our service measures
5 as a result of the changes that were made. So that
6 kind of gets us through the 11,000 to 8,000 kind of
7 change.

8 I think that's actually good news because
9 today's if we needed 11,000 people and that's the
10 demand that we had to have based on how we ran the
11 railroad. And we had attrition of whatever our
12 attrition number is, a percentage of 11,000 is higher
13 than a percentage of let's say 8,000, we would
14 actually have to hire more in a very challenging
15 labor market.

16 So that's how I see 2019, 2018 to 2019,
17 and then your point around the pandemic in 2020. And
18 not knowing where the bottom was, you know economies
19 were shut down. We know ours was. We looked at
20 Europe and across the globe. And it was anybody's
21 guess Mr. Chairman, as to how traffic would come
22 back.

1 We talked to our customers, the entire
2 automotive industry went down to include the inputs,
3 the plastics and the metals that support the making
4 of that product because people couldn't be in
5 factories. And so it was anybody's guess as to what
6 was going to happen.

7 And it came back thankfully, as quickly as
8 it did. If we might misdiagnosed our read on that,
9 based on what we knew at the time, you could say we
10 did. But I would tell you that I think of these
11 issues as two separate issues, and we want to have
12 the right number of people, and that's across the
13 board, not just T&E, mechanical people, engineering
14 people and so forth to run our company effectively
15 and efficiently for our customers. We do not have a
16 business without our employees doing the work and
17 having enough of them to serve our customers,
18 absolutely true.

19 And Ed I don't know if you want to comment
20 on attrition and at least tenured attrition and how
21 that plays into this, please go ahead.

22 MR. ELKINS: Sorry. Looking back at 2018

1 and 2019, and I agree with you Cindy that it truly is
2 in my opinion, two separate issues. With going back
3 to 2018-2019, we were a late implementer of PSR,
4 whatever you wish to call it. We at Norfolk Southern
5 had seen the industry go through many of the
6 iterations that it went through, and we tried to
7 learn from that.

8 And our approach was simple, we believe.
9 Number one, we wanted to make sure that we removed
10 work events before we took away assets. In other
11 words if we could find a more efficient way to get
12 the job done, we wanted to find that way. And then
13 the excess assets would fall out naturally. And we
14 believe we achieved that, and that's why we'd call
15 it a flawless execution.

16 It was not the alternative approach which
17 we have seen elsewhere, which is you take away X
18 amount of assets, and then try to figure out how to
19 make it work, which is very painful, and not the way
20 that we want to engage with our customers. So I
21 think you've heard Cindy talk about a no surprises
22 approach to PSR and the implementation.

1 That's really the heart of it for us is
2 number one, we want to make sure that we have found
3 an efficient way to do the work, and once we do those
4 assets will drop out naturally, and we're still left
5 with a highly efficient process, and the right amount
6 of assets.

7 It is not a dramatic event for our
8 customers. We've tried to be extraordinarily
9 transparent with our customers about what our plans
10 are as far ahead as we can, and while that certainly
11 hasn't been flawless or perfect, the intent is there
12 that we want to always make sure that our
13 stakeholders are engaged, and I hope that is clear.

14 MS. ADAMS: Thanks Ed. I want to
15 follow-up on a couple of things you said. We did
16 ramp up -- begin ramping up our hiring efforts in
17 the second half of last year. And you're right that
18 it is more like us. You've got to plan with a six
19 month time horizon because you've got to accommodate
20 not only that training period but also the hiring,
21 and getting folks started.

22 We've tried to -- we have put a lot of

1 effort into streamlining the administrative parts of
2 getting someone onboard, so that happens as quickly
3 as possible, but the real challenge here is an
4 extremely tight labor market. It was simply taking
5 us longer to fill positions than it had in the past,
6 which again not unique to us if you looked August
7 2021 started a period of seven consecutive months
8 where the Bureau of Labor statistics would tell you
9 that the fill rate, people are filling only 60
10 percent of the jobs.

11 So that was the market we found ourselves
12 in. We tried a lot of different things over that
13 period of time. We continually assessed what was
14 working. We started to make better progress at the
15 end of last year and early this year, and Mr.
16 Chairman we will follow-up with you to provide that
17 trend the qualified T&E headcount, which is a subset
18 of the overall numbers that you see.

19 CHAIRMAN OBERMAN: I think the key
20 question may be Ed when you said to figure out how to
21 run it, and then get rid of the excess capacity. I
22 think the question is what's the excess? Does the

1 excess mean everything, including the cushion? You
2 know I've been using a football analogy since last
3 summer when I said you wouldn't send a team out on
4 the field without a back-up quarterback.

5 I was looking at your numbers, and I was
6 refining my thoughts. If you have a 40 person
7 football squad, and you fire five of them, you can
8 still field the team with 35 people. You might be
9 missing a wide receiver when you need him, but you've
10 got a team. If you decided before the problem to get
11 down to a 13 person squad, you can still put 11
12 people on the field, but if you fire five of them you
13 can't field the time anymore.

14 And so the question is what's the excess?
15 And I haven't heard that answer yet. I will say
16 this, based on the numbers that I have by the way
17 Annie, and that I'd like to get more granular you
18 know, I don't mean this minute, but when you have a
19 moment.

20 MS. ADAMS: I would be happy to.

21 CHAIRMAN OBERMAN: According to our
22 numbers, and by the way it's pretty much the same

1 across maintenance of way, as well as T&E, the numbers
2 are slightly different, but I didn't want to go
3 through every statistic. In June of 2020, you were
4 down to 7,710 T&E people.

5 Last month you had 62 more. 7,772. So
6 all of the effort that's been going on for a long
7 time has produced 62 net people. I assume this means
8 they're trained and out there working. That's I
9 think the way our numbers are kept. So we're just
10 not seeing it. Everybody is having trouble. You
11 know Walmart just offered \$110,000.00 to truck
12 drivers.

13 And I'm not here to negotiate a collective
14 bargaining agreement, but there's a market for people
15 out there, and whatever it takes, \$52,000.00 is not
16 \$110,000.00. So you know you don't have to tell me
17 what you're going to offer people, that is not our
18 job. It's only my job to say solve the problem. So
19 with that I'm going to hand it off because I know
20 other Board members have questions. Michelle?

21 VICE CHAIRMAN SCHULTZ: Thank you. We
22 heard from, pardon me, the grain industry this

1 morning that testified to the importance of
2 communication, and what they said is while
3 communication won't eliminate their challenges, it
4 does allow them to put in an effective contingency
5 plan.

6 And so I just wondered if you could speak
7 to you know what are your current methods of
8 communication, and how can your customers track their
9 shipments.

10 MR. ELKINS: I'm glad to answer that
11 question, and thank you for the question. We've
12 spent a lot of time and money and effort over the
13 past few years to enhance our ability to communicate
14 with our customers. Most of our customers want it in
15 the form of data, and many of our larger customers
16 merely want it in the form of data that they can use
17 inside their own system. So we've worked long and
18 hard to develop a data link basically between our
19 systems to deliver that value for them.

20 Many of our smaller customers often want a
21 platform so to speak that they can work from. For us
22 that's called access NS, and it is a comprehensive

1 platform where not only can they plan their
2 shipments, and track their shipments, but they can
3 order cars. There's many functional areas inside the
4 system that makes it very valuable for those
5 customers who may not have either the money, the
6 wherewithal or the time to invest in those systems
7 themselves.

8 You know the heart of those data systems
9 though is data quality, and we've also spent a
10 tremendous amount of time and energy over the past
11 few months and years ensuring that the data that
12 we're providing for our customers is not only
13 timely, but also very accurate. We believe, and
14 we've heard this from our customers that the most
15 important thing that we can give them is no
16 surprises.

17 If we can deliver the news, even if it's
18 bad news in terms of either whether their shipment
19 is, or when it's supposed to get there, which is the
20 eternal question, where's my stuff, and when is it
21 going to get here. If we can give them an answer
22 that they can count on, they can plan around that and

1 plan contingencies, and continue to keep their
2 businesses running.

3 So we view that as the most important
4 piece of this. Now when it comes to when they have a
5 question we've also built a bridge for our customers
6 to do that through technology as well, but we also
7 our staff with our customer operations group, so you
8 know we get a lot of phone calls, particularly when
9 service is poor right now, a lot of phone calls, a
10 lot of emails, and often times those customers you
11 know want to know the next question, which is I know
12 where it is, and when it's going to get here. Is
13 there anything else we can do about that. And that's
14 where we engage with our customers to really dig into
15 those challenges.

16 And I'll be very frank with you. Many
17 times the challenges are supply chain challenges that
18 go beyond just Norfolk Southern. You know we're
19 connected to every major port on the east and Gulf
20 Coast as well as the Great Lakes. We're connected to
21 a really vast network of truckers, warehouses,
22 intermodal facilities, retailers, it truly is a

1 supply chain eco-system which we're a part of.

2 And so often times those answers you know
3 are challenging to deliver on our own, but we partner
4 and make those connections like I talked about with
5 our values to find the right answers for our
6 customers. For intermodal customers it's a similar
7 answer in terms of those data bridges that we can
8 develop as well as the accuracy and clarity of that
9 information. You know we've started down the pathway
10 of what we call the industrial consumer, and that's
11 what's really shaping our digital strategy for
12 customer interface.

13 And the digital consumer, or the
14 industrial consumer I should say, is one where it's a
15 business to business transaction, but we're all
16 informed and shaped by our experiences in the
17 business to consumer world. To put it another way
18 because of the experiences we've all had ordering
19 things from the internet, and the transparency that
20 you experience, and the surety that you experience in
21 terms of where's my stuff, and when is it going to
22 get there, that has really shaped where we want to

1 take our technology to the next level with our
2 customers, and we're investing money to do that as
3 well.

4 It's a very long-winded answer, I hope I
5 answered it for you.

6 VICE CHAIRMAN SCHULTZ: I think you also
7 mentioned that you're hiring at historic rates. I
8 wondered if you could speak to whether or not any of
9 those new employees will be focused in your customer
10 service area?

11 MR. ELKINS: By the way it's customer
12 service first, all right. You know I told you that
13 our customer service function is really embedded
14 inside our marketing group, and it's part of our
15 customer facing team. We've invested money and
16 resources, both in terms of new hires, as well as new
17 functionality for those groups, and the ideal is
18 unique in the industry, but I think it's also
19 important.

20 And that is we wanted our customers to
21 talk to a person at the other end of the phone so to
22 speak who understands their business, understands

1 what it takes to run their business, and can add
2 value to that conversation. It's not just someone
3 who's answering the phone, but someone who
4 understands the business, is a part of it, and wants
5 to deliver that value.

6 So that's taken some investment over the
7 past couple of years from us, we expect to do more of
8 that. I'll be very honest, we think that the payoff
9 is increased customer satisfaction, increased trust
10 on the part of our customers. We're going to restore
11 our service, and when we do our customers that have
12 been with us, and the ones that we're going to bring
13 back to us, we're going to be able to find value in
14 that kind of exchange with a group of experts that
15 have a passion for their business and a certain level
16 of expertise. I'll pass it over to Annie.

17 MS. ADAMS: Thanks Ed. I think you
18 responded. I don't have anything to add, thank you,
19 unless you missed it.

20 BOARD MEMBER HEDLUND: First of all I want
21 to express our appreciation for Norfolk Southern
22 sending three of its four Executive Vice Presidents

1 to inform us here today. I think that says something
2 about how seriously you take the issues that we are
3 trying to address, and thank you again for that.

4 And I also want to thank you for being
5 very frank about your current situation, and the
6 problems that you have, and not trying to gloss that
7 over, so that too I appreciate. A question for you
8 Miss Sanborn. In a prior conversation we had you
9 talk about lessons learned from the initial rollout
10 of PSR, and another railroad.

11 And that that informed you about how you
12 went about rolling out PSR at NS. We've now been
13 through a couple of really bumpy years. What lessons
14 have you learned from the last two years, three years
15 that you've been at NS that will inform how you're
16 going to go forward to meet the likely uncertainties
17 of the future?

18 MS. SANBORN: I think the main word
19 concept is communication, whether it's internally
20 with all of our employees, or with our customers
21 whenever we make changes. Sometimes that lead time
22 isn't as long as we'd like it, and especially in

1 times like this where we're really trying you know to
2 kind of think of this present time is very different
3 than normal, which is you know we're trying to do the
4 very best we can with the resources we have, which
5 may mean that we have shorter communication timelines
6 than we typically would like.

7 But I would think that's the main thing.
8 I think the other thing is I cannot under emphasize
9 in that communication talking about the benefits of
10 unlocking capacity by being able to utilize
11 technology, distributed power to run longer trains,
12 and be able to reduce headlights on the network in a
13 way that allows the headlights that are on the
14 network to be more effective and efficient to be able
15 to meet our customer's needs.

16 So I see that as a difficult story to tell
17 because people are generally feeling as though you
18 know PSR doesn't have any benefits, and it has many,
19 many, and I think the PSR is pretty simple really.
20 You know I had that conversation, but I think the
21 challenges that we are in now, and some of the
22 challenges that have occurred before in

1 implementation create a persona, or I don't mean
2 persona, but a reflection on the concept is it has to
3 be all bad, and it really isn't.

4 And communicating that, and making sure
5 people see that in how it affects them positively
6 from a customer perspective I think is the biggest
7 lessons learned -- one of the biggest lessons
8 learned I've had.

9 BOARD MEMBER HEDLUND: Just a quick
10 follow-up. How long is it going to take to get the
11 number of employees that you need to move forward
12 with a little resiliency?

13 MS. ADAMS: Thank you for the question.
14 We're in such a dynamic environment right now, and
15 one of those factors is the next evolution of our
16 operating plan that Cindy described and referred to
17 as top SPG, which will have an impact on our resource
18 needs across all of those 95 different hire groups.

19 We don't know what that impact is just yet
20 because that plan is under development, and will be
21 rolling out in the coming months. Right now our
22 priority has been as you've heard, those key

1 locations that are having an impact on the broader --
2 on the health of the overall network, as well as
3 those locations where we experienced significantly
4 higher than system average turnover.

5 And we're making good progress. You know
6 I called out a couple of those locations early on now
7 to the point these folks are still in training, but
8 we've got 43 trainees in training in Chattanooga, I
9 think 49 in Birmingham. We're making good progress.
10 We are starting a new class every week. We
11 anticipate keeping at that accelerated rate
12 throughout the end of the year, and into the
13 foreseeable future.

14 So we are starting to see an increase in
15 net headcount, month over month. You're starting to
16 see that, and I think that you'll see continued
17 improvement here in the second quarter.

18 MS. SANBORN: If I could add, you know
19 that's why we're investing, and that's the biggest
20 issue is people for sure, and Amy has done a great
21 job at describing that. We are also investing our
22 locomotive fleet. We are getting our DC to AC

1 conversions, there are more rebuilt locomotives
2 coming on this year.

3 We are investing in siding extensions. We
4 invested in chassis, so there's other investment that
5 we're making. People is the biggest issue, but I
6 don't want to lose focus on the fact that there's
7 other things that we're doing that will help us be
8 more effective in improving our service product.

9 CHAIRMAN OBERMAN: (off mic.)

10 MS. SANBORN: They are as a matter of
11 fact. Yes.

12 CHAIRMAN OBERMAN: Robert Primus has some
13 questions.

14 BOARD MEMBER PRIMUS: Thanks Marty. (off
15 mic.)

16 MS. SANBORN: Well thank you for the
17 question Member Primus. You know allocation of
18 capital in our industry is frankly starts with
19 investing in the business. And by that I mean
20 investing in track and infrastructure. We're a very
21 capital intensive network or business, as well as
22 technology, and any number of opportunities to earn a

1 return on that capital, and --

2 BOARD MEMBER PRIMUS: I don't mean to
3 interrupt but --

4 MS. SANBORN: I was kind of taking a long
5 way to get to your answer, so if you'll indulge me
6 just a little bit.

7 BOARD MEMBER PRIMUS: I apologize.

8 MS. SANBORN: That's okay. I may be too
9 long-winded, you can score me after, but essentially
10 the dollars that we generate that we invest in
11 ourselves come first, so the locomotives that I've
12 described, the chassis that I've described. We will
13 invest in that first, in ourselves first. After that
14 we will pay a dividend. We also feel you know our
15 investors are interested in that as well.

16 And then if there's anything left it goes
17 to share buybacks because our customers own the
18 company, and you know we have to be competitive in
19 service. We have to be competitive in efficiencies,
20 and we have to be competitive in capital markets.
21 And so and within all that in order to deliver that,
22 we have to obviously have our workforce in the right

1 place to be able to do those things.

2 But they're not mutually exclusive. They
3 work together, and that is the reason that we
4 initiated a stock buyback.

5 BOARD MEMBER PRIMUS: Okay. Well I
6 appreciate that, and you're not long-winded, but you
7 know I think that's something that again you know.

8 MS. SANBORN: Well let me start with
9 telling you at the moment we are focused on service
10 recovery. That is 100 percent our focus, and has
11 been as we've started to see ourselves slide late
12 last year, and you've heard from both Annie and Ed
13 about really that focus, and if Alan were here I
14 would tell you he is the person that is ringing that
15 bell within our company as much or more than any of
16 us, so that is our focus. But I will tell you --

17 BOARD MEMBER PRIMUS: I guess, I'm sorry.

18 MS. SANBORN: So I'm telling you at this
19 moment that is what we're focused on, absolutely.
20 But I will tell you as time moves on, and you know we
21 have to have a broader scope in time as to where
22 we'll be in a year or two, three or four, we have to

1 be competitive in the transportation marketplace.

2 Now that includes in service, in order to
3 grow and bring business to us. It also is
4 efficiency. In my statement as well you will hear,
5 you know you've heard me talk about trucks, and the
6 technology of I didn't get into the details, but the
7 technology of autonomous trucks platooning battery
8 operated trucks.

9 We have to continue to find ways to be
10 more effective and efficient. And we have
11 technology to help us as well on our locomotives, the
12 locomotives that I mentioned that we're purchased
13 are much more fuel efficient, and much more
14 technologically advanced than the locomotives that
15 we're starting with for that rebuild program.

16 But when I say focus on OR, on the
17 efficiency side of that equation, that's the reason.
18 That's why it's important. We can't wait until those
19 things are on the highway for us to be reactive, and
20 that's the purpose of what I'm describing.

21 BOARD MEMBER PRIMUS: (off mic.)

22 MR. ELKINS: I felt compelled to add

1 something there. You know the operating ratio is
2 exactly that, it's a ratio with operating revenue and
3 costs. And I think operating ratio in many instances
4 gets conflated with cost reduction, but there's a
5 different way to inflect the operating ratio, and
6 that's to put more top line revenue on the railroad,
7 more operating revenue.

8 We're intensely focused on that. We want
9 you to know that. Alan Shaw is intensely focused on
10 that. And when we look at our capital allocation,
11 whether it's for track, for ballast, for new
12 terminals, for new chassis, for technology as we
13 talked about earlier to address our customer's needs,
14 that's part of that capital allocation equation.

15 The other part is you know how do we
16 ensure that investors believe that they have made a
17 good investment in our company, and so that's a part
18 of that. In terms of being customer-centric, and I
19 feel very passionately about this. I believe that we
20 are customer-centric, and when I say that what I mean
21 is we strive every day to understand what value we
22 can deliver to our customers, and then we invest to

1 ensure that we can deliver that value over time.

2 It's a long-term view of how we're going
3 to help our customers succeed in the marketplace.
4 They want us to be efficient. No one wants to do
5 business with a partner who is inefficient. That
6 generally means they're a high-cost partner. For
7 Norfolk Southern we believe that we need to be
8 efficient, but we also need to be a growth company,
9 and that's where we're investing our time and our
10 money is to understand how we deliver value for our
11 customers, our long-term customers, and for customers
12 that we aspire to do business with like those that
13 are moving on the highway today.

14 You know I think about the consumer
15 packaged goods business in this country, which is
16 very large, and continues to grow, and has signals
17 that it intends to grow even more. Many of those
18 producers in the consumer packaged good business have
19 made commitments to the Paris Accords when it comes
20 to CO2 emissions, or greenhouse gas emissions.

21 You know some studies have indicated that
22 as much as 80 percent of the greenhouse gas emissions

1 from the consumer packaged goods business doesn't
2 come from the manufacture of it, or the retail of it,
3 it's the transportation of that business. And so
4 that means there's a compelling case that we can
5 deliver value to that segment of the global business
6 as they serve the U.S. economy.

7 That's what we mean by being
8 customer-centric. We're trying to understand what
9 value we can deliver for our customers. You heard me
10 say earlier that our mission is very simple, and
11 that's to deliver the most customer-centric and
12 valued logistic solution, and valued doesn't mean
13 valued by me, or by Annie, or by Cindy.

14 It means valued by our customers. Are
15 they willing to pay us for that value? And I want to
16 make sure that we have that on the record that that's
17 what we mean by customer-centric. I truly appreciate
18 your questions, and understand your sensitivity to
19 many of those issues.

20 BOARD MEMBER PRIMUS: I appreciate that.
21 That's a serious issue so again -- (off mic.)

22 MS. SANBORN: Member Primus I did look

1 into it, and I think it would be best to talk about
2 the particular rate increases in a private setting.
3 I'd be happy to do that, but I will tell you that
4 from a standpoint of de-marketing, or congestion, or
5 whatever you want to talk about, there's no desire or
6 interest in reducing volume, moving from Birmingham
7 southbound towards Mississippi.

8 There is no other than the current
9 challenges we're dealing with, with people, there is
10 no aspiration, desire, or interest to reduce
11 anything moving on that gateway. So that I
12 confirmed. I believed that when I heard her say it.
13 Now I'm not saying she didn't hear somebody allude to
14 that commentary because I heard her just as you did.

15 But I followed up on that piece, and
16 that's what I believed before, and I've confirmed
17 that that's true, and will be happy to follow-up with
18 you on the other point.

19 CHAIRMAN OBERMAN: Cindy just on that one
20 point real quickly, the point that Miss Dearden made
21 besides the rate increase was that she said that her
22 NS sales people came to see her and said we don't

1 have enough capacity on this line, that's why we're
2 raising the rates, in effect saying we have to get
3 rid of some of our shippers.

4 I'm concerned that this hearing is not
5 about some -- I'd like to know what happened to Mrs.
6 Dearden, I'm just as interested I think as the rest
7 of the Board, the question is capacity on that line.
8 Is that still a problem?

9 MS. SANBORN: It's not a capacity issue
10 Chairman Oberman, it truly is to the extent that we
11 have congestion there, it is driven by availability
12 of resources, which we are solving, meaning people.
13 You heard Amy talk about that as one of the key areas
14 where we had a lot of attrition, and she also talked
15 about the fact that we have 46 people in the
16 pipeline.

17 There's not a capacity problem from
18 Birmingham towards New Orleans.

19 CHAIRMAN OBERMAN: (off mic.)

20 MS. SANBORN: I understand. I completely
21 understand, and that's why I think that some of the
22 conversation we should probably take offline, but I

1 can tell you from an operating side there's not a
2 capacity issue there.

3 BOARD MEMBER HEDLUND: Mr. Elkins I get
4 your point about OR is not just about reducing costs,
5 it's about increasing revenue. Well the railroads
6 have two ways of increasing revenue. One is by
7 growing their customer base, and the other is by
8 increasing rates on their captive customers, and
9 we're going to be watching what you do with respect
10 to both of those.

11 BOARD MEMBER FUCHS: The services are not
12 what you expect, and not what you expect of NS. What
13 is the service that you expect in the most specific
14 terms that you can provide, say in terms of metrics,
15 or is there a particular time period you have in mind
16 in terms of how those metrics looked that you would
17 like NS to return to?

18 The second part is even in those periods
19 it may not provide the Board enough to judge whether
20 or not NS is a resilient railroad, so what should the
21 customers and the public look at to determine whether
22 or not NS is a resilient railroad going forward, and

1 maybe related to these two questions is you all have
2 outlined a number of actions you are considering from
3 technology to personnel.

4 What are your top three priorities that
5 will have the biggest impact, and which your
6 customers, the public, can judge you on in the next
7 30 days, and the next 90 days?

8 MS. SANBORN: In terms of resiliency going
9 forward you know I think we -- I guess that's your
10 second question. Let me go with that one first. You
11 know when we look at our performance in terminal
12 dwell, and train velocity, those publicly available
13 measures, that covers all spectrums of our business.
14 It's bulk, it's intermodal, and it's merchandise.

15 And I think of those as really good
16 indicators of performance, and fluidity of the
17 network. From a standpoint of what we need to
18 return to you know I think that one is a little
19 harder because our business mix changes. If we are
20 very high, higher continuing to grow intermodal we'll
21 end up with a faster overall goal than if let's say
22 somehow we had more coal.

1 So it's really how we're doing versus the
2 business mix that we have around train velocity, and
3 where we want to be. And it's kind of a moving
4 target. It's kind of built from below moving up.
5 The top three priorities -- resiliency to me is
6 consistency in those measures, and you don't see
7 dips, and you see it prolonged over a long period of
8 time at a fairly high level versus where we are.

9 That's how I would look at it. We have a
10 number of internal measurements to look at to help us
11 understand how to build to those, so that's -- we'll
12 break it down into pieces and parts, like you know
13 how long does it take to get through terminals, how
14 long is it on this line of road segment, and have
15 accountability associated with that within our
16 operating organization.

17 So I think that's the best way to look at
18 an overall network of any kind, and ours in
19 particular that's how I'd look at it. The top 30,
20 next 30 days, top three priorities. You know if I
21 could say hiring, hiring, hiring I would. I think
22 that is the best area, the best way to think about

1 what's most important to us, but I also have to
2 caveat that by saying we're not going to get in such
3 a hurry that we don't make sure employees are safe as
4 they come out, and are properly trained to be able to
5 do the work that we need them to do.

6 So that is our focus area now. I think
7 you know the other things that we will work on as we
8 onboard new locomotives, and make sure we get full
9 utilization of those in our bulk network, and
10 implementing our top SPG where we're going to evolve
11 from top 21 to including our intermodal network. I
12 think that will be very beneficial to us.

13 From a standpoint of balance of our
14 network, that's one of the most balanced networks we
15 have. It will help us be much -- and our plan is for
16 that to be much more of an executable service product
17 that will actually enhance outlook frequency and
18 blocking density. So we've got some initiatives
19 going on there that we will want to make sure we get
20 in place.

21 And those as we implement, or before we
22 implement, will have both our customers and our

1 employees will be very knowledgeable of what it is
2 we're trying to do, just as we did in top 21 in
3 2019. And Ed if you want to add anything please do.
4 I don't know if you were --

5 MR. ELKINS: I would agree with you, you
6 know, when we think about a resilient network that's
7 exactly what top SPG is about, and that's to ensure
8 that we have an executable predictable train plan,
9 and service plan that our customers can count on.

10 You know I know I keep saying it, but I
11 want to make sure that I say it. We understand that
12 our customers need for us to be stable, reliable, and
13 resilient. And if we are those things, they can
14 build businesses around our service that add value
15 for their customers. And you know Member Hedlund
16 back to your point, there's lots of different ways to
17 grow the top line.

18 We believe that the sustainable way to do
19 it is through growing new business on Norfolk
20 Southern, and that is what our mission is, is how can
21 we deliver value added products that our customers,
22 and aspirational customers want to do more business

1 with us.

2 You know none of us, and probably no one
3 in this room wants to work for a company that doesn't
4 grow. It is in our DNA to want to grow, and that's
5 what we're working on day in and day out. The most
6 important piece of that is that stable reliable
7 resilient service product that our customers can
8 count on.

9 Our investor friends talked about it
10 earlier in terms of you know the puts and takes, the
11 risk rewards, and what it takes to get there. But we
12 believe very firmly, and I will go back to Alan Shaw
13 and refer to him one more time. He believes very
14 firmly that the investments required to deliver a
15 stable, reliable and resilient service product are
16 pay-offs that will be generational for us.

17 This is how we deliver value to our
18 shareholders in the future going forward, is to be
19 efficient -- absolutely, but to be able to grow.

20 BOARD MEMBER FUCHS: To be clear, hiring,
21 hiring, and hiring would be your top three
22 priorities. You all do not have specific targets, 30

1 days, 90 days out, and the reason why I ask is you
2 know I think that customers are looking for signs
3 that things are changing, and you know as the Board
4 is engaged in service monitoring as you all have
5 outlined, you know the people that you have, then
6 obviously create better vendors on the service side.

7 And so it's helpful for us and for
8 customers from a monitoring, from a planning
9 standpoint if there are specific targets in mind
10 appreciating the fact that that's network-wide, and
11 that there are local issues that you could be
12 shifting people, and not seeing that aggregate, but
13 still have a better labor situation. But I just
14 wanted to offer you all the opportunity if there is
15 something you wanted to offer up in terms of specific
16 targets by which the public, your customers, can
17 judge your progress.

18 MS. SANBORN: Member Fuchs that's a --
19 Annie do you want to start, and I'll finish up?

20 MS. ADAMS: Sure. We recognize the need
21 to provide some visibility into that qualified T&E
22 headcount trend, and assurances that that will

1 continue to build, and we'll do that.

2 CHAIRMAN OBERMAN: I have a few that I
3 would like to follow-up on. I guess really on that
4 point Annie, what is the goal? You talk about
5 hiring, hiring, hiring. Are you going to stop at
6 some point? And do you have a number in mind that
7 your company needs because I'm still waiting to hear
8 the answer to the question I've been asking all the
9 Class I's.

10 Where do you want to get back to? Are you
11 just trying to get back to the 8,400 T&E people?
12 Less, more, what's the plan.

13 MS. ADAMS: The priority that Cindy and Ed
14 have talked about is getting back to restoring our
15 share of risks, and providing consistency to our
16 customers. A big part of that will be the continued
17 evolution of our operating plan into something that
18 our operating team can execute on consistently day in
19 and day out.

20 We are working really closely with Cindy's
21 team as they're developing that to understand what
22 the implications of that are in each of those 95

1 specific hire group, hire locations. Right now being
2 behind in key areas due to the turnover, and being
3 focused on those areas that will have the biggest
4 impact on the network.

5 We haven't set a target such as what you're
6 -- to get back to a pre-pandemic level. We're trying
7 to match our target to our operating plan needs, and
8 we'd be happy to follow-up with you on where we
9 expect that we will end the year based on all of
10 those efforts.

11 CHAIRMAN OBERMAN: So you don't have a
12 number that you expect to be at on April 26 of 2023.
13 You have no such number besides your planning
14 operations for T&E, or any of the other categories?

15 MS. ADAMS: Again, we're operating in a
16 dynamic environment, and we're trying to match those
17 -- our hiring to our operational needs taking into
18 account also what's going on in the labor market,
19 understanding the time it takes to hire, the turnover
20 that the trends and turnover in our organization, and
21 I'm not prepared to share a number for April of 2023.

22 CHAIRMAN OBERMAN: Well I'm sort of

1 non-plussed about how a large company of any kind
2 doesn't have a projection for what the payroll is
3 going to be over the next 30, 60, 90, 180 days. I'm
4 just mystified by that, but maybe you can enlighten
5 me. I don't have an MBA.

6 MS. ADAMS: Again, we'd be happy to
7 follow-up with you to share where we expect to be
8 throughout the year.

9 CHAIRMAN OBERMAN: A couple of other
10 areas. You talked a lot about the velocity and
11 dwell, and those numbers are not great. But I
12 haven't heard yet, or if I heard you say it I missed
13 it, what is -- how has your metric of trip plan
14 compliance evolved from the advent of what you call
15 PSR 2019 because that's you know, I don't have any
16 shippers calling me up and saying I'm unhappy with
17 some railroad's dwell time.

18 Their question then is where's my stuff,
19 and when am I going to get it. I don't care if it
20 sat in the yard for an extra day, it was due here
21 Tuesday, and now it's Friday. So what is your trip
22 plan compliance metric over time going back three

1 years?

2 MS. SANBORN: So we have actually not
3 really had one to the extent that you're describing
4 it, but what we do do, which is why I was looking at
5 Ed, is having very clear understanding with our
6 customers as to what they should expect on a trip.

7 We didn't publish it as ours only. We had
8 something called shipment consistency. It had a
9 little bit of nuance to it that's a little different
10 than what you're describing, and I've -- you know my
11 experience with other railroads, the definitions in
12 trip plan compliance for each railroad are different
13 amongst each one.

14 So we've focused inwardly more really with
15 customers and what customers can see with our
16 technology tools to be able to understand where their
17 shipment is, and where it is on its trip. And where
18 there's concerns or delays, that's where customer
19 service engages with the customer, and provides them
20 with updates, which is what Ed has talked about, so
21 Ed let me let you go from there.

22 MR. ELKINS: I think probably the metric

1 you were thinking about was on time delivery for most
2 of our customers, and it's not where we need it to
3 be, nor where our customers need it to be. The fact
4 is I think there was probably some contribution to
5 the record on what that number is.

6 It is what it is in terms of that number.
7 I will say this. We are deeply committed to
8 improving, and the only way that we're going to be
9 able to improve is to engage every single Norfolk
10 Southern employee not only with where we are, but
11 where we want to be because when I go to work if I
12 don't know where I am, or where I want to be, it's
13 very difficult to make any progress.

14 So in the spirit of those values that I
15 talked about earlier, we're trying to be very
16 transparent, and that brings all kinds of risks, and
17 I guess as well, but we're not scared of those risks.
18 We want to be transparent with our customers, and
19 with our employees because we believe that's the only
20 way that we're going to get better.

21 CHAIRMAN OBERMAN: I'm sure you're right
22 that different railroads have different ways of

1 looking at this, but it's always struck me that it's
2 not helpful from where I sit, and I don't think it's
3 helpful to the regulators to know whether the train
4 is going 50 miles an hour down the track, or 45, just
5 in the abstract.

6 That's important, but we still need to
7 know when the stuff is going to get there, and if
8 it's getting there on time. We wouldn't be having
9 this hearing if people were getting their stuff on
10 time. You already heard from shippers, and we have a
11 lot more to hear from. So I think that's a metric we
12 need to know. I think Wall Street would like to know
13 it too.

14 And that might help the overall effort.
15 Let me ask this question. This is the one I've been
16 dying to ask. We had the people who drive the trains
17 sit here a couple hours ago. And I'm looking, I
18 think all of us are looking for what can we do right
19 now. We're in a crisis. And I heard take the 40
20 mile an hour limit off. I don't know if you have
21 one, certainly BN has one because I saw it in
22 writing.

1 Power up the locomotives that are in the
2 consist, take the locomotives out of storage and put
3 them on where they're not. That's what I heard, and
4 shorten the trains so they fit in the siding. So
5 Cindy you said you had no sidings that don't fit your
6 long trains on your whole system.

7 I'm sort of surprised to hear that, but
8 maybe so. But what about these three suggestions
9 that we heard this morning? Can we do that tomorrow?
10 Can we start improving fluidity and end some of this
11 congestion?

12 MS. SANBORN: So what I was talking about
13 were the sidings that we were extending going to be
14 able to fit trains, so yes they are. Does every
15 siding fit every train that we run on the network
16 today? No. But that would have been the case before
17 PSR as well frankly if you want to use that as a
18 marker.

19 Some of our network was built you know so
20 far back that trains were much, much smaller even
21 than what some people would consider pre-PSR trains
22 were. So from that perspective that's the siding

1 piece.

2 On the locomotive piece mentioned, let me
3 start with our search fleet which we have deployed
4 fully into the network to help recovery. We have the
5 investment that we're making in our DC to AC
6 conversions, coming online and we've received a
7 portion of those that are helping us as well.

8 From a standpoint of engines online and so
9 forth, first we don't have a 40 mile an hour speed
10 restriction. We do use energy management, whether
11 that's trips optimizer, or leader, as a technology
12 that helps us manage our fuel conservation.

13 And I will tell you that in PTC territory
14 it is integrated with PTC in such a manner that
15 trains may go slower because beyond the locomotive
16 engineer's range of vision, 10-14 miles down the
17 railroad, there is something that is going to cause
18 that train to stop, and so there's no reason for the
19 train to operate at 60 miles an hour and come to a
20 stop sooner.

21 It actually is integrated and reduces the
22 speed of the train so that it does, it utilizes fuel

1 conservation techniques, and doesn't hurry up to get
2 to a stop sign, or to a stop signal in our case. So
3 we use that technology quite a bit.

4 CHAIRMAN OBERMAN: Is that the -- in which
5 trains aren't going as fast as they could?

6 MS. SANBORN: I was going to go into a
7 couple more. We also power our trains for the ruling
8 grade, and that we based on tonnage and grade. We
9 manage by how many tons can a particular locomotive
10 move, or haul, how many tons can a particular
11 locomotive haul?

12 And part of our network -- so let's say we
13 go from Chicago to the east coast. There's a portion
14 of that route that goes to the mountains. So the
15 locomotive consist is built to go through the
16 mountains. There's a portion of the trip that is on
17 absolutely flat land through Indiana, coming out of
18 Chicago, and through Indiana where a third
19 locomotive, you'd be using an awful lot of fuel to
20 have a third locomotive online because you basically
21 have three locomotives to hit the mountains.

22 So yes, we do turn down, or turn off the

1 train and locomotives in that instance where they're
2 not needed for power because the train does not match
3 the locomotive consist that we put on the train, so
4 there are multiple -- there are parts, some of the
5 technology that manages the consist itself, the
6 technology actually reduces the tract of effort of
7 the trailing locomotives by itself, and sometimes
8 when locomotives are not equipped with that
9 technology we give the locomotive engineer a piece of
10 paper that tells them how many engines they should
11 have online going on their specific crew district
12 from A to B.

13 Now might that slow down a train on a
14 particular territory below maximum authorized speed?
15 Yes. That can happen, and some of the examples, some
16 of the T&E employees, representatives provided are
17 true. I will also offer this datapoint that in my
18 past at one of the other Class I railroads there
19 was a perception that energy management and some of
20 this technology was reducing the fluidity of the
21 network, so we turned it completely off, and had a
22 compare before and after.

1 And it really didn't matter because most
2 of the delays that we see in the challenges that we
3 have are getting in and out of terminals. It's not
4 over line or road. It's getting in and out of
5 terminals, that's where the congestion is. So I
6 heard -- I listened with interest.

7 I think we have made some changes
8 particularly on going up and down these grades where
9 we, if we have extra, a locomotive that we can put
10 online to what we call unconstrained horsepower zones
11 where all locomotives will be online to make sure we
12 get up the hill faster, maybe not 60 miles an hour it
13 probably wouldn't be, but certainly not as low in
14 speed as 10 or 8 or 6, or something like that which
15 at times does occur.

16 So I listened very intently, like I said
17 some of what I heard was not something that we've
18 adopted at NS, but other things that we do do, I do
19 not believe it negatively influences our ability to
20 operate today, or we would change it.

21 CHAIRMAN OBERMAN: Let me just say this.
22 There are problems that we're hearing about acutely.

1 And the people who want to move coal out of West
2 Virginia really can't wait six months for all these
3 new trainees to get online. And the fertilizer can't
4 wait, and all the other shippers that we have heard
5 from, and are going to hear from.

6 And I think it behooves the Class I's on
7 a short-term basis to re-explore every possible way
8 to move this congestion, and I'm sure you've got T&E
9 people at NS who are just as inciteful and able as
10 the BN was we heard from this morning. And I'm sure
11 if you can't find them, Jeremy would be happy to put
12 you in touch with them.

13 And I think you ought to sit down with
14 them and figure this out because what I heard this
15 morning is that these people who run the trains think
16 they can do better if they're allowed to. And I'd
17 pay attention to them, and you may end up
18 disagreeing, but now is not the time for trip
19 optimizer. Now is the time to eliminate this
20 congestion, and get our economy back to where it
21 should be faster than it's going now.

22 The people who are paying more for a loaf

1 of bread are not interested in trip optimizing. They
2 want the grain to the flour mill. The people who are
3 paying more at the gas pump want the ethanol over to
4 where it's mixed with gasoline. And we heard, we
5 heard at RETAC last week, and we heard it again today
6 ethanol plants are shutting down because they can't find
7 empties, and I don't know if that's on your line, but
8 it's certainly throughout the network.

9 So I think we're going to have some
10 short-term, it may not be consistent with the overall
11 corporate plan, but we have a problem in this
12 country, and we're having this hearing because we
13 don't want to wait six or eight months to see those
14 employee numbers gradually go up if we don't have to.

15 So you know I think you should take that
16 to heart. I'm glad Cindy you were listening. I
17 assumed you would be, but to me it sounds like
18 there's something that could be improved. Just one
19 more observation I wanted to make because we talked
20 about, and it's not really our area, but it's been
21 raised in PSR, concerns about safety and training and
22 so forth.

1 And the only safety statistic that I've
2 been provided for by our folks is train accident per
3 million of train miles. And NS has gone from 2.29 in
4 2010 to 3.54 in 2021, that's a 54 percent increase in
5 train accidents per million miles. And virtually all
6 of that increase started in 2019, which is when PSR
7 started. So I don't know if the two are related, but
8 the numbers don't look good on the safety side from
9 when you implemented PSR, that's all I have.

10 You've been extraordinarily patient,
11 helpful, forthcoming, appreciate it. Getting a
12 little firm in the conversation out there it's
13 because we are taking this problem quite seriously, I
14 think that speaks for all of us. So thank you all.
15 It is now 5:15. We are way beyond what our schedule
16 had hoped for. I think we need a break, ten minute
17 break. Patrick is telling me five. He is a younger
18 man.

19 He also is very influential, so I'm going
20 to give him seven. We'll come back at 5:22, I guess
21 we're going to move this agenda. Thank you all.

22 (Break.)

1 CHAIRMAN OBERMAN: All right. We are
2 going to reconvene. Our next panel is PRFBA, Private
3 Railcar Food and Beverage. Herman Haksteen, that we've
4 already heard from, David Burchett and Dan Elliott,
5 Rob Benedict from AFPM, and Delek Companies, and I
6 think that is all, that's everybody, Todd O'Malley
7 and Michael Ralsky. Is everybody here? All right.
8 Herman do you want to lead off?

9 MR. HAKSTEEN: If you don't mind sir,
10 thank you very much for giving us this opportunity to
11 speak again. You know I'm just going to go off
12 record for a minute, my notes forget them -- I just
13 want to say I'm really sorry for you guys. I sat at
14 a hearing in this building 2015-16 I think it was,
15 when Chairman Begeman had a completely different
16 Board at the time, and she was trying to figure out
17 from Mr. Harrison what this was all going on with
18 precision scheduling railroading, and why the CSX was
19 melting down.

20 And I think the only person in common at
21 that time was I believe Miss Sanborn was sitting
22 beside Mr. Harrison at that time, and they said to

1 that everything is going to be fine. Here we are
2 unprecedented times because this morning the White
3 House issued a press release that said railroad
4 service sucks. I don't know if you guys got that,
5 but that was on the White House press release this
6 morning.

7 They might not have used that word, I
8 apologize for that, but they said it was at a White
9 House press release this morning, so.

10 CHAIRMAN OBERMAN: They weren't talking to
11 me.

12 MR. HAKSTEEN: No. No but it was amazing
13 that we went from no news to oh my gosh, now the
14 White House is talking about us. So I feel sorry for
15 you guys because you know it's something that I think
16 was on the STB's radar five, six, seven years ago
17 when Chairman Begeman said hey, we should probably
18 talk about this is now creating a tremendous amount
19 of pressure on the new Board to say you guys got to
20 fix it.

21 And I just -- you guys know me. I speak
22 my mind as I've been sitting here today listening to

1 all of the testimonies, I feel a certain amount of
2 pain for you guys because you guys got a tough road
3 here to fix something that we didn't necessarily
4 agree with in the first place. So anyway, so --

5 CHAIRMAN OBERMAN: Herman I just wanted to
6 say don't feel sorry for us, we're all fine.

7 MR. HAKSTEEN: Yes sir, and you know I
8 understand, and you're making millions, I understand
9 I got it. But seriously, so just after that I want
10 to go on to say thank you very much for Friday's
11 announcement. We needed to send out some messages
12 that we take this seriously, and I do appreciate you
13 know the position you took there.

14 So I guess I'll rewind the minute.
15 Private Railcar Food and Beverage Association for
16 those of you who haven't seen us before, very small
17 group. We have 18 members, they're all major food
18 and beverage companies, they're the small guys. The
19 list is in the submission. These are the
20 international multi-national food and beverage
21 manufacturers.

22 Our group consists of members that all own

1 or lease their own railcars. It's not how they get
2 100 percent to market, but they all have skin in the
3 game, and in order to be a member of our organization
4 you have to have that. So we do speak, we love the
5 railroads because we've invested in the railroads by
6 having our own equipment.

7 We just need the railroads to continue to
8 be efficient. So we did bring a few people with us
9 today because of scheduling. We had to hear from Rob
10 McRae already, and we appreciate him coming forward.
11 I also have Dan Elliott with us today. You know a
12 lot of people don't know Dan, so we'd like to leave
13 it that way.

14 But Dan's going to talk about a whole
15 bunch of service issues for members that aren't
16 comfortable being here in person, so Dan's -- he's an
17 attorney, so he knows how to hide stuff. So Dan's
18 going to talk about stuff that we're not supposed to
19 talk about. And then David Burchett, like Rob McRae,
20 David Burchett and his organization we're also proud
21 enough of their reputation and strong enough that
22 they felt that they could come here and speak openly

1 to the Board, so we value that.

2 So anyway I'm going to let David speak
3 first, and then we'll let Dan go, and then I might
4 throw a closing sentence or two if you want. Do you
5 want Dan to go first? All right. Let's go Dan is
6 going to go first there.

7 MR. ELLIOTT: Okay is this working? It's
8 good okay. All right. So yeah I'm not sure exactly
9 what that was all about, about me personally, but in
10 the immortal words of Member Hedlund, I will play
11 good cop.

12 CHAIRMAN OBERMAN: She's going to address
13 that.

14 MR. ELLIOTT: I am sure. I'm sure she
15 will later in the week I'm sure. May it please the
16 Board the first time I testified here was at the UP
17 CNW merger hearing in 1994 when I was actually
18 working for SMART TD at the time. Things have
19 certainly changed significantly since that time.
20 When I came to the Board in 2009, the railroad's
21 message was loud and clear to me.

22 Please allow us to properly invest in our

1 infrastructure to make sure we can continue to
2 provide this crucial service to our customers. By
3 the time I left the Board in 2017, railroads were
4 beginning to emphasize how great PSR is, and how much
5 they had been able to cut costs as a result of it.

6 At the time one of the great rail CEO's of
7 our time in my estimation, warned that this path
8 could eventually catch the attention of the
9 industry's regulators, and I believe that prediction
10 has clearly come to fruition. Today we are here
11 looking at rail service problems that have run
12 rampant across our country, slowing our economy, and
13 the supply of goods to U.S. consumers.

14 The pandemic was obviously something
15 beyond all of our control. However the railroad has
16 made a difficult situation much worse to what can
17 only be blamed on themselves, which are the massive
18 job cuts that occurred under the guise of PSR prior
19 to the pandemic.

20 These cuts left the industry completely
21 unprepared for the uptick in demand as the U.S.
22 economy returned to normal. Moreover the railroads

1 have been incredibly slow to react to this problem,
2 and their job numbers continue to leave them
3 understaffed to provide adequate service.

4 I recently testified in the reciprocal
5 switching hearing about numerous service problems
6 that PRFBA members have been having with their
7 railroads. I specifically mentioned two PRFBA
8 members who had suffered plant shutdowns, and loss of
9 revenue due to missed switches, and no service from
10 their eastern Class I carrier.

11 Another PRFBA member that is not here
12 today is constantly subjected to missed switches by
13 its Class I railroad, including nine since
14 September 21, at one location, 22 at another
15 location during the same time, and 8 at another
16 location in 2022. The results have been plant
17 shutdowns, loss of business and revenue,
18 rescheduling of production, and waste of manpower.

19 Another location has not received service
20 on 25 occasions, and partial service on 12 occasions
21 since the start of 2021, having the same impacts
22 there, including a plant shutdown. Another location

1 has had 20 missed switches since September 2021,
2 which ironically led to a threatened embargo by the
3 railroad.

4 Another rail carrier that serves the same
5 company at a different location has had numerous
6 switch and interchange failures in the past nine
7 months that have resulted in plant shutdowns, and
8 customers running out of product. In other words,
9 plant shutdowns have become commonplace for this
10 company because of poor rail service from these two
11 Class I carriers, in the western half of the United
12 States.

13 Plant shutdowns are the result of
14 inadequate rail service, have become a fairly common
15 occurrence recently. I do not recall this occurring
16 during the service crisis in 2013, and 2014. It
17 seemed that the railroads then could generally
18 provide service in time to keep this from happening
19 when their customers warned of this possibility.

20 However now, that is not the case as the
21 examples demonstrate, which is extremely troubling
22 for rail shippers, and makes one extremely concerned

1 about the state of the rail industry. I urge you to
2 use your investigatory powers that Congress gave you
3 after the 2013-2014 rail service crisis. They were
4 put in place for situations exactly like this.

5 And if you find that fines are warranted,
6 that is another tool to foster improvement. I also
7 commend the Board for its recent NPRM regarding
8 service emergencies. I believe that can be a useful
9 tool for shippers in the future, as with new rules on
10 reciprocal switching and first mile, last mile data.

11 The U.S. freight rail system is truly a
12 special asset for our economy. I just hope we don't
13 go too far down this path of cutting employees and
14 other expenses before the impact on PRFBA members is
15 too much to bear. And now I'll turn it over to David
16 Burchett, one of our PRFBA members who will tell you
17 about his situation.

18 MR. BURCHETT: Thanks Dan. Good evening.
19 Thank you Chairman Oberman and the rest of the Board
20 for looking at the current rail issues, and allowing
21 me time to give some examples of how it's impacting
22 Molson Coors. My name is David Burchett, and I'm

1 here representing Molson Coors. My team is
2 responsible for North American procurement across all
3 modes, including truckload, rail, ocean,
4 warehousing, parcel and heavy air.

5 We utilize rail in three different areas
6 of our business -- for inbound transportation of raw
7 materials to manufacturing plants in Boulder,
8 Colorado where we make cans and bottles used to
9 package our finished products, bring down shipments
10 of raw materials into our breweries, and finally for
11 finished beer shipments from our breweries out to our
12 DC's and distributors.

13 All three areas have been impacted. I've
14 negotiated a number of contracts with the railroads,
15 and one thing that has stayed constant is that they
16 will not have any kind of service guaranty. All
17 other modes either have some type of service tied to
18 their contracts, or the ability to switch to a
19 competitor if service levels decline.

20 While magnified by the influx of
21 additional volume and challenges, hiring resources
22 that many of us have experienced this year, service

1 from railroads has been degrading for several years.
2 We the customers take on that burden. Whether it be
3 with the additional resources to manage through those
4 issues, increase inventory to buffer for the delays,
5 and increase costs to lease or buy additional
6 equipment which the railroads have pushed to the
7 customer to decrease their own capital costs.

8 All this while the railroads continue to
9 eliminate roles, and brag to Wall Street about
10 improved margins and operating ratios. Here are some
11 examples where the rail service issues have negatively
12 impacted Molson Coors in 2022. I'll start with the
13 inbound shipments of barley malt, a key ingredient
14 for our products to our breweries.

15 Molson Coors leases a fleet of 400 hopper
16 cars for these shipments, and each of our five
17 eastern breweries in the U.S. requires between 15 and
18 23 cars a week to produce our products. For the
19 first quarter of this year and into April, we have
20 seen an additional five to ten days of transit,
21 depending on the week and brewery, which has had a
22 huge financial impact in many ways.

1 First, we have had increased moving
2 inventory to cover for the increased transit. With
3 the additional transit across those five breweries we
4 are holding almost 35 million dollars in additional
5 rolling inventory. This year at our Elkton, Virginia
6 brewery, we've had to request an additional switch
7 three times from the NS just to keep our brewery
8 running.

9 Did they bring that in at no cost? No.
10 They charged us \$2,500.00 each time, even though it
11 was a rail service issue that caused the need. We've
12 asked for those charges to be waived, and we're
13 waiting on a response. We've also needed to ship
14 malt in by truck to prevent the brewery from shutting
15 down at an additional cost of \$155,000.00.

16 The suppliers servicing our Albany,
17 Georgia brewery could not get the needed rail cars,
18 and our Golden molting plant had to send 20
19 emergency rail shipments to prevent shutdown of an
20 additional \$20,000.00 just this month. Again NS told
21 us the issue was their Memphis terminal, and they
22 suggested that we go through a different switching

1 point until they could get the issues fixed, which
2 might come at an increased cost to Molson Coors.

3 I just found out last night that we're now
4 having to truck malt into our Albany brewery to keep
5 the brewery from shutting down this week at a cost of
6 \$225,000.00. If you talk to our op's folks about
7 their experience with the railroads during this time,
8 I don't think you'd hear the word transparency.

9 I think you'd hear frustration, lack of
10 accountability, and then all of the time that they've
11 spend you know sending emails, making phone calls,
12 and then also scheduling these loads to keep our
13 breweries running. On top of all of this we're very
14 concerned that we will not have enough cars to keep
15 our breweries supplied with malt during the important
16 summer months when we see the highest consumption of
17 our products.

18 And finding available cars at this point
19 for a short-term lease is impossible. On our
20 outbound finished product we have seen similar
21 issues. I will say though it's not all doom and
22 gloom, as we've been working closely with our rail

1 partner out of the brewery in Golden, Colorado and
2 have seen improvements in service over the last
3 couple months.

4 With that said though, for every rail
5 shipment we cannot ship because transit is longer,
6 and the cars do not get back to our brewery timely,
7 we are forced to move those shipments over the road.
8 I'm sure everyone is aware of the current driver
9 shortage that we have in the U.S. right now, and
10 pushing more freight over the road is not helping
11 this dire situation.

12 Based on those transit delays, the
13 additional costs for truckload shipments is running
14 at about \$100,000.00 premium per month, and we're not
15 even into our busy season yet. Finally, I'd like to
16 talk about what these service issues have done to our
17 demurrage bills. I mentioned earlier that we have a
18 bottle manufacturing plant in Golden, Colorado.

19 Typically we get about 850,000.00 in
20 demurrage charges in a year, and then we have to
21 evaluate and potentially refute those to the
22 railroad. This year we're on pace to receive two

1 million in demurrage bills, yet we have not changed
2 any of our ordering processes. Our largest DC in the
3 west received \$175,000.00 of demurrage in 2021, and
4 they are on pace to hit \$500,000.00 this year --
5 again no change in how we are shipping.

6 I'm sure breweries are also seeing
7 increased demurrage on our inbound shipments as well.
8 I apologize for not having those details, but I have
9 pulled together as much data as possible for the
10 hearing today. These demurrage charges are all
11 brought on by the bunching of cars, and inconsistent
12 delivery and transit delays by the railroad.

13 It's hard for me to get status updated
14 from the rail customer service teams, but I'd never
15 miss a demurrage bill. I think we heard 45,000
16 people have been let go from the railroads over the
17 last six years, I don't think any of those came from
18 the demurrage department.

19 Considering the success of our demurrage
20 hearing two years ago, we all understood that if
21 there were service issues that caused demurrage, the
22 railroads would not even issue invoices for a

1 demurrage, yet this year our locations are receiving
2 two to three times normal levels of additional
3 demurrage bills, and those charges are happening all
4 because of rail service issues.

5 I would ask that the Board strongly
6 consider requiring the railroads to reimburse
7 shippers for all demurrage for 2022, and embargo the
8 railroads from charging demurrage until they can show
9 sustained service levels. All of the numbers that
10 I've shared today are things that are quantifiable.

11 The people that spend time evaluating the
12 validity of demurrage charges at our company are the
13 same people that make sure we have enough materials
14 to keep our breweries running, and to ensure our
15 finished products are getting out to our customers.

16 It's hard to quantify the extra hours that
17 we were spending across all of our operations due to
18 these delays. Adding people to take on this
19 additional work is a challenge for any company, and
20 if it comes down to spending time researching
21 demurrage bills, or making sure that we have what is
22 needed to get our product to market, our people spend

1 their time on the latter.

2 I'm not sure I have an answer for how to
3 fix these issues, but I have a few ideas. First, I
4 think first mile, last mile reporting is needed. I
5 think to have accurate service information is a start
6 to really understand how the railroads are
7 performing. Second, payment to private car owners.
8 If we have to pay for demurrage, and the railroads
9 are pushing more private cars to shippers, why
10 shouldn't they have to pay when they have excessive
11 time holding our cars?

12 And then finally reciprocal switching.
13 The railroads like to throw out things like we're
14 competitive with the trucking industry. Well of
15 course they are, the trucking industry has a higher
16 cost basis to start off with. We need the railroad
17 to be competitive with each other. That will drive
18 better service and lower cost, and I think
19 reciprocal switching will at least start that
20 process. Thank you for your time.

21 MR. HAKSTEEN: So in our last two minutes
22 with the panel I just want to summarize. Am I on

1 now? Thank you so much. So in my last two minutes
2 to try to summarize this, you know there's a concern
3 that we wanted to come today and talk about all the
4 service issues, but I think the Board is painfully
5 aware of the service issues.

6 If the White House is aware, everybody is
7 aware. So the time for action is now, and I think
8 some of the ridiculous things that are going on, I
9 really don't know how we're going to fix this, so
10 railroads are encouraging because of slower transit
11 times of going out and getting more private cars
12 maybe to keep moving your product to market, and then
13 the Union Pacific announces that they're going to
14 start monitoring the amount of private cars you have
15 on the railroad, so that they can cut you back.

16 Well the reason we need more private cars
17 is because your service is lower. We still need to
18 move our beer, or whatever the product is to market.
19 We're trying to compensate for some of the things
20 that you railroads are doing, and now you're trying
21 to take that away from us.

22 One of our members came forward, and did

1 not want to come forward with their name. The most
2 ridiculous thing -- and this has happened three times
3 in the past three months, their yard embargoed their
4 cars because they had too many of their cars in the
5 serving yards, and they did so three times on the
6 three weeks that followed when that railroad was not
7 able to give them their switches.

8 So the right hand isn't even talking to
9 the left hand. That company didn't get a switch, so
10 their cars didn't leave the yard, and so the railroad
11 decided that they needed to embargo their cars from
12 that yard because they had too many in it. Have they
13 lost so much contact with their day to day business
14 that they don't realize it's sort of the same thing
15 with the detention and demurrage thing. Is the right
16 hand not talking to the left hand? Maybe they laid
17 off the left hand.

18 I don't know, but they have two
19 departments that have -- should be working in
20 conjunction with each other, and they turn around and
21 they insult this very major shipper, bigger than most
22 Molson Coors, and embargo his cars the week after

1 they didn't give him the switch.

2 I mean I don't know how more ridiculous
3 things could get out there before we need to start
4 fixing things, but we're looking for you folks to
5 help us out with that. So number one, Dan alluded to
6 perhaps you know ramping up some fines for bad
7 service.

8 You know I'm going to ask first mile, last
9 mile. We've got to measure it. I think everybody
10 deserves to know not how fast the train didn't get
11 there, we just need to know that the train didn't get
12 there, and what percentage of times it doesn't. We
13 need reciprocal switching to everybody's point, if
14 there's somebody else out there that's willing to do
15 it, let somebody else do the job.

16 And then David came up with the idea when
17 we talked earlier in the week about why can't we
18 embargo detention and demurrage? I mean the spirit
19 of that hearing that we sat at until seven o'clock at
20 night I think, on the first or second day of that
21 hearing was if there was a service failure involved
22 by the railroad, the railroad wasn't supposed to send

1 us a demurrage bill. That was the spirit of one of
2 the rulings of that hearing.

3 Well the service right now is terrible.
4 We know why the cars are showing up in bunches, it's
5 because precision scheduling the railroad uses longer
6 trains, they're giving us less switches, both of
7 those things equal more cars at the same time.
8 That's bunching, but now they want to triple Molson
9 Coors detention and demurrage charges. Seriously?

10 I mean we've gotten some pretty silly
11 actions out there, so we maybe need your help trying
12 to fix the detention demurrage issue. Other than
13 that, thank you. Sorry that my passion gets in the
14 way sometimes, it's just we look forward to you
15 helping us out. I'll push my button.

16 CHAIRMAN OBERMAN: There we go. No need
17 to apologize for passion Herman. Our next speaker on
18 this panel is Rob Benedict, AFPM.

19 MR. BENEDICT: Can you hear me all right?
20 Chairman Oberman, Board members, thank you for
21 providing this opportunity to testify before you
22 today. My name is Rob Benedict, I'm the Vice

1 President of Petra Chemicals and Midstream at the
2 American Fuel and Petrochemical Manufacturers, or
3 AFPM.

4 AFPM is a leading trade association
5 representing the makers of the fuels that keep
6 America moving, and the petrochemicals that are
7 essential building blocks to products that enable
8 modern day life. Refineries and petrochemical
9 manufacturers across the country rely on a healthy
10 rail network as a vital part of our supply chains,
11 and those supply chains we support.

12 Annually in the United States over 2
13 million of our carloads of our member's feedstocks
14 and products, including crude oil, natural gas
15 liquids, refined products and plastics, are
16 transported by rail. In fact, on average 205 million
17 barrels of crude oil, the main feedstock to many of
18 our fuels and petrochemicals are moved annually on
19 the rails.

20 An efficient transportation system also
21 impacts the consumer. Transportation costs account
22 for an important portion of the overall price a

1 consumer pays for fuel, or petrochemical based
2 product. In today's testimony I'll do three things.
3 I'll describe some of the rail service disruptions
4 our members are feeling.

5 I'll relay the consumer impact of those
6 problems, and I'll provide some potential options to
7 resolve those issues, mostly long-term, but hopefully
8 maybe some near term issues too. But I'll start with
9 precision scheduled railroading, or PSR. When PSR
10 was first introduced in the United States in 2017, I
11 clearly remember discussions I had with our members
12 on the potential benefits and pitfalls of that
13 operating model.

14 At the time there was in fact some
15 optimism, but mostly fears and concerns of how
16 significant cuts in railroad operations and staffing
17 would impact rail service. Specifically, when
18 railroads would be faced with adverse situations.

19 Unfortunately, our members worst fears
20 have become the current reality. PSR has become
21 ubiquitous in our already competition constrained
22 rail network, and we have been faced with

1 compounding adversity. And while COVID-19 plays a
2 role in the global supply chain crisis, it is only
3 part of the reason the freight rail industry is
4 experiencing such widespread service disruptions
5 today.

6 The spread of PSR operating model across
7 the major American railroads is a key contributing
8 factor to the current service issues we are facing.
9 As you've heard today, PSR has driven operating ratios
10 to levels once thought impossible. And to achieve
11 these 60 percent operating ratios Class I's have
12 slashed their workforce, shuttered facilities,
13 shelved equipment and reduced service.

14 And it comes as no surprise that this has
15 benefitted Wall Street investors. They harmed rail
16 shippers, and more importantly consumers. All of
17 these service changes have been dictated to rail
18 customers with very short notice, and sometimes just
19 days, and little to no negotiation.

20 AFPM members have experienced increased
21 rates, reduction in service sometimes cut in half,
22 service days, the closure of hump yards, storage

1 facilities, maintenance facilities that are vital to
2 our operations, and increase in missed switches as
3 you've just heard, and many other detrimental service
4 issues.

5 Our members have gone as far as making
6 critical capital investment decisions, such as where
7 to place a facility based on where they could secure
8 competitive rail service. Poor service has also
9 forced some of our members to buy or lease
10 additional railcars just to support the same business
11 levels they've been accustomed to over the past
12 couple years.

13 Just days after the announcement AFPM
14 members received communications from some of the
15 Class I railroads detailing their efforts to
16 restore service and address service issues. And
17 while Class I railroads are now acknowledging these
18 service interruptions, they're pointing to increased
19 traffic on the network as the main reasons for these
20 issues.

21 And while short-term demand has increased,
22 it's not as if we're experiencing unprecedented

1 carloads that the rail network hasn't handled in the
2 past. Rather, Class I railroads PSR induced cost
3 cutting has left the railroads unable to handle the
4 normal pre-pandemic carloads.

5 The most troubling aspect of the recent
6 communications from some of the Class I railroads
7 to their customers is their demand that rail shippers
8 reduce the number of private railcars on the rail
9 network, or face embargos. As many of you are aware
10 our members invested heavily in the new fleet of
11 flammable liquid tank cars in the past couple years,
12 so we have a large private railcar footprint.

13 Rail shippers were given in some instances
14 just four days to reduce this car count, and in some
15 instances by up to 20 to 40 percent of their cap, or
16 face embargo. The refining and petrochemical
17 industries have fully been impacted by PSR and more
18 recently the reduction in private cars.

19 AFPM members have been forced to reduce
20 facility through put as you heard at RETAC, even
21 ethanol plants have been closing down in some places,
22 or lower runs. And subsequently they've actually had

1 to inform downstream customers that shipments may be
2 delayed or late.

3 We believe the forced reductions in car
4 counts is a violation of common carrier obligation,
5 and at worst, and at best, at odds with contractual
6 commitments that have been made between our members
7 and our rail shippers.

8 Railroads are being asked to -- or rail
9 shippers are being asked to sacrifice more, and bail
10 out the railroads for operational issues created by
11 the railroads overly aggressive practice of PSR. And
12 make no mistake, this will impact the consumer and it
13 already has.

14 Transportation and distribution costs
15 account for approximately 12 percent the price a
16 consumer pays for a gallon of gasoline, and about 18
17 percent a gallon of diesel. And that percentage has
18 been growing over the last couple years. And while I
19 use gasoline and diesel as illustrated examples, our
20 members make a variety of things, including other
21 renewable fuels, jet fuels, as well as petrochemicals
22 that are essential for numerous consumer products, as

1 well as critical elements to a number of industrial
2 supply chains, including things like automotive
3 vehicles.

4 To complicate matters approximately 75
5 percent of our members are only served by a single
6 railroad, and being captive amplifies the negative
7 impacts of service disruptions like our members are
8 currently experiencing.

9 And I understand this is not an airing of
10 grievances, but rather a search for solutions, so
11 allow me to provide some suggestions that the AFPM
12 members have. Most importantly, and kind of most
13 immediately asking rail shippers to further reduce
14 their car footprint of private cars is not feasible,
15 and will negatively impact the price of consumer
16 goods.

17 Such a tactic would be a short term
18 band-aid as once embargoes were lifted, shippers
19 would return to normal car levels on the rail network
20 because truck capacity is limited, and there are not
21 many other viable transportation options. This will
22 do nothing to address the root cause of the issue,

1 the drastic cuts to railroad staffing, and reductions
2 in overhead and equipment.

3 There are more creative solutions that can
4 be taken to alleviate congestion. First,
5 reintroducing equipment is essential. AFPM members
6 are encouraged by some of the statements made by
7 railroads about reintroducing mothballed equipment
8 into the system, but this reboot must go beyond just
9 locomotives, and include idled infrastructure such as
10 hump yards, and service yards that are vital to
11 switching operations.

12 AFPM members are also encouraged by rail's
13 efforts to increase staff, but as you heard today
14 this will take time. We encourage STB to continue
15 monitoring staffing levels, and work with the class
16 one carriers to determine appropriate minimum levels
17 of staffing.

18 These changes may run counter to the
19 railroad's desired reduction in operating ratios, but
20 AFPM members believe the recent service disruptions
21 have proven that the PSR cuts have run too deep.
22 Most importantly, STB's effort to finalize active

1 rulemakings could provide longer term protections for
2 service disruptions.

3 Specifically more transparent data,
4 particularly in the first and final mile could go a
5 long way to identifying service issues early, and
6 mitigating the impacts of those issues before they
7 reach untenable levels. STB should move forward with
8 the proposal to collect additional service data on
9 the first and final miles of transit.

10 In addition, while rail shippers are
11 currently held accountable for the inefficient use of
12 railroad owned assets, under the current demurrage
13 rules this same accountability is not afforded for
14 railroad use of privately owned rail cars. Given the
15 current state of car ownership that you've heard just
16 on this panel, this is outdated and unfair.

17 STB should impose greater accountability
18 on railroads for service fillers, by holding
19 railroads responsible for inefficient use of private
20 railcars. Lastly, and probably most importantly,
21 reciprocal switching could also help to resolve some
22 of the destructions by reintroducing some competition

1 in the rail network. There's never been a time since
2 the passage of the Stagger's Act that this remedy was
3 more needed.

4 The proposed rule will make the rail
5 network more efficient by allowing captive shippers
6 within a reasonable distance of the competing
7 railroad to obtain better routes, and better service.
8 With well thought-out reciprocal switching provisions
9 in place, railroads will be faced with the simple
10 decision -- provide better service to rail shippers,
11 or risk losing business to a competitor.

12 AFPM strongly urges STB to finalize the
13 reciprocal switching proposal it is currently
14 considering. And in closing, AFPM believes in free
15 market solutions, but the free market does not work
16 when there's no competition, or even the realistic
17 threat of competition.

18 Consolidation in the rail industry has
19 created a system of regional duopolies, and the
20 railroad's understandable desire to maximize profits
21 has come into conflict with their common carrier
22 obligations. The Stagger's Act was not intended to

1 make railroads attractive investment targets to Wall
2 Street, rather it was designed to "meet the demands
3 of interstate commerce." PSR has interfered with
4 that goal.

5 A healthy, efficient rail system benefits
6 all parties, and I would stress our testimony is
7 meant to improve the rail network for everyone, and
8 this means especially for consumers. Thank you for
9 your time and attention on this issue, and I'll be
10 happy to take your questions if there's time.

11 CHAIRMAN OBERMAN: Thank you Rob. (off
12 mic.)

13 MR. O'MALLEY: Chairman Oberman and
14 members thank you for the opportunity to testify
15 before you today at the Surface Transportation Board.
16 My name is Todd O'Malley, and I am Delek Companies
17 Chief Operating Officer. I'm directly impossible for
18 all logistics at our companies.

19 I greatly appreciate your efforts to
20 improve freight rail service in our country during
21 this especially challenging time of supply chain
22 issues, high fuel prices and inflation. Given the

1 late hour, and the fact that a number of my
2 panelists, fellow panelists today have covered
3 in-depth issues that are near and dear to our heart,
4 I'll keep my comments at high level this evening.

5 Delek is an American downstream energy
6 company with assets in refining, logistics, asphalt,
7 convenience stores and renewables. Our refineries
8 and retail stores are concentrated in the south, and
9 southwest United States. The reach of our operations
10 however extends throughout the country, through our
11 network of logistics hubs and refined product
12 marketing businesses, and continues to expand with
13 our growing operations.

14 Therefore, we have a special understanding
15 of how important transportation service is to our
16 customers, and ultimately the American consumer. Our
17 four inland refineries serve the local markets where
18 they operate, as well as various regional markets,
19 including Mexico, throughout our logistics network.

20 Our refinery system sources approximately
21 70 percent of its crude oil from U.S. domestic
22 Permian Basin by accommodation of third party and

1 Delek owned and operated pipelines. To make the most
2 of our access to the Permian Basin, we are expanding
3 our big screen Texas crude oil gathering operations
4 focused in that area.

5 With respect to the issue at hand, Delek
6 is captive to a single rail provider at all four of
7 our refineries, three of which make extensive use of
8 rail logistics. Delek has invested in a large fleet
9 of railcars to make rail service more reliable. We
10 ship approximately 10,000 loads per year from these
11 locations.

12 To put that in perspective if those
13 shipments stopped it would effectively mean that we
14 would need to shut our refinery system down for an
15 entire month. Rail is obviously crucial to our
16 operations. We move aviation fuel, gasoline, diesel
17 fuel, asphalt and roofing products, as well as
18 liquid petroleum gases by rail from our facilities.

19 Delek has delivered its products by rail
20 to every state in the United States except for
21 Hawaii, Vermont, and New Hampshire. Despite our
22 investment in rail and the need for this service, the

1 railroads have threatened to curtail the amount we
2 can ship. We will make up for the missing rail
3 service by adjusting our product slate, reducing run
4 rates potentially, and increasing our reliance on
5 over the road trucking.

6 But the real challenge for Delek is that
7 the rail service issues are threatening not just our
8 existing business, but stifling our potential growth.
9 Having been approached by customers seeking to supply
10 additional gasoline and diesel in the areas of need,
11 we believe we could triple our use of rail to deliver
12 gasoline and diesel, and other products if the
13 railroads could successfully apply a reliable service.

14 Obviously the rail industry is
15 experiencing monumental service issues at the
16 present time, or we would not be all sitting here in
17 this room today. However, the oil industry is also
18 in the midst of unprecedented times. You do not have
19 to look far to see these challenges. One just needs
20 to fill up one's gas tank to notice the recent
21 increase in gasoline and diesel prices domestically.
22 One cause is the recent Russian invasion of the

1 Ukraine.

2 Another cause of high gasoline and diesel
3 prices is the rebounding demand of the American
4 economy as it recovers from the pandemic. People are
5 traveling again, going back to work and school, and
6 there has been a surge in trucks moving goods across
7 the country.

8 The Biden administration has attempted to
9 improve this situation by making releases from the
10 strategic petroleum reserve. It has also moved to
11 resume on a limited basis the issuance of new oil and
12 gas leases on federal lands. While well intentioned,
13 these acts have been demonstrably insufficient to
14 stem the tide of higher gasoline and diesel prices to
15 the American consumer.

16 There are many other steps the
17 administration could take to immediately lower gas
18 prices and diesel prices, such as issuing small
19 refinery exemptions to the renewable fuel standard.
20 The last thing the oil industry, and the United
21 States needs at this time is another hurdle while
22 attempting to improve the situation and resolve

1 higher prices.

2 The railroad service crisis that is
3 occurring now is creating an extremely high hurdle by
4 causing less gasoline and diesel to move from our
5 other facilities, to demand centers throughout the
6 U.S. market due to the curtailment of rail service.
7 I urge the Board to take action.

8 I thank you for holding this hearing, and
9 shedding some light on difficult, but critical
10 problems. I also commend the Board for its recent
11 notice of proposed rulemaking, for revisions to
12 regulations for expedited relief for service
13 emergencies. Thank you for the opportunity to
14 testify before you today. Delek stands by ready to
15 assist the Board in any way that we can to help solve
16 this critical problem.

17 CHAIRMAN OBERMAN: Thanks very much Mr.
18 O'Malley. Are there questions from the Board?
19 Karen?

20 BOARD MEMBER HEDLUND: Mr. Burchett, thank
21 you for being here today. You should know I've had a
22 house in Eagle County, Colorado for 30 years, and I

1 remember when I was a very young skier that people
2 loved to ski in the Rockies because they got to drink
3 Coors beer, which didn't leave the state. And I
4 think what I'm hearing you say is that if you don't
5 get your barley we may be back there.

6 But I have a more serious question for you
7 because I am familiar with the railroads in Colorado.
8 And both Union Pacific and BNSF run up and down the
9 front range. Is the Golden refinery served by both
10 railroads?

11 MR. BURCHETT: Yeah we're captive to the
12 BN at the Golden brewery and the whole Golden Valley
13 which has both the can plant, the bottling plant, and
14 the brewery, but yeah it's captive to the BN.

15 BOARD MEMBER HEDLUND: Are your other
16 plants typically captive to one railroad?

17 MR. BURCHETT: All of our breweries,
18 except one, our Albany brewery is on the short line
19 where we can use both the NS and the CSX, all the
20 others are captive.

21 BOARD MEMBER HEDLUND: Do you have the
22 ability to access UP in Golden for example that would

1 result in better service?

2 MR. BURCHETT: Yes in a couple ways.

3 There are certain lanes that the UP actually has
4 shorter transit, so anytime we can again shorten that
5 transit and turn those cars more often, that's better
6 for us. And then also again I'm a strong believer
7 that competition will improve both service and costs,
8 so any time you can do that even on other lanes
9 that's possible.

10 CHAIRMAN OBERMAN: I think Robert Primus
11 had a question.

12 BOARD MEMBER PRIMUS: (off mic.)

13 MR. O'MALLEY: Sorry Member Primus.

14 BOARD MEMBER PRIMUS: No I'm sorry about
15 that.

16 MR. O'MALLEY: Thank you for the question.
17 I'm a little technologically challenged here.
18 Evidently, I can't see a green light, but you know
19 the reality of it is we are in a period right now of
20 obviously incredibly stressful times in the clean
21 product pricing environment.

22 The U.S. refining industry is effectively

1 running at or near capacity on a daily basis in order
2 to meet the demand domestically in particular, as
3 well as I'm sure some of the Board members are aware,
4 international markets, especially out of the U.S.
5 Gulf Coast.

6 So any interruption in service effectively
7 results immediately in a reduction of runs that
8 negatively impacts the amount of supply that hits the
9 market, and if you're a believer in traditional
10 supply and demand economics, that then results in
11 higher prices to the consumer.

12 So it's difficult to give you an exact
13 answer in terms of if one barrel doesn't leave the
14 refinery is it one exact barrel of run cuts, it's not
15 it depends partly on what the product is, but again
16 if you think about our refinery system we run, had a
17 nameplate capacity of about 300,000 barrels a day.
18 We're in small, regionalized markets that are you
19 know where we're the critical supplier of fuel for
20 most of those markets.

21 And there aren't a lot of other
22 alternatives, so you know if we cut runs you know 100

1 percent of the refining capacity that we have in our
2 system that would equate to about you know on
3 actually what we're running, 7, 7 1/2 million
4 barrels a month. And at 10,000 carloads on about a
5 690 average barrel for carload distribution would
6 ultimately mean that you know that's where you get
7 that one month of completing closing the refining
8 system.

9 So it's a critical piece of the puzzle,
10 especially where we sit right now, especially given
11 the fact that we have yet to come into the summer
12 driving season, jet prices are quite elevated, so I
13 would anticipate that would drive people away from
14 flight based vacations as we approach the traditional
15 vacation season, and more into the driving side of
16 things.

17 So every barrel of gasoline, and every
18 barrel of diesel fuel that we do not produce in this
19 country is ultimately going to result in higher
20 prices. I hope that addresses your question.

21 CHAIRMAN OBERMAN: Well I think that are the
22 questions we have for this panel, very informative

1 hearing from different sectors that need railroads,
2 and I appreciate all your coming. I will make this
3 observation, and I hope that the railroads are paying
4 close attention, but if you think this Board is under
5 some pressure to meet this problem, if America runs
6 out of beer, bar the door, then we'll know what
7 really counts.

8 So I do think we very much appreciate your
9 being here and being patient to hear us out. Thank
10 you much. All right. All right. And last but
11 certainly not least for the day is CSX. All right.
12 So I think we are ready to proceed. Let me say a
13 couple of things. While the hour is late, and I
14 assure you it was a random event that somehow CSX
15 always ends up at the end of the day.

16 And I think all of us feel bad that at
17 7:11 we literally ran out of time, although I thought
18 CSX would appreciate the fact that they ran out of
19 time before I could ask any questions. So I'm not
20 sure why -- but in any event we're not going to run
21 out of time. We're going to take as long as we need
22 to hear what you have to say, and field the Board's

1 questions.

2 I would say, and I think it's important to
3 mention that while we have a distinguished panel of
4 people who signed up, that Jim Foote is here, and I
5 think that's important, and I'm glad you're here Jim.
6 And Nathan Goldman is here, not to dismiss the legal
7 team, and of course our counsel friend John Patelli.

8 And I know you're all sitting there in the
9 back row, but don't be surprised if some Board member
10 has questions for you. But I think we all --

11 MEMBER PRIMUS: Chair may I speak?

12 CHAIRMAN OBERMAN: Well you know what
13 Robert I'm going to wait until they finish their
14 presentation, and then I'm going to let you ask him
15 that question. But I think it is important Jim that
16 you are here, and I'm glad that you are. I
17 appreciate it. So with that let us begin. Who's
18 going to lead off Jamie? Jamie all right, it's all
19 yours.

20 You know I've had slides from -- we have,
21 you submitted these to us in advance did you not?
22 Yes, I have them.

1 MR. BOYCHUK: All right thank you Mr.
2 Chairman Oberman, Vice Chairman Schultz and Board
3 members. Thank you for this opportunity to provide
4 -- to allow us to provide information about CSX's
5 actions we are taking to address rail crew staffing
6 challenges and improved service.

7 My name is Jamie Boychuk, Executive Vice
8 President of Operations. I have been employed in the
9 rail industry for nearly 25 years. I'm a fourth
10 generation railroad. Without question, the past two
11 years have presented an extraordinary set of
12 circumstances that no one in the transportation
13 industry, or any other industry, industrial industry
14 have previously experienced.

15 The global pandemic and resulting supply
16 chain issues, and labor challenges have impacted
17 virtually every sector of the U.S. industrial
18 economy. In my portion of CSX's testimony before you
19 today I will review our current service performance,
20 and provide some context on our service levels over
21 the past several years.

22 I will also provide an overview of how CSX

1 has been addressing the tight labor market that is
2 impacted all industries, most importantly I want to
3 assure you that CSX is pursuing every reasonable
4 option to increase training, engine, hiring and
5 retention, which has been a majority priority for us.

6 In a few minutes I'll turn our
7 presentation over to Diana Sorfleet, our company's
8 Executive Vice President and Chief Administration
9 Officer, who will highlight specific actions we are
10 taking. CSX acknowledges that hiring challenges have
11 slowed the restoration of service to pre-pandemic
12 levels. But we are optimistic that we are turning a
13 corner.

14 Supply chain congestion has begun to ease,
15 and our hiring initiatives are helping increase T&E
16 headcount. These trends are producing positive
17 results. It's important to understand that the
18 success we are having in filling our hiring pipeline
19 will take some time to be reflected in our
20 performance metrics. Currently, our car dwell and
21 velocity are not where we want them to be, or where
22 they were pre-pandemic. We are confident that we

1 have the right team, and the right plan to get us
2 there.

3 On slide two if you look at our service
4 performance over the three year period from 2014
5 through 2016, our dwell average 25.8 hours and
6 system-wide velocity averaged 19.4 miles per hour.
7 In short, we were slow, underperforming, and
8 something needed to change. Then in early 2017 we
9 began our operational transformation.

10 After some initial growing pains the new
11 model began to take hold, and our service metrics
12 improved dramatically. At the peak of our execution
13 in the last quarter of 2019, and the first quarter of
14 2020, just before the pandemic shutdown, our dwell
15 was averaging 16.9 hours, a 34 percent improvement
16 over where we were before we implemented our
17 operating model.

18 On top of that, system velocity had
19 reached 26.3 miles per hour, a 36 percent
20 improvement. We were providing our customers with
21 better service than we had in the history of our
22 railroad. At the end of the first quarter of 2020,

1 we had just over 7,100 T&E employees compared over
2 9,000 in 2016. Clearly our performance wasn't driven
3 by how many resources we had, but rather how
4 effectively we leveraged those resources.

5 Also during the pandemic in 2021, our
6 dwell and velocity averaged between 14 and 16
7 percent, better than they were at the end of 2016.
8 We have been committed to transparency with our
9 customers. We have responded quickly when service
10 issues have arisen, and we have collaborated with our
11 customers to find solutions.

12 Still our rail network continues to have
13 challenges. In addition, the U.S. rail system is
14 interconnected, and congestion elsewhere on the
15 national network can impact service levels. I assure
16 you we are working with labor organizations and other
17 partner railroads to improve service levels.

18 We are committed to operating the most
19 efficient national network possible, and optimizing
20 service for all rail customers. As our network
21 continues to rebalance after supply and demand swings
22 of the past two years, and as the crew situation

1 normalizes, we have every reason to expect that CSX's
2 service will be restored to pre-pandemic levels and
3 continue to show progress.

4 On slide three our T&E headcount is now
5 over 7,000, including more than 500 employees and
6 training status. We expect to keep our training
7 classes full to make sure our pipeline remains
8 healthy, using the extensive measures that Diana will
9 cover shortly. These are positive developments, but
10 keep in mind that balancing the workforce is as
11 important as overall headcount. While portions of
12 our network have adequate crew coverage, and are
13 performing well, some continue to experience crew
14 related service issues.

15 Where these occur we are partnering with
16 customers and labor unions to find solutions. And
17 with respect to your time I would like to share a few
18 examples with you. In the first example one of our
19 aggregate customers expressed concerns about
20 inconsistency in our service. We support multiple
21 facilities for this customer, making communication
22 and execution critical to ensure that the needs at

1 each facility are met.

2 We initiated weekly calls with the
3 customer, and we took comprehensive action. This
4 included partnering with our labor union to allow us
5 to assign dedicated crew to complete first and last
6 mile service. We also deployed additional crew
7 members to support increased days of service, and
8 perhaps most notably, this customer effectively
9 communicated it's service needs, which enabled us to
10 utilize resources and support the customer's growth
11 and strategy.

12 And another example about a year ago a
13 carload customer, Ken Spoods, contacted us with the
14 local service issues between Indianapolis and
15 Lebanon, Indiana. We worked with the customer to
16 realign the Indianapolis service schedule, qualified
17 additional crews, revised operations to better
18 organize their traffic, and also increased their
19 ability to see more of a complete view of their
20 railcars on both the load and empty side at their
21 facility.

22 The result has been improved reliability,

1 increased transparency, and a satisfied customer. In
2 addition, working collaboratively with our labor
3 unions has been important to delivering service
4 improvement. With agreement from our unions last
5 year, we implemented voluntary six month transfer to
6 employees.

7 That helped us fill critical roles in
8 locations that are challenged with crew shortages.
9 Employees receive bonus pay in exchange for a
10 temporary move. In another great effort with our
11 union we have agreement to provide pay advancements
12 to some of our T&E employees to help them cope with
13 inflation and other challenges during this difficult
14 period.

15 The takeaway from these examples is that
16 in most cases when we communicate and work together
17 with our customers and our unions, we are able to
18 solve issues as they arise. We have tremendous pride
19 and dedication, and resolve that our employees have
20 demonstrated throughout the pandemic, and all the way
21 through to this current moment.

22 As a unified team we're doing everything

1 possible with a sense of urgency to boost our T&E
2 employee numbers, and ease the strain that our
3 workforce has been under during the past two years
4 without compromising safety. To provide you with
5 specifics about the actions we've taken, and are
6 continuing to take, I will now turn our presentation
7 over to Diana Sorfleet.

8 MS. SORFLEET: Thank you Jamie. Chairman
9 Oberman, Vice Chairman Schultz and Board members we
10 really appreciate your interest in our hiring
11 progress. As Jamie said, I'm Diana Sorfleet, I'm the
12 Executive Vice President of Administration, and I
13 have been with CSX for over 11 years, and in the
14 human resources profession for over 30 years.

15 Over the past two years similar to other
16 transportation companies and industries across the
17 economic spectrum, CSX has faced hiring challenges.
18 The labor shortage has compelled us to be more
19 creative and determined in our approaches to
20 recruiting, staffing and engaging our employees.

21 I hope that my testimony today will
22 demonstrate our commitment to improving the current

1 state of our workforce and meeting our customer's
2 needs. As you have already heard from Jamie, we
3 entered 2020 with approximately 7,200 train and
4 engine employees who are operating a great railroad,
5 and providing levels of service we had not seen
6 before. When the pandemic shutdown the economy in
7 March of that year no one could guess how long the
8 downturn would last.

9 At CSX our first action was to try to
10 avoid furloughs, keep our employees safely working,
11 and be ready when traffic rebounded. In partnership
12 with the SMART TD, we launched a furloughed
13 mitigation agreement that allowed all conductors who
14 were subject to reductions to remain active for one
15 week a month.

16 Every T&E employee who wanted to remain
17 active with CSX had the opportunity to do so. In
18 addition to securing employment the program gave our
19 employees access to full health and welfare benefits,
20 and R and B employment benefits to supplement their
21 CSX pay and ensured greater security for them and
22 their families as everyone dealt with the fears and

1 uncertainties of COVID.

2 These measures were helpful, but as the
3 pandemic wore on through the summer of 2020 two
4 things happened that created significant operational
5 challenges. First economic activity and demand for
6 freight transportation rebounded faster than
7 expected. Then as we attempted to bring back workers
8 who elected to be furloughed, we discovered that many
9 employees were reluctant to return.

10 You may recall that vaccines had not yet
11 been deployed, people were socially distancing,
12 wearing masks, and thousands domestically and across
13 the globe were ill or dying. As we learned to adjust
14 to the impacts of the pandemic in our daily lives, we
15 also saw people learn to live with less, and use the
16 support of the government subsidies to lessen the
17 impact on individual hardships.

18 And those essential workers who did come
19 to work like our proud railroaders, they were doing
20 everything in their power to keep our country moving.
21 As we called back employees who had chosen to
22 voluntarily furlough, we increased our hiring

1 momentum.

2 By August, our active T&E headcount,
3 excluding our trainees, was back above 6,600 T&E
4 employees and climbing. But as we all know the
5 pandemic wasn't finished. COVID case numbers began
6 increasing in our workforce, and at the same time we
7 were facing a very tight labor market.

8 Adding to the challenge was a need to
9 recruit, hire and train new employees while
10 maintaining social distancing, something we've never
11 experienced. Our train crews were understandably
12 concerned about issues like having three or four
13 people in the cab of a locomotive for training. We
14 had to develop new methods and practices.

15 Despite dramatic increases in hiring our
16 active T&E employee headcount stagnated at about
17 6,500 employees through the first half of 2021. This
18 was a result of attrition among existing employees, a
19 higher drop out rate among new recruits, and
20 increasing COVID cases throughout our workforce.

21 As you all know railroading is not easy,
22 the work is demanding, the hours are long, and the

1 weather conditions are also challenging. To overcome
2 all of these hurdles we needed to dramatically expand
3 the size of the pipeline and implement new measures
4 in recruiting staffing, and engaging our workforce.

5 It was clear that in this new environment
6 we had accessed a broader pool of talent to fill our
7 conductor positions. We started by re-evaluating the
8 requirements for the role, making certain that we
9 weren't filtering out potential hires. We encouraged
10 our current employees to recruit qualified people
11 that they believed would be excellent employees by
12 offering referral bonuses.

13 We also expanded our presence across
14 several types of media, sharing stories about working
15 at the railroad and the rewarding positions available
16 with our company. CSX also worked with SMART TD to
17 provide a 40 percent increase in pay for trainees, so
18 that we could more effectively compete with other
19 industries that were offering comparable pay for
20 indoor fixed schedule jobs.

21 We also shared with candidates the
22 financial value of the bonuses available to them.

1 Candidates began to take notice, and our training
2 class size doubled between the third quarter and
3 fourth quarter of last year. To retain those
4 candidates we enhanced the applicant experience, we
5 created an engaging video about the day in the life
6 of a railroader, and implemented video interviewing,
7 and the opportunity for candidates to engage in
8 virtual conversations with a leader.

9 These measures supported social
10 distancing, while promoting the candidate's ability
11 to make well-informed decisions about working for
12 CSX. From sourcing candidates, to qualifying
13 employees to safely work in the field, we
14 re-examined, and when necessary reinvented every step
15 in the process of qualifying a safe, CSX conductor.

16 The training center now has expanded class
17 sizes that accommodate 40 or more trainees per class,
18 and since trainees are generally away from home,
19 we've reduced the burden of expense reimbursement by
20 providing them gift cards that they could use. And
21 until recently we required new hires to be
22 vaccinated, wear masks, and socially distance.

1 It's important to keep in mind that it
2 does take time to fully qualify new conductors to
3 safely move freight. The hiring we accomplished in
4 the first half of this year will begin to positively
5 impact our service product in the second half of this
6 year. Indeed it takes time, but we will get there.

7 In fact, based on our current trajectory,
8 we believe we'll get back to pre-pandemic T&E numbers
9 sometime in the third quarter. And thereafter, we
10 will continue to hire to stay ahead of attrition and
11 meet the needs of our business growth.

12 We also know it's important to remain
13 transparent with customers about our staffing so that
14 they can make informed decisions about their supply
15 chain and timelines, and proactively address issues.
16 In addition to promoting open communication and idea
17 sharing, and all customer interactions, we're
18 exploring and piloting new ways of improving the
19 transparency of our hiring progress with our
20 customers.

21 As Jamie pointed out, it's not enough to
22 just have overall numbers. We need people in the

1 right places. Our employees have done a tremendous
2 job in these challenging times, and we have continued
3 to incentivize our commitment through several
4 voluntary programs, including offering a cash reward
5 for getting vaccinated, while making certain not to
6 cause others to leave due to the pressures of the
7 vaccine mandate, providing T&E employees the
8 opportunity to voluntarily sell their vacation and
9 personal leave days, and promoting weekly
10 opportunities to earn cash prizes, and even a truck
11 giveaway for excellent attendance.

12 It was also mentioned that we implemented
13 voluntary temporary transfers to challenged
14 locations. I want to underscore that the T&E
15 employees who transferred to fill these critical
16 roles received both bonuses for qualifying on the new
17 territory, and again at the end of the six month
18 transfer. They also received lodging, or stipends to
19 offset their temporary housing expenses.

20 In addition to our hiring and availability
21 efforts, we remain engaged with our T&E employees to
22 support their work life balance, and total

1 well-being. This includes substantial investments
2 and offerings such training, safety improvements,
3 mobile devices and modernized work tools, offering
4 financial planning assistance, child and independent
5 care supports, a compliance and rules policy that
6 focuses on learning and coaching, and as Jamie talked
7 about the proposed pay advances to help our team
8 members through this period of inflation and
9 continual change.

10 As we all continue to learn what works for
11 our employees, we will also continue to develop
12 resources and approaches that strengthen the overall
13 employee experience, retain our workforce, and create
14 a destination for future employees.

15 In closing, I would like to say that all
16 CSX employees, not just our train crews, have
17 persevered through this period of historic
18 challenges with exceptional professionalism and
19 commitment to our customers. As railroaders, they
20 understand how essential their work is to safely
21 deliver America's freight and keep our economy
22 strong.

1 Our employees, as well as our customers
2 have continued to learn, adapt and persevere, and we
3 are all committed to improving our service. Thank
4 you again Chairman Oberman, Vice Chairman Schultz, the
5 entire Board and the participants here today for this
6 opportunity to share our efforts and our progress,
7 and we'd be pleased to take questions.

8 MEMBER FUCHS: Sure, thank you for being
9 here. Some witnesses have pointed out some positive
10 changes at CSX, including to culture and incentives,
11 and I see that there is a transparent T&E crew target
12 in your presentation, which is appreciated.

13 I'm wondering if Mr. Boychuk, you could
14 address what CSX has learned from the evolving
15 service challenge, and what are the three most
16 important steps that you think CSX is going to take
17 in the next 30, 90 days to build a stronger
18 organization?

19 MR. BOYCHUK: I appreciate the question
20 and the opportunity to discuss Mr. Ferguson earlier,
21 as he mentioned, culture at CSX and some of the
22 changes we are trying to make. Again, my railroad

1 past is I hired on as a conductor on the ground as a
2 switchman before I went on to a management position.

3 My family was union. Unionized family,
4 every generation before myself at the railroad
5 industry. So I've been around the coffee table, I've
6 heard the talk over the years, and it's way overdue
7 that the industry changes the way that we treat our
8 employees. And I would say that over the past couple
9 of years through this pandemic, and when we started
10 to recall employees, and realized uh-oh, people
11 aren't coming back, I myself was furloughed many
12 different times through my first five years as a
13 conductor.

14 And it was known that that's where your
15 flex staff, if you want to say it, or your future
16 railroaders come from is unfortunately, from some of
17 the furloughed ranks. And what we've realized is
18 that our people are even more invaluable than we ever
19 thought, and it's not that we didn't take them, or we
20 took them for granted at all, it's just the way that
21 the industry had been run for hundreds of years.

22 So we learned real quick that you need to

1 make sure that your staffing levels and the folks
2 that, and the people that you deal with each and
3 every day, and that you're hiring targets and numbers
4 is something that you micromanage. You need to
5 micromanage those numbers.

6 Scheduled railroading over the years, it's
7 not that we ever had a target that said here's where
8 we want our numbers to be. As we removed
9 inefficiencies throughout our network, the numbers
10 just got to where they were to the point where we
11 were running very well in 2019 and into 2020
12 pre-pandemic, and from there we were looking at only
13 hiring for attrition.

14 So we really learned that that was
15 important for us. And communication with our
16 customers is something that we sometimes take for
17 granted. We know that our -- in particularly the
18 operating side, we know that our commercial folks do
19 a great job in talking with our customers because we
20 have that relationship. But you can't underestimate
21 the dialogue that needs to happen with the operating
22 team.

1 And every time the operating team got
2 involved in a situation that we were aware of, we
3 were able to in almost every circumstance fix the
4 issue, or at least have a target date to when the
5 issue would be fixed. And that's something that
6 we've overlooked, so that's another item that is
7 really important, and I would say really over the
8 next 30 days, or 60 days, it's more of that.

9 It's when I listen to some of the
10 customers who were up here today, and I'll be
11 listening tomorrow to their concerns that they have
12 that on the operating side we're not aware of. It's
13 a very large organization, and I understand that
14 there are items that may be brought up to different
15 leaves and groups, and they're very important to have
16 that representation, but also that step of
17 understanding what's wrong out there is really,
18 really important for us to continue to communicate on
19 that end.

20 So those are a couple of very important
21 points that will stick with us as we continue to move
22 forward. And that first mile, last mile piece how we

1 you know every railroad looks at it differently,
2 every railroad measures differently, for us it's
3 customer service is the view of how we look at it
4 through the data.

5 That more than anything, if you've heard,
6 and us listening to our customers today, it's not
7 necessarily the transit times, and we can do a lot
8 better on our transit times, but it's when we can't
9 fill assignments. When we have assignments where
10 someone misses a switch, 21 times in a two month or
11 three month period, that's something that we have to
12 make sure that as we continue to fill our numbers,
13 we're not only looking at growth in the future, we
14 have to make sure that all of our assignments are
15 filled every day, and that we fulfill our service
16 commitment, which is doing what we say we're going to
17 do.

18 VICE CHAIRMAN SCHULTZ: You summarized a
19 lot of programs and incentives that you've put in
20 place with both routine employees, and to incentivize
21 new employees, and I commend you on that. But I
22 wondered if you could speak to how the tight labor

1 market has impacted customer service, and what
2 efforts you might be taking to address that.

3 MR. BOYCHUK: I'll touch on it and let
4 Diana. The tight labor market, we've never had a
5 problem hiring people at the railroad, okay? We
6 really felt that people were going to come back. We
7 didn't know if this was going to be a short
8 pandemic, whether this was going to be a recession or
9 a depression, or what it was going to be, and within
10 two or three months, really it was about three to
11 four months I guess, business started roaring back.

12 Nobody expected that the world was going
13 to come out of this, or the United States would come
14 out of it the way that we did. And when that
15 happened and we started recalling our employees, we
16 realized that people either didn't want to come back
17 to the industry because there were other
18 opportunities as jobs were opening up out there.

19 The job market became very difficult, and
20 very tough, and Diana touched on that. But also a
21 number of employees didn't want to come back to work
22 because of the pandemic. They were afraid. They

1 didn't want to leave their homes. They didn't want
2 to go out and be in a cab of a locomotive with
3 somebody else that you know you don't work with the
4 same person every time, you're working with
5 different people.

6 What are they bringing into the
7 environment when they're out there switching boxcars
8 and/or moving freight. So those were definitely
9 pieces that we saw with our employees not returning.
10 Now with the tight labor market, I'll let Diana touch
11 on that.

12 MS. SORFLEET: I'm just going to add an
13 example. So when we make hiring offers we find that
14 about 50 percent of the people that we make an offer
15 to actually show up. Now part of that has to do with
16 I'd probably say about a third is medical related,
17 they can't pass the medical screening or a background
18 check, but another third they just don't even show up
19 to the training center. They will get multiple
20 offers from different industries, and they will
21 choose to go somewhere else.

22 So I think that sort of shows the

1 competition that is out there, and we had not ever
2 experienced that before. When we would hire before,
3 if we had a class everyone showed up, so that's just
4 one example of how tight this labor market is right
5 now.

6 BOARD MEMBER HEDLUND: You mentioned that
7 you were experiencing a higher dropout rate among new
8 recruits. Why were people going through your
9 training program and then deciding not to sign on?

10 MS. SORFLEET: So they're going through
11 the training program, and we're seeing about 40
12 percent of our new hires that go through the entire
13 training program dropout at different phases. Some
14 of it has to do with they're tested because we want
15 to make sure that they're proficient, and some of
16 them are not able to pass those tests.

17 Some of it is that people when they get
18 into the field they realize although we've talked a
19 lot about the type of work that it's just not for
20 them. So that's sort of the -- and going back to the
21 tight labor market there are still options out there.
22 There was a story of one person who went through the

1 training, went to OJT, he was in the field, and he
2 got a higher offer back from a warehousing company
3 that he worked for.

4 So he said it's inside work, I'm going to
5 go back to that. So that's just another example of
6 what we're seeing.

7 BOARD MEMBER HEDLUND: Do you think it was
8 the tight labor market giving people options while
9 they were going through your training program that
10 accounted for seeing a higher dropout rate than you
11 had previously?

12 MS. SORFLEET: Correct.

13 MR. BOYCHUK: If I could add perhaps off
14 the start we didn't do such a good job explaining
15 what a conductor, a locomotive engineer is because it
16 is such a difficult, demanding job, time away from
17 home. You have to have a special family at home to
18 accept the life of a railroader.

19 And when people get out there and they
20 realize, and we put videos together as Diana
21 mentioned on the day in the life of, and I would
22 encourage anyone to look at that online. It takes a

1 real special person to be a railroader. And not
2 everyone came do it, not all families can handle it.

3 And in today's environment people don't
4 want to work nights, they don't want to work
5 weekends, they want to have -- you know they have
6 options to work you know shifts that are all
7 daylight, and we can't provide all of that because of
8 seniority, and the needs of our customers. So as the
9 world has changed, and as people looking for
10 different work environments, we're doing the best we
11 can in working with our union groups in trying to
12 create a different railroader.

13 Trying to create a different schedule that
14 isn't on call all the time, that is someone that
15 knows when they're coming and going, and we won't
16 give up on that, and we'll continue to work with our
17 union folks to try to find the schedule that fits the
18 person out there in the market.

19 BOARD MEMBER PRIMUS: I couldn't hear you.

20 MR. FOOTE: I haven't had the proper
21 training, but I'll do my best. I am truly
22 impressed --

1 BOARD MEMBER PRIMUS: I appreciate you
2 coming. I think it's important.

3 MR. FOOTE: Sure we have struggled. We
4 have underperformed. As we have worked our way
5 through the last two years of going into and out of,
6 I don't even know if we're out of the pandemic yet,
7 our case counts are up now about 25 percent over the
8 last two weeks, so.

9 So and but we have worked like dogs, not
10 the just the management team, but every employee at
11 CSX has worked like a dog to do the best job they
12 could under unbelievable circumstances to meet the
13 needs of our customers, and I'd like to you know once
14 in a while I'd like somebody to say you know, hey,
15 you know, you guys did a great job.

16 And we are finally making the turn and we
17 are coming out of this. As Jamie said our numbers in
18 terms of where we are in our hiring is we are on
19 track to be in the next three or four months back to
20 where we were in 2019, early 2020, when the company
21 was performing at record levels.

22 Velocity, dwell, the numbers you guys put

1 out to measure whether or not the railroad was
2 performing well. We're still, despite all of this,
3 leading the industry, despite the difficult
4 challenges. So we're going to get back to where we
5 were in 2019, and then we can begin to improve upon
6 that. That's not the end game, that's just to get
7 back where we were, so we can get better.

8 And it's been a challenge, but this team
9 has pulled together, and we're on track to be able to
10 perform back at those record industry leading levels
11 in months, not years. You know you need to be
12 careful about you know, there's no other reason.
13 There is no other reason why the company is not
14 performing other than we do not have conductors on
15 the train.

16 Do you want an answer? Let us run the
17 trains with one employee and the issue is solved. If
18 you want to double the number of trains that run
19 shorter trains, double the number of trains, you're
20 going to need twice as many employees. It's as
21 simple as that.

22 You talk about turning trip optimizer off

1 because you don't want to use cruise control and high
2 technology to run the locomotives, that's not going
3 to solve the problem. The delay, it's not like we're
4 you know running the train 60 miles an hour, 70 miles
5 an hour, 80 miles an hour to go from terminal to
6 terminal, and it gets to the terminal and there's
7 nobody to get on the next train and go.

8 Great. It's still going to add the same
9 amount of average velocity across the railroad. It's
10 not going to improve it. We all need to get people
11 on the locomotives. That's the problem. We're
12 working on it. We're addressing it, and we'll be
13 there in a matter of months not years. So that's our
14 commitment.

15 I do not believe that it's appropriate to
16 institutionally institutionalize or mandate
17 artificial metrics on how an industry should be
18 operated. I started in this business 50 years ago
19 when the railroad industry had been artificially and
20 institutionally mandated on what they were supposed
21 to do, and how much they could charge, and who they
22 served, when they served, and how they served them,

1 and the railroad industry was an absolutely basket
2 case.

3 We don't operate to an operating ratio.
4 We don't say oh, we're going to have an operating
5 ratio, and this is what it's going to be. We set a
6 budget. We set a three year strategic plan based
7 upon what our revenue opportunities are, and what the
8 realistic costs are for us to be able to deliver
9 based upon the market's demand for rail service, the
10 market demand for pricing like any other industry or
11 business would do, and your costs are what your costs
12 are.

13 It's not artificial. And then you have to
14 generate cash from that in order to spend 2 billion
15 dollars plus to put back in the railroad just so you
16 can start next year where you ended this year by
17 putting rails, ties, and ballast in. None of this is
18 artificial. And yeah of course we have --

19 (off mic.)

20 MR. FOOTE: I mean hey, it's public
21 information. You could look it up. Our operating
22 ratio is going up. We made strategic investments in

1 a railroad and in a trucking company, and our
2 operating ratio went up. It's public information for
3 improving the way the company operated.

4 We were changing the methodologies the way
5 the company operated, and the railroad was operating
6 with a higher level efficiency. When the railroad --
7 when you take out all the inefficient, unnecessary
8 touches in the way we do business, guess what
9 happens? You take out cost and you improve the
10 service of the railroad. That's why our trip plan
11 compliance, our reliability, our on time performance
12 were all at record levels while the operating ratio
13 was going down.

14 BOARD MEMBER PRIMUS: Well obviously you
15 didn't make enough of a calculation.

16 MR. FOOTE: You're right. You're
17 absolutely right, and I have suggested this to you
18 before even though the last time you said when I
19 brought up the pandemic that was a red herring. We
20 have contingency plans in everything we do. We plan
21 for hurricanes. We plan for floods. We plan for how
22 to run the railroad in the winter, you know, 20

1 degrees in Erie, Pennsylvania on the same day it's 90
2 degrees in southern Florida.

3 We plan for that. We have contingency
4 plans. We have extra boards, we have equipment
5 parked all over the railroad, generators, trucks,
6 equipment to cut trees down, to go in and keep the
7 railroad operating. You're absolutely right. Did we
8 have a pandemic plan on how to run the railroad
9 without people? No.

10 Simple as that. I just told you how we
11 put the company back together. But you know it's
12 extremely difficult to put together a budget and
13 trying to run this company without a manpower plan.
14 How many people we're going to need in order to
15 execute on what we're going to do. Of course we have
16 that.

17 BOARD MEMBER PRIMUS: So what's that
18 number?

19 MR. FOOTE: For --

20 BOARD MEMBER PRIMUS: No, no, I'm not
21 asking, I think it's a plan, the strategic plan is
22 not just this year. It's future years, so what's

1 your plan? What's your number.

2 MR. FOOTE: That's an unrealistic
3 question.

4 BOARD MEMBER PRIMUS: I guess I'm asking
5 because it's kind of unrealistic what's going on
6 right now in the industry. There is a -- you're
7 telling your customers that you need to have a plan
8 in place so we can plan the future, but you don't
9 have a plan in place, so when you fall down.

10 MR. FOOTE: That's you know, come on. Do
11 we have to do this again? This is the third time I'm
12 going through this kind of conversation over and over
13 and over again. I came here out of courtesy. I came
14 here because it's important. I came here because the
15 customers were going to talk. I sat in the room all
16 day because I wasn't allowed in here.

17 My team has given a good presentation, and
18 I'm going through the same over and over and over
19 questions that no matter what -- you don't want the
20 answers.

21 BOARD MEMBER PRIMUS: I do want answers.
22 We get the same over and over from customers saying

1 they're not getting the answers, so I've got to ask
2 them to get some answers, the right answers anyway.

3 MR. FOOTE: Yeah, I can give you a
4 projected headcount number. Do I know right now that
5 it's 19,786 employees, or 20,211? I don't know
6 that. I'm sorry. I can tell you what our growth
7 projection is for next year, and I'll tell you what
8 our headcount is going to be, what we're going to
9 need. Is that what you want?

10 BOARD MEMBER PRIMUS: That's exactly what
11 I want.

12 MR. FOOTE: Perfect. I'll give it to you
13 tomorrow.

14 BOARD MEMBER PRIMUS: As the head of the
15 company you should know, especially when if you want
16 to get out of this problem you should know what's
17 going on. That's why I asked you to sit at a table.
18 You should have sat at the table in the first place.

19 MR. FOOTE: I wasn't invited.

20 BOARD MEMBER PRIMUS: You were invited.

21 MR. FOOTE: Your letter didn't invite the
22 CEO's, so look at your letter you sent out.

1 BOARD MEMBER PRIMUS: The last time I
2 checked it said Chief Executives.

3 MR. FOOTE: I don't think so. Look it up.
4 You should know you're on the Board.

5 BOARD MEMBER PRIMUS: It's your company,
6 it's your customers who are hurting.

7 MR. FOOTE: Well you should know you're on
8 the Board.

9 BOARD MEMBER PRIMUS: I am.

10 MR. FOOTE: Well look it up. And I'll
11 give you the headcount numbers for the next three
12 years tomorrow.

13 BOARD MEMBER PRIMUS: Thank you.

14 CHAIRMAN OBERMAN: You're right Robert, it
15 says Senior Executives, that's what it says.

16 BOARD MEMBER PRIMUS: He's a Senior
17 Executive too.

18 CHAIRMAN OBERMAN: I agree. It was up to
19 the railroads to figure out which Senior Executive to
20 bring, so. It wasn't a question of who was invited,
21 or not invited but you're here and I think that's a
22 good thing so. I do have a few questions. I want to

1 follow-up on some of the things that were said, and a
2 few questions that haven't been asked yet.

3 Diana I wanted to get back to what you
4 said about CSX's program when the pandemic hit
5 roughly March of 2020. Could you -- I was having a
6 -- I didn't quite get the details. You said that
7 every T&E employee who wanted a position was allowed
8 to stay, or could you be specific on what you
9 actually did?

10 MS. SORFLEET: Yes. It was a voluntary
11 furlough mitigation program, so if you were impacted
12 an employee could voluntarily elect to furlough if
13 they wanted to because as you remember there were
14 people who were very concerned about COVID, and
15 didn't want to be at work, so they could voluntarily
16 take that time off.

17 CHAIRMAN OBERMAN: So are you saying that
18 if 100 percent of your T&E people wanted to stay on
19 the payroll full-time in March of 2020 they could
20 have?

21 MS. SORFLEET: Yes. They wouldn't work
22 the entire time, so there was a program where they

1 would get paid for a week, and then they could
2 collect benefits, so yes we made it available.

3 CHAIRMAN OBERMAN: According to what I've
4 seen in March of 2020 you had 7,134 people according
5 to our records. And in June you had 6,244, that's
6 890 people less. So did you intentionally reduce the
7 workforce by 890 people because carloads were down?
8 That's what I'm trying to understand what your actual
9 policy was.

10 MS. SORFLEET: Thank you. By June people
11 were taking advantage of those programs, and so we
12 were starting -- then we had to start to furlough
13 people, and then in July is when we started recalling
14 them back. So we actually did furlough people. So
15 first it was all voluntary, and then these emergency
16 furloughs.

17 CHAIRMAN OBERMAN: Understand that you
18 said that if people didn't want to furlough in March
19 they could only work one week a month?

20 MR. BOYCHUK: Perhaps I'll take a stab at
21 that one. Yeah we had a furlough mitigation
22 agreement with SMART TD. And what we did is we would

1 allow voluntarily an employee if they decided they
2 didn't want to take furlough that they could work
3 once a week, and then they would be furloughed for
4 three weeks, and they would collect money from
5 Railroad Retirement, the CARES Act.

6 That once a week being set up would allow
7 them to continue their seniority. I'm sorry, would
8 allow them to continue their retirement and keep
9 their health benefits for their family. So it was a
10 rotating board. You'd have a group of 50 people that
11 they would have to protect for that one week, and
12 then they'd be off for three weeks and another group
13 would protect on those other weeks.

14 And it would allow the employee to
15 maintain their medical.

16 CHAIRMAN OBERMAN: Just so I understand
17 it. These employees in effect could keep their
18 benefits, but they'd only get 25 percent of their
19 wages. Is that the way to understand it?

20 MR. BOYCHUK: From CSX yes, but they would
21 collect the rest off the Railroad Retirement and
22 CARES Act, so they would still receive basically a

1 full paycheck.

2 CHAIRMAN OBERMAN: Were the benefits equal
3 to full paycheck?

4 MR. BOYCHUK: It was very close. I don't
5 know the exact numbers, but it wasn't too far off
6 because of the CARES Act which touched up the
7 numbers, and allowed the employees to collect more
8 while they were on the furlough.

9 CHAIRMAN OBERMAN: So the 890 reduction
10 were all people who chose not to take advantage of
11 this program?

12 MR. BOYCHUK: That number rotated. Those
13 folks, so if it happened to have been a period when
14 they were on furlough at that point in time, I
15 believe the number was right around 40 percent stayed
16 on that furlough mitigation board, and about 60
17 percent decided to take full furlough.

18 CHAIRMAN OBERMAN: And are you saying the
19 60 percent who did took it because they didn't want
20 to be in contact with other workers, so they didn't
21 want to work. Is that what you're saying?

22 MR. BOYCHUK: That's correct yes. They

1 still -- the key is we offered the benefits so the
2 employees would continue to get benefits for
3 themselves and their family. If they decided to go
4 onto full furlough they would get it for a shorter
5 period of time, but we had an agreement like I said
6 with SMART TD to keep those folks active.

7 They would have to work once a week every
8 month to keep themselves active, and keep their
9 retirement going for those months, and the money at
10 that point in time you know there was a certain
11 percentage that decided to take it, and a certain
12 percentage that decided not to.

13 CHAIRMAN OBERMAN: And the people who
14 decided not to were in effect paid nothing?

15 MR. BOYCHUK: Yes but they collected from
16 the Railroad Retirement Board, and the CARES Act.

17 CHAIRMAN OBERMAN: So I do want to
18 understand what the plan is going forward because
19 according to the slides you presented I guess Diana
20 these were your slides, what you're saying is that as
21 of -- and our numbers are similar, the same I think
22 actually. As of March you were back up to nearly

1 where you were in March of 2020, just about 80
2 people less the way I see it. 7,134 in 2020, 7,054
3 March of 2022.

4 MS. SORFLEET: Yeah. What the STB
5 reported T&E headcount does not include is trainees.
6 I'm sorry it includes trainees, so if you look at the
7 chart below, those are our active employees that can
8 work. So we still have the trainees that are in the
9 pipeline. That's why we feel confident that we will
10 get to those numbers sometime in the third quarter.

11 CHAIRMAN OBERMAN: There you go. In terms
12 of active employees I'd have to look at your chart
13 here, you're about 400 less than you were when the
14 pandemic began. Is that right? 6,600 versus 7,000.
15 So in the plan -- I am on, the plan is to get
16 according to your target, back up to the active
17 employees up to 7,000 by third quarter this year.

18 MS. SORFLEET: Yes, and we will keep
19 hiring to make sure that we are adding in for
20 attrition, any additional training needs we have for
21 engineers, as well as business growth.

22 MR. BOYCHUK: I think it's important to

1 mention that there's more training to do in the
2 industry, and if we don't you know our numbers that
3 we see here, and I think Jim mentioned it 2019 and
4 the numbers that we want to get back up to, but
5 that's not where we're going to stop.

6 2019 were numbers where we feel we could
7 get the railroad running far superior than where we
8 are today, but we've got growth in there as well.
9 But locomotive engineer training has to start, and if
10 the railroads ourselves don't start doing the
11 locomotive training, and we don't hire for it, in two
12 or three years we're going to be talking about a
13 shortage of locomotive engineers.

14 So we are being proactive. We are getting
15 ahead of that, and we're making sure that that
16 doesn't become a problem in the future.

17 CHAIRMAN OBERMAN: Well I think this is
18 good prep for what Robert was trying to get at. And
19 I understand if you want to tell us outside the
20 public record, but I think we'd like to know. I'd
21 like to know if you have a corporate plan based on
22 what you know today, as to what employee levels

1 you're aiming to get back with. Sounds like you do
2 have such a plan beyond what you said on the slide
3 today.

4 MR. BOYCHUK: Am I good now? Okay. I
5 know it goes green. I believe Mr. Foote made a
6 commitment that we would get some numbers to you
7 tomorrow, and we will get those numbers
8 confidentially to you tomorrow.

9 MR. FOOTE: I think again it's somewhat
10 dynamic in that I can give you what our estimate is
11 for the end of the year you know, and then everything
12 you know these numbers, why do they fluctuate? You
13 heard some of the earlier today if our velocity goes
14 back to 19, or my number the way we count it is
15 generally different, what's that 24, if the velocity
16 goes up to 26 we need 200 fewer people to do the same
17 amount of work.

18 So there's some fluctuation in there
19 basically which also drives you know your turn times,
20 your loads per day, all of that is something that is
21 done on an annualized basis to try and size your
22 fleet, and determine how many locomotives you need,

1 and the whole thing that drives headcount, that
2 drives mechanical headcount, that drives everything.

3 So I can give you a number of where we
4 think we should end the year based upon what we know
5 today. And then I'd have to be you know all based
6 upon all kinds of assumptions that should be in this
7 kind of range.

8 CHAIRMAN OBERMAN: We're going to get the
9 difference, that's all. You know how much authority
10 the Chairman of the agency has you know, just snap
11 your fingers and make that happen. I think the
12 question, the broader question, which I'm interested
13 in.

14 I asked NS. I'm going to ask the other
15 too, is that if you look at what happened with the
16 advent of PSR, and in CSX's case the T&E numbers were
17 reduced by 27 percent up to the beginning of the
18 pandemic. And the real question I have, and I'm
19 happy to have this exchange -- although I think the
20 public would be interested in it, is have the Class
21 I's given the experience we've been through, are they
22 rethinking the kind of staffing levels -- not with a

1 precise number, I'm not suggesting we need to go back
2 to the exact number you had just before PSR.

3 But are you rethinking whether the
4 reduction in staff by 27 percent it's right around
5 most of the class -- for all the Class I's, was too
6 much, and that maybe you need to go back up to some
7 level of cushion, without giving specific numbers.
8 That's what I'd like to know. I've asked that
9 question many times before, and I have never gotten a
10 direct answer, and you can hold the answer until
11 after this hearing if you want that's fine.

12 But I think it's important because there
13 could be another pandemic. There's a war in Europe
14 that nobody predicted, and as you say you're not
15 their sport, and so you can't plan for a staffing
16 level that's 75 degrees and sunny as people say. So
17 that's really to me it's a broader question without
18 asking you to give us a precise number of how many
19 people you're going to need next July, so that's
20 really what I'd like to get at.

21 And if you don't, you don't, but if you do
22 I'd like to know it. I have a few more questions,

1 but Patrick had a follow-up.

2 BOARD MEMBER FUCHS: Well I do want to say
3 that I agree with your comment Mr. Chairman about you
4 know no precise number based on a pre-pandemic level
5 because operating plans change, and then what you
6 need in terms of assets and employees change, and I
7 think we saw in the post PSR transition environment
8 that CSX did better than some of the other railroads when
9 it came to challenges with Florence and Michael, when
10 you look at their numbers of velocity dwell we
11 manage, but also what they report to shareholders in
12 terms of car trip planned compliance.

13 They tend to do a bit better even with
14 reduced staffing levels, but of course the issue
15 before us today squared appears to be according to
16 Mr. Foote, is fairly a staffing issue. I wanted to
17 just follow on the Chairman's questions. You know in
18 addition to the aggregate number, there also is -- is
19 that better? Thanks.

20 There is shifting employees as well. How
21 much more of that do you think needs to occur, or are
22 we just looking at it at this point aggregate growth

1 to solve the problem?

2 MR. BOYCHUK: Definitely having the
3 employees in the right place still continues to be a
4 problem. It's easy for us to do a shotgun approach
5 and just try to hire where we can, everywhere we can
6 and say hey, we're hiring, let's keep getting our
7 numbers up, and we've done a great job with that
8 because we have needed it right across the network
9 from just how it happened to fall.

10 Now we're surgically starting to look at
11 where our next spots are, and some locations where we
12 have some historic possible attendance issues, and
13 other things that are going to be there. We can't
14 fool ourselves and say that that's going to
15 disappear. So yeah, there are areas right now.
16 We've got some bottlenecks on our network, somewhere
17 in the southern part of our network.

18 I won't necessarily name where it's at,
19 but yeah, we are actively recruiting, trying to do
20 everything we can, even working with our general
21 Chairman and our local Chairman to find people in
22 those areas, and they've been very helpful for us to

1 continue to do that. As a matter of fact I hired my
2 garbage man to be a conductor out there, so I mean
3 we're actively looking everywhere we can to try to
4 find employees in the right places, and will
5 continue to do that.

6 But that will continue fortunately in
7 pockets still over the next few months as we get our
8 pipeline where it needs to be. Now as Diana
9 mentioned in her presentation we do have a website
10 that we just started to test to show our customers
11 what our hiring pools look like, and it's on a very
12 test element right now to see if it works for our
13 customers.

14 A number of our customers have looked at
15 that. So then if they see that the pipeline isn't
16 necessarily where they feel their growth is going to
17 be we can talk to them about that. So we're being
18 very transparent in making sure we put up where we're
19 hiring, and what we see for pipelines in different
20 areas.

21 CHAIRMAN OBERMAN: I just have a few
22 questions that I wanted to follow-up on, and I hope

1 that we can finish for the evening. The problem
2 we've been addressing all day, even though we need to
3 hear a lot of what we've talked about from all of
4 you, from shippers, and labor and railroads alike, to
5 get an understanding is what are we going to do right
6 now?

7 The country is really facing a serious
8 problem, and it's everywhere. So I'm looking at
9 these numbers. Trains holding a crew on CSX has been
10 going up steadily since roughly a little over a year,
11 for the last year. And velocity -- system velocity,
12 which is one of my favorite metrics, but I know it's
13 one that people look at has been going down. It's
14 been low really since July of 2020, but it's been
15 deeply declining since December according to the
16 numbers I've seen.

17 And the trip plan compliance, which was
18 according to the numbers I've seen, were 81 percent
19 just before the pandemic. For the last year have
20 been 67, now 64 percent. So you're hiring, that's
21 good, but these numbers have not yet shown the
22 results and it sounds to me like if you just depend

1 on hiring they're not going to show these results in
2 30 days either, maybe they're going to increase a
3 little bit.

4 So I'll ask the broad question, and then
5 the specific one so you can deal with it all at the
6 same time. The broad question is what is CSX going
7 to do to alleviate these problems to the extent they
8 can be in the next 30 days. And two, I don't know if
9 you were in the room, but maybe you heard the
10 testimony from the engineers and labor leaders this
11 morning, I guess it was this morning, about actions
12 they believe could be taken right now.

13 And these are the guys that drive the
14 trains. Take off the throttle limitation, add power,
15 don't run trains that don't fit into sidings. Maybe
16 that's not in your long-term plan, but in the next
17 30-60 days if that could alleviate these particularly
18 the agricultural and fuel charges that are really
19 hurting the country, and causing prices to go up even
20 beyond the inflation that's being caused, I think it
21 needs to be done, and I think you may have to shift
22 gears if you can do it.

1 So if you can respond to that I think we'd
2 all like to hear it.

3 MR. BOYCHUK: Okay let me with respect to
4 those folks who were up here who are very
5 hard-working, fantastic railroaders. I know how
6 hard your job is each and every day, and it's not
7 easy. We think our jobs are hard here, let me tell
8 you being a local Chairman or general Chairman is a
9 lot harder than any of our jobs up here in a railroad
10 environment.

11 Removing any of those three items or
12 changing it won't make a difference. That's not what
13 the problem with the railroad is. Trip optimizer as
14 a matter of fact it's cruise control to make it as
15 simple as I can for you. Never mind the fuel savings
16 you might get out of the environmental savings, it
17 actually reduces in a lot of cases train
18 separations.

19 And it has a lot of benefits that folks
20 have not talked about. You know long trains, and I
21 think Jim made a great point. If you go down to a
22 sorry 8,000 foot limit, or lower, or somewhere in

1 there, you're going to need more trains. I can't run
2 anymore trains.

3 My problem isn't as much -- and it is a
4 problem on the main line getting trains across
5 because we can do a great job getting it to one
6 place, and all of a sudden it sits, and it's got to
7 wait three or four hours for a crew. How
8 frustrating is that? So why? None of those will
9 help me in that situation.

10 The problem, and I think I've heard it
11 from our customers here today, in most cases it's
12 first mile, last mile. That's where our issues lie
13 on our railroad. We are not able to fill every
14 assignment to get to the customers when we say we're
15 going to get to the customers.

16 So what we need to do, and I can't speak
17 for any other railroad, is I can ask any customer who
18 is listening, or is part of this today, to talk to
19 us. Reach out to us. Let's communicate. Let's be
20 open. Tell me where your problems are, and my team
21 and I, and all the folks involved, we will make sure
22 we do everything we can to try to get your cars

1 moving.

2 It's a big network. I wish I knew every
3 issue that was out there, but I don't. But I
4 welcome it, and I've heard Mr. Foote say it a number
5 of times throughout. Tell us where the issues and
6 problems are with what you're dealing with out
7 there, and we will give it the focus it requires.

8 If it's a scorecard, if it's something
9 else we need to look at so we can improve first mile,
10 last mile, that's where I think we're going to get
11 the most benefit out of what's going on out there
12 with our crew shortage situation.

13 CHAIRMAN OBERMAN: What we heard this
14 morning were a couple of things. I don't think
15 anybody was suggesting that if you did those three
16 things all the problems would disappear. What I
17 heard is it could help alleviate, move the ball
18 somewhat, because some relate until the longer range
19 solutions can be achieved, particularly hiring seems
20 to be agreed to by every person in this room, is the
21 problem.

22 But what do we do in the meantime? And

1 what I heard from the engineers is that because the
2 long trains have trouble traversing the network.
3 They get stopped if there are not signals. The crew
4 times out. And then you actually lose the total
5 number of crew availability with the longer trains
6 right now. That's what I heard.

7 You know I don't run a railroad you do.
8 That was a suggestion they made. They also suggested
9 that aside from trip optimizer, there are places
10 where they could run faster, and alleviate some of
11 the congestion, and they're not allowed to. And
12 there are also places where they could increase the
13 average velocity by adding locomotives.

14 And I haven't heard you say yes we can add
15 locomotives, that doesn't require extra people. The
16 locomotives are already on the consist. So it seemed
17 to me that these people know what they're talking
18 about. They're driving the trains. And they could
19 correct the situation where they're on a train and
20 they get timed out.

21 So I wonder if these aren't ideas that you
22 ought to sit down with these operating people and

1 figure out if there are places where you can get some
2 relief. Nobody is saying -- I didn't hear anybody
3 saying that's all you have to do, but you know I
4 really think this Board and the country is going to
5 have a lot of trouble 30 days and 60 days from now if
6 these numbers don't look different.

7 And if we're relying only on hiring, I
8 don't see it being able to get there in 30, or 60, or
9 90 days. We're going to miss the planting season.
10 We've got fuel problems. That's what I'm concerned
11 about. So if that's not the answer then there is no
12 answer, but we're doing our jobs pushing to get an
13 answer, so.

14 BOARD MEMBER FUCHS: If I could just in
15 responding to you, not at all to jump in on your
16 question.

17 CHAIRMAN OBERMAN: Yeah go ahead.

18 BOARD MEMBER FUCHS: Also how long
19 typically are your local trains? Is it your
20 understanding that the longer trains that are being
21 described are mostly the road trains?

22 MR. BOYCHUK: Yeah. I mean mostly are

1 longer trains and usually intermodal trains, which
2 don't typically use trip optimizer because of the
3 time sensitive traffic that's on there with respect
4 to UPS and others, but more than anything an
5 intermodal train needs to make it to a terminal at a
6 certain time.

7 If we're late a few hours and you miss a
8 slot into an intermodal facility, that can set back
9 every other train. So in the same situation we may
10 use trip optimizer in different lanes, because
11 getting there two hours fast, and rushing to get
12 somewhere it's kind of like driving your vehicle and
13 rushing to every red light and slamming the brakes on
14 and waiting for the red light and then go again, slam
15 your brakes on.

16 That's what that does. And if I could
17 just touch, I have 150 to 200 more locomotives than
18 we need out there on our system. And we did that
19 because trains are running on time. We're not
20 running the scheduled railroad that we should be
21 running. We know that. We put out more assets with
22 locomotive. We've also done it on the car side. In

1 2019, we averaged 85,000 cars online for the number
2 that we look at.

3 Today we're averaging almost 110,000 cars
4 online. So it's not that our numbers are exactly the
5 same from where we're at. We've had to put more
6 assets in there in order to give the customers the
7 service they're looking for.

8 BOARD MEMBER FUCHS: I'm only going with
9 some of the suggestions it seems to me you know on
10 length, on speed, on the number of locomotives
11 doesn't necessarily capture the heart of the issue.
12 It captures some issues that could occur on road
13 trains, but what I'm also hearing from customers a
14 lot is exactly what you're describing in terms of
15 first, last mile service.

16 Over and over we hear from customers about
17 missed switches. And you know those are particularly
18 impactful because it's usually in the last 48 hours
19 that they start planning their crews, and so I'm sort
20 of grappling with some of the solutions which we're
21 still thinking about seem to be a bit different than
22 some of the problems that we're hearing from

1 customers, and where we're seeing some of the service
2 issues.

3 And those local train issues seem to be
4 pretty squarely just a shortage of people. And the
5 need for railroads to hire more people. And so I'm
6 only grappling with the difference between some of
7 the solutions, and what I hear is a problem.

8 MR. BOYCHUK: Absolutely. Am I working?
9 Yeah. Look, what the gentleman described earlier
10 today, and I'm sure we have pockets that are guilty
11 of it as well, and we're going to do the best we can,
12 is just purely bad railroad okay.

13 It sounds like there's some -- you don't
14 send two over siding trains out onto a network and
15 then scratch your head and go where are they going to
16 meet? Or you don't shut your network down to run a
17 bunch of trains in one direction. You go over siding
18 in one way, and you go siding length the other. So
19 the siding length trains can go on the siding, or the
20 over length is the king of the road.

21 I mean naturally a lot of our networks
22 work that way, particularly in the east where you can

1 do that. So I'm sure CSX is as guilty as anyone, and
2 I promise we'll go back and look at better practices,
3 and our dispatchers probably know that better than
4 anybody when it comes to how you dispatch on the main
5 line, and we'll have those discussions. And
6 definitely correct where we need to.

7 CHAIRMAN OBERMAN: It boiled down to
8 everything that this panel has told us. You need 500
9 more people than you have right now, or we wouldn't
10 be seeing these numbers. That's what I'm hearing.
11 And I think there's not the slightest doubt that if
12 you have 500 more people your numbers will be better,
13 whether they'll be where they should be I think
14 remains to be seen.

15 And we're a long way away from your having
16 those 500 people, and I don't think the country can
17 wait. So I think you and all the others. And I'm
18 not going to say anything different to any of the
19 other railroads that come here than what I say to you.
20 Go back to the drawing board. We have to do better.

21 And if all you can do is squeeze a few
22 more deliveries out than people are getting today,

1 we're that much farther ahead, and hopefully it will
2 be better than that. Listen, I think you guys know
3 how to run a railroad. I just want you to do it.

4 To spite my friends that were here from
5 Wall Street, I don't want you to have one eye over
6 there on the stock price when you've got a problem.
7 So that was all I had. Does anybody else have any
8 questions? It has been an extraordinarily long day.
9 You are all terrific for being here, answering our
10 questions.

11 We will start tomorrow morning at 9:00,
12 and there are a lot of people who have flights out
13 tomorrow night, I'm one of them. And I won't make it
14 if we don't end until 7:30, so tomorrow -- I think we
15 really made a lot of progress today, we may not have
16 to ask everybody else the same questions tomorrow,
17 but we do want to hear from everybody. So thank you
18 all again, and we'll see the rest of you in the
19 morning, 9:00.

20 (Whereupon the hearing adjourned at
21 7:27 p.m.)

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A			
a.m 1:10 6:2 108:15	178:21 204:9,10 314:22	169:21 259:9 264:3	116:16 128:3 213:8
AAR 54:7 60:16	387:2 391:22 405:19	276:3 334:2 374:11	214:15,16 217:12
abandon 117:6	accessed 408:6	397:5 398:9 404:5	257:20 261:11 274:19
abandoned 165:15,20	accessorial 68:17	446:11	363:21 364:3,5,20
ability 17:13 42:18 63:14	accident 353:2	activate 30:5 273:14	365:3,4,6,15,20 367:13
63:17 98:22 99:2	accidents 353:5	active 122:19 130:2,17	369:2,19 378:10 383:8
110:10 126:7 132:20	accommodate 31:21	145:3 158:6 382:22	388:10 402:6,17 437:20
167:17 168:16 188:13	164:13,19 310:19	405:14,17 407:2,16	Additionally 18:20 45:2
188:18 190:3 287:8	409:17	436:6,8 437:7,12,16	116:22 207:9
294:18 314:13 350:19	accommodation 386:22	actively 151:8 257:4	address 6:8 7:17 12:2
363:18 391:22 402:19	accomplished 169:13	443:19 444:3	38:17 45:8 52:12 53:18
409:10	410:3	activism 207:10 252:9	57:3 66:3 76:19 77:5
able 23:11 25:2,9 40:9	Accords 329:19	activists 207:14 209:14	82:15 83:21 85:6
57:1 58:11 66:3 78:5,7	account 12:13 52:9 96:15	activities 86:2 262:6	104:12 159:3 188:1
78:10 90:10 95:7 96:6,7	204:4 256:12 341:18	activity 215:21 234:10	234:3 237:10 239:1
96:20 99:6,10,19 104:1	375:21 380:15	297:6 406:5	254:13 279:10 286:9
104:19 120:8 129:17	accountability 60:1 68:20	acts 290:14 389:13	290:5 292:5 293:18
171:11 202:1 203:10	335:15 366:10 383:13	actual 45:7 122:13 433:8	297:12,22 320:3 328:13
236:14 241:4 274:11	383:17	acute 21:9 83:8,18	358:12 378:16 381:22
289:22 292:12 307:3	accountable 52:6,9 60:3	306:14	397:5 410:15 413:14
319:13 321:10,12,14	60:5 70:10 158:22	acutely 350:22	418:2
326:1 336:4 338:19	383:11	ad 280:9	addressable 224:16
343:16 344:9 346:14	accounted 421:10	Adams 4:20 267:18,21	addressed 21:7 99:17
351:9 359:5 372:7	accounting 243:3	310:14 312:20 319:17	107:9 264:13
403:17 416:3 420:16	accuracy 202:20 317:8	322:13 339:20 340:13	addresses 394:20
424:9 426:8 448:13	accurate 163:3 272:3	341:15 342:6	addressing 9:9 11:1 66:9
451:8	315:13 370:5	adapt 76:7,10 413:2	94:20 263:21 398:1
abnormal 48:3	accurately 44:13	add 69:17 74:14,17 77:22	425:12 445:2
abrogation 160:3	accustomed 378:11	97:20 163:11,15 178:14	adds 208:3
absenteeism 118:15	achieve 255:12 268:20	182:5 185:12 201:15	adequacy 84:10,12
absolute 115:2 120:19	281:17 289:19 377:10	202:22 203:10 209:22	adequate 10:21 18:14
135:21 201:2	achieved 125:4 211:5	234:22 241:19 247:9,16	19:12 43:14 111:11
absolutely 66:1 69:21,21	309:14 449:19	272:10 319:1,18 323:18	122:18 129:8 149:18
101:14 119:11 120:21	achieves 127:5	327:22 337:3,14 419:12	360:3 401:12
194:2 267:5 297:9	achieving 117:11	421:13 425:8 446:14	adequately 116:18
308:18 326:19 338:19	acid 260:13	450:14	203:15 237:9
348:17 426:1 427:17	acknowledge 259:6 263:4	added 47:18 72:10 76:14	adjusted 456:20
428:7 454:8	acknowledged 21:6	207:21 255:9 273:22	adjunct 275:1
absorb 174:21 259:15	acknowledges 398:10	337:21	adjust 254:5 285:20
abstract 345:5	acknowledging 378:17	adding 39:2 44:9 74:19	406:13
absurd 110:5	acquire 50:17	146:7 218:22 261:20	adjusted 203:15
abundance 276:9	acquiring 263:3	369:18 407:8 437:19	adjusting 32:1 388:3
abuse 160:2	acquisition 274:1	450:13	ADM 89:12 91:20
abused 167:22	act 17:15 28:7 60:10 83:3	addition 31:14 41:3,17	administration 11:3
abusive 117:15	106:8 167:13 168:5	51:5 75:1 151:7,9 153:9	389:8,17 398:8 404:12
AC 323:22 347:5	169:6 384:2,22 434:5	165:6 196:3 242:11	administrative 5:19
ACC 52:19 53:14 90:3	434:22 435:6 436:16	252:3 273:1 278:15	311:1
92:1	acted 112:18	298:20 383:10 400:13	admit 296:3
accelerated 323:11	action 20:11 21:12 60:12	403:2 405:18 410:16	adopted 109:19 154:2
accelerating 196:4	69:10 113:22 118:10	411:20 442:18	155:15 350:18
accent 138:12	119:15 132:13 133:8	additional 12:2 35:18	adopters 205:12
accept 41:20 61:15	168:1,1 264:5 268:20	37:13,15,19 38:7 39:19	adopting 60:2
421:18	273:11 371:7 390:7	42:22 43:3 44:8 47:13	adoption 42:1 258:6
acceptable 207:8	402:3 405:9	51:3 53:15 54:3 57:13	advance 7:6 82:10 202:19
access 10:22 85:8 161:12	actions 53:17 58:20 77:6	64:22 72:10,20 74:13	396:21
	81:11,15 102:3,13	76:14 81:21 86:1	advanced 53:3 327:14

<p>advancements 403:11 advances 412:7 advantage 23:12 122:12 294:17 297:4 433:11 435:10 advantageously 27:16 advent 122:2 342:14 440:16 adverse 128:1 376:18 adversity 377:1 advertising 278:9,17 advise 184:10 advised 184:22 185:2 288:6 Advisory 255:5 advocate 257:14 286:22 affair 254:19 Affairs 2:22 3:2,7 46:22 79:7 affect 303:19 affiliate 95:1 affiliated 109:6 afford 120:15 afforded 383:13 AFL 109:5 AFL-CIO 3:10 afoot 88:16 168:2 aforementioned 81:17 AFPM 354:5 374:18 375:3,4 377:20 378:13 379:19 381:11 382:5,12 382:20 384:12,14 afraid 418:22 afternoon 157:16,19 301:11 ag 88:9 177:14 age 235:13 agency 23:2 440:10 agenda 353:21 agendas 184:8 aggregate 105:7 179:22 179:22 339:12 401:19 442:18,22 aggressive 113:22 208:6 258:10 259:3 262:18 267:7 278:7 380:11 aggressively 159:10 234:10 agile 281:22 ago 55:14 61:8 69:15 98:11 107:7 116:8 165:15 167:14 180:22 183:2 224:10 231:8 241:1 284:2 301:18 345:17 355:16 368:20 402:12 425:18</p>	<p>agree 74:19 91:22 242:14 299:14 309:1 337:5 356:4 431:18 442:3 agreed 449:20 agreement 120:2 163:13 216:5 313:14 403:4,11 405:13 433:22 436:5 agreements 121:9 122:22 123:2,5 160:3 agri 34:18 51:15 agricultural 6:16 14:17 15:10,20,22 16:6 17:11 20:12,16 33:19 34:15 34:17 37:6 49:1 50:6 73:10 238:21 446:18 agriculture 2:7,7 14:10 14:14,20 15:1 17:7 21:14 47:17 50:14 66:1 agriculture's 15:8 ahead 12:22 46:18 60:12 76:11 94:4 105:3 133:22 138:18 143:4,16 143:17 180:14 185:10 190:18 191:4 253:19 267:17 272:5 308:21 310:10 410:10 438:15 451:17 456:1 aim 253:5 aiming 439:1 air 134:7,8 155:3,8 275:5 363:4 airing 381:9 airport 267:11 Alabama 134:10 198:4 270:20 275:15 Alan 326:13 328:9 338:12 alarm 109:7 alarming 116:7 Albany 365:16 366:4 391:18 algorithms 127:21 aligned 72:8 76:12 297:9 alike 257:17 295:5 445:4 alive 184:17 all-time 54:8 alleviate 293:16 382:4 446:7,17 449:17 450:10 allied 60:20 allocate 292:15 allocation 240:16 324:17 328:10,14 allotted 29:6,16 46:15 allow 29:5 69:5 104:19 127:15 129:11 146:20 146:22 156:10 168:4,4</p>	<p>262:15 284:4 314:4 358:22 381:11 397:4 402:4 434:1,6,8,14 allowed 146:4 148:9 248:11 351:16 405:13 429:16 432:7 435:7 450:11 allowing 10:7 133:22 211:22 264:20 362:20 384:5 allows 68:9 118:18 120:19 163:14 176:5 285:19 321:13 allude 89:6 117:22 331:13 alluded 373:5 alphabetic 154:14 altered 269:14 alternate 126:3 alternative 50:16 75:1 258:2 262:10 309:16 alternatives 10:4 258:15 393:22 amazing 355:12 ambiguous 112:15 amend 168:3 America 3:4 158:5 195:6 255:14,19 264:10 375:6 395:5 America's 9:14 15:1 47:9 54:18 64:17 114:14 412:21 American 2:11,16,19 5:9 10:12 17:11 19:4 28:18 32:10 38:16 47:1,4 53:1 71:13 79:10,22 82:7 256:1 259:18 263:7 264:7,18 266:4,10 267:1 363:2 375:2 377:7 386:5,16 389:3 389:15 Americans 38:15 amount 10:13 70:3 99:15 104:9 127:4 142:7 176:1 177:10 181:12 184:12 195:19 217:11 217:14 226:4 232:1 235:9 240:18 298:10,14 309:18 310:5 315:10 355:18 356:1 371:14 388:1 393:8 425:9 439:17 amounts 120:17 ample 116:9 amplifies 381:6 amplify 51:10</p>	<p>amputation 184:3 amputations 185:1 Amtrak 140:6,14 Amy 323:20 332:13 analogy 312:2 analyses 244:1 249:12 analysis 272:9 277:5 Analyst 4:4,6 analytical 248:8 299:17 analytics 271:13 analyzed 207:11 and/or 120:13 132:15 259:11 419:8 Andrew 2:15 28:17 46:21 anecdotal 286:1 Angeles 173:22 animal 35:12 animals 16:16 Annie 4:20 267:21 280:4 280:5 281:18 293:3,15 296:13 297:19 298:21 303:22 312:17 319:16 326:12 330:13 339:19 340:4 anniversary 33:21 announce 11:21 announced 16:22 54:2 58:12 203:16 300:14 announcement 45:12 79:16 111:22 117:20 127:13 167:6 356:11 378:13 announcements 45:14 announces 371:13 announcing 301:19 annual 23:21 33:16 45:4 45:7 82:1 277:8 annualized 439:21 annually 375:12,18 answer 33:1 46:10 61:17 70:19 82:8 84:1 90:10 94:10 97:5 142:13 151:20 170:13 179:4 207:8 227:22 234:4 238:3,4 239:14 242:13 265:21 266:13 288:20 288:21 302:6 306:15 312:15 314:10 315:21 317:7 318:4 325:5 340:8 370:2 393:13 424:16 441:10,10 451:11,12,13 answered 246:2 252:5 280:9 318:5 answering 74:11 84:8 170:4 319:3 456:9</p>
--	---	---	---

<p>answers 45:19 317:2,5 429:20,21 430:1,2,2 anticipate 43:5 272:4 323:11 394:13 Anticipated 271:10 anticipation 122:20 192:13 anybody 82:15 83:5,21 138:3 184:6 185:11 306:15 449:15 451:2 455:4 456:7 anybody's 307:20 308:5 anymore 139:16 144:14 150:5 176:17 248:18 312:13 448:2 anytime 392:4 anyway 29:2 356:4 358:2 430:2 apart 208:14 226:21 229:19 apologize 212:9 325:7 355:8 368:8 374:17 appear 27:19 29:17 157:21 267:19 280:2 APPEARANCES 2:1 3:1 4:1 5:1 appears 120:7 169:18 199:18 442:15 appease 60:19 appetite 117:4 applaud 11:22 applicable 121:20 applicant 409:4 application 65:14 255:22 applications 274:3 applies 173:5 apply 39:3 64:8 113:1 388:13 appreciate 7:22 21:15 28:9 52:3,21 59:10 62:4 69:10 70:17,19 71:6,18 87:21,22 93:22 107:8 157:13,21 170:9 171:7 179:18 187:19 194:4,7 212:6 232:20 253:14 267:11 281:1 291:2,15 320:7 326:6 330:17,20 353:11 356:12 357:10 385:19 395:2,8,18 396:17 404:10 413:19 423:1 appreciated 52:16 69:12 114:5 237:13 265:10 290:8 413:12 appreciates 14:14 18:14 20:14 41:19 68:1</p>	<p>appreciating 339:10 appreciation 18:10 319:21 approach 39:10 189:10 283:19 284:8 295:10 300:9,22 301:3 309:8 309:16,22 394:14 443:4 approached 388:9 approaches 279:12 404:19 412:12 appropriate 46:3,11 68:22 74:20 107:1 133:2 382:16 425:15 appropriately 169:4 approval 208:11 approximately 53:6,22 55:12 74:15 75:21 76:1 122:1 380:15 381:4 386:20 387:10 405:3 April 1:9 34:16 112:1,2 153:16 154:10,18 155:6 216:15 301:18 341:12 341:21 364:19 apt 66:21 arbitration 167:19 archaic 262:14 area 56:2 83:16 130:10 152:8 177:14 192:10 260:16 261:17 273:20 299:19 306:13 318:10 335:22 336:6 352:20 387:4 areas 24:13 27:6 55:6 83:16 96:1 103:12 256:6 261:7 271:7 273:18 279:7 298:1 315:3 332:13 341:2,3 342:10 363:5,13 388:10 443:15,22 444:20 argue 110:16 argument 131:10 205:7 205:11 210:3 234:9 arisen 400:10 arising 167:16 Arizona 261:1 arms 258:3 arrival 57:7 95:2 arrive 17:19 81:3,5 283:4 arrived 36:17 49:4 arrows 247:7 article 58:13 artificial 173:12 425:17 426:13,18 artificially 29:11 425:19 aside 75:10 206:14 450:9 asked 17:2 58:4 95:15</p>	<p>109:2 141:6 152:13 154:3 175:2 292:1 365:12 380:8,9 430:17 432:2 440:14 441:8 askes 207:6 asking 105:20,20 292:2 340:8 381:13 428:21 429:4 441:18 asks 211:10 aspect 225:9 226:15 379:5 aspects 62:8 184:13 225:7 305:6,6 asphalt 386:6 387:17 aspiration 331:10 aspirational 337:22 aspire 281:21 282:8 329:12 assault 160:22 assessed 311:13 assesses 118:21 assessing 106:16 assessment 86:12 assessments 45:7 asset 199:1,11 201:18 225:12 228:12,22 272:2 362:12 assets 26:18 43:22 44:2 60:6 67:15 68:21 195:16 239:21 242:3 309:10,13,18 310:4,6 383:12 386:6 442:6 452:21 453:6 assign 402:5 assignment 272:18 448:14 assignments 163:17 273:17 417:9,9,14 assist 20:19 176:2 178:18 390:15 assistance 412:4 associated 33:11 50:8 79:11 193:9 234:6 335:15 association 2:11,14 4:9 5:3 32:20 79:9 88:9 91:13 94:22 124:10 254:9 255:3 356:15 375:4 associations 41:22 90:2 90:20 130:22 assume 202:13 313:7 assumed 352:17 Assuming 208:10 assumptions 440:6 assurance 45:5 82:2</p>	<p>86:10,14 assurances 339:22 assure 113:10 127:11 152:10 268:19 279:19 395:14 398:3 400:15 astounding 23:9 ATA 206:22 Atkins 4:22 5:20 Atlantic 26:7 atmosphere 118:1 atrocious 66:9 attack 60:22 attainable 117:11 attempt 37:14 49:17 60:18 127:10 131:5 181:9 attempted 157:6 389:8 406:7 attempting 389:22 attempts 92:19 attendance 119:18 155:16 156:12 160:2 161:17 182:15 411:11 443:12 attention 28:2 39:16 46:5 52:14 61:16 91:10 92:3 108:22 126:15 206:15 221:5 298:9 351:17 359:8 385:9 395:4 attorney 357:17 attract 160:19,21 161:6 169:10 190:3,6 278:1 278:17 attractive 182:13 276:11 385:1 attributes 63:6 attrition 39:1 77:21 196:16 197:21 198:10 297:22 307:11,12 308:20,20 332:14 407:18 410:10 415:13 437:20 ATWG 34:15 35:5 81:17 atypical 190:9 auction 49:21 augmenting 278:15 August 150:19 311:6 407:2 Austin 4:22 5:20 Australia 143:4 authorities 112:8 authority 18:21 22:15 112:18 113:8 133:13 440:9 authorized 145:20 174:7 349:14</p>
---	--	--	--

<p>automotive 280:18 308:2 381:2 autonomous 212:18 327:7 autonomy 278:5 availability 110:7 116:16 119:6 159:19 199:15 225:13,18 256:19 273:13 279:4 303:16,20 332:11 411:20 450:5 available 12:20 15:8 30:21 31:2 45:22 73:17 89:18 122:22 123:8 124:15 128:5 132:4 148:18 163:8 176:5 177:19 221:11 334:12 366:18 408:15,22 433:2 average 48:6 49:18 74:4 80:10 146:11,13 149:2 152:22 200:22 206:6 226:19 251:22 261:16 277:5 323:4 375:16 394:5 399:5 425:9 450:13 averaged 399:6 400:6 453:1 averaging 73:12 80:15 203:18 399:15 453:3 aviation 387:16 avoid 196:6 405:10 avoided 161:8 aware 36:7 39:8 84:16 99:8 208:4 367:8 371:5 371:6,7 379:9 393:3 416:2,12 awful 348:19 axle 148:6</p> <hr/> <p style="text-align: center;">B</p> <p>B 99:19 126:5 144:11 153:9 155:4 174:9 176:9 178:17 283:3 349:12 405:20 back 10:5 22:6 28:6 32:1 74:8 87:1,6 95:20 97:13 97:14 105:22 113:12 122:17 135:11 137:16 141:15 144:14 150:10 153:3,15 162:11 184:7 190:16 194:6,10 205:1 207:5,14 208:18 209:14 214:3,21 215:3,3 216:3 218:6,22 227:22 229:13 236:6 238:12 239:20 240:10 253:14 262:9 263:17 267:16 280:10</p>	<p>285:21 290:11 293:21 301:15 302:15 304:13 304:21,22 305:15 306:3 306:11,18 307:22 308:7 308:22 309:2 319:13 337:16 338:12 340:10 340:11,14 341:6 342:22 346:20 351:20 353:20 367:6 371:15 389:5 391:5 396:9 406:7,21 407:3 410:8 414:11 418:6,11,16,21 420:20 421:2,5 423:19 424:4,7 424:10 426:15 428:11 432:3 433:14 436:22 437:16 438:4 439:1,14 441:1,6 452:8 455:2,20 back-to-back 261:3 back-up 312:4 backbone 248:17 256:7 backbones 256:16 backed 222:2 backfill 206:20 background 207:9 212:16 419:17 backgrounds 278:2 backloaded 214:13 backs 120:11 backward 294:5 backwards 142:17 bad 100:19 104:22 115:19 118:9 139:2 145:21 149:5 199:18 201:15 209:5 229:12 246:21 251:8 305:6 315:18 322:3 373:6 395:16 454:12 bail 380:9 balance 223:7 280:17 336:13 411:22 balanced 336:14 balances 132:17 balancing 401:10 ball 449:17 ballast 130:17 328:11 426:17 ballpark 181:20 bam 187:14 band-aid 251:6,8 381:18 bar 395:6 bare 120:19 148:16 303:12 bargain 118:7 bargaining 313:14 barley 364:13 391:5 barrel 393:13,14 394:5</p>	<p>394:17,18 barrels 375:17 393:17 394:4 barriers 66:22 bars 147:4 base 54:19 61:1 124:1 208:1 209:3 241:3 263:15 333:7 based 38:5 67:19 75:18 96:9 141:18,19 162:18 218:7 230:2 237:21 245:15 255:20 263:1 275:20 289:4 296:10 307:10 308:9 312:16 341:9 348:8 367:12 376:1 378:7 394:14 410:7 426:6,9 438:21 440:4,5 442:4 bases 51:6 114:15 basic 28:15 basically 92:15 93:10 100:20 156:1 191:12 201:19 202:19 212:21 213:3,7 214:11 217:11 219:14 220:19 221:14 222:4 224:10 228:8 231:13 252:6 314:18 348:20 434:22 439:19 basics 184:16 Basin 386:22 387:2 basis 38:12 45:5 62:17 83:18 158:20 234:17 241:10 243:6 273:5 286:8 287:21 351:7 370:16 389:11 393:1 439:21 basket 426:1 basketball 96:6 battery 327:7 battle 207:16 battles 256:18 battleship 142:21 Beach 111:17,19 218:11 bear 127:12 180:1 362:15 bearing 49:18 beat 14:9 206:13 becoming 37:9 115:7 229:21 beer 363:11 371:18 391:3 395:6 begin 199:20,22 233:15 399:9,11 407:5 409:1 437:14 Begeman 354:15 355:17 beginning 7:13 220:13 248:10 265:22 290:12</p>	<p>359:4 440:17 begins 196:13 begun 20:18 398:14 behalf 8:13 20:16 62:6 71:19 78:18 90:9 91:16 115:3 267:20 behavior 65:13,16 167:5 210:19 222:12 behaviors 242:17 beholden 133:7 behooves 351:6 believe 18:5 25:1 27:1,2 38:22 40:3 45:2 59:19 72:3,7 75:11 76:17 85:9 89:12 94:8 100:2 118:5 121:18 127:11 131:12 141:13 189:9 193:9 212:18 245:4 282:6 284:21,22 285:3,19 287:5 289:7 290:6,21 293:13 295:1 296:11 300:7 309:8,14 315:13 328:16,19 329:7 337:18 338:12 344:19 350:19 354:21 359:9 362:8 380:3 382:20 388:11 410:8 425:15 435:15 439:5 446:12 believed 331:12,16 408:11 believer 392:6 393:9 believes 18:1 41:8 43:2 168:3 250:5 300:3 338:13 384:14 believing 131:6 bell 326:15 belligerent 92:22 Bellview 275:21 belong 123:20 benchmark 231:19 benchmarking 231:17 Benedict 5:10 354:5 374:18,19,22 beneficial 38:15 336:12 benefit 30:6 123:2 169:21 211:4 233:20 292:16 299:10 449:11 benefits 121:8,11 124:3 208:17 257:15 277:2,10 278:13 299:14 300:11 321:9,18 376:12 385:5 405:19,20 433:2 434:9 434:18 435:2 436:1,2 447:19 benefitted 377:15 benign 210:12</p>
---	--	--	--

<p>Bentzel 2:8 21:22 22:4 best 12:9 28:10 30:13 31:21 60:7 65:3 71:2 121:22 141:16,16 152:1 152:4 183:22 200:5 214:6 222:3 238:4,5,8 238:14 253:7 257:9 277:1,15 288:21 295:14 321:4 331:1 335:17,22 335:22 380:5 422:10,21 423:11 454:11 better 11:14 13:2 14:21 19:1,15 20:4 24:20 26:17 43:19 48:9 53:4 53:16 55:16 72:17 76:18 77:12 80:22 85:10 102:18,21,22 103:4,16 106:12 116:6 131:10 140:7,18 199:11 213:18 240:15 244:22 271:20 272:4 281:22 284:10 296:21 311:14 339:6,13 344:20 351:16 370:18 384:7,7,10 392:1,5 399:21 400:7 402:17 417:8 424:7 442:8,13,19 455:2,3,12 455:20 456:2 beverage 4:9 5:3,6 254:9 255:2 354:3 356:15,18 356:20 beyond 64:13 175:9 180:10 259:20 264:8 266:6 304:8 316:18 347:15 353:15 359:15 382:8 439:2 446:20 Biden 389:8 bids 49:22 big 146:22 176:19 200:7 201:7 207:21 225:14 229:3 230:15 231:5 232:9 270:14 272:16 340:16 387:3 449:2 bigger 90:21 186:16 251:6 372:21 biggest 91:5 164:2 176:13 236:21 322:6,7 323:19 324:5 334:5 341:3 bill 127:10 368:15 374:1 billed 48:1 billion 47:12,13 54:2 79:10 224:17 235:17,18 282:20 426:14 billions 54:13 120:10 bills 367:17 368:1 369:3 369:21</p>	<p>binding 167:19 Binghamton 271:1 275:16 biodiesel 16:18 biofields 37:3 biofuel 33:9 biorefineries 81:1 bipartisan 8:19 11:13 Birmingham 134:10 198:4,4 270:20 271:4 275:14 323:9 331:6 332:18 bit 7:15 99:1 134:13 202:10 212:16 213:11 213:17 214:2 215:7 216:3,7,9 217:1 218:2,3 219:19 222:6,18 223:6 223:13 226:20 228:21 230:14 239:19 247:17 253:17 254:6 303:2 325:6 343:9 348:3 442:13 446:3 453:21 black 153:18 202:22 blame 76:6 118:14 122:3 159:18 293:20 blamed 226:14 359:17 bleeding 26:19 251:7 blend 81:6 BLET 119:3 158:4 Bliley 3:6 32:13 78:21,22 79:6 82:11 91:11 bloated 37:8 block 147:16 blocked 147:18 blocking 175:6 336:18 blocks 375:7 blowing 187:18 blue 117:13 160:7 198:16 206:11 219:17 BN 73:5 201:12 208:14 229:20 230:1 345:21 351:10 391:12,14 BNSF 49:19 119:4,7,16 120:3,7 138:18 151:13 152:12 154:2 155:13 156:9 157:5 159:15 160:12 163:18 166:16 167:3,11 190:6 199:11 229:9 231:5 391:8 BNSF's 118:14 board 1:1,11 6:6,11 7:3,9 8:10,18 9:6 12:4,10,12 14:14 18:1,6,7,18,21 19:7,9,15 20:1,6,10,14 20:17 22:9,12,15 29:10 30:13 33:3 34:10,14,16</p>	<p>39:20 40:2,5 41:5 42:4 42:12,19,21 44:5,10,15 45:6,11,13 46:4 47:2 52:13,21 53:17 59:10 61:6,12,20 62:3 65:6,21 68:9 69:18 71:3,6 75:20 77:1 79:1 81:16 82:4,8 82:13,17 84:7,9 86:9 87:7,14 88:16,20 90:6 90:12 92:11 93:22 98:8 98:9,11,12 101:22 105:6,8 109:14 112:7 112:22 113:4,8,21 114:10 117:17 130:6 132:12 133:13,16,21 145:2 150:17 154:9 156:21 157:20 159:14 167:4 168:8 170:7 179:13 183:6 185:11,21 187:19 189:19 193:19 194:22 233:7 236:8 238:14,17 240:7,11 241:22 242:1 252:8 254:21 255:4 265:7 266:17 267:19 290:16 298:19 301:13 308:13 313:20 319:20 322:9 324:14 325:2,7 326:5 326:17 327:21 330:20 332:7 333:3,11,19 338:20 339:3 354:16 355:19 358:1,16,20 359:3 362:7,19 369:5 371:4 374:20 385:15 390:7,10,15,18,20 391:15,21 392:12,14 393:3 395:4 396:9 397:2 404:9 413:5 420:6 421:7 422:19 423:1 427:14 428:17,20 429:4,21 430:10,14,20 431:1,4,5,8,9,13,16 434:10 435:16 436:16 442:2 451:4,14,18 453:8 455:20 Board's 6:17 18:10,15 20:19 30:21 41:20 44:16 68:1 69:10 81:18 106:19 112:13 395:22 boards 69:14 116:15,16 163:7,10,15 244:3 428:4 boat 252:21 boil 230:4 boiled 455:7 Bond 3:17 108:12 150:14</p>	<p>150:16,18 157:17 167:2 171:9 185:22 186:6 191:5 bone 120:9 bonus 276:18 403:9 bonuses 117:21 125:10 273:13,13 276:10,12,22 278:16 279:4 408:12,22 411:16 book 155:3 booked 37:13 boom 139:6 boost 404:1 boots 284:7 born 116:12 borne 38:11 bother 65:20 93:17 bothered 107:6 bottle 367:18 bottleneck 221:21 bottlenecks 178:2 443:16 bottles 363:8 bottling 391:13 bottom 120:7 122:8 161:10 198:15 206:16 207:22 215:13 217:17 293:14 307:18 bought 244:20 Boulder 363:7 bound 25:21 214:14 boundaries 272:18 box 152:21 153:10,18,22 boxcars 137:19 419:7 boxes 24:21 216:11 Boychuk 5:17 397:1,7 413:13,19 418:3 421:13 433:20 434:20 435:4,12 435:22 436:15 437:22 439:4 443:2 447:3 451:22 454:8 brag 364:9 brake 155:8 brakeman 181:17 280:10 brakemen 145:10 182:12 brakes 54:22 452:13,15 branch 260:3 brave 254:15 Brazzo's 165:19 bread 352:1 breadth 130:7 break 31:8 108:8,9,15,18 229:18 254:1 335:12 353:16,17,22 breakdown 142:7 breakdowns 44:4 110:9 breaking 141:17</p>
--	---	---	--

<p>breaks 31:10 211:9 breweries 363:10,11 364:14,17 365:3 366:13 366:15 368:6 369:14 391:17 brewery 364:21 365:6,7 365:14,17 366:4,5 367:1,6 391:12,14,18 Brian 4:6 31:16 194:11 194:15 212:4,6 233:9 238:18,22 brick 155:3 bridge 137:10,13 203:21 241:11 316:5 bridges 317:7 brief 72:22 79:2 267:15 briefly 6:8 70:22 brighter 128:8 bring 39:16 88:13,19 92:2 112:14 114:12 122:16 126:15 140:22 151:16 194:21 196:19 210:15 212:8 319:12 327:3 357:8 363:9 365:9 406:7 431:20 bringing 290:8 419:6 brings 344:16 British 200:17 broad 6:12 213:11 446:4 446:6 broaden 242:19 broader 61:8 189:3 229:18 256:6 299:5 323:1 326:21 408:6 440:12 441:17 Brock 3:4 32:12 71:8,12 87:1 broke 98:16 broken 24:4 147:4 Bronaugh 2:6 14:11,12 14:19 47:3 79:5 95:4 Brother 167:2 Brotherhood 3:18 158:2 brought 40:13 95:6,18 105:18 109:16 116:12 154:14 171:21 235:21 290:7 368:11 416:14 427:19 Brukart 3:15 108:12 133:20 134:1 144:18,21 173:19 177:22 180:3 190:5 budget 426:6 428:12 buff 186:20 Buffalo 271:1 buffer 364:4</p>	<p>buffers 202:15 203:15 208:22 build 14:21 87:10 105:15 136:16 244:11 335:11 337:14 340:1 413:17 building 209:7 227:7 287:3 354:14 375:7 built 48:5 136:12 164:13 281:16 316:5 335:4 346:19 348:15 bulk 299:21 334:14 336:9 bullet 52:2 105:17 135:19 bumpy 320:13 bunch 65:10 178:6 214:19 357:15 454:17 bunches 374:4 bunching 43:15 368:11 374:8 Burchett 5:5 354:4 357:19,20 362:16,18,22 390:20 391:11,17 392:2 burden 364:2 409:19 Bureau 2:12,16 28:18 47:1,4 52:1 269:18 270:3 276:6 277:4 311:8 Burlington 134:2,4 141:13 150:18 burn 177:4 179:1 burning 178:20 179:5 bushels 100:3 business 34:18 52:5 57:14 72:6,13 89:19 91:7 96:16 124:2 131:4 142:19 145:13 158:9 159:1,8 168:13 188:15 195:12 200:9 202:18 209:3,4,5 246:22 255:17 257:18 262:22 264:8 268:12 269:10 271:21 272:5 273:1 280:15 282:7 287:17 289:15 297:1 298:19 299:22 305:3 308:16 317:15,15,17 318:22 319:1,4,15 324:19,21 327:3 329:5,12,15,18 330:1,3,5 334:13,19 335:2 337:19,22 360:17 363:6 372:13 378:10 384:11 388:8 410:11 418:11 425:18 426:11 427:8 437:21 businesses 51:15 53:2 79:11 91:8 257:6 268:11 304:1 316:2</p>	<p>337:14 386:12 busy 63:19 367:15 Buttigieg 2:3 8:5,8 13:15 Buttigieg's 7:22 button 30:3 374:15 buy 120:11 131:9 244:13 364:5 378:9 buyback 326:4 buybacks 279:5 325:17 buyer 79:22 buyers 50:15 buying 16:21 bypass 27:6 125:5</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>C 6:1 C&O 270:20 271:5 cab 407:13 419:2 calculation 427:15 California 56:5 150:20 239:8 261:14,17 call 17:20 28:13 92:4,14 103:10 112:22 171:6 173:8,12 181:22 182:2 186:13 197:9 205:1 213:22 231:7 239:18 246:7 272:21 288:7 298:8 309:4,14 317:10 342:14 350:10 422:14 called 11:22 56:3 60:9 92:11,14 120:18 136:10 136:20 141:16 143:6 144:5 162:3,10 314:22 323:6 343:8 406:21 calling 21:13 342:16 calls 59:19 60:11,17 92:21,22 250:4 261:22 316:8,9 366:11 402:2 camera 174:13 cameras 140:9 campaign 130:2 278:7 campaigns 278:10,17 camper 148:10 Canada 68:8 87:4 201:5 Canadian 26:2,4,6,12,13 26:14 86:10,17 243:5 247:14 canary 226:3 cancel 154:9 candidate's 409:10 candidates 161:6 274:7 276:11,19 408:21 409:1 409:4,7,12 cane 184:6 cans 363:8 Canyon 203:21</p>	<p>cap 379:15 capabilities 188:17 capability 188:13 capable 266:20 capacity 17:4 24:22 50:9 54:14 75:14 111:5 165:8 188:17 195:15 196:9,12,17,22 197:3 197:10 198:6 203:15 204:12,17 205:16,17 208:22 264:18 311:21 321:10 332:1,7,9,17 333:2 381:20 393:1,17 394:1 capital 4:3 31:15,19 66:19,21 165:21 194:15 240:16 257:21 324:18 324:21 325:1,20 328:10 328:14 364:7 378:6 captive 333:8 381:6 384:5 387:6 391:11,14 391:16,20 capture 87:8 220:4 453:11 captured 281:13 captures 453:12 car 16:7 48:7,12 67:7,17 68:12 69:8 139:9 159:11 172:19 176:20 205:10 227:9 228:5,22 237:16 241:10 260:11 298:18 299:2,13 370:7 379:14 380:3 381:14,19 383:15 398:20 442:12 452:22 carbon 10:3 261:20 262:13 cards 248:14 252:20 409:20 care 13:17 109:21 118:20 150:5 176:21 223:14 342:19 412:5 career 160:7 161:7 184:3 203:22 212:19 277:1 278:4,8,13 280:8,17 careful 250:18 296:8 424:12 carefully 62:15 CARES 434:5,22 435:6 436:16 Cargill 3:3 32:12 71:8,13 71:14,19,22 72:7 73:1 73:11 76:12 78:18 89:10 91:17 93:6 107:12 cargo 22:19,20 24:18</p>
---	--	---	--

25:5,15,22 26:13 27:13 27:17 57:3 140:17 Carl 2:8 21:22 carload 394:5 402:13 carloads 33:16,17 39:9 53:22 54:5,8 77:16 79:20 375:13 379:1,4 394:4 433:7 Carolinas 260:6 carrier 18:3 19:8 42:6 44:19 50:18 63:4,12,14 65:2,4,8,17 66:14 69:7 74:5 85:10 92:11 93:13 102:3 112:11 113:1 132:19 149:17,19 151:14 158:17 193:10 360:10 361:4 380:4 384:21 carrier's 115:7 161:18 164:4 carriers 34:12,20 38:18 39:4,5,8,21 40:2,5 41:14 42:10,17 43:21 44:5,17 63:5 65:19 66:6 66:8,20 67:1,8 68:11 69:19 70:15 72:4,16,17 72:22 73:3,4,13 75:7 76:9 77:2 81:21 85:17 86:11 102:5,9,14 106:21 109:19 120:9 121:14 122:12,21 123:4 126:22 130:2 132:20 149:4 158:12,21 159:5 160:16,22 167:21 168:6 168:18 169:2,4 170:1 244:20 262:1 361:11 382:16 carry 17:14 124:19 cars 17:1,6 36:5 37:8 43:15 48:4,10,15 56:3 60:4 63:22 67:10,16 73:15 74:14,17,19 81:3 81:5 83:18 97:8 124:18 125:7,16 132:6 137:15 137:16 138:6 139:10 146:14 147:4,6 165:11 165:12,16,22 166:4 171:22 196:3,6 199:10 225:19 228:8,9 249:4,6 261:15 299:14,16 315:3 364:16,18 365:17 366:14,18 367:6 368:11 370:9,11 371:11,14,16 372:4,4,10,11,22 374:4 374:7 379:11,18 381:14 383:14 392:5 448:22	453:1,3 cart 16:4 cascaded 200:4 cascading 126:13 199:2 case 23:12 51:17 112:14 137:8 203:3 230:1 238:15 250:8 289:3 330:4 346:16 348:2 361:20 407:5 423:7 426:2 440:16 cases 73:16 85:12 115:21 147:18 256:10 403:16 407:20 447:17 448:11 cash 51:6 242:4 411:4,10 426:14 catastrophic 113:12 catch 222:15 359:8 categorically 250:15 categories 341:14 cats 211:17 cattle 171:10 caught 111:8 202:8 223:6 cause 44:4 77:3,5 164:8 164:12,14 259:1 347:17 381:22 388:22 389:2 411:6 caused 38:16 159:4 160:3 261:18 293:14 365:11 368:21 446:20 causes 6:20 33:4 126:6 causing 126:9 146:22 148:22 237:3 260:11 390:4 446:19 caustic 260:18 caution 292:22 caveat 336:2 cease 49:4 73:16 ceases 133:12 celebrated 33:20 cell 28:22 center 274:17 409:16 419:19 centers 25:8,16 390:5 central 111:18 centric 283:22 289:11,16 centricity 287:16 centrifuge 196:5 cents 80:4 century 169:16 CEO 207:7 CEO's 202:11 234:1 246:20 359:6 430:22 certain 55:6 78:16 80:12 89:17,17,18 103:22 184:13,13 190:10 210:21 217:14 219:13	221:8 225:6 270:22 272:18 293:1 319:15 356:1 392:3 408:8 411:5 436:10,11 452:6 certainly 20:18 81:7 82:17 89:20 91:2 92:2 99:4,13 161:7 167:10 213:5 217:5 228:19 229:2,20 230:4,9,18 235:22 240:22 241:14 241:19 243:10 253:7 266:20 292:21 293:5 310:10 345:21 350:13 352:8 358:19 395:11 certainty 55:18 112:18 297:16 certification 156:11 certifications 123:10 certified 114:21 CFI 70:8 CFO 207:7 chain 5:5 8:1,12 9:7,11 10:10 11:16 12:3 16:20 23:3 24:6 25:10,12 47:20 49:2 50:5 53:13 55:2 56:12 62:8 72:1 73:22 74:10 76:16 77:13 79:12 109:17 115:6 116:3,15 119:11 119:20 121:12 128:2 130:8,14,15,21 133:19 145:12 148:19 159:1,7 166:14 168:7,17 169:22 179:10 188:8 213:12 214:5 222:20 253:2 257:2 260:12 261:19 264:5 266:16,20 279:1 281:20 282:3 283:7 289:22 293:10 316:17 317:1 377:2 385:21 397:16 398:14 410:15 chains 9:18 15:2 216:19 261:19 280:21 375:10 375:11 381:2 chair 8:7 222:13 396:11 chairman 6:3 8:9 13:13 13:18 14:13,13 20:22 22:5,11,11 23:1 28:1,10 28:12 32:7,17,18 33:2 34:10 46:4,12,20 52:13 52:15,20 61:18,20 70:21 78:20,22 82:11 84:15 85:5,13,19 86:8 87:12 94:2,5 97:9 98:3 106:10 108:16 110:1 114:4,10 133:20 134:3	144:17,20 145:1,4 150:14,16 151:1,3,8 157:17,20 170:5 172:4 172:7,11,15,21 173:2 173:11 174:11 177:6 178:4,13 179:12,14 180:11 183:4,10 185:4 185:7,9 189:16 191:4 192:9 193:3,7,11,18 194:13,19 212:2,12,14 226:17 232:21 233:15 236:2 240:8 243:11,16 245:11 248:5 249:9 251:7,10 252:18 253:9 254:19,20 255:4 264:22 267:9,14,15 280:4 301:11 302:7,20 307:21 311:16,19 312:21 313:21 318:6 324:9,12 331:19 332:10,19 340:2 341:11,22 342:9 344:21 348:4 350:21 354:1,15 355:10,17 356:5 358:12 362:19 374:16,20 385:11,13 390:17 392:10 394:21 396:12 397:2,2 404:8,9 413:4,4 417:18 431:14,18 432:17 433:3,17 434:16 435:2,9,18 436:13,17 437:11 438:17 440:8,10 442:3 443:21,21 444:21 447:8,8 449:13 451:17 455:7 Chairman's 442:17 challenge 69:22 93:5 116:15 214:7,17 217:19 221:2 229:3,22 232:9 236:22 247:15 250:5 270:14 281:15 311:3 369:19 388:6 407:8 413:15 424:8 challenged 289:5 293:12 392:17 403:8 411:13 challenges 9:13 10:8 11:1 12:3 14:16 33:5 34:7,13 35:14 37:4 38:14 39:17 40:13,14 41:6,11 43:14 45:3,19 47:16,18 52:2 52:10,12 55:3,5 56:13 60:8 71:20 76:6 93:18 98:13 103:11 213:4 219:11 220:18 226:14 229:18 231:1 237:6 268:21 282:16 285:5,16 286:9 292:20 293:4,20
---	---	---	--

297:14 314:3 316:15,17 316:17 321:21,22 331:9 350:2 363:21 388:19 397:6,16 398:10 400:13 403:13 404:17 406:5 412:18 424:4 442:9 challenging 100:13 101:8 219:4 231:4 232:3 272:13 278:22 282:1 307:14 317:3 385:21 408:1 411:2 chance 129:15 254:6 chances 65:13 change 42:9 137:22 181:5 181:9 182:11,14,18 189:15 203:16,16 207:3 210:19 211:20 220:17 242:1,7,10 263:12 307:2,7 350:20 368:5 399:8 412:9 442:5,6 changed 34:2 97:1 127:11 216:20 222:12 260:20 358:19 368:1 422:9 changes 41:5 69:3 117:19 127:12 151:12 167:3,6 177:17 180:10,16 192:12,20 193:16 208:2 210:5 283:18,19 284:13 284:22 293:11 297:17 307:5 320:21 334:19 350:7 377:17 382:18 413:10,22 414:7 changing 17:19 181:4 250:19 275:5,20 339:3 427:4 447:12 channels 66:5 characterizing 60:17 charge 15:13 41:1 42:5 69:6 105:19,21 425:21 charged 40:16 365:10 charges 36:22 37:19 68:18 69:1 95:17 365:12 367:20 368:10 369:3,12 374:9 446:18 charging 369:8 chart 198:13 200:15 201:17 206:11 437:7,12 charts 217:16 222:4 chase 249:6 chasing 262:17 chassis 221:4,15 222:2 223:11 324:4 325:12 328:12 Chattanooga 270:21 271:5 275:15 323:8	cheapest 123:6 check 419:18 checked 182:4 431:2 Checks 132:17 chemical 53:2,20 54:1,7 54:13,15 60:20 88:9 255:8 286:12 chemicals 266:7 375:1 Chemistry 2:19 32:10 53:1 Chicago 23:19 52:17 111:16,17 173:22 225:22 348:13,18 Chief 2:13,20 4:16,18,20 5:13,18 32:19 267:22 268:6,7 291:5,8 385:17 398:8 431:2 child 412:4 children 120:13 China 39:15 214:13 216:9,22 223:4 238:19 240:3 China's 214:10 choice 246:13 267:5 choices 13:5 120:22 choose 125:15 419:21 choosing 157:8 chose 123:5 435:10 chosen 168:14 406:21 Chris 2:20 3:6,17 32:11 32:13 78:21 79:6 108:12 150:14 192:13 192:16 Chris's 193:1 Christmas 252:20 Christopher 150:17 chronic 260:7 Cincinnati 270:21 Cindy 4:16 268:6,21 281:18 291:5,7 302:20 309:1,21 322:16 330:13 331:19 340:13 346:5 352:16 Cindy's 340:20 CIO 109:5 circle 154:11 301:15 circuit 210:14 222:12 circumstance 416:3 circumstances 55:13 113:2,16 121:17 205:19 252:17 397:12 423:12 cite 259:10 cited 229:22 250:5 citizens 266:5 City 146:17 151:11 191:20	claim 110:5 clarify 19:7 clarity 113:9 240:13 317:8 clashes 208:21 class 34:20 35:4 39:3 45:4 48:5 63:4 67:1 73:2,3 75:20 76:3,9 82:1 84:3 109:18 110:1 113:13 114:14 122:21 126:21 158:12,21 159:5 167:1,5,11,21 168:13 168:18 195:22 201:7 204:1 206:16 237:14 255:18 277:1,15 291:12 323:10 340:9 349:18 351:6 360:10,13 361:11 377:11 378:15,17 379:2 379:6 382:15 409:2,16 409:17 420:3 440:20 441:5,5 classes 129:16 157:10 177:9 191:2 274:13 298:1 401:7 classify 165:15 claws 159:2 clean 248:7 255:11 260:1 264:9 266:5 392:20 cleaned 204:13 217:15 clear 111:11 151:4 159:4 210:22 263:18 264:1 287:21 290:15 306:6 310:13 338:20 343:5 358:21 408:5 cleared 146:22 clearly 30:7 54:15 69:18 166:10 199:5 201:22 359:10 376:11 400:2 clicker 29:22 clients 46:17 climate 15:5 203:15,16 207:3 258:13 climb 153:6,7,13 155:1 261:10 climbing 407:4 Clinton 148:3 171:22 clip 184:2 clock 293:21 close 16:14 31:1 61:5,9 133:1 155:1 215:2 224:15 226:2 276:7 289:3 299:7 395:4 435:4 closed 64:10 70:15 130:12 131:21 216:22 closely 68:8 240:6 286:5	340:20 366:22 closer 15:6 203:6 215:1 284:5 closes 64:10 147:6 closing 20:14 27:2 150:10 167:13 358:4 379:21 384:14 394:7 412:15 closure 165:18 377:22 closures 51:8 63:12 219:5 CN 73:6 200:17 201:4 205:12 209:16 CNW 358:17 Co-op 99:21 CO2 329:20 coaching 275:3 412:6 coal 138:3 139:6,6,7,14 143:12,19 171:21,21 172:22 206:20 226:3 231:2 232:3 334:22 351:1 coast 9:3 23:17,18 25:22 27:7 35:17 54:14 80:1,1 111:15 175:19,22 214:5 214:10 215:9,10,16,18 215:19,20 216:2 217:10 221:13 223:10 316:20 348:13 393:5 coaster 202:4 coffee 414:5 coin 69:17 93:4 coincided 219:19 230:22 coincidence 130:13,14 cold 140:1 142:8 200:19 collaborated 400:10 collaboratively 403:2 collapse 130:15 collapsed 158:15 collapsing 243:2 collar 117:13 collateral 271:7 colleagues 113:10 187:22 collect 18:18 120:8 383:8 433:2 434:4,21 435:7 collected 436:15 collecting 11:14 collection 12:4,6 20:2 272:17 collective 313:13 collectively 110:2 color 160:7 Colorado 148:11 363:8 367:1,18 390:22 391:7 Columbia 200:18 columns 136:20 198:14 198:16,17,20,22 combination 177:19
---	--	---	--

287:13 combined 38:6 276:11 come 8:7 13:3 26:22 37:16 45:1 73:21 84:18 89:5 90:4 92:5 95:13 107:18 137:1 139:7 141:1 145:5 150:3,6 168:3,8 174:16 178:7 183:17 185:15 187:3 190:9,15 193:1 194:6 194:10 205:1 210:5 211:16 236:6 240:4,10 252:17,19 254:16 256:19 266:18 269:22 288:21 301:15 304:13 305:19 306:11 307:21 325:11 330:2 336:4 347:19 353:20 357:22 359:10 366:2 371:3 372:1 384:21 394:11 406:18 414:16 418:6,13 418:13,16,21 429:10 455:19 comes 47:17 49:7 107:20 115:12 125:8 126:16 188:17 197:9 205:15 209:18 226:21 230:5 254:10 271:18 298:16 299:12 316:4 329:19 369:20 377:14 455:4 comfortable 357:16 coming 27:3 28:20 95:12 99:16 100:17 103:11 104:6,10 178:3 186:2 187:11 194:17 216:5 218:10 222:17 223:8 238:19 251:21 259:18 267:11 281:10 301:12 302:10 322:21 324:2 347:6 348:17 357:10 395:2 414:11 422:15 423:2,17 commend 20:17 59:10 362:7 390:10 417:21 commending 33:2 commends 42:19 comment 20:21 57:21 89:4 308:19 442:3 commentary 218:15 331:14 comments 22:18 41:20 42:20 47:3 61:10 79:3 105:6 106:15 162:22 237:13 244:19 250:11 265:20 386:4 commerce 22:7 167:16	168:11 169:3 385:3 commercial 34:11 415:18 Commission 2:9 22:1 23:2 Commissioner 2:8 21:22 22:1 Commissioners 28:11 71:12 commitment 8:2 21:3 263:1 266:22 282:9 285:4 404:22 411:3 412:19 417:16 425:14 439:6 commitments 301:8 329:19 380:6 committed 25:3 297:9 344:7 400:8,18 413:3 Committee 22:7 committees 46:3 commodities 9:16 17:8,8 35:9 37:6 51:6 67:10,16 239:21 commodity 51:16 140:16 common 18:3 19:8 44:19 63:22 95:9 112:11 113:1 116:19 132:19 143:11 152:10 158:16 163:4 354:20 361:14 380:4 384:21 commonly 128:2 commonplace 361:9 communicate 25:1 65:20 97:22 106:14 278:8 282:6 301:1 314:13 403:16 416:18 448:19 communicated 65:17 93:16 182:10 295:11 402:9 communicating 93:18 322:4 communication 43:17 66:5 72:17 94:6,9,14 95:2,10 96:13 97:11 104:14,19 106:12 271:19 285:13 314:2,3 314:8 320:19 321:5,9 401:21 410:16 415:15 communications 6:11 268:4 378:14 379:6 communities 15:2 47:19 255:10 257:13 community 129:3 258:7 259:9 263:16 companies 5:12 11:17 17:17 33:6,9 36:13 38:2 55:4,4,17 56:16,22 57:4	57:8 62:7 71:15 90:15 91:1,2,14 96:12,18 121:9,19 195:6 242:15 246:17 257:11 258:17 354:5 356:18 385:16,18 404:16 company 4:15 5:6 36:22 55:19 88:13 89:14 125:10,12 151:14 197:22 212:19 231:18 243:9 244:20 254:15 255:15,20 259:15 267:21 274:21 288:5 308:14 325:18 326:15 328:17 329:8 338:3 340:7 342:1 361:5,10 369:12,19 372:9 386:6 408:16 421:2 423:20 424:13 427:1,3,5 428:11,13 430:15 431:5 company's 268:3 398:7 comparable 408:19 compare 77:16 86:14 121:17 349:22 compared 10:15 55:16 205:13 251:15 400:1 compelled 210:15 327:22 404:18 compelling 266:22 330:4 compensate 371:19 compensation 246:4 compete 266:12 408:18 competing 50:20 384:6 competition 14:22 35:4 42:16 43:18 60:9,13 66:18 67:2,17 68:1,7 70:9 81:20 256:17 270:3 376:21 383:22 384:16,17 392:7 420:1 competitive 15:11,16 51:11 58:18 61:3,4,14 85:7 209:8 256:21 325:18,19,20 327:1 370:14,17 378:8 competitor 363:19 384:11 competitors 294:4 complaint 95:9 124:10 complaints 15:18 complete 59:12 189:15 274:9 298:5 402:5,19 completed 78:4 129:15 156:11 276:16 completely 92:22 108:6 109:9 156:14 216:12 224:16 302:19 332:20	349:21 354:15 359:20 completing 394:7 completion 276:14,14 complex 12:19 73:18 273:7 compliance 342:14,22 343:12 412:5 427:11 442:12 445:17 complicate 381:4 complicated 216:7 component 110:12 148:13 225:14 242:12 components 145:13 147:9,11 composed 284:16 compounded 129:22 270:14 compounding 377:1 comprehensive 314:22 402:3 compresses 196:16 208:1 comprised 53:1 compromise 119:11 compromised 63:13 compromising 130:21 404:4 Con 173:20 conceded 128:10 concentrated 270:20 275:11 386:8 concept 136:2 320:19 322:2 concepts 41:9 concern 35:5 65:18 97:3 99:18 192:1 227:7 371:2 concerned 7:4 107:21 223:9 226:11 230:17 332:4 361:22 366:14 407:12 432:14 451:10 concerning 119:6 concerns 11:8 22:22 25:16 51:9 61:7,9 108:4 183:14 264:13 343:18 352:21 376:15 401:19 416:11 concessions 121:7 conclude 42:13 concluding 81:18 conclusion 70:11 122:17 155:11 168:22 279:15 concrete 170:9 condemnation 24:9 condense 29:8 conditions 17:22 113:16 116:6 167:18 273:3
---	--	---	---

<p>276:6 408:1 conduct 45:6 conducted 197:7 288:15 conductor 114:21 119:22 129:1 130:1 134:21 138:11 157:9 163:17,19 177:12 181:17 190:17 191:18,19 274:4 275:6 275:7 276:4,12,20 278:18 280:12 298:1,4 300:5 305:17 408:7 409:15 414:1,13 421:15 444:2 conductor's 304:17 conductors 110:15,21 145:9 157:11 161:4 163:12 202:17 271:16 273:21 274:12,14,20 277:7 297:20 298:4 405:13 410:2 424:14 Conference 158:7 confidence 202:10 208:7 confident 398:22 437:9 confidentially 439:8 configuration 164:17 confine 22:17 confirmed 331:12,16 conflated 328:4 conflict 384:21 confluence 214:15 confront 210:20 confronted 246:13 266:2 confused 52:18 246:5 congest 164:9 congested 25:6 27:5,6 215:4 273:18 congesting 164:3 congestion 10:17 126:6 146:8 166:14 173:14 175:11 177:21 197:1 214:5,19 215:8 217:16 221:12,19 222:22 249:14,17 258:21 261:11,17 271:4 331:4 332:11 346:11 350:5 351:8,20 382:4 398:14 400:14 450:11 Congress 46:2 52:11 113:9 169:14 362:2 Congressional 2:15 22:6 conjunction 256:5 372:20 connect 25:11 284:9 connected 316:19,20 connecting 25:19 26:18 connection 180:4 connections 281:16 317:4</p>	<p>consecutive 184:4 311:7 consequence 211:6 consequences 19:2 63:11 112:21 195:10 211:16 Consequently 276:11 conservation 166:6,15 176:20 177:2,3 347:12 348:1 conservatively 38:6 conserving 177:2 consider 18:7 35:7 61:12 113:4 125:9 220:11 346:21 369:6 considerable 269:9 considerably 34:3 consideration 69:3 82:10 117:7 120:21 180:18 considered 113:3 160:7 considering 19:20 237:6 334:2 368:19 384:14 consist 148:8 166:19 346:2 348:15 349:3,5 450:16 consistency 208:7 211:9 256:20 335:6 340:15 343:8 consistent 82:16,18 149:15 202:2,20 224:20 228:2,3 236:14 287:3 352:10 consistently 70:16 206:13 207:14 232:16 236:20 264:17 286:7,11 340:18 consisting 33:16 consists 33:6 194:14 356:22 consolidating 163:19 consolidation 51:10 139:3 306:22 384:18 Consolidations 139:3 constant 207:9 271:19 363:15 constantly 179:6 273:4 360:12 constrained 213:9 376:21 constraints 43:18 76:8 78:16 149:8 200:9 constricted 262:8 266:8 construction 212:20 297:6 consumer 38:13 71:15 72:2 166:21 223:5 256:1 259:18 263:7 264:7 266:10 282:19 293:11 297:6 317:10,13 317:14,17 329:14,18</p>	<p>330:1 375:21 376:1,5 380:12,16,22 381:15 386:16 389:15 393:11 consumers 11:19 15:15 20:13 34:22 80:1 81:7 220:16 359:13 377:16 385:8 consumes 165:14 consumption 366:16 contact 372:13 435:20 contacted 402:13 container 23:8,15 214:9 218:21 containerized 26:22 containers 217:18,20 220:8 contemplated 100:21 context 72:20 397:20 contingencies 104:22 316:1 contingency 44:14 314:4 427:20 428:3 continual 161:18 412:9 continually 159:10 311:13 continue 19:1 24:13 58:11 98:15 99:18 100:2 112:4,6 127:22 133:9 137:21 146:4 170:2 258:17 261:10 264:6 274:15 275:20 283:13,15 290:3 316:1 327:9 340:1 357:7 359:1 360:2 364:8 382:14 401:3,13 410:10 412:10,11 416:18,21 417:12 422:16 434:7,8 436:2 444:1,5,6 continued 3:1 4:1 5:1 80:21 188:20 215:6 285:11 323:16 340:16 411:2 413:2 continues 100:7 199:6 257:18 329:16 386:12 400:12,21 443:3 continuing 13:6,16 80:3 132:15 162:13 275:9 334:20 404:6 continuous 71:2 contract 156:17 204:10 contractor 274:19 contracts 40:19 49:16 50:3,18 204:7 363:14 363:18 contractual 380:5 Contrary 274:8</p>	<p>contribute 75:4 contributed 47:11 50:10 81:8 110:9 contributes 51:15 contributing 43:13 75:11 377:7 contribution 344:4 contributions 265:10 278:20 control 186:11 187:5 359:15 425:1 447:14 controlled 158:12 controller 134:7 controls 152:16 convenience 386:7 conveniences 259:21 convening 8:11 conversation 105:17 319:2 320:8 321:20 332:22 353:12 429:12 conversations 90:5 285:18 409:8 conversion 224:5 235:3 241:17 245:7 conversions 287:9 324:1 347:6 convert 228:17 232:14 cookie 111:8 Cooperative 89:12 coordinate 149:4 coordination 24:21 299:7 Coors 5:6 362:22 363:1 364:12,15 366:2 372:22 374:9 391:3 cop 358:11 cope 403:12 core 72:12 159:7 195:5 203:2 249:1 281:7 corner 398:13 corporate 122:6 306:1 352:11 438:21 Corps 134:19 correct 18:2 131:11 226:18 421:12 435:22 450:19 455:6 correlates 198:14 corridor 270:21 corridors 275:17 corroborated 6:18 cost 16:9 27:9 35:2 38:6 50:1,5 68:15 73:21 75:1 117:12 208:22 234:6 259:18 261:20 328:4 365:9,15 366:2,5 370:16,18 379:2 427:9 costing 206:4</p>
---	--	--	---

<p>costly 49:12 50:22 costs 10:11 11:19 13:9 38:2,11 51:1 57:15 64:3 65:1 82:7 113:21 126:20 159:10 160:2 196:7 204:18 224:21 263:15 266:12 328:3 333:4 359:5 364:5,7 367:13 375:21 380:14 392:7 426:8,11,11 Council 2:19 32:10 53:1 255:5 counsel 32:22 396:7 count 75:21 119:16 213:5 315:22 337:9 338:8 379:14 439:14 counter 184:19 205:7 382:18 counterproductive 204:16 counting 168:1 countries 25:17 country 10:19 11:10 23:9 34:14 56:15 79:18 83:14 101:5 113:15 146:9 174:19 179:19 188:5,9,14 215:11,12 269:19 306:14 329:15 352:12 359:12 375:9 385:20 386:10 389:7 394:19 406:20 445:7 446:19 451:4 455:16 country's 47:5 116:4 counts 380:4 395:7 423:7 County 390:22 couple 31:12 82:14 88:5 89:9 92:7 93:1 100:9 147:6 156:20 170:6 171:7 183:8 224:9 225:14 227:1 230:11,21 233:5 236:4 240:9 243:12 248:4 252:6,20 310:15 319:7 320:13 323:6 342:9 345:17 348:7 367:3 378:12 379:11 380:18 392:2 395:13 414:8 416:20 449:14 coupler 147:5 couplers 186:14 course 9:6 12:18 14:3 18:2 46:13 61:2 64:4 68:18 83:2 91:18 117:2 123:6 179:21 188:7 198:20 200:20 204:22 205:20 211:15 223:18</p>	<p>244:17 281:19 285:21 305:19 370:15 396:7 426:18 428:15 442:14 courses 305:17 Court 30:6,8 courtesy 429:13 Courts 119:13 cousin 190:16 cover 114:9 122:14 145:14 148:18 211:14 242:15 365:2 401:9 coverage 277:15,17 401:12 covered 179:14 212:17 277:9 386:2 covering 212:16 covers 334:13 coveted 117:13 COVID 38:22 40:13,16 40:18,22 63:16 122:13 159:21 216:9 223:1 406:1 407:5,20 432:14 COVID-19 59:1 269:7 377:1 coworkers 129:2 CP 73:6 201:3 205:12 208:11 CP's 201:5 craft 117:1 130:3 133:5 135:11 141:7 crafted 34:7 crafts 110:8 114:21 craziness 87:22 crazy 87:19 create 14:22 166:13 207:1 213:1 296:1 322:1 339:6 412:13 422:12,13 created 9:17 117:15 128:12 129:20 160:20 162:16 167:20 258:13 271:7 284:6 380:10 384:19 406:4 409:5 creates 199:1 249:13 250:20 creating 159:20 263:20 278:9,17 355:18 390:3 creation 22:8 42:15 81:20 284:1 285:1 creative 382:3 404:19 credence 131:2 credibility 234:14 244:11 credit 39:4 102:4 Creek 139:15 144:5,6 crew 40:15 95:3,18 102:21 116:13 121:3</p>	<p>136:3 137:4,5 148:6 155:13 159:19 162:6,7 164:1 165:4,13 169:8 195:15 196:9,12,16,22 197:3,10 198:6 199:1 199:14 200:4 201:8 204:12,16 205:4,15,17 229:19,21 230:7 240:6 249:13 250:5 251:13,14 258:12 260:16 261:7 273:19 349:11 397:5 400:22 401:12,13 402:5 402:6 403:8 413:11 445:9 448:7 449:12 450:3,5 crewing 264:1 crews 43:14,22 103:1 126:8,10,22 128:2,3,5 137:1 147:19,22 148:3 161:3 162:20 178:19,20 179:1,6,7 188:19 190:10 195:6,17,19,21 196:5,7,18,19 197:13 197:17 198:9,17 199:20 200:22 201:11 202:8,14 202:21 204:8,8,17,20 208:22 209:22 237:22 239:10 241:3 252:3 260:1 262:15 402:17 407:11 412:16 453:19 crises 53:19 59:5 106:5 crisis 10:10 47:20 76:17 80:3 98:19 105:14 107:11 115:6 119:11 130:14 175:9 209:22 243:1 345:19 361:16 362:3 377:2 390:2 critical 27:3 33:19 46:6 68:9 70:12 81:12 82:4 101:12 145:13 196:22 198:3,16 237:15,20 255:21 256:9 260:5,8 261:3 263:17 264:4,9 270:16 275:12 279:8 298:1 378:6 381:1 390:9,16 393:19 394:9 401:22 403:7 411:15 critically 285:14 criticize 301:21 crop 51:21 64:12,18 100:8 crops 101:5 cross 273:4 cross-functional 271:12 272:6 cross-wise 135:10</p>	<p>crossing 138:4 crossings 147:17,17,18 crucial 64:7 359:2 387:15 crude 375:14,17 386:21 387:3 cruise 425:1 447:14 cruising 196:2 crunch 109:17 196:9 crushing 37:3 CS 175:22 CSX 5:16 61:7 73:5 111:2 159:15 160:9 162:6 181:8 199:18 200:2 201:14 231:7 238:9 241:22 244:19 246:3 291:13 354:18 391:19 395:11,14,18 397:22 398:3,10 404:13 404:17 405:9,17,21 408:16 409:12,15 412:16 413:10,14,16,21 423:11 434:20 442:8 445:9 446:6 455:1 CSX's 201:16 397:4,18 401:1 432:4 440:16 cult 205:22 207:5 210:14 233:12 244:4 culture 158:17 180:16 181:4,9 413:10,21 cumbersome 128:14 current 33:4 34:6,19 50:7 54:22 73:7 75:20 100:1 106:9 112:5,9 130:17 132:15 157:8 159:1,18 161:7,20 169:9 188:2 196:15 198:11 204:9,15 209:21 246:10 268:14 271:20 278:19 279:3 282:15 297:5,13 314:7 320:5 331:8 362:20 367:8 376:20 377:8 383:12,15 397:19 403:21 404:22 408:10 410:7 currently 39:5 47:16,19 63:3 64:20 67:12 70:4 73:21 75:12 76:21 102:5 119:22 120:7 121:15 155:20 158:1 191:7 195:6 274:21 275:5 285:5 292:7,12 298:3 381:8 383:11 384:13 398:20 curtail 65:10 81:2 388:1 curtailment 390:6 curtain 64:3 93:9</p>
--	--	--	--

<p>cushion 303:21 305:13 312:1 441:7 cushions 204:3 custody 191:11 custom 208:6 customary 35:21 customer 40:20 57:6 59:4 60:15 61:1 64:20 67:18 70:8 97:2,14 98:6 105:8 105:9 114:15 124:1 145:11 146:5 148:20 149:22 151:15 158:14 158:18 178:2 210:10 241:12 244:11 260:8,13 263:15 269:7 271:13,22 281:3 283:5,12,19,22 284:1,4,5,9,15,17 285:10,13 286:16,21,22 287:4,16,19 288:2,6,11 289:1,7,10,16 294:8 298:20 316:7 317:12 318:9,11,13,15 319:9 322:6 333:7 343:18,19 364:7 368:14 401:21 402:3,8,13,15 403:1 410:17 417:3 418:1 448:17 customer's 210:7 268:14 283:7,13 288:14 289:2 321:15 328:13 402:10 405:1 customer-centric 300:22 328:18,20 330:8,11,17 customers 9:5 16:21 34:12 41:10 42:1,5,11 43:20 44:6 49:5 53:21 56:11,14,19 57:11 58:4 58:10,17 65:3,8,10 66:16 72:5 74:18 78:19 81:6 97:15 107:17 109:10,22 112:1,3 123:21 124:15 125:1,6 126:7 129:9 131:19 135:22 139:1,22 143:2 144:9 146:4 149:21 150:11 166:4 168:15 201:22 209:9 232:17 234:14,17 237:3 239:8 239:13 257:7 261:2 262:21 263:6 264:5 266:9 268:17 269:1 271:18,20 272:4 279:1 279:22 280:22 281:4,13 281:19 282:3,9,11 283:2,10,20 284:11,14 284:15,20 285:5,10,17</p>	<p>285:20 286:3,19 288:16 288:17 289:19,21 290:3 290:17,19,22 291:19 292:8,11,18,19 294:22 295:4,12 296:2,19 297:8,16 300:2,7,12 301:1 308:1,15,17 309:20 310:8,9 314:8 314:14,14,15,20 315:5 315:12,14 316:5,10,14 317:6,6 318:2,20 319:10,11 320:20 325:17 328:22 329:3,11 329:11,11 330:9,14 333:8,21 334:6 336:22 337:9,12,15,21,22 338:7 339:2,8,16 340:16 343:6,15,15 344:2,3,18 359:2 361:8 361:19 364:2 369:15 377:18 379:7 380:1 386:16 388:9 399:20 400:9,11,20 401:16,19 403:17 410:13,20 412:19 413:1 415:16,19 416:10 417:6 422:8 423:13 429:7,15,22 431:6 444:10,13,14 448:11,14,15 453:6,13 453:16 454:1 customers' 268:10 cut 10:14 29:11 49:5 56:4 110:4 111:1 184:16,21 231:13 359:5 371:15 377:21 393:22 428:6 cutback 16:22 cuts 59:2 122:14 123:11 133:10 159:10 204:18 359:18,20 376:16 382:1 382:21 393:14 cutting 120:9 125:12 185:18 362:13 379:3 cycle 49:12 63:4,8 100:19 140:1 162:13 197:3 202:3 232:18 236:15 299:3 300:1 cycles 224:21</p> <hr/> <p style="text-align:center">D</p> <hr/> <p>D 6:1 D.C 1:13 dad 134:17 142:2 daily 37:21 125:5 130:19 158:20 393:1 406:14 Dakota 36:6 94:22 139:16</p>	<p>Dallas 134:16 damaged 169:20 Dan 354:4 357:11,12 358:3,5,5 362:18 373:5 Dan's 357:14,16,17 dancing 249:2 dangerous 113:16 129:20 138:1,22 184:1 185:20 Daniel 5:8,8 142:8 data 6:18 11:15,18,21 12:2,4,5 20:1,3 42:22 43:3 44:8,11 49:18 54:7 59:16,18 75:18 76:21 76:22 77:10 81:21 86:20,20,21 105:4,7,8 106:14 120:8 131:9,16 131:20,22 132:5,8 168:19 178:21,21 179:1 218:8 221:11 226:4 240:5,12,18 241:1 256:14 272:10 276:6 303:6 314:15,16,18 315:8,9,11 317:7 362:10 368:9 383:3,8 417:4 data-driven 273:7 datapoint 200:16 220:5 349:17 date 78:1 153:16,18,22 416:4 dated 154:11 236:12 David 5:5 354:4 357:19 357:20 358:2 362:15,22 373:16 dawned 131:7 day 9:19 14:20 29:7 31:8 31:10 35:22 41:13 69:7 73:20 80:17 92:4 113:17 118:19 131:7 136:6,6 141:3,3,21 149:16 156:5,10 162:14 163:8,22 174:12,16 179:2 183:2 198:17,18 199:13,21,21 201:4 210:5 217:12,13 227:9 246:17 256:8 270:5 277:22 281:15 292:10 294:6 296:22 297:17 328:21 338:5,5 340:18 340:19 342:20 372:13 372:13 373:20 375:8 393:17 395:11,15 409:5 415:3 417:15 421:21 428:1 429:16 439:20 445:2 447:6 456:8 day-in 286:8</p>	<p>day-out 286:8 daylight 422:7 days 29:3 35:17,18,21 36:7 38:4 43:12 48:17 48:17 80:11,12,16,17 80:18 102:14 103:18 104:11,17 105:21 106:2 107:1,14 131:22 141:3 156:3,4 161:11,12 163:8 165:12 180:13 181:2 193:6 216:10 260:19 261:10,16 334:7 334:7 335:20 339:1,1 342:3 364:20 377:19,22 378:13 379:14 402:7 411:9 413:17 416:8,8 446:2,8,17 451:5,5,9 DC 323:22 347:5 368:2 DC's 363:12 de-marketing 331:4 dead 117:10 deadline 160:11 178:7 deal 106:20 170:11 207:21 232:8 415:2 446:5 Dealers 94:22 dealing 59:2 98:12 201:3 201:8 222:16 331:9 449:6 deals 182:11 dealt 107:22 405:22 dear 386:3 Dearden 331:20 332:6 debate 170:11 decade 27:4 54:2,3,15 158:10 decades 13:3 189:6 258:1 deceiving 131:16 decelerate 199:6 decelerating 196:1 deceleration 200:1 December 42:20 75:22 76:2 270:19 445:15 decent 94:14 181:9 decide 120:12 decided 89:5 140:7 142:6 312:10 372:11 434:1 435:17 436:3,11,12,14 deciding 420:9 decimate 112:19 decision 9:2 18:11 31:3 41:20 384:10 decision-makers 273:10 decisions 72:6 77:11 85:11 272:10 378:6 409:11 410:14</p>
--	--	---	---

<p>decisive 276:2 decline 75:4,12 77:3 206:20 237:20 239:11 363:19 declined 10:17 declining 445:15 decrease 364:7 decreased 56:7 decreasing 231:15 dedicated 96:15 97:14 123:19 301:7 402:5 dedication 289:14 298:10 298:15 403:19 deems 82:4 deep 382:21 deeper 123:7 deeply 109:8 179:18 344:7 445:15 defect 239:8,13 deferral 279:4 deferring 159:12 deficiencies 45:10 deficiency 128:12 deficient 121:21 129:13 deficits 78:17 defined 77:21 167:18 282:18,20 283:2 defining 169:8 definitely 121:13 192:8 213:18,20 220:11 419:8 443:2 455:6 definition 45:2 141:8 definitions 343:11 deflates 196:7 deflect 121:22 degradation 55:22 110:10 112:5 degraded 113:3 degrading 364:1 degree 73:9 76:13 202:20 209:15 210:21 278:4 degrees 220:20 293:21 428:1,2 441:16 delay 36:20 80:16 95:15 164:9 197:9 213:16 425:3 delayed 39:2 49:17 50:13 56:10 57:6 80:12 81:3 104:16 165:12 228:20 260:12,15 261:2 380:2 delaying 121:6 132:4 165:1 delays 10:12 16:19,20 37:1 55:4 80:14,17,21 82:5 147:1 149:1 165:6 166:5 217:18 259:16,19</p>	<p>261:7,14 266:11 343:18 350:2 364:4 367:12 368:12 369:18 Delek 5:12 354:5 385:16 386:5 387:1,5,8,19 388:6 390:14 deliberate 300:21 deliberations 20:11 delicacy 107:8 delicate 259:7 deliver 12:20 13:7 21:19 40:21 50:16 69:8 72:17 73:17 269:1 279:1 281:4 282:10 285:4 290:4 300:6 301:8 314:19 315:17 317:3 319:5 325:21 328:22 329:1,10 330:5,9,11 337:21 338:14,17 388:11 412:21 426:8 delivered 125:14,18 132:6 149:12 166:4 387:19 deliveries 36:14,17 49:6 49:10 99:12 455:22 delivering 284:21 289:18 292:7 295:7 296:4 403:3 delivers 284:20 290:19 delivery 23:6 36:20 49:3 50:14 344:1 368:12 deluge 240:4 demand 38:20 39:6,18,22 48:3 50:3 54:15 72:11 75:16 76:20 77:15,20 78:14 102:6 132:22 213:1,1 214:15 221:15 222:7 223:5 238:21 258:16 259:4 266:12 269:5,7 272:5 273:1 279:18 297:6 306:22 307:10 359:21 378:21 379:7 389:3 390:5 393:2,10 400:21 406:5 426:9,10 demanding 277:21 407:22 421:16 demands 76:8 131:19 239:3 272:11 385:2 demonstrably 389:13 demonstrate 211:8 361:21 404:22 demonstrated 403:20 demonstrating 274:10 demurrage 36:21 37:1 40:16,18 41:2,9,13,17</p>	<p>42:5 56:7 68:17 69:1 86:2 107:15 224:1 263:22 367:17,20 368:1 368:3,7,10,15,18,19,21 369:1,3,7,8,12,21 370:8 372:15 373:18 374:1,9 374:12 383:12 density 336:18 Denver 144:19 denying 161:16 depart 254:7 department 2:5,7 3:10 8:2,14 11:2 14:10,14 21:14,16 109:5 142:1 273:10 280:16 298:17 368:18 department's 21:3 departments 110:17 272:9 280:18 299:8 372:19 depend 13:10 445:22 depending 7:15 31:9 38:9 153:8 173:19 364:21 depends 393:15 depict 130:7 deploy 272:19 299:20 deployed 272:14 273:17 284:7 298:5 347:3 402:6 406:11 deploying 196:18 deployment 279:7 depopulate 16:15 depression 418:9 depth 123:11 Deputy 2:6 14:9,12,19 16:1 47:3 79:4 95:4 derailment 140:14 derailments 75:6 147:13 229:14 derive 212:22 234:5 describe 376:3 described 197:19 276:2 322:16 325:12,12 451:21 454:9 describing 180:2 323:21 327:20 343:3,10 453:14 descriptions 170:9 174:1 deserve 116:5 deserves 373:10 design 87:11 designated 117:1 designed 11:21 118:5 138:13 164:18 385:2 desire 208:5 331:5,10 384:20 desired 382:19</p>	<p>desires 169:16 desk 98:6 desperately 24:11 132:18 despite 9:13 132:2 285:5 387:21 407:15 424:2,3 destination 50:7 81:4 85:8 124:6 137:5 210:18 216:18 412:14 destinations 36:19 74:2 125:8 220:1 destroyed 115:20 destructions 383:22 detail 152:1 166:7 detailed 18:15 162:6 detailing 378:15 details 204:11 327:6 368:8 432:6 detention 372:15 373:18 374:9,12 deteriorated 72:9 73:8 76:13 100:18 deteriorates 63:21 determinant 205:17 determination 84:12 determinations 84:10 determine 273:11 333:21 382:16 439:22 determined 404:19 detrimental 378:3 devastating 66:1 114:13 develop 44:15 45:4 82:1 133:16 271:22 286:8,12 314:18 317:8 407:14 412:11 developed 286:2 developing 300:15 340:21 development 11:12 322:20 developments 401:9 devices 169:5 412:3 devote 296:14 dialogue 415:21 Diana 5:18 398:7 401:8 404:7,11 418:4,20 419:10 421:20 432:3 436:19 444:8 dictate 67:3 dictated 377:17 dictating 124:17 diesel 380:17,19 387:16 388:10,12,21 389:2,14 389:18 390:4 394:18 difference 20:12 31:20 285:8 440:9 447:12 454:6</p>
---	--	---	---

<p>differences 40:14 different 11:15,17 72:14 92:14 111:14 136:17 139:17 141:18 151:14 168:19 170:12 185:16 192:2 214:2 216:1 217:2 222:4 225:20 229:10 266:9 272:14 303:3 311:12 313:2 321:2 322:18 328:5 337:16 343:9,12 344:22 344:22 354:15 361:5 363:5 365:22 395:1 414:12 416:14 419:5,20 420:13 422:10,12,13 439:15 444:19 451:6 452:10 453:21 455:18 differentiate 285:1 differentiator 285:11 289:8 differently 224:3 417:1,2 differing 220:20 difficult 17:21 45:16 52:5 74:11 85:20 94:19 96:3 97:16 186:1,5 202:16 263:11 285:18 321:16 344:13 359:16 390:9 393:12 403:13 418:19 421:16 424:3 428:12 difficulties 121:19 difficulty 78:13 160:18 dig 227:21 316:14 digit 237:22 digital 317:11,13 digits 237:21 diligently 292:10 diluted 209:3 dim 123:12 diminishing 207:19 210:3 234:8 dinner 96:5 dips 335:7 dire 115:16 367:11 direct 159:8 180:1 284:10 298:6 299:10 441:10 directed 150:1 direction 86:4 131:7 162:9 214:10 227:19 454:17 directions 163:20 directive 127:3 directly 17:12 18:13 19:14 44:11 105:9 125:16 165:7 256:4 267:12 385:17 director 2:15,21 3:2 5:5</p>	<p>46:22 147:12 directors 244:3 290:17 disagreeing 351:18 disappear 118:10 192:17 192:19 443:15 449:16 disappeared 189:17 192:22 disaster 70:3 discipline 30:16 118:22 151:6 155:20 disclosures 223:20 disconnect 247:17 discourage 166:2 204:7 204:12 discovered 406:8 discuss 43:5 53:10 71:20 89:16 268:21 413:20 discussed 104:13 166:10 180:11 240:22 298:21 306:19 discussing 119:6 discussion 6:19 82:16 99:15 242:20 discussions 74:10 90:4 376:11 455:5 disincentive 67:14 disincentivize 144:2 disincentivizes 118:22 dismiss 396:6 dismounting 275:4 dispatch 455:4 dispatchers 164:15 455:3 dispatching 164:14 displayed 29:21 disposal 127:15 disproportionate 121:14 132:22 dispute 163:16 167:19 disputes 65:16 163:14 167:16 disruption 23:3 48:18 50:14 51:18 216:4 295:13 disruptions 9:17 17:10 22:20 48:10 50:7 51:5 53:13 62:22 73:11 80:7 81:9 84:5 167:15 169:1 293:11 376:3 377:4 381:7 382:20 383:2 disruptive 167:21 261:22 disrupts 49:1 distance 147:22 148:5 210:6 384:6 409:22 distances 165:1 distancing 406:11 407:10 409:10</p>	<p>distinct 272:17 distinguished 133:21 396:3 distracted 32:10 distraction 171:3 distressed 259:8 distribute 25:14 256:8 distributed 136:20 256:10 321:11 distributing 255:21 distribution 24:14 25:5,8 25:16 255:12 256:16 266:8 380:14 394:5 distributor 255:9 distributors 363:12 district 205:18,18 349:11 districts 196:20 diversify 257:4 divested 68:13 dividend 325:14 division 3:12 114:17 145:5 280:19 284:4 DNA 338:4 Docket 6:5 41:22 42:13 doctor 182:3 document 109:2 dog 423:11 dogs 423:9 doing 8:22 22:10 28:1 58:1 64:4 65:3 76:9 90:16 100:5 102:9 103:13,16 108:2,5,5 113:4 117:17 118:5 124:8 143:14 144:13 168:9 170:15 174:14 183:18 212:20 214:18 257:9 266:21 292:4 293:16 294:15 296:16 297:13 308:16 324:7 335:1 371:20 403:22 406:19 417:16 422:10 438:10 451:12 dollar 80:4 165:19 282:20 dollars 16:7 38:3,9 47:12 47:14 54:2,13 325:10 365:4 426:15 domestic 35:7,12 47:8 53:8 100:12 101:13 386:21 domestically 388:21 393:2 406:12 dominant 26:5 dominated 25:22 domino 250:20 Donkey 139:15 144:5,6</p>	<p>doom 366:21 door 160:6 395:6 doozy's 252:6 DOT 9:8 11:11 dots 25:11 235:3 dotted 219:18 double 35:15 36:1 138:2 142:3 171:21 173:21 176:8 237:21,22 424:18 424:19 doubled 207:1 409:2 doubt 111:9 113:20 123:18 202:5 301:8 455:11 downhill 172:3 downs 75:8 downstream 221:7,19,20 222:15 380:1 386:5 downtown 137:12 144:19 downturn 405:8 downward 245:3 dozen 275:11 Dr 14:19 draconian 160:2 167:22 draft 28:6 186:20 drag 29:7 drain 49:21 dramatic 310:7 407:15 dramatically 399:12 408:2 drastic 382:1 draw 147:4 191:1 206:15 drawing 455:20 dream 98:13 drew 180:4 drink 391:2 drive 136:4 139:9 148:11 151:10 171:16 287:9 345:16 370:17 394:13 446:13 driven 77:11 166:5 242:10 255:19 272:10 282:18 289:12 332:11 377:9 400:2 driver 81:6 258:17 259:1 367:8 drivers 80:2 82:7 121:10 313:12 drives 300:1 439:19 440:1,2,2 driving 156:18 246:7 394:12,15 450:18 452:12 drop 218:21 303:20 304:19 310:4 407:19 dropout 420:7,13 421:10</p>
--	---	---	---

<p>dropped 303:9 304:7,9,9 dropping 305:11 drops 153:1 200:12 drought 143:4 Dry 203:21 duck 236:4 due 16:19 37:8,10,22 39:1,17,18 40:17,22 56:19 62:10 72:15 85:20 119:17 120:4 149:7 160:9 161:21 165:20 275:13 341:2 342:20 360:9 369:17 390:6 411:6 Duke 193:9 dumped 28:5 duopolies 384:19 duopolistic 93:10 duration 195:11 duty 126:9 162:6 dwell 35:19 36:1 198:4 218:5 225:7,16 227:5 227:15 299:2,13,14 334:12 342:11,17 398:20 399:5,14 400:6 423:22 442:10 dwelling 73:14 217:13 221:16 dying 345:16 406:13 dynamic 248:4 289:14 322:14 341:16 439:10 dynamics 195:9</p> <hr/> <p style="text-align: center;">E</p> <p>E 1:12 6:1,1 82:21 E-15 79:17 eager 290:2 Eagle 390:22 earlier 58:22 65:12 93:14 95:5 105:12 152:11 176:14 186:21 205:12 218:20 220:8 227:1 249:3 275:17 290:6 291:1 328:13 330:10 338:10 344:15 367:17 373:17 413:20 439:13 454:9 early 217:20 221:12 238:13 275:10 276:13 285:17 299:6 311:15 323:6 383:5 399:8 423:20 earn 124:3 277:5,18 324:22 411:10 earning 277:19 earnings 51:9 58:15</p>	<p>223:16,18,22 230:13 234:5 242:4 ease 175:10 177:20 398:14 404:2 easier 222:6 232:12 234:5 263:20 287:17 289:20 easily 16:8 259:8 272:14 east 175:19,21 214:14 215:18 316:19 348:13 454:22 eastbound 218:20 Easter 95:6 eastern 31:8 174:18 238:5 360:10 364:17 easy 45:19 195:22 204:14 204:17 205:8 288:9 407:21 443:4 447:7 ebbs 116:14 echo 57:22 58:22 59:19 60:11 79:2 91:11 107:5 293:6 eco-system 257:3 259:8 317:1 econ 216:13 economic 14:22 202:2 236:15 277:4 404:17 406:5 economics 214:18 215:7 218:19 393:10 economies 38:16 307:18 economy 9:16 10:1 11:6 13:9 33:19 35:3 51:18 54:16,19 60:14 116:4 189:10 216:17 237:4 268:11 269:17 279:2 330:6 351:20 359:12,22 362:12 389:4 397:18 405:6 412:21 Ed 4:18 268:5 271:19 280:3,6 291:7 297:2 298:21 308:19 310:14 311:20 319:17 326:12 337:3 340:13 343:5,20 343:21 Edgemont 139:15 edition 213:17 educational 128:17 effect 115:16 122:4 126:13 128:1 166:1 182:15 208:21 299:10 332:2 434:17 436:14 effective 19:16 35:2,4 50:5 72:5 76:16 97:1 131:17 180:8 258:9 262:10 264:17 267:2 278:19 314:4 321:14</p>	<p>324:8 327:10 effectively 96:17 109:21 209:19 307:4 308:14 387:13 392:22 393:6 400:4 402:8 408:18 effectiveness 257:6 effects 114:13 250:20 efficiencies 24:8 325:19 efficiency 148:7 223:17 257:6 287:12 294:9 300:1 327:4,17 427:6 efficient 15:12 24:6 27:17 44:2 50:22 60:15 68:14 76:15 129:9 131:17 243:5 247:19 258:2 260:22 262:10 264:17 267:1 268:12 294:2 295:2 296:3 309:11 310:3,5 321:14 327:10 327:13 329:4,8 338:19 357:8 375:20 384:5 385:5 400:19 efficiently 24:19 44:12 67:15 294:19 307:4 308:15 effort 19:18 118:7 126:20 127:8 153:4 285:16 311:1 313:6 314:12 345:14 349:6 382:22 403:10 efforts 7:6 20:19 27:11 68:2 255:13 274:18 280:2 295:20 296:1 298:21 310:16 341:10 378:15 382:13 385:19 411:21 413:6 418:2 eight 295:16 352:13 either 35:11 38:11 39:1 57:10,12 88:14 100:20 102:15 142:2 234:3 269:11 296:20 315:5,18 363:17 418:16 446:2 elaborate 99:1 elasticity 63:14 elect 432:12 elected 151:2 406:8 electrician 174:16 electricians 298:18 elegant 211:18 249:1 element 62:20 241:19 444:12 elements 66:17 381:1 elevated 219:9 394:12 elevators 16:9 33:8 36:8 36:11 51:2 83:19 eligible 276:21</p>	<p>eliminate 127:8 130:3 160:22 173:14 175:21 314:3 351:19 364:9 eliminated 111:6 130:11 159:15 167:17 eliminating 63:11 elimination 59:3 110:7 Elkins 4:18 268:5 280:4,6 308:22 314:10 318:11 327:22 333:3 337:5 343:22 Elkton 365:5 Elliott 5:8,8 354:4 357:11 358:7,14 email 193:4,8 emails 87:18 316:10 366:11 emanates 286:14 embargo 361:2 369:7 372:11,22 373:18 379:16 embargoed 372:3 embargoes 381:18 embargos 379:9 embedded 318:13 embraces 109:14 EMD 142:21 emerged 10:9 emergencies 260:12 362:8 390:13 emergency 9:4 18:11 21:13 22:15,17 45:12 45:15 57:4 59:11 69:9 83:1,11 118:21 260:4 365:19 433:15 emerging 69:11 emissions 126:21 256:13 256:15 261:21 329:20 329:20,22 emphasize 16:2 90:13 282:9 321:8 359:4 employed 42:10 274:18 397:8 employee 75:18,21 87:9 115:1 116:16 117:18 135:18 145:16 150:3 156:10 162:17 191:22 263:1 276:17 277:17 278:16 297:14 303:16 303:20 344:10 352:14 404:2 405:16 407:16 412:13 423:10 424:17 432:7,12 434:1,14 438:22 employees 10:6 12:14 17:21 38:19 39:19,22</p>
---	---	--	---

40:4,4,6,7,8,10 66:15 75:13,22 76:4 77:19,22 78:1,2,9,14 82:20,21 96:3 109:10 110:4,6 111:6 113:15 114:20 117:14 118:12,16 119:17 120:4 122:2,18 122:22 123:19 124:14 130:17 132:21 135:9 145:7,8 146:2 149:22 150:1,8 151:5,16 155:18,19,21 156:1,5 156:18 157:7 159:16,18 160:9,12,13,19,20,21 161:1,10,11,22 163:2,6 163:13 164:5 168:15 169:10,22 177:5 191:6 262:20,20 269:3,11,20 270:10 272:11,14,16,20 273:16,20 274:22 275:6 276:20 277:6,14 278:2 278:21 279:17 289:13 295:11 298:3,7,11,14 298:17 301:2 303:5,7 308:16 318:9 320:20 322:11 336:3 337:1 344:19 349:16 362:13 400:1 401:5 403:6,9,12 403:19 404:20 405:4,10 405:19 406:9,21 407:4 407:9,17,18 408:10,11 409:13 411:1,7,15,21 412:11,14,16 413:1 414:8,10 417:20,21 418:15,21 419:9 424:20 430:5 434:17 435:7 436:2 437:7,12,17 442:6,20 443:3 444:4 employer 40:13 124:1 190:8 Employers 123:8 employment 40:12 41:4 96:2 103:1 104:3 111:11 120:12 158:14 239:3 245:17 276:20 303:4 405:18,20 empower 91:16 empowered 273:10 empties 352:7 empty 37:10 81:3 83:18 215:2 228:9 402:20 enable 18:12 42:15 43:21 72:4 81:19 375:7 enabled 402:9 enact 83:4 123:4 enacted 26:6,15 179:11	encapsulates 227:11 encore 224:2 encounter 129:3 encourage 18:18 44:15 45:13,21 46:2 68:14 382:14 421:22 encouraged 54:16 67:8 382:6,12 408:9 encourages 18:6 19:7 encouraging 371:10 endangering 129:6 ended 304:12,12 426:16 ends 15:14 288:6 395:15 energies 296:14 energy 3:5 6:16 32:13 78:21 79:8,8 90:3 91:18 127:19 315:10 347:10 349:19 386:5 enforce 69:4 enforced 51:12 132:19 engage 290:3 309:20 316:14 344:9 409:7 engaged 25:11 62:7 130:2 170:11 278:12 283:8 288:5 310:13 339:4 411:21 engages 343:19 engaging 69:16 404:20 408:4 409:5 engine 75:21 76:4 77:19 78:1,2,9,14 110:17 111:1 142:11 148:12 159:16 161:21 176:4 223:15 232:4 237:16 269:3 270:10 272:13 398:4 405:4 engineer 66:14 114:21 134:21 145:4 150:21 151:9 158:1 163:17,18 175:18 186:9 187:5 280:14 349:9 421:15 438:9 engineer's 134:17 347:16 engineering 212:20 298:17 308:13 engineers 3:18 110:15,21 119:22 127:7 145:9 152:13 158:2,6 163:11 163:15,16 171:13 186:2 274:20 277:18,19 437:21 438:13 446:10 450:1 engines 136:19 142:12 144:7 153:2 166:19 176:1 223:15 347:8 349:10	enhance 14:21 188:13,13 314:13 336:17 enhanced 67:22 409:4 enhancing 287:16 299:1 enjoy 67:3 enjoying 116:10 121:15 enlighten 173:16,18 233:14 306:16 342:4 enlightening 233:1 253:13 enriching 129:4 ensure 6:22 18:19 41:15 41:18 74:8 81:12 113:11 123:3 161:15 260:21 264:3 279:21 289:21 328:16 329:1 337:7 369:14 401:22 ensured 61:13 405:21 ensuring 257:5 315:11 entails 279:17 enter 17:9 entered 295:17 405:3 entice 117:22 enticing 204:18 entire 11:3 16:20 30:22 34:13 67:11 70:6 100:18 156:14 187:16 188:22 190:10 280:8 284:7 300:19 308:1 387:15 413:5 420:12 432:22 entirely 65:18 130:7 151:14 entirety 110:14 115:5 entitled 41:1 entrant 67:2 entry 27:5 66:22 258:21 environment 61:13 97:17 129:20 157:8 160:14 257:1,9,12 259:5 261:21 266:22 279:1 283:14 292:22 297:5 322:14 341:16 392:21 408:5 419:7 422:3 442:7 447:10 environmental 257:15 447:16 environmentally 267:3 294:12 environments 117:15 135:8 422:10 EP 1: 2 60:3 86:2 EP-711 42:14 EP-768 41:22 EP-770 6:5 EPA 256:14	episodic 227:8 equal 374:7 435:2 equally 100:15 164:21 equate 394:2 equation 291:1 327:17 328:14 equilibrium 257:5 equipment 24:22 103:5 109:20 113:6,6 115:20 116:10 159:13 184:1 188:21 221:3 275:4 357:6 364:6 377:13 382:2,5,7 428:4,6 equipped 349:8 equity 223:18 equivalent 215:14 era 116:11 Erie 428:1 erode 294:19 erratic 17:21 209:1 260:11 escalated 217:12 ESG 224:20 235:19 257:10 especially 7:7 17:9 51:19 70:13 228:16 231:19 283:14 320:22 385:8,21 393:4 394:10,10 430:15 ESPN 278:10 Esq 2: 17 4:22 5:8,20 essential 15:12 63:19 73:10 101:14 115:4 179:19 268:10 269:2 287:5 375:7 380:22 382:5 406:18 412:20 essentially 67:8 206:20 211:13 217:22 325:9 essentials 256:2 264:12 established 122:18 257:16 establishing 42:14 263:18 264:1 esteemed 265:2 estimate 38:6 439:10 estimated 162:17 estimates 23:8 estimation 359:7 eternal 315:20 ethanol 16:17 79:8,10,11 79:12,14,17,19,21 80:3 80:9 81:5 83:19 91:17 149:10 177:16 352:3,6 379:21 Europe 307:20 441:13 evaluate 240:15 367:21 evaluated 242:8 286:17
--	---	--	--

<p>evaluating 369:11 evaluation 223:21 evening 362:18 386:4 445:1 event 160:15 196:13,14 197:13,20 203:5,11 238:8,9 310:7 395:14 395:20 events 47:21 75:6,15 201:6 202:22 203:18 204:4 229:14 273:8 309:10 eventually 32:14 161:5 359:8 everybody 30:2 32:9 71:3 85:1 105:20 170:12,15 183:7 243:16 313:10 354:6,7 371:6 373:9 456:16,17 everybody's 217:3 373:13 everyday 259:20 everyone's 31:22 evidence 168:11 evident 69:18 122:13 evidentiary 6:4 Evidently 392:18 evolution 322:15 340:17 evolve 283:13,16 336:10 evolved 342:14 evolving 273:4 276:5 413:14 exacerbate 259:4 exacerbated 38:22 214:17 exacerbates 56:12 exact 393:12,14 435:5 441:2 exactly 30:15 44:18 84:8 91:13 105:1 106:19 194:1 206:17 250:13 301:19 302:21 328:2 337:7 358:8 362:4 430:10 453:4,14 examining 303:1 example 55:19 58:3 64:19 67:5 118:14 128:19 148:2 162:6,22 166:7 171:9 176:3 185:4 188:10 204:10 209:4 211:1 230:20 246:2 253:1,7 264:11 275:2 275:21 391:22 401:18 402:12 419:13 420:4 421:5 examples 56:9 80:10</p>	<p>125:16 127:1 130:20 154:14,15,17 160:8 171:8 259:10 286:1,15 349:15 361:21 362:21 364:11 380:19 401:18 403:15 exams 276:14 exasperating 120:6 exceed 127:1 165:8 exceeded 126:11 exceeds 277:16 excellent 180:15 408:11 411:11 exception 185:3 exceptional 203:5 284:20 412:18 exceptionally 253:13 excess 37:18 146:15,20 148:2,17 176:10 220:14 220:15 309:13 311:21 311:22 312:1,14 excessive 35:19 125:22 370:10 excessively 165:3,7 exchange 319:14 403:9 440:19 excitement 263:2 excluding 407:3 exclusive 326:2 exclusively 19:12 excuse 64:14 140:3 170:19 212:9 247:10 253:2 296:18 excuses 296:20 executable 300:20 336:16 337:8 execute 282:22 292:12 340:18 428:15 execution 296:13 302:1,3 303:8 309:15 399:12 401:22 executive 2:13,20 4:16,18 4:20 5:17,18 32:19 253:1 267:22 268:5,7 291:8 319:22 397:7 398:8 404:12 431:17,19 executives 246:9 248:11 248:17 431:2,15 exempt 154:1 155:10 exemptions 389:19 exercise 112:8 exhaust 128:2 exhausted 120:14 exhibit 152:20 153:9,15 153:15,20,21 154:12,13 154:15,17 155:4,10</p>	<p>exhibited 168:11 Exhibits 154:14,16 155:6 exist 69:19 120:22 174:10 existing 22:17 25:2 110:14 114:15 388:8 407:18 exists 118:21 128:11 141:22 160:10 189:13 exodus 269:20 270:8 exorbitant 120:16 263:22 expand 20:1 386:12 408:2 expanded 24:18 408:13 409:16 expanding 12:5,14,15 387:2 expansion 22:14 54:1 expect 34:4 51:22 54:5 148:12 214:18 215:10 217:3 237:7 242:17 268:17 274:14 292:8,9 319:7 333:12,12,13 341:9,12 342:7 343:6 401:1,6 expectations 44:16 58:16 268:15 281:12 288:12 289:2 expected 18:16 201:6 232:4,5 291:20 406:7 418:12 expecting 137:19 217:3 222:18 expedite 184:14 193:16 193:16 expedited 390:12 expediting 9:4 44:7 expeditiously 42:13 253:19 expense 44:1 409:19 expenses 38:8 51:4 362:14 411:19 expensive 128:14 experience 67:2 75:7,9 107:14 129:5 145:14 205:11 270:8,12 280:20 283:5,12 285:11,12 287:5 288:4,14 289:7 293:7 294:8 296:10 317:20,20 343:11 366:7 401:13 409:4 412:13 440:21 experienced 35:15 36:2 36:16 37:3 98:20 145:7 169:1 251:12 261:5 269:19 271:7 301:6 323:3 363:22 377:20</p>	<p>397:14 407:11 420:2 experiences 241:12 317:16,18 experiencing 71:21 73:11 78:13 103:12 279:7 293:9 377:4 378:22 381:8 388:15 420:7 expert 130:16 expertise 15:21 319:16 experts 319:14 expire 137:2 167:9 178:19 193:6 expired 29:18 expires 29:16 165:4 explain 152:1,4 195:14 271:12 explaining 156:22 293:16 421:14 explode 258:19 exploit 119:22 explore 171:2 exploring 410:18 exponentially 24:19 export 36:19 99:3 215:2 220:7 exported 62:13 143:9 exporter 36:21 37:1 exporters 33:10 exports 39:11 214:21 exposed 158:19 259:18 expounded 166:7 express 18:10 109:11 319:21 expressed 157:4 236:20 401:19 extend 235:4 extended 74:12 147:21 262:16 extending 126:8 346:13 extends 264:8 386:10 extensions 324:3 extensive 387:7 401:8 extensively 295:11 extent 221:8 332:10 343:3 446:7 extinct 165:18 extra 13:18 16:7 38:11 41:15 116:15 125:14 163:7,10,15 204:7 218:22 342:20 350:9 369:16 428:4 450:15 extracts 210:8 extraordinarily 14:7 310:8 353:10 456:8 extraordinary 9:15 58:9 128:10 397:11</p>
---	---	---	--

<p>extreme 80:11 138:21 161:9 262:3 298:10 extremely 49:7 73:22 125:4 150:4 163:19 170:8 232:22 270:15 279:20 311:4 361:21,22 390:3 428:12 extremes 80:17 eye 180:11 225:6 226:2,5 456:5 eyes 144:8</p> <hr/> <p style="text-align: center;">F</p> <p>fabulous 174:15 face 19:2 35:14 40:19 51:3 102:12 126:17 282:3 285:6 379:9,16 faced 15:22 50:11 61:9 110:18 125:13 271:4 292:15 293:5 376:18,22 384:9 404:17 faces 14:17 282:4 306:14 facilitate 27:7 30:14 257:22 facilitators 25:15 facilities 7:9 16:18 33:7 37:3 58:10 62:14 73:1,4 73:19 150:3 257:21 260:10,19 316:22 377:12 378:1,1 387:18 390:5 401:21 facility 27:15 29:9 56:5 149:12,14,17 378:7 379:20 402:1,21 452:8 facing 20:7 40:14 47:16 47:19 50:16 53:13 59:6 64:15,20 74:21 80:2 107:11 154:8 155:20 252:12 284:15 296:11 296:12 318:15 377:8 407:7 445:7 fact 7:19 9:16 24:10 29:7 54:7,10 57:2 70:2 83:13 88:12 99:11 107:11 109:11 110:22 121:16 122:4 124:21 152:5 156:16 195:9 206:2 207:13 238:20 270:9 275:6 295:14 304:11 324:6,11 332:15 339:10 344:3 375:16 376:14 386:1 394:11 395:18 410:7 444:1 447:14 factor 75:11 161:20 206:14 217:9 220:22 229:15 271:11 273:1</p>	<p>377:8 factories 308:5 factors 43:13,21 44:3 75:4 113:4 322:15 factory 181:13 facts 81:8 131:19 168:20 171:3 fail 121:15 138:14 147:10 148:13,13 159:19 failed 190:15 208:19 failing 119:19 fails 149:17 158:20 196:21 248:22 failure 56:2 88:12 147:11 158:22 165:4 201:20 373:21 failures 53:11 60:1 148:22 159:19 201:11 259:2,11 361:6 fair 69:1 116:6 fairer 14:21 fairly 65:5 82:16 100:15 136:1 240:21 288:13 335:8 361:14 442:16 faith 121:4 fall 51:19 52:1 99:17 100:4 183:2 218:9 231:2 282:15 309:13 429:9 443:9 fallen 198:8 falling 211:6 252:3 false 204:19 familiar 86:16 116:17 152:15 391:7 families 13:10 95:8 96:5 123:13 405:22 422:2 family 14:1 62:1 96:7 118:20 119:1 120:13 156:6 180:4,21 182:3 414:3,3 421:17 434:9 436:3 famous 165:18 fantastic 447:5 far 11:7 15:7 48:8 50:4 50:22 71:2 107:21 119:20 130:9 182:10 184:14 194:3 198:22 199:19 200:15 208:19 234:10 244:21 249:11 270:6 294:21 310:10 346:20 362:13 378:5 388:19 435:5 438:7 farm 2:11,16 28:18 47:1 47:4,5,11 51:18 52:1 farmer 16:16 38:13 farmer's 64:8</p>	<p>farmers 10:21 15:14 16:3 16:10,21 19:4 20:13 34:18,22 36:12 47:6,10 47:18 51:1,7 52:4 62:11 62:16,21 64:11,17 70:13 71:15 farms 51:14 62:14 farther 456:1 fashion 21:9 250:21 fast 117:3 175:2,5 187:11 218:18 222:1,10 249:6 348:5 373:10 452:11 faster 41:19 98:7 118:13 155:1 166:3,21 175:1 238:6 239:9,13 334:21 350:12 351:21 406:6 450:10 fatality 184:2 father's 190:1 favor 224:22 258:14 favorable 26:15 favorably 242:8 246:4 favorite 141:8 445:12 favours 214:14 Fe 134:2,4 141:13 150:18 173:21 fear 156:7 290:7 fears 376:15,19 405:22 feasible 381:14 February 36:3 118:17 150:21 303:6 fed 255:11 259:22 federal 2:8 10:1 21:22 23:2 26:15 118:10 119:13 230:19 389:12 federally 141:1 Federation 2:12,16 28:18 47:1,4 feed 2:11,14 10:22 16:12 16:14 32:20 33:9,13 34:2 36:14,17 49:2,8 90:3 98:15 124:9 feedback 53:15 77:2 87:5 96:10 179:5 271:22 283:20 feeding 49:10,11 feedstock 375:17 feedstocks 375:13 feel 60:7 72:21 90:1,8 94:14 152:3 163:2 183:12 186:7 204:5 210:9,11 226:2 249:12 266:21 280:19 325:14 328:19 355:14 356:1,6 395:16 437:9 438:6 444:16</p>	<p>feeling 321:17 376:4 feelings 157:5 feels 210:9 fees 41:13,17 51:4 56:8 217:12 224:1 feet 136:10 137:17 146:13,15,19,20 148:3 148:4 171:19 176:11 186:18 fell 238:6 fellow 28:11 79:3 129:2 386:2 felt 210:15 327:22 357:22 418:6 females 190:11 fence 135:15 Ferguson 3:13 108:11 114:8,16 166:9 180:14 182:7 183:19 185:6 193:14 413:20 Ferguson's 152:11 fertilizer 2:22 10:22 17:2 17:7 32:11 51:22 62:6,8 62:10,19 63:18 64:6,12 64:17,21 65:14,22 67:6 100:11,14 101:10 175:12 351:3 fertilizers 62:12 fewer 39:11 40:3 163:12 164:5 195:19 205:6,9 218:15 222:14 230:13 439:16 field 183:12 284:6 298:6 312:4,8,12,13 395:22 409:13 420:18 421:1 fields 64:18 fight 207:2 fighting 191:20 figure 106:19 233:19 309:18 311:20 351:14 354:16 431:19 451:1 figured 25:17 254:4 305:2,10 file 178:8 filed 41:21 124:10 fill 241:3,13 311:5,9 388:20 403:7 408:6 411:15 417:9,12 448:13 filled 99:10 133:11 417:15 fillers 383:18 filling 311:9 398:18 filtering 408:9 final 19:19 137:5 208:10 224:21 383:4,9 finalize 382:22 384:12</p>
---	--	---	--

<p>finalizes 68:10 finalizing 19:18 finally 12:8 45:18 49:10 53:17 60:7 112:22 125:17 128:10 363:10 367:15 370:12 423:16 finances 124:3 financial 42:2 43:16 206:3 236:19 243:1 249:4 259:14 272:9 273:12 364:22 408:22 412:4 financially 209:7 find 29:1 33:5 50:15 58:2 65:9 95:4 108:6 109:9 116:7 144:3 146:6 190:22 197:7 202:17 207:3 219:15 227:22 240:14 244:2 281:21 283:15 309:11,12 317:5 319:13 327:9 351:11 352:6 362:5 400:11 401:16 419:13 422:17 443:21 444:4 finding 85:13 216:1 282:1 366:18 fine 191:9 192:2 214:2 355:1 356:6 441:11 fines 362:5 373:6 fingers 440:11 finish 30:4,12 94:3 339:19 396:13 445:1 finished 73:18 178:9 194:6 363:9,11 366:20 369:15 407:5 fire 83:12 170:15,19 204:1,18 312:7,12 fired 121:1 135:11 191:12 234:1 fires 303:19 firm 353:12 firmly 338:12,14 firms 33:12 first 7:12 8:6,7 11:5 19:7 20:3 21:2 28:9,13,16,22 32:4 38:8 43:4,8,13 44:4,8 48:1,5,12,13,19 48:20 49:19,20 51:20 55:20 57:5 58:13 59:16 63:6 66:12 67:22 81:21 86:6,19 92:16,18 102:2 105:4 106:6,14 108:20 134:15 152:5 154:2 183:12 186:6 194:17 202:17 203:22 216:15 219:10 220:20 231:7</p>	<p>237:16,17 240:21 247:11 250:7 263:19 264:22 275:7 281:6 283:1,21,21 292:6 296:3 318:12 319:20 325:11,13,13 334:10 347:9 356:4 358:3,5,6 358:16 362:10 364:19 365:1 370:3,4 373:8,20 376:10 382:4 383:4,9 399:13,22 401:18 402:5 405:9 406:5 407:17 410:4 414:12 416:22 430:18 433:15 448:12 449:9 453:15 Firstly 194:21 210:16 fit 136:13 143:20,20,21 346:4,5,14,15 446:15 fits 422:17 five 33:22 38:19 61:8 64:9 80:16 98:11 108:22 110:22 125:17 137:16 144:6 147:13 149:16 151:13 156:2,3 198:12 199:21 201:13 204:14 216:14 230:10 247:4 252:2 261:16 304:14 312:7,12 353:17 355:16 364:16,20 365:3 414:12 fix 59:9 91:6 116:6 195:14 211:19 234:15 297:3 355:20 356:3 370:3 371:9 374:12 416:3 fixation 122:7 fixed 145:22 366:1 408:20 416:5 fixing 90:15 121:2 373:4 flags 128:15 flammable 379:11 flat 138:10 165:13,22 282:15 348:17 flawless 302:1,3 303:8,13 306:12,19 309:15 310:11 fleeing 258:14 fleet 67:11 73:13 74:4,14 74:21 77:11 323:22 347:3 364:15 379:10 387:8 439:22 fleets 159:11 flex 414:15 flexibility 111:4 272:19 279:13 flight 394:14</p>	<p>flights 456:12 flip 69:17 209:10 floated 111:12 flooding 199:7 200:18 258:15 floods 303:19 427:21 Florence 442:9 Florida 260:1 428:2 flour 37:2 49:2 352:2 flow 11:22 31:9 flowing 297:18 flows 71:5 116:14 271:5 293:12 fluctuate 439:12 fluctuation 439:18 fluid 168:17 178:15 220:6 220:10 fluidity 56:6 69:2 122:4 218:10 222:14 223:16 228:6,11,15 295:3 299:4,9 302:9 334:16 346:10 349:20 fluidly 48:10 fly 137:17 245:8 FMC 23:7 FMLA 161:13 focus 9:7,8 18:3 26:19 29:6 41:4 68:2 70:7 76:6 77:1 91:10 97:20 101:3 122:8 136:8 212:21 225:10 227:6 258:10 275:19 298:22 299:9 324:6 326:10,13 326:16 327:16 336:6 449:7 focused 67:18 106:11 125:2 195:1 224:7 242:20 253:3 268:22 278:18 287:8 289:11 297:15 318:9 326:9,19 328:8,9 341:3 343:14 387:4 focuses 412:6 focusing 28:2 233:3 299:22 folks 7:9 32:13 88:10 92:1 95:21 97:22 101:4 108:18 125:5 183:11,15 249:15 305:5,5 310:21 323:7 353:2 366:6 373:4 415:1,18 422:17 435:13 436:6 447:4,19 448:21 follow 18:20 128:22 210:16 242:17 243:11 442:17</p>	<p>follow-up 45:14 86:9 192:10 310:15 311:16 322:10 331:17 340:3 341:8 342:7 432:1 442:1 444:22 follow-ups 236:3,7 followed 124:12 331:15 372:6 following 35:22 41:5 64:14 66:17 67:21 70:13 149:3 166:12 234:2 295:15,16 food 4:9 5:3 9:19 15:1 35:11,12 47:14 62:9,11 64:13,15 66:2 73:10 101:14 211:21 254:8 255:2 354:3 356:15,17 356:20 fool 443:14 fool 136:13,16 143:18 148:10 215:14 447:22 football 312:2,7 Footie 396:4 422:20 423:3 426:20 427:16 428:19 429:2,10 430:3,12,19 430:21 431:3,7,10 439:5,9 442:16 449:4 footprint 10:3 258:4 262:13 379:12 381:14 force 38:21 69:14 forced 17:17 49:4,9 56:21 57:13 61:15 113:15 120:12 152:18 163:16 367:7 378:9 379:19 380:3 forcefully 113:1 forces 51:11 64:2 109:16 147:9 186:12,20 forcing 119:8 161:10 Ford 111:15 forecast 202:18 272:22 forecasted 77:15 forecasting 202:20 272:1 272:12 273:6 forefront 88:19 foreman 114:22 foremost 11:5 foreseeable 274:15 323:13 foreshadowed 61:8 forest 303:18 forested 45:3 forget 354:12 forgiveness 182:19,21 183:1 252:14 forgot 248:6</p>
--	--	--	---

<p>form 27:5 115:12 132:15 151:18 193:9 314:15,16 former 114:15 274:20 formula 206:3 301:4 forsaken 117:8 forsaking 129:7 Fort 151:1,6,10 191:19 275:21 forth 83:20 175:13 245:17 249:14 308:14 347:9 352:22 forthcoming 353:11 forthright 265:12 fortunate 123:16 fortunately 444:6 forum 243:4 forward 8:17 13:6,16 27:19 58:19 59:20 60:7 61:22 66:18 69:15 72:16 77:8 78:11 106:7 107:20 114:2 117:3 133:15 167:12 170:4 183:9 210:1 290:1 320:16 322:11 333:22 334:9 338:18 357:10 371:22 372:1 374:14 383:7 416:22 436:18 foster 362:6 found 95:17 134:20 244:15 253:13 255:22 310:2 311:11 366:3 founded 33:22 158:5 four 80:11,15 134:16 135:12,19 139:11,21 143:13 146:16 149:1 186:15 199:19 200:10 201:7,11 203:7 204:6 206:14 216:14 234:16 244:7 247:4 248:10 252:2 281:13 290:11 319:22 326:22 379:14 386:17 387:6 407:12 418:11 423:19 448:7 fourth 73:7 134:14 251:19 270:5 299:16 397:9 409:3 FRA 98:4 169:14 184:6 fragile 202:3 205:4 236:18 fragility 203:3 216:19 237:3 frame 189:15 framework 112:13 205:9 frank 316:16 320:5 frankly 24:20 57:11 90:19 95:22 156:13</p>	<p>188:6 189:5 234:21 240:19 244:14 247:7 324:18 346:17 free 109:7 152:3 249:12 384:14,15 freedom 132:21 freeways 207:2 freeze 210:8 freight 1:3 6:5,13 8:16 9:12,22 10:12 11:16 12:20 13:1,7 24:16 35:2 37:13,15,16 38:8,20 39:6 52:12 53:21 64:22 67:7,10,17 68:3 70:12 102:6 109:12,15 110:8 112:9 113:19 114:1,19 127:20 131:17 161:22 184:14 195:19 196:3 224:12 229:22 254:22 256:12 258:3 259:5 262:11 264:18 294:13 294:18,20 295:18 297:7 362:11 367:10 377:3 385:20 406:6 410:3 412:21 419:8 French 185:17,17 frequency 111:10 135:7 336:17 frequently 47:22 Friday 83:2 171:20 181:13,20 342:21 Friday's 356:10 friend 243:15 396:7 friendly 267:3 friends 338:9 456:4 front 28:20 74:18 115:4 125:9 174:3 184:20 237:10 266:1 391:9 fruition 359:10 fruits 116:11 frustrate 95:21 frustrated 14:7 frustrating 189:7 448:8 frustration 149:20 163:2 366:9 frustrations 146:5 150:1 150:9 frying 83:12 Fuchs 22:12 86:9 87:7 101:22 179:13 240:11 241:22 333:11 338:20 339:18 413:8 442:2 451:14,18 453:8 fuel 5:9 16:21 35:12 50:21 79:15 81:4,6,12 82:7 126:20 152:12</p>	<p>166:6,15 176:20 177:2 177:2,3,4,15 222:11 242:22 243:2 327:13 347:12,22 348:19 375:2 376:1 385:22 387:16,17 389:19 393:19 394:18 446:18 447:15 451:10 fuels 375:5,18 380:21,21 fulfill 70:16 158:16 417:15 fulfilling 18:3 full 11:9 14:4 16:9 36:12 37:8,9 46:8 81:2 122:12 129:4 214:22 254:10 259:21 264:4 336:8 401:7 405:19 435:1,3 435:17 436:4 full-time 274:19 275:2 432:19 fully 197:16 237:19 347:4 379:17 410:2 fulsome 6:19 function 54:12 281:3 284:5 306:21,22 307:3 318:13 functional 273:4 315:3 functionality 318:17 functioning 108:1 functions 268:4 fund 158:13 169:6 funded 294:14 funds 26:15 fungibility 239:19 furlough 123:15 132:21 160:1 161:9 204:15 406:22 432:11,12 433:12,14,18,21 434:2 435:8,14,16,17 436:4 furloughed 122:2 157:7 190:19 197:17 204:20 269:11 405:12 406:8 414:11,17 434:3 furloughing 262:16 furloughs 123:6 179:9 196:19 204:14 405:10 433:16 further 32:3 51:18 57:16 65:13 69:15 82:5,9 110:16 122:11 133:10 213:13 261:13 271:8 295:19 299:18 300:12 381:13 furtherers 12:17 futile 203:1 future 7:1 23:4 27:1 41:7 41:11 45:9 53:19 55:1</p>	<p>60:8 77:2 105:3 106:5,8 113:18 128:7 188:5 210:6 224:7 248:14 269:9 271:21 272:11 274:15 320:17 323:13 338:18 362:9 412:14 414:15 417:13 428:22 429:8 438:16</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>G 6:1 149:9 Gain 77:2 galling 111:22 gallon 80:4 380:16,17 gallons 79:10 game 96:6 131:3 207:19 208:10 294:14 357:3 424:6 gap 241:11 gaping 198:5 garbage 444:2 gas 84:17 139:8,19 232:5 256:13,15 329:20,22 352:3 375:14 388:20 389:12,17 gases 387:18 gasoline 80:3,5 352:4 380:16,19 387:16 388:10,12,21 389:2,14 390:4 394:17 gate 143:6 219:5 gateway 111:15 331:11 gateways 23:10 24:16 26:8 gather 173:4,12 gathering 387:3 gauge 44:13 GDP 53:7 207:1 gear 237:17,18 geared 189:1 gears 446:22 general 47:5 50:14 64:16 70:5 87:7,11 134:3 193:3 213:13 233:5 243:9 282:3 443:20 447:8 generalization 252:9 generally 57:9 84:2 93:8 321:17 329:6 361:17 409:18 439:15 generate 325:10 426:14 generation 9:2 27:10 134:14 180:18 206:8 300:15 397:10 414:4 generational 338:16 generators 428:5</p>
---	---	---	---

<p>gentleman 254:4 302:12 454:9 geographic 272:18 geographical 78:12 geopolitical 47:21 Georgia 176:7 274:18 365:17 getting 13:21 28:13 53:16 55:12 80:14 99:19 104:2 106:16 107:16 124:5 125:7 135:22 140:1 166:21 174:8 176:8 180:19 183:15 191:12 202:3 215:1,2 229:12,22 232:1 262:5 297:10 301:7 304:15 310:21 311:2 323:22 340:14 345:8,9 350:3,4 353:11 369:15 371:11 411:5 430:1 438:14 443:6 448:4,5 452:11 455:22 GFA 35:22 gift 409:20 give 21:20 28:10 92:3 105:11 108:9 131:2 132:11 136:5 137:8 145:6 181:8 208:19 228:7 232:17 234:17 238:3 248:16 252:22 254:6 279:12 315:15,21 349:9 353:20 362:21 372:7 373:1 393:12 422:16 430:3,12 431:11 439:10 440:3 441:18 449:7 453:6 giveaway 111:11 given 83:10 117:7 120:20 152:4 168:8 211:13 238:17 250:10 302:3 379:13 383:14 385:22 394:10 429:17 440:21 gives 287:21 giving 223:13 354:10 374:6 421:8 441:7 glad 91:19 212:14 301:9 302:6 314:10 352:16 396:5,16 global 9:17 15:11,17 35:7 47:21 50:10 111:15 222:20 255:8 295:17 330:5 377:2 397:15 globalized 257:1 globe 307:20 406:13 gloom 366:22 gloss 320:6</p>	<p>glue 221:6 go 8:17 28:6 31:6 46:18 61:3 66:18 71:11 77:8 78:3,10 82:13 83:22 89:15 92:17,18 94:4 96:6,7 97:18 98:4 103:22 108:20 114:7 118:8 120:14 133:22 137:10 138:13,18 139:2 139:2,14 143:16,17 144:21 147:22 149:10 149:15 150:10 152:17 154:13 156:7 173:3 180:14 184:7 185:6,9 187:10 188:19 191:4 194:20 203:3 205:10 212:7 213:16 214:1,2 216:8 217:6,7 219:2 237:4 247:12 248:4,11 248:17 253:22 267:17 273:14,16 279:6 284:9 305:14 306:3,18 308:21 309:5 313:2 316:18 320:16 334:10 338:12 343:21 344:11 347:15 348:6,13,15 352:14 354:11 356:10 358:3,5 358:5,6 362:13 365:22 368:16 374:16 382:8 383:4 419:2,21 420:12 421:5 425:5,7 428:6 436:3 437:11 441:1,6 446:19 447:21 451:17 452:14 454:15,17,18,19 455:2,20 goal 117:2 136:11 161:14 289:10 296:1 334:21 340:4 385:4 goals 125:2,20 281:17 289:20 goes 14:2 19:5 34:22 95:1 97:13,13 137:11 138:5 140:1 181:22 285:21 325:16 348:14 439:5,13 439:16 going 6:7 28:8,14,16 29:5 30:13,17 32:2 39:13 40:7 46:16 58:21 59:14 66:11 70:18 78:6 82:12 82:13 83:3 84:18 88:6 89:2 91:9 92:4 93:15 94:3 95:13 96:4,5,7 99:18 100:2,8 101:2,7 101:20 103:20 104:5,7 104:12,15,16 105:21 106:7,22 108:8 114:8</p>	<p>131:5 132:11 138:18 139:14 150:2,6 151:19 151:22 152:7 153:15 157:15 170:6 174:11 176:20 177:8 178:18 180:18,19,20 181:1,2 181:17,17 184:19 186:3 186:18 187:2,9 188:3 189:14 190:20 192:18 193:6 194:6,9 202:10 205:1 207:7,14 209:12 210:1 211:20 212:3,3 213:11 214:21 215:2,3 216:14 218:16,16 219:15,21 220:19 223:3 228:1,16 231:14 232:14 236:5 237:8 238:20 239:5,7,7,15,20 240:9 241:15 242:19 244:9 245:7 248:3 249:11 250:6,14 253:19,20,22 253:22 254:1 265:8,9 265:17 267:12 282:5 288:7 290:1 291:4 298:13 301:14 304:2,3 304:5,21 305:1,2 306:3 306:6,7,8 308:6 309:2 313:6,17,19 315:21 316:12 317:21 319:10 319:12,13 320:16 322:10 329:2 333:9,22 334:8 336:2,10,19 338:18 340:5 341:18 342:3,19,22 344:8,20 345:4,7 346:13 347:17 348:5,6 349:11 350:8 351:5,21 352:9 353:19 353:21 354:2,11,17 355:1 357:14,18 358:2 358:6,12 371:8,9,11,13 373:8 389:5 394:19 395:20,21 396:13,14,18 413:16 417:16 418:6,7 418:8,9,12 419:12 420:8,10,20 421:4,9 422:15 423:5 424:4,20 425:2,8,10 426:4,5,22 427:13 428:14,15 429:5 429:12,15,18 430:8,8 430:17 436:9,18 438:5 438:12 440:8,14 441:19 443:13,14 444:16 445:5 445:10,13 446:1,2,6 448:1,15 449:10,11 451:4,9 453:8 454:11 454:15 455:18</p>	<p>golden 235:13 365:18 367:1,18 391:9,12,12 391:22 Goldman 396:6 gonna 88:5,7 good 8:8 14:11,12 28:1 32:6,18 46:21 54:17,20 70:1 71:10,11 94:18,21 96:13 97:6 113:13 114:5 121:4 131:14 137:6 139:10 140:2 141:4 142:13 150:16 157:19 171:5,9 182:16 183:12 200:2 212:7 217:10 226:3 228:20 229:8,17 231:16 235:9 240:19,20 244:6 249:5 249:7 257:12 280:5 283:1,5 295:4 299:21 301:11 305:3,6,12 307:8 323:5,9 328:17 329:18 334:15 353:8 358:8,11 362:18 421:14 429:17 431:22 438:18 439:4 445:21 goods 8:16 9:15 10:2,10 10:20,22 11:10 13:8 33:12 47:9 50:6,15,16 71:15 127:10 166:21 214:17 216:1 259:19 329:15 330:1 359:13 381:16 389:6 Google 278:10 gosh 84:11 355:13 gotten 138:10 193:21 222:5 374:10 441:9 governance 257:10 government 3:2 26:6,14 46:22 89:13 108:1 277:16 406:16 grade 153:8 348:8,8 grades 350:8 gradually 352:14 grain 2:11,14 16:4,6,10 16:11,21 17:13,14,16 17:18 32:20 33:8,10,13 33:17 34:2 36:5,8,10,11 36:13,21 37:2 38:7,10 38:12 39:11,13,18 42:8 47:22 48:4,7,10,12 49:3 50:3 51:1 83:19 86:12 90:3 94:22 98:18 99:3 101:4 103:16 124:9 143:5,9 146:9 149:1,9 313:22 352:2 grains 239:22</p>
---	--	--	--

<p>grand 160:17 granted 182:15 414:20 415:17 granular 130:20 312:17 graph 226:21 230:21 graphs 215:13 224:8 grappling 453:20 454:6 grateful 13:5 gratification 189:2 209:7 grave 294:2 gravitate 245:1 gravity 199:16 gray 142:21 great 27:15 35:5 54:18 61:21 108:5 109:18 121:20 157:16 160:15 166:7 170:11 190:12 191:18 213:16 240:13 267:6 269:22 277:1 293:15 297:16 301:5 316:20 323:20 342:11 359:4,6 403:10 405:4 415:19 423:15 425:8 443:7 447:21 448:5 greater 59:22 60:9 119:20 238:21 291:16 383:17 405:21 greatest 294:17 296:8 greatly 28:9 68:1 69:10 130:2 166:11 385:19 greed 122:6 128:13 green 223:4 392:18 439:5 greenhouse 256:13,15 329:20,22 greeted 252:14 Greg 3:11 108:11,18 109:4 grew 123:6,7,11 Gribbels 157:2 grid 241:17 gridlock 135:21 grievances 381:10 Grimsey 139:15 grinding 200:1 Groat 3:16 108:12 145:1 145:3 171:18 172:5,8 172:12,17,22 173:7 185:13 grocery 15:15 ground 28:15 36:13 137:17 138:12 145:6,8 145:16 150:7 171:4 179:4 280:10 284:8 414:1 grounded 169:19 grounds 147:7</p>	<p>group 12:19 34:15 141:16 161:15 183:17 190:22 272:16,22 273:3 273:16 284:1,3,18 286:16,21 289:12 291:3 316:7 318:14 319:14 341:1 356:17,22 434:10 434:12 groups 88:14 272:17,21 272:21 285:2 293:19 318:17 322:18 416:15 422:11 grow 15:4 188:16,16,17 189:8,11 207:4 229:1 232:14 234:7,7 246:22 246:22 257:19 258:4 264:7 282:14 289:15 327:3 329:16,17 334:20 337:17 338:4,4,19 growing 17:9 247:19 264:13 333:7 337:19 380:18 386:13 399:10 grown 15:19 62:9 279:5 growth 3:5 23:10,12,16 25:7,10,12 26:20,20 27:11 32:13 39:9 54:8 54:17 55:1 78:21 79:7,8 90:3 91:18 169:19 188:4,12 189:3,4 206:4 206:5,16 208:9,19 211:15 223:16 225:2 232:4 233:16,18,21 234:10 235:2,14 241:16 242:4,4,5,6,12 243:13 243:21 245:6 247:13,14 257:22 277:3 281:5 287:6 296:2 300:17 329:8 388:8 402:10 410:11 417:13 430:6 437:21 438:8 442:22 444:16 guaranteed 277:8 guaranty 363:16 guess 17:18 85:5 102:8 105:1 191:10 220:5 226:6,22 231:12 233:1 238:5,9 244:5 247:13 307:21 308:5 326:17 334:9 340:3 344:17 353:20 356:14 405:7 418:11 427:8 429:4 436:19 446:11 guesses 238:4 guidance 44:16 263:18 guide 29:15 281:7 guidelines 19:9 260:22</p>	<p>264:1 guilty 454:10 455:1 guise 359:18 guised 126:21 Gulf 9:3 54:14 215:20 316:19 393:5 guttled 59:4,5 guy 243:19 guys 87:15 89:3 91:12 157:14 178:9,17 180:21 182:5 185:14 190:1 194:2 233:1 238:5,10 245:13 354:13 355:4,15 355:19,21 356:2,2,18 423:15,22 446:13 456:2</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>H 2:6 Haksteen 4:10 5:4 254:2 354:3,9 355:12 356:7 370:21 half 48:16 55:9 56:5 62:9 62:18 137:11 138:13 146:14 147:4 163:9 166:20 174:18 176:6 199:20 219:10 220:20 256:12 274:9 291:14 304:16 310:17 361:11 377:21 407:17 410:4,5 Halloween 134:22 halted 16:6 23:18 Hampshire 387:21 hamstringing 130:21 hand 8:17,17 25:9 111:8 119:8 170:7 186:17 204:8 286:11 292:13 313:19 372:8,9,16,16 372:17 387:5 handicapped 51:13 handle 25:3 39:19 40:3 63:15 72:11 266:16 268:17 274:3,16 379:3 422:2 handled 379:1 handling 39:6 102:5 155:3,8 205:10 haphazardly 119:8 happen 7:1 29:5 58:18 61:4 65:21 66:11 106:12 153:5 186:19 209:20 210:4 239:22 244:5 245:8 302:14 304:3,4,7,20 308:6 349:15 415:21 440:11 happened 87:17 135:16 188:10 197:19 209:16</p>	<p>222:11 226:9 243:4 332:5 372:2 406:4 418:15 435:13 440:15 443:9 happening 6:9,20 65:2,7 84:17 91:7 98:1 105:11 118:12 128:9 132:16 201:9 250:8 251:16 361:18 369:3 happens 7:10 136:22 137:3 138:2 186:17 187:10 249:13 251:1 311:2 427:9 happy 27:21 46:10 61:17 70:19 82:7 87:2,4 118:1 144:16 151:20 212:11 312:20 331:3,17 341:8 342:6 351:11 385:10 440:19 hard 7:10 91:6 103:20 104:12 107:19 136:2 193:22 213:2 219:8 228:1,16 234:20 239:21 250:14 306:2,3 314:18 368:13 369:16 447:6,7 hard-working 447:5 hardening 198:17 200:3 200:22 harder 334:19 447:9 hardest 123:18 hardships 406:17 hardware 147:3,3 hardworking 110:5 harm 44:6 53:11 harmed 130:10 377:15 harmful 130:8 131:14 Harrison 354:17,22 harsher 120:5 harshesht 107:22 135:8 harvest 51:19 52:1 99:14 100:4,6 101:6 Harvey 203:19 hat 171:10 Hatch 243:15 hate 150:4 haul 42:8 144:11 348:10 348:11 hauled 43:11 hauling 198:18 199:20 havoc 126:7 Hawaii 387:21 head 60:8 99:16 172:9,18 176:4 185:8 187:12 189:10 213:5 236:21 430:14 454:15 headcount 117:19 198:7</p>
---	--	---	--

<p>231:15,21 263:14 269:6 306:20 311:17 323:15 339:22 398:16 401:4,11 407:2,16 430:4,8 431:11 437:5 440:1,2 headcounts 121:21 141:19 header 153:18 headlights 321:12,13 heads 108:10 headwinds 201:4 232:7 257:2 health 49:13 113:19 121:8,11 274:2 277:14 323:2 405:19 434:9 healthcare 277:2,15 healthier 53:5 healthy 169:16 204:16 255:11 259:22 375:9 385:5 401:8 hear 6:21 27:21 29:4,12 30:9 31:4 71:3,9,10 84:21 85:1 95:10 103:6 103:15 145:1 157:14 167:7 177:8 212:4 213:19 218:14 221:20 231:22 253:10,11,22 271:18 305:7,16,18 306:10 327:4 331:13 340:7 345:11 346:7 351:5 357:9 366:8,9 374:19 395:9,22 422:19 445:3 447:2 451:2 453:16 454:7 456:17 heard 16:13 17:1 57:22 58:22 59:14,17 80:6 88:8 96:10 102:1 116:1 152:7,11,12 177:7 235:1,2 245:16 248:2 249:3,14,20 250:11 254:18 265:17,22 266:7 274:8 282:16,21 287:6 290:6 297:2 298:9 305:17 309:21 312:15 313:22 315:14 322:22 326:12 327:5 330:9 331:12,14 332:13 342:12,12 345:10,19 346:3,9 350:6,17 351:4 351:10,14 352:4,5,5 354:4 368:15 377:9 378:3 379:20 382:13 383:15 405:2 414:6 417:5 439:13 446:9 448:10 449:4,13,17 450:1,6,14</p>	<p>hearing 1:4 6:4 7:4,7,10 7:12,14,21 8:11 13:20 14:3,15 20:15 21:10,13 22:13 30:8,17,20,22 33:3 46:6 47:2,15 52:3 52:22 61:21 70:18 79:2 79:19 83:7,8 84:16 102:18 107:15,16 109:3 112:1 117:20 127:9,13 132:17 154:9 156:11,14 157:7 167:7,9,10 175:11 177:15,21 192:13 209:19 212:1,13 254:3,22 332:4 345:9 350:22 352:12 354:14 358:17 360:5 368:10,20 373:19,21 374:2 390:8 391:4 395:1 441:11 453:13,22 455:10 456:20 hearings 29:7 91:2 223:20 265:3 hears 30:2 heart 146:9 306:14 310:1 315:8 352:16 386:3 453:11 heavier 186:5 heaviest 187:12 heavily 25:6 214:14 379:10 heavy 136:19 152:22 199:16 363:4 hedge 158:13 169:6 Hedlund 22:12 98:8 189:19 252:8 319:20 322:9 333:3 337:15 358:10 390:20 391:15 391:21 420:6 421:7 heed 119:7 133:6 height 23:19 held 60:5 99:9 158:22 225:20 229:5 230:3 286:18 383:11 help 17:6 18:6 28:3 33:5 34:14 41:6,10 42:18 44:4,12 45:14,16 52:8 53:18 57:20 133:16 144:14 162:20 169:20 170:21 179:10 184:14 195:2 207:2 213:20 219:11 222:9,14 223:7 240:15 241:2,8,11 242:19 248:12 252:13 254:12 255:10 256:6 259:22 264:3 279:10 286:12,15 295:21</p>	<p>299:17 324:7 327:11 329:3 335:10 336:15 345:14 347:4 373:5 374:11 383:21 390:15 403:12 412:7 448:9 449:17 helped 9:19 230:19 261:15 286:19 403:7 helpful 220:5 232:19 233:4 241:13 253:13 339:7 345:2,3 353:11 406:2 443:22 helping 21:4 289:19 347:7 367:10 374:15 398:15 helps 50:2 256:1 347:12 hemorrhaging 117:14 Herman 4:10 5:4 253:21 354:3,8 356:5 374:17 herring 427:19 hesitancy 89:21 hesitant 89:15 hey 142:9 248:12 355:17 423:14 426:20 443:6 hidden 131:5 hide 131:19 132:1,5,9 357:17 hiding 132:12 253:21 high 37:16 48:8 54:8 56:18 65:18 67:1 75:1,3 75:17 80:2 118:15 155:16 156:13 191:9,13 198:20 201:1 206:7 207:12,16 215:17 221:15 244:18 278:4 334:20 335:8 385:22 386:4 389:2 390:3 425:1 high-cost 329:6 high-paying 53:7 high-tech 21:2 high-volume 15:9 higher 10:11 11:19 15:15 40:3 51:4 64:12 111:7 115:20 129:16 154:21 178:15 198:22 209:13 224:21 239:4 247:4 262:7 268:18 270:13 274:3 277:5,10 307:12 323:4 334:20 370:15 389:14 390:1 393:11 394:19 407:19 420:7 421:2,10 427:6 highest 16:4 230:3 268:19 275:22 277:19 282:10 366:16</p>	<p>highlight 66:21 131:4 278:13 398:9 highlighted 34:19 44:21 61:8 64:5 highlighting 16:5 highly 134:10 256:17 268:16 310:5 highway 228:4,18 229:2 232:15 287:9 327:19 329:13 highways 294:14,21 hill 153:6,7,9,13 187:2,9 187:10,16 350:12 hills 155:1 186:4 hint 231:13 hinted 93:14 hire 17:13 39:22 40:5 77:20 102:11 118:13 157:11 181:17,18 202:17 232:11 238:2 239:10 249:18 272:21 272:22 273:3 275:9 276:22,22 278:16 306:2 306:3 307:14 322:18 341:1,1,19 407:9 410:10 420:2 438:11 443:5 454:5 hired 40:7 78:1,2 90:19 134:20 150:19 161:1 180:19,22 191:2 275:7 277:7 414:1 444:1 hires 318:16 408:9 409:21 420:12 hiring 78:14 82:19 102:15 120:1 130:1 157:9 160:17,19 182:10 182:12 192:1 195:7 262:14,15 269:13 270:14 273:2,6,11 274:5 275:11,22 295:20 297:19,22 298:20 310:16,20 318:7 335:21 335:21,21 338:20,21,21 340:5,5,5 341:17 363:21 398:4,10,15,18 404:10,17 406:22 407:15 410:3,19 411:20 415:3,13 418:5 419:13 423:18 437:19 443:6 444:11,19 445:20 446:1 449:19 451:7 historic 8:18,19 13:1 297:22 318:7 412:17 443:12 historical 72:12 76:22 251:22</p>
---	---	--	---

<p>historically 10:5 251:15 293:12 history 116:12 165:21 399:21 hit 54:8 153:5 159:21 178:13 206:13 236:21 239:7,7 303:9,22 348:21 368:4 432:4 hits 187:14 393:8 hitting 234:8 239:3 HNYSOKC 153:21 hold 30:17 31:14 70:9 94:16,16 96:19 118:6 399:11 441:10 holding 14:15 20:15 33:3 46:6 47:2 51:3 52:3,21 61:20 70:17 74:9 79:1 85:22 86:5 87:20 241:4 254:21 264:19 365:4 370:11 383:18 390:8 445:9 holiday 95:7,19 holidays 278:1 holistic 243:8 home 14:3 96:4 120:17 120:20 162:1,3,10,11 162:12,13 171:21 203:3 214:16 409:18 421:17 421:17 homes 419:1 honest 122:15 187:21 221:4 290:5 319:8 honestly 88:7 265:11 282:6 honesty 122:3 honor 115:2 Honorable 2:3,6,8 8:4 14:11 21:21 honored 13:14 21:18 hooking 148:10 hope 62:1 84:18 88:20 109:14 123:11 236:15 250:15 252:5 291:4 310:13 318:4 362:12 394:20 395:3 404:21 444:22 hoped 353:16 hopeful 23:4 hopefully 195:2 213:15 232:19 266:18 376:7 456:1 hopes 118:8 hoping 209:19 253:18 hopper 364:15 horizon 128:8 310:19 horrible 29:2</p>	<p>horsepower 127:4 154:21 350:10 hoses 275:5 hostile 129:20 hot 173:8 275:19 hotel 162:8 Hotline 163:1 hour 127:1,5 146:13,13 152:14,18 153:1,6,8,13 162:3 163:9,9 171:15 171:17 173:1,3,4,13 181:15 192:14 210:7 345:4,20 347:9,19 350:12 386:1 395:13 399:6,19 425:4,5,5 hourly 125:15 hours 17:20 43:12 73:20 94:16 126:8,11 128:3 131:22 136:21,22 137:2 139:11,12,20,22 141:2 141:3,3 143:14 146:16 162:2,3,7,7,10,12,13,14 163:8 165:4 178:19 211:11 228:10 345:17 369:16 399:5,15 407:22 448:7 452:7,11 453:18 house 11:20 355:3,5,9,14 371:6 390:22 household 87:20 housing 411:19 Houston 143:5 203:20 215:21 216:1 260:16 HPT 154:19,20,22 HR 197:6 hubs 219:18 386:11 huge 150:12 185:13 188:8 234:18 235:18 364:22 human 35:11 202:9 268:3 272:7 404:14 humble 52:7,9 hump 165:15 198:4 377:22 382:10 humping 165:22 hundreds 160:13 414:21 hurdle 389:21 390:3 hurdles 408:2 hurricane 203:19 239:7 hurricanes 303:19 427:21 hurried 128:17 hurry 193:17 336:3 348:1 hurt 26:8 165:7 250:16 hurting 431:6 446:19 hydrochloric 260:13 hyper 15:11</p>	<p>hyperinflation 258:19</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>I's 73:2 84:3 167:1,5 201:7 340:9 351:6 377:11 440:21 441:5 ICC 22:8 Idaho 66:14 idea 69:5 86:13 241:4 249:3,7 251:8 305:10 305:12,13 373:16 410:16 ideal 12:20 318:17 ideally 198:19 ideas 69:13 83:6,20 107:2 370:3 450:21 identified 108:17 identifies 193:5 identify 6:20 45:8 78:8 158:15 274:7 identifying 383:5 idle 127:8 131:21 152:19 169:12 idled 70:14 228:9 299:16 382:9 idling 63:12 ignore 112:19 225:22 II 2:10 98:19 136:12 III 3:9 ill 406:13 illusion 118:4 illustrate 50:2 149:3 163:2 illustrated 380:19 ILWU 216:4 imagine 162:11 232:8 285:19 301:12 imbalance 261:12 immediate 18:7,9 83:4 113:22 175:8 177:13 188:1 258:20 265:4 immediately 81:13 83:7 127:7 146:1 179:11 381:13 389:17 393:7 immortal 358:10 impact 12:14 16:20 34:21 51:5 58:16 71:22 80:8 82:6 99:2 110:6 151:17 154:6,7 159:1 167:4,10 168:7 275:13 298:6,7 322:17,19 323:1 334:5 341:4 362:14 364:22 376:5,17 380:12 381:15 400:15 406:17 410:5 impacted 81:10 145:11 145:17 168:14 242:22</p>	<p>363:13 364:12 379:17 397:16 398:2 418:1 432:11 impactful 235:22 453:18 impacting 17:11,12 34:13 52:12 148:19 362:21 impacts 6:15 51:9 109:22 113:5 166:4,11,12,14 271:8 360:21 375:21 381:7 383:6 393:8 406:14 impediment 126:17 imperative 81:10 257:3 implement 8:18 41:5 42:22 119:4 133:3 168:14 247:18 273:12 294:7 295:8 336:21,22 408:3 implementation 63:9 145:7 302:8 306:20 309:22 322:1 implemented 158:10 180:13 353:9 399:16 403:5 409:6 411:12 implementer 309:3 implementing 85:22 86:4 104:21 161:17 336:10 implications 340:22 imply 74:17 import 215:2,21 220:7 importance 7:3 34:4 35:1 62:11 91:12 280:21 314:1 important 8:11,22 11:4 12:5 13:4 21:17 35:10 39:11 49:7 52:22 59:18 59:20 60:6 64:7,16 68:6 69:21 71:4 72:21 77:5,9 78:15 79:2 80:2 86:6 88:4 90:1 93:12 104:8 105:7 106:6,18 108:22 153:19 166:22 212:1 213:6 228:7 229:6 230:6 254:18 256:6 264:19 265:13,14 271:10,17 279:16 281:9 281:21 285:14,15 287:18 290:9,22 295:6 315:15 316:3 318:19 327:18 336:1 338:6 345:6 366:15 375:22 386:15 396:2,5,15 398:17 401:11 403:3 410:1,12 413:16 415:15 416:7,15,18,20 423:2 429:14 437:22 441:12</p>
---	--	---	--

<p>importantly 79:18 96:21 256:3 262:9 273:9 284:10 377:16 381:12 382:22 383:20 398:2 imports 214:7 238:18 impose 59:22 133:3 167:22 383:17 imposed 118:16 impossible 113:16 126:1 130:6 158:15 202:19 303:1 366:19 377:10 385:17 impress 233:22 impressed 249:10 422:22 improve 9:9 11:14,21 12:4 18:16 20:5 43:3 45:14,22 72:12 97:10 175:15 178:1 222:10,13 222:15 240:16 249:17 294:8,9 344:9 385:7,20 389:9,22 392:7 400:17 424:5 425:10 427:9 449:9 improved 34:1 121:11 169:7 174:12 195:17 242:22 352:18 364:10 397:6 399:12 402:22 improvement 12:11,12 207:21 208:2 222:19 245:2,6 299:5,15 302:9 323:17 362:6 399:15,20 403:4 improvements 13:8 51:17 169:9 175:8 177:13 257:21 269:1 299:18 300:6 367:2 412:2 improves 74:22 improving 104:13 243:2 249:21 297:15 299:1,2 299:9 324:8 344:8 346:10 404:22 410:18 413:3 427:3 in-depth 386:3 in-person 7:12 inability 34:20 110:16 Inaction 170:1 inadequate 42:6 43:17 56:10 146:5 361:14 inauguration 7:14 inbound 37:4,5 219:3,3 363:6 364:13 368:7 incentive 242:2 incentives 67:19,22 68:13 117:21 273:12 276:21 276:22 279:5,10,11 413:10 417:19</p>	<p>incentivize 12:9 18:22 19:14 41:9 43:19 273:19 411:3 417:20 incentivized 242:16 inch 218:6 inches 186:15 inching 226:10 inciteful 351:9 include 9:12 12:6 19:18 205:20 263:19 268:2 272:6 279:4 308:2 382:9 437:5 included 46:9 155:2 275:14 402:4 includes 33:8 189:20 281:18,19 283:8 327:2 412:1 437:6 including 8:19 20:3 63:11 68:4 75:5 81:9,18 107:12 110:10 111:10 113:5 169:11 261:6 286:6 291:19,20 312:1 336:11 360:13,22 363:3 375:14 380:20 381:2 386:19 401:5 411:4 413:10 income 58:14,14 208:3 242:4 243:6,7 incompatible 247:2 inconsistency 401:20 inconsistent 6:14 38:1 56:10 80:13 224:8 258:12 368:11 inconvenience 149:20 incorporate 300:18 incorrect 168:22 increase 16:9 27:13 41:18 48:3,15 49:21 50:11 54:5 73:12 74:6,16 82:6 122:20 147:2 149:19 182:12 208:15 225:11 237:22 264:6 276:12 306:1 323:14 331:21 353:4,6 364:4,5 378:2 382:13 388:21 398:4,15 408:17 446:2 450:12 increased 23:9,22 24:4 27:4 38:2 39:18 56:7 67:6 73:14 74:5 120:10 146:10,12 147:8,10,20 198:7 200:22 228:21 269:10 319:9,9 365:1,2 366:2 368:7 377:20 378:18,21 402:7,18 403:1 406:22 increases 49:14 50:17</p>	<p>57:15 65:13 148:22 202:6 263:9 272:5 331:2 407:15 increasing 54:13 72:11 75:16 169:7 173:14 204:3 225:16 249:15 297:5 299:20 333:5,6,8 388:4 407:6,20 increasingly 63:21 68:19 208:1 228:6 229:21 incredibly 91:6 189:9 281:9 285:14 360:1 392:20 incremental 77:19,20,21 increments 149:16 incumbent 113:21 incur 95:17 independent 412:4 independently 40:9 index 206:12 Indiana 275:21 348:17 348:18 402:15 Indianapolis 402:14,16 indicate 45:1 66:14 162:16 263:19 indicated 23:22 329:21 indicates 7:20 53:15 149:5 indicator 221:12 229:8 indicators 229:17 334:16 Indirects 5:6 indispensable 9:22 indisputable 168:12 individual 34:11 38:1,15 44:11 45:17,20 88:13 91:14 205:19 252:2 406:17 individualized 292:19 individuals 129:22 indoor 408:20 induced 379:2 indulge 252:8 325:5 indulgence 236:9 industrial 73:19 206:21 208:10 280:19 317:10 317:14 381:1 397:13,17 industries 10:19 15:3 34:2 83:9 110:19 277:6 379:17 398:2 404:16 408:19 419:20 industry 6:20 10:4 17:16 18:3 24:9,17 25:13 27:12 33:13,15 38:7,10 45:6 53:2,22 54:1,10,18 60:22 64:4 67:18 68:7 72:8 73:9 77:9 81:1,1</p>	<p>81:10 82:6 83:11 84:22 85:9 88:17 93:11 107:11 109:8,15 113:14 117:2 118:13 123:20 129:3,7 130:3 132:18 133:10 134:7 160:5,10 168:16 169:4,15,17,18 169:20 180:5,6 188:10 188:12 189:8 190:15 203:2,17 206:2 207:13 208:12 210:20 219:7 224:6,18 247:22 255:22 256:17 264:15 269:16 285:1 291:11 294:4,11 296:11 308:2 309:5 313:22 318:18 324:18 359:20 362:1 370:14,15 377:3 384:18 388:14,17 389:20 392:22 397:9,13 397:13,13 414:5,7,21 418:17 424:3,10 425:17 425:19 426:1,10 429:6 438:2 industry's 53:12 158:19 211:2 359:9 inefficiencies 415:9 inefficiency 57:15 inefficient 19:21 42:3 60:4,5 68:21 126:13 329:5 383:11,19 427:7 inertia 234:12 244:14 inevitable 59:6 inexperienced 183:17 inflated 259:19 266:12 inflation 64:13,13 210:8 220:17 385:22 403:13 412:8 446:20 inflationary 262:7 inflect 328:5 influence 51:6 246:18 influences 350:19 influential 353:19 influx 363:20 inform 320:1,15 380:1 information 20:4 71:3,5 77:14 82:9 97:6 193:2 193:21 194:5 241:15 272:3 317:9 370:5 397:4 426:21 427:2 informative 170:8 193:20 394:22 informed 77:10 112:1 317:16 320:11 410:14 informs 272:1 infrastructure 8:19 11:13 12:22 25:2,19 26:12,18</p>
---	--	---	--

113:7 146:11 159:12 169:11 203:12 215:5 324:20 359:1 382:9 ingredient 33:9 255:9 297:21 364:13 inherent 68:13 initial 320:9 399:10 initially 230:17 initiated 326:4 402:2 initiatives 115:15 208:14 268:22 279:3 298:22 300:4 336:18 398:15 injury 135:7 202:5 inland 25:8 221:9 386:17 innovations 294:8 innovative 282:2 284:21 286:8 inordinate 133:4 input 100:11 244:2 265:10 inputs 33:18 73:18 101:5 271:13,17 273:5 308:2 inquire 40:2 inquiries 223:19 inquiring 118:7 insatiable 117:4 inside 290:13 314:17 315:3 318:14 421:4 insight 132:11 175:16 245:20 insightful 251:11 insights 265:2 insistence 188:20 inspect 110:11 138:7 inspected 139:13 inspection 17:18 149:6 inspections 116:22 inspector 95:4,18 inspectors 17:13 298:18 instability 160:9,20 instance 25:21 102:3 237:8 349:1 instances 36:10,16 56:17 94:18,19 123:10 219:5 328:3 379:13,15 instant 209:7 instigated 7:21 21:13 institute 2:22 32:11 62:6 131:10 institutionalize 425:16 institutionalized 206:9 institutionally 425:16,20 institutions 267:6 instructing 126:22 instructions 127:2,17 instructors 275:1	insufficiencies 126:15 insufficient 39:19 203:12 389:13 insulate 44:5 insult 202:5 372:21 integrated 36:15 347:14 347:21 integration 27:15 integrators 33:11 integrity 133:18 intend 40:5 intended 45:7 128:7 384:22 intending 73:20 intends 329:17 intense 100:16 270:2 intensely 7:4 328:8,9 intensity 298:14 intensive 66:22 294:1 324:21 intent 13:20 310:11 intentional 177:3 intentionally 433:6 intentioned 389:12 intentions 65:17 intently 350:16 interact 284:11,15,19 interaction 29:10 interactions 173:17 410:17 interacts 21:16 interchange 42:18 361:6 interchanged 200:10 interchanges 42:16 interconnected 222:21 230:8 400:14 interest 6:6 57:10,12 60:20 122:10 133:11 184:1 294:22 295:1 331:6,10 350:6 404:10 interested 7:4 130:1 229:16 241:21 296:19 325:15 332:6 352:1 440:12,20 interesting 233:7 242:18 245:9 248:3 250:2 interests 60:19 interface 317:12 interfered 385:3 interferes 108:1,2 interim 209:12 interior 218:16 219:3,22 220:9 221:1,14 interject 30:9 intermission 267:16 intermodal 10:16 12:6	22:19 23:5,8,14,15,22 26:10,20 27:2,5,8,11,13 111:17 142:19 219:3 228:5,17 229:11 231:1 280:18 300:18 316:22 317:6 334:14,20 336:11 452:1,5,8 internal 125:1,20 178:22 335:10 internally 286:18 320:19 international 25:3 26:21 35:13 98:19 356:20 393:4 internet 317:19 interrupt 22:3 325:3 interrupting 168:10 interruption 393:6 interruptions 261:6 303:15 378:18 interruptions/slow 75:8 interstate 167:15 168:10 169:3 174:3 385:3 intervals 39:2 intervene 133:13 intervention 133:14 interviewing 409:6 intimidation 88:22 107:9 intolerable 161:17 intrinsic 287:14 introduced 376:10 introduction 6:8 254:10 invaluable 255:13 414:18 invariably 197:17 262:6 266:11 invasion 64:14 388:22 invent 57:21 inventories 220:19 inventory 50:8 56:18 112:3 220:14,15 223:6 261:9,11 364:4 365:2,5 invest 11:6 211:14 234:20 262:19 295:21 315:6 325:10,13 328:22 358:22 invested 26:14 54:13 318:15 324:4 357:5 379:10 387:8 investigation 191:7 investigatory 88:21 362:2 investing 11:11 26:17 247:14 318:2 323:19,21 324:3,19,20 329:9 investment 25:4 26:12 54:3 129:10 165:19,21 224:19 234:18 247:5	285:2 319:6 324:4 328:17 347:5 378:6 385:1 387:22 investments 8:20 25:18 26:22 235:7 257:20 263:13 338:14 412:1 426:22 investor 207:6 211:9 231:15 243:17 247:11 338:9 investor's 169:6 investors 109:13 113:20 133:9 158:13 177:1 209:6 221:5 235:11 243:18,22 244:7,16 245:13 248:17 263:6 325:15 328:16 377:15 invitation 212:11 invite 430:21 invited 430:19,20 431:20 431:21 invoices 368:22 involved 373:21 416:2 448:21 involvement 8:1 inwardly 343:14 Iowa 146:8 147:13,15,15 148:4,4 149:1 171:22 172:2 199:8 IPI 218:16 Iraq 190:16 ironically 117:19 239:12 361:2 irony 259:1 Island 134:17 issuance 389:11 issue 7:2 24:5 43:7 88:11 88:11,22 91:5 106:6 129:12 155:15 164:2 181:11 192:8 195:1 210:20 231:8 237:10 249:1 261:22 264:8 288:2,3,10 290:5,7,9 323:20 324:5 330:21 332:9 333:2 365:11,21 368:22 374:12 381:22 385:9 387:5 416:4,5 424:17 442:14,16 449:3 453:11 issued 31:3 60:16 301:18 355:3 issues 1:3 6:5,22 8:12 9:10,11 10:18 12:18,19 15:22 16:2 20:2 21:10 21:17 22:18 28:5 39:1,1 44:21 45:8 46:6 53:1,9
--	--	---	---

53:18 56:20 63:15 64:16 65:9 66:10 72:19 74:21 86:3 88:3,15 90:21 92:18 94:7,20 99:17 100:2 102:12 119:6 121:3 123:17 137:6 138:16,22 151:6 151:7,17 155:13,14 159:8,13 174:9 177:15 183:14 188:8 201:16 204:15 239:4 254:22 260:7 264:6 296:19 308:11,11 309:2 320:2 330:19 339:11 357:15 362:20 364:4,11 366:1 366:21 367:16 368:21 369:4 370:3 371:4,5 376:7,8 377:8 378:4,16 378:20 380:10 383:5,6 385:22 386:3 388:7,15 397:16 400:10 401:14 402:14 403:18 407:12 410:15 443:12 448:12 449:5 453:12 454:2,3 issuing 389:18 item 231:22 416:6 items 416:14 447:11 iteration 247:11 iterations 309:6 IV 4:2 ivory 193:22	114:5,16 176:14 185:5 192:11,19 351:11 jet 380:21 394:12 Jewel 2:6 14:11,19 Jim 396:4,5,15 438:3 447:21 Jimmy 157:2 job 26:17 28:1 61:12 82:22 102:21,22 103:4 108:2,5 115:11,12 142:3 156:8 168:1 174:15 181:19 182:13 190:7,17,19 191:20 240:19,20 263:3 270:4 274:3 276:8,9 278:3,11 293:15 301:7 304:18 309:12 313:18,18 323:21 359:18 360:2 373:15 411:2 415:19 418:19 421:14,16 423:11,15 443:7 447:6 448:5 jobs 53:7 110:7 113:13 117:13 140:13 148:18 191:16 207:2 211:12 269:21 276:8 277:21 311:10 408:20 418:18 447:7,9 451:12 John 396:7 join 207:2 joined 32:21 98:11 joining 6:4 98:12 267:15 268:5 joint 85:8 jointly 72:19 Journal 252:11 journey 27:8 283:12 judge 333:19 334:6 339:17 judging 19:11 July 253:1 433:13 441:19 445:14 jump 451:15 jumped 48:14,21 jumping 70:3 June 269:5 304:10 313:3 433:5,10 jurisdiction 46:3 Justin 3:2 32:12 70:21 83:10,21 94:8 96:9 106:4 Justin's 106:3	390:19 KCS 200:5,7,12 208:11 keep 9:15 11:6,9 13:8 23:12 36:13 37:14 46:15 52:8 74:17 82:14 91:7 96:3 116:3,3 121:11 122:22 170:17 184:17 191:21 211:12 214:1 216:18 217:5 225:6 226:2,4 232:17 248:7 255:10 259:22 260:18 297:18 306:7 316:1 337:10 361:18 365:7 366:4,12,14 369:14 371:12 375:5 386:4 401:6,10 405:10 406:20 410:1 412:21 428:6 434:8,17 436:6,8 436:8 437:18 443:6 keeping 30:18 102:22 103:5 127:21 215:7 323:11 keeps 52:6 124:1 Ken 402:13 Kentucky 275:16 kept 122:19 180:5 313:9 key 33:22 53:9 59:12 80:9 145:15,18 223:15 223:15 270:13 273:5 276:13 297:21 311:19 322:22 332:13 341:2 364:13 377:7 436:1 kicked 138:9 kid 191:15 kids 96:6 kill 137:3 killed 140:15 164:11 kind 70:6 93:13 96:14 97:2,4 100:8 103:10,10 105:5,10 156:20 173:15 184:17 190:1 219:21 221:6 226:19 241:11 244:1 307:6,6 319:14 321:2 325:4 335:3,4,18 342:1 363:16 381:12 429:5,12 440:7,22 452:12 kinds 19:9 344:16 440:6 king 454:20 knew 32:14 98:11 180:22 304:3 308:9 449:2 knocked 70:1 know 6:10 8:6 10:8 12:10 14:7 21:5,15 27:20 28:16 29:20 39:17 59:7 60:16 65:7 69:20 70:11	70:18 71:6 82:20 83:3 84:1 85:6,7,10,20 86:21 87:3 88:3,7 89:10,14,22 90:1,9,15,17 91:3,5,5,9 91:15,19,20 92:2,21 93:12,13 96:4,10,11,12 96:15 97:3,4,13,14,15 97:16,16 99:4,8 100:20 101:7,13,17 102:4 103:8,14,18 104:7,8,14 105:5,5,7,10,12,13,22 107:3 108:3,3 129:7 141:9 144:4 150:6 152:8 156:11 171:19 174:19,21 175:10 177:7 179:6,17,21 180:3,16 181:6,8,10,14,15,21 182:9 185:17,17 186:3 186:4 189:20 191:5,16 192:6,21 193:16,22 194:4 195:4,5 204:5,11 205:1 212:8,22 217:1 218:14,17 220:10 221:3 225:5,7,22 227:3 228:6 228:12,16,20 229:2,12 230:11,15 231:7,11,13 231:14,16,18 232:3,12 232:13,14 233:6,9,14 233:19 234:13 235:3,6 235:12,12,15,17,21 236:16 237:1,5 238:6 238:12,19 239:12 240:18,20 241:2,9,13 241:18 242:15 243:16 244:12 245:1,2,14,19 246:16,18,21 247:13,15 247:18 248:3,18 249:2 249:18 250:3,7,9,19,22 251:4 252:2 253:3,4 255:3 265:16 266:6,16 266:19 269:14 281:1 282:22 287:2 290:2 292:10 294:11 296:4,21 301:13,15 302:16 304:2 304:5 305:5,9,10,14,15 306:4 307:18,19 308:19 312:2,18 313:11,16,19 314:7 315:8 316:8,11 316:11,11,18 317:2,9 318:12 321:1,3,18,20 322:19 323:5,18 324:17 325:14,18 326:7,7,20 327:5 328:1,9,15 329:14,21 332:5 334:9 334:11,18 335:12,20 336:7 337:4,6,10,10,15
--	---	---	---

338:2,10 339:2,3,5 342:15 343:10 344:12 345:3,7,12,12,20 346:19 352:7,15 353:7 354:11 355:4,15,21 356:7,13 357:11,12 366:11 371:2,9 372:18 373:2,6,8,10,11 374:4 390:21 392:18 393:19 393:22,22 394:2,6 395:6 396:8,12,20 407:4,21 410:12 415:17 415:18 417:1 418:7 419:3 422:5,6 423:6,13 423:14,15 424:11,12 425:4 427:22 428:11 429:10 430:4,5,15,16 431:4,7 435:5 436:10 438:2,20,21,22 439:5 439:11,12,19 440:4,5,9 440:10 441:8,22 442:4 442:17 445:12 446:8 447:5,20 450:7,17 451:3 452:21 453:9,17 455:3 456:2 knowing 112:20 250:13 256:7,9 307:18 knowledge 129:7 154:20 knowledgeable 337:1 known 30:15 40:4 46:2 88:17 112:11 115:8 117:9 118:15 127:18 137:2 152:18 159:8 269:22 414:14 knows 12:19 62:2 69:18 88:17,18 238:3,4 357:17 422:15 knuckles 147:5 275:5 kudos 181:8	298:10 305:5 307:15 311:4,8 339:13 341:18 397:16 398:1 400:16 401:16 402:4 403:2 404:18 407:7 417:22 418:4 419:10 420:4,21 421:8 445:4 446:10 lacing 275:4 lack 35:3 38:22 43:14,15 43:16,17 44:2 56:19 72:15 95:1 148:21 156:17 252:3 366:9 laid 110:20 117:6 372:16 Lakes 316:20 land 15:4 24:13 348:17 Landis 89:12 99:21 lands 389:12 landscape 289:14 lanes 80:12 85:16 392:3,8 452:10 language 163:13 185:16 204:6 lap 134:17 large 21:12 38:18 42:7 50:11 71:14 96:1 190:7 216:17 224:13,18 255:11,14 257:22 263:7 263:16 267:6 276:3 286:12 289:12 329:16 342:1 379:12 387:8 416:13 largely 39:6 158:12 larger 12:13 78:17 161:16 314:15 largest 47:5 53:21 58:5 75:11 79:8 114:18 165:21 269:19 286:5,6 368:2 laser 297:15 lastly 19:22 40:10 78:12 209:6 282:8 288:10 383:20 late 55:1 56:2 69:7 95:12 150:2 200:18 213:17 217:13,19 219:6 226:1 238:8,13 275:10 309:3 326:11 380:2 386:1 395:13 452:7 latest 261:21 launch 295:16 launched 212:21 213:3 276:17 405:12 Lautenschlager 3:4 32:12 71:8,9,12 85:4,5 85:16 law 2:17 8:19 11:13	12:22 86:11 112:10 120:19 126:12 248:9 lay 160:16 laying 162:2 lead 118:5 127:10 131:12 168:21 199:14 231:21 238:7 262:7 266:11 320:21 354:8 396:18 leader 3:4 71:13 127:19 347:11 409:8 leaders 24:17 446:10 leading 10:11 53:2 189:6 200:18 201:11 229:8,17 289:13 375:4 424:3,10 leads 11:18 41:2 209:15 lean 196:12 208:22 leaner 188:20 leaning 7:15 leanness 161:9 learn 33:4 186:10 262:19 309:7 406:15 412:10 413:2 learned 21:1 209:21 320:9,14 322:7,8 406:13 413:14 414:22 415:14 learner 189:19 learning 186:9,10,11 187:5 412:6 lease 74:13 255:16 357:1 364:5 366:19 378:9 leased 67:12 75:2 leases 364:15 389:12 leave 61:11 119:1 156:19 160:18 161:13 357:12 360:2 372:10 391:3 393:13 411:6,9 419:1 leaves 240:21 303:21 416:15 leaving 118:12 279:19 280:8 299:19 Lebanon 402:15 led 34:14 73:11 261:11 270:15 361:2 left 7:15 10:10 24:2 58:8 119:12 132:14 156:22 157:12 169:5 208:16 217:17 305:21 310:4 325:16 359:3,20 372:9 372:16,17 379:3 leg 27:7 191:12 192:4 legal 119:12 168:1 396:6 legally 66:4 legislate 143:17 legislation 26:7 length 123:11 125:22	164:2 169:8 177:4,18 453:10 454:18,19,20 lengths 146:10 147:2,8 147:20 lessen 406:16 lesson 209:21 lessons 320:9,13 322:7,7 let's 32:9 75:10 139:2,2 181:14 196:8 197:18 198:12 213:20 246:18 307:13 334:21 348:12 358:5 443:6 448:19,19 letter 21:6,11 34:9,16,19 34:22 66:13 92:10 156:21 157:1,3 269:5 270:18 430:21,22 letters 63:2 154:15 160:11 178:6 letting 144:15 levee 42:1 level 34:17 57:14 95:10 97:2 105:11 130:17 161:16 179:4 228:12,22 268:17 280:20 318:1 319:15 335:8 341:6 386:4 427:6 441:7,16 442:4 levels 11:7 19:10 39:7,10 40:1 55:21 67:4 74:8 75:18,22 102:7 198:15 199:6 202:18 231:4 245:17 250:10 258:18 260:5 268:14 269:10 363:19 369:2,9 377:10 378:11 381:19 382:15 382:16 383:7 397:20 398:12 400:15,17 401:2 405:5 415:1 423:21 424:10 427:12 438:22 440:22 442:14 leverage 273:7 294:7 leveraged 400:4 leveraging 274:20 278:9 300:5 levied 68:20 lie 448:12 life 53:4 120:20 169:9 184:9 190:20 256:2 375:8 409:5 411:22 421:18,21 life-saving 9:19 lifestyle 190:9 192:2 lifted 381:18 lifting 192:14 light 20:2 29:17,18 84:19 114:12 282:15 289:6
--	--	--	---

390:9 392:18 452:13,14 lights 29:15 248:6 limit 127:3 153:11 154:16 173:4,10,12 175:1 262:1 345:20 447:22 limitation 446:14 limitations 167:4 limited 17:4 75:5 81:18 89:18 124:15 175:22 381:20 389:11 limiting 98:21 154:2 155:7,12,12 169:8 186:1,1 220:8 limits 128:3 154:10 163:21 173:4 175:14,15 187:7 192:15 272:19 line 26:22 40:17,18 51:8 73:2 84:4 95:16 122:8 125:9 126:10 131:21 140:6 146:17,18 165:1 165:5,10,13 166:17 176:12 184:20 198:13 198:19 206:15 207:22 211:7 229:16 255:18 271:1 328:6 332:1,7 335:14 337:17 350:4 352:7 391:18 448:4 455:5 line-ups 162:20 163:3 lines 103:12,13 115:4 134:5,8 143:20 147:7 149:2 174:20 219:17,18 lingo 151:22 link 30:21 111:9 221:7 314:18 links 11:15 164:6,13 liquid 379:11 387:18 liquids 375:15 list 31:7,13 181:21 356:19 listed 194:17 listen 119:19 184:7 213:19 416:9 456:2 listened 350:6,16 listening 28:3 84:16 185:14 352:16 355:22 416:11 417:6 448:18 lists 155:5 literally 125:16 395:17 little 7:14 32:10 52:18 67:19 68:16 70:7 92:14 93:19 99:1 102:19 103:16 114:8 116:15 122:4 134:13 143:5 181:15 193:19 212:15 214:1 215:7 216:3,7	217:1,4 218:3 222:5,18 223:6,13 226:20 227:8 235:7 239:19 240:2 246:5 247:17 252:12 253:17 254:5,19 262:4 284:2 291:10 295:13 303:2 322:12 325:6 334:18 343:9,9 353:12 377:19 392:17 445:10 446:3 live 130:18 281:15 406:15 lives 158:18 186:20 406:14 livestock 16:11,14 33:11 36:15 49:8,13 living 160:6 LLC 2:18 LLP 4:22 5:20 load 36:8 37:10 40:15 41:12,16 153:3,3 205:5 212:18 228:2 259:5 402:20 loaded 36:9,20 48:1,5 80:14 104:17 215:1 228:8 loading 35:22 43:10 loads 55:10 218:16 219:12 260:8,15 261:3 366:12 387:10 439:20 loaf 351:22 local 51:6 145:4,5 151:1,2 151:8 156:19 165:13 250:17 260:1,11 278:12 339:11 386:17 402:14 443:21 447:8 451:19 454:3 localized 279:10,12 location 197:1 198:3 269:4 279:18 360:14,15 360:16,19,22 361:5 locations 73:1,3 139:18 260:3,9 269:13 270:13 272:15 273:12 275:12 275:19,22 323:1,3,6 341:1 369:1 387:11 403:8 411:14 443:11 lockdown 216:10 lockdowns 223:3 locked 237:14,14 locomotive 3:18 75:7 87:9 114:21 127:18 134:21 144:2 148:7,8,9 148:13,21,22 149:4 150:21 152:16 157:22 158:2 159:11 166:18 175:18 177:12 186:8	187:5,17 277:17,19 280:14 304:17 323:22 347:2,15 348:9,11,15 348:19,20 349:3,9 350:9 407:13 419:2 421:15 438:9,11,13 452:22 locomotives 43:15 63:12 70:14 116:10,18 124:14 132:2,22 142:5,7,20 146:7 148:14,16,17 149:3,5,18 170:17 172:8,18 196:2 199:10 250:3,6 324:1 325:11 327:11,12,14 336:8 346:1,2 348:21 349:1,7 349:8 350:11 382:9 425:2,11 439:22 450:13 450:15,16 452:17 453:10 lodging 411:18 logic 210:16 logical 208:10 logistic 289:17 330:12 logistical 77:12 283:6 logistics 4:6 56:20 62:16 62:20 143:8 282:21 385:18 386:6,11,19 387:8 loneliest 87:16 long 20:9 37:17 43:7 44:20 60:12 88:18 111:16,19 112:4 126:4 126:16 136:6,6,9,9,13 137:21 138:6 142:17 158:21 159:21 164:19 164:21 165:1,3,7 171:14,16,19 174:19,22 175:2 177:8,10 179:2 212:10 216:11 218:11 231:21 244:12 247:16 251:13 266:14 304:11 313:6 314:17 320:22 322:10 325:4 335:7,13 335:14 346:6 383:5 395:21 405:7 407:22 447:20 450:2 451:18 455:15 456:8 long-distance 15:9 long-pending 68:4 long-standing 120:2 122:21 long-term 18:7 34:8 72:5 74:20 77:13 85:21 101:17 113:19 188:3,11 189:2 234:20 242:1	243:18,22 245:10 257:20,22 281:5 287:6 329:2,11 376:7 446:16 long-time 156:18 long-winded 114:9 318:4 325:9 326:6 longer 10:12 19:6 25:5 55:8,17 74:12 109:1 123:7 125:10 146:2,19 164:4 175:4,10 184:5 186:4,16 195:11 205:6 221:16 237:8 244:16 259:19 265:18 276:20 306:21 311:5 321:11 367:5 374:5 383:1 449:18 450:5 451:20 452:1 longest 171:18 longing 117:5 look 8:17 13:6,16 27:19 61:22 69:15 72:18 87:1 87:9 99:22 104:8 113:12,14,18 133:15 142:16 153:15 170:4 180:7 213:4,12 219:2 219:12 221:10 224:4,12 225:4,6,15,19 226:8,12 227:4,13 228:5,8,21 229:10,11 230:20 231:18 232:3 233:18 241:8,16 244:19 245:13 247:11,13 266:5,17 302:15 305:22 328:10 330:22 333:21 334:11 335:9,10,17,19 353:8 374:14 388:19 399:3 417:3 421:22 426:21 430:22 431:3,10 437:6 437:12 440:15 442:10 443:10 444:11 445:13 449:9 451:6 453:2 454:9 455:2 looked 153:9 307:19 311:6 333:16 444:14 looking 7:16 47:22 52:7 85:3 105:2 128:7 162:8 175:8 188:11 214:4,11 218:8 227:5 230:1 242:12 246:19 270:7 278:3 301:17 302:4 303:4,5 308:22 312:5 339:2 343:4 345:1,17 345:18 359:11 362:20 373:4 415:12 417:13 422:9 442:22 444:3 445:8 453:7
---	---	--	---

<p>looks 114:2 189:4 199:11 199:16 233:10 290:14 417:1 Loop 4:3 31:15,19 194:15 Los 173:22 lose 153:6 324:6 450:4 losing 120:4 123:9 156:8 157:5 384:11 loss 40:19 110:5 113:13 203:11 208:18 360:8,17 losses 38:2 lost 10:12 38:3,7 56:11 119:16 150:12 372:13 lot 12:21 30:19 70:18 84:9 86:17 90:22 95:22 98:10 99:14 101:13 106:15 114:9 138:20 141:4 143:8 151:12 165:14 171:10 181:1 182:10 184:6,16 186:19 189:21 194:5 214:4 221:4,20 225:5 230:16 241:14,20 246:13 253:3 253:10 294:18 310:22 311:12 314:12 316:8,9 316:10 332:14 342:10 345:11 348:19 357:12 393:21 417:7,19 420:19 445:3 447:9,17,19 451:5 453:14 454:21 456:12,15 lots 337:16 Loucheim 3:2 Louchheim 32:12 61:19 62:5 83:22 92:7 97:19 99:1 100:10 loud 358:21 Louis 142:14 Louisville 56:2 275:15 Loutenschlager 78:21 love 97:20 248:12 288:22 357:4 loved 391:2 low 48:8 125:4 150:4 181:15 198:20 199:1,20 209:6 211:10 350:13 445:14 low-cost 18:5 19:16 lower 10:3 64:12 66:8 74:7 199:17 205:5 207:9 227:1,3 230:13 370:18 371:17 379:22 389:17 447:22 lowering 177:9 300:1 lowest 117:11 lows 199:7,12</p>	<p>lucid 212:5 luck 201:15 lucrative 118:1 lunch 194:10,12</p> <hr/> <p style="text-align:center">M</p> <hr/> <p>machines 104:1 Macon 176:4,7 macroeconomic 297:5 Maffei 28:11 Magazine 36:4 magnet 196:1 199:9 magnified 363:20 magnify 53:12 magnitude 50:3 mail 173:9 main 101:3 140:6 143:20 146:17,18 164:15 165:1 320:18 321:7 375:17 378:19 448:4 455:4 maintain 110:11 168:17 171:20 172:5 276:19 434:15 maintained 51:12 67:12 145:20 maintainers 298:18 maintaining 71:5 407:10 maintenance 39:1 113:6 146:2 148:21 159:12 169:11 313:1 378:1 major 11:22 23:10,17 24:13,15 42:9 107:17 107:17 147:11 161:19 164:9,12 196:14 219:18 219:22 258:9 316:19 356:17 372:21 377:7 majority 39:3 173:7 288:17 398:5 makers 375:5 making 10:9 59:5 66:8 85:11 101:4 121:7,9 158:15 160:22 162:15 167:3 181:7 205:2 207:14 230:18 244:1 254:4 275:18 289:20 302:13 308:3 322:4 323:5,9 324:5 347:5 356:8 366:11 369:21 378:5 389:9 401:21 408:8 411:5 423:16 438:15 444:18 malt 364:13 365:14 366:4 366:15 man 139:9 161:3 353:18 444:2 manage 72:6 76:16</p>	<p>140:12 205:8 232:13 257:4 347:12 348:9 364:3 442:11 management 66:15 127:19 135:2,2,17 154:3 159:6 196:17 197:6 204:19 209:5 211:10,11 244:3 245:22 246:1,8 347:10 349:19 414:2 423:10 management's 162:9 206:9 managements 208:4 manager 206:12 managers 125:9 130:11 161:3 manages 349:5 managing 197:15 232:12 mandate 58:6 230:17,19 250:22 411:7 425:16 mandated 425:20 mandates 133:17 213:7 mandating 169:8 manifest 80:10 283:9 manipulate 131:20 manipulating 127:21 manner 75:15 131:18 267:2 347:14 manpower 120:5 137:6 138:22 155:14 161:7 179:8 360:18 428:13 manual 127:16 manufacture 290:20 330:2 manufactured 56:14 manufacturer 91:17 manufacturers 5:9 33:9 70:13 356:21 375:2,9 manufacturing 53:8,12 54:4,19 363:7 367:18 map 235:4 March 34:9 36:2,5 55:10 74:3 76:4 198:7 200:1 201:5 216:15 236:12 303:8 304:10 405:7 432:5,19 433:4,18 436:22 437:1,3 margin 234:7,7 242:11 marginal 207:19 234:8 margins 15:11 364:10 Marine 134:19 Marines 280:9 maritime 2:9 21:22 23:2 24:7,17 25:13,19 258:21 mark 3:19 26:21 108:12</p>	<p>157:18,22 183:2 marked 155:4,6 marker 346:18 market 10:13 11:1 15:17 24:4 25:21 26:3,3,5,19 27:11,13 37:16,20 38:9 43:18 49:16,17 50:2,19 51:10,11 58:19 67:19 75:2 81:9 93:10 98:18 99:16 101:10 102:12 110:19 121:18 198:11 208:18 212:21 224:12 224:15 239:16 256:18 258:16 259:17 263:10 265:21 266:15 269:14 270:15 276:5 279:20 282:21 293:5,9,11,12 293:15 307:15 311:4,11 313:14 341:18 357:2 369:22 371:12,18 384:15,15 390:6 393:9 398:1 407:7 418:1,4,19 419:10 420:4,21 421:8 422:18 426:10 market's 426:9 market-based 67:21 marketing 4:19 15:20 51:4 268:6 272:8 280:16 284:4,6,16 286:16 318:14 386:12 marketplace 26:11 68:4 327:1 329:3 markets 4:3 14:21 15:6 15:11 35:13 49:2 51:16 61:4 81:14 282:19 295:18 325:20 386:17 386:18 393:4,18,20 marry 241:9 Martin 71:9 Marty 87:14 236:8 265:9 324:14 masks 126:14 406:12 409:22 mass 269:19 270:8 massive 359:17 master 114:22 134:1,6,6 134:22 135:12 141:9 173:16 masters 134:3 140:5,8 match 213:2 276:21 341:7,16 349:2 matched 24:8 material 62:13 200:8 225:2 materials 53:4 363:7,10 369:13</p>
--	--	---	---

<p>math 195:18 197:10 198:6 208:2 mathematically 205:4 Matt 108:12 134:1 matter 43:12 52:14 108:22 127:22 156:7 171:6 175:5 282:11 284:13 286:18 324:10 350:1 425:13 429:19 444:1 447:14 matters 8:1 82:17 151:7 162:15 230:14 381:4 Matthew 3:15 max 221:15 maximize 27:10 43:22 384:20 maximizing 148:6 196:18 maximum 126:11 143:18 145:20 166:17 174:6 349:14 MBA 342:5 McDonough 274:17 McRae 4:11 31:17 253:19 254:19,20 255:4 265:20 357:10,19 mean 50:13 66:20 83:22 84:3 90:14,18 91:12 97:12 101:3,17 147:3 153:3 170:14 171:16 186:9,13 187:21 190:12 191:14,18 193:3 236:15 244:4 245:11,19 246:14 265:19 288:20 302:4 312:1,18 321:5 322:1 324:19 325:2 328:20 330:7,12,17 373:2,18 374:10 387:13 394:6 426:20 444:2 451:22 454:21 meaning 45:1 151:9 332:12 meaningful 9:11 25:18 59:16 61:14 66:4 270:16 means 22:19 24:22 26:11 56:10,12 139:22 149:12 153:12 154:21 161:9 163:5 170:10,12 176:7 176:8 195:18 313:7 329:6 330:4,14 385:8 meant 44:19 112:16 142:4 145:19 240:20 385:7 measure 42:21 86:22 107:10 373:9 424:1 measured 263:19</p>	<p>measurement 246:4 measurements 145:18 335:10 measures 58:9 169:14 179:10 262:3 307:4 334:13 335:6 401:8 406:2 408:3 409:9 417:2 mechanical 308:13 440:2 mechanisms 68:3 127:15 media 408:14 medical 9:20 118:21 119:1 419:16,17 434:15 meet 15:14 39:22 58:7,15 64:20 74:1 75:16 76:8 76:20 77:20 78:14 125:2 126:3 131:18 143:21 188:4 268:14 269:4 272:11 279:18 288:11 289:2 291:21 320:16 321:15 385:2 393:2 395:5 410:11 423:12 454:16 meeting 44:17 125:19 177:1 264:20 405:1 meets 273:4 mega 164:8 melt 204:1 meltdown 196:8 197:11 237:14 meltdowns 111:13 112:5 melting 354:19 member 35:11 36:12 38:2 53:14 55:4,19 56:4,16 56:21 62:3 86:9 87:7,14 88:13 89:9 90:2,6,12 91:2,18,21 93:22 95:11 98:8,9 101:22 156:6 183:6 185:11,21 187:19 189:19 236:8 238:14,17 240:7,11 241:22 252:8 254:14 255:2 265:2,7 290:7 319:20 322:9 324:14,17 325:2,7 326:5,17 327:21 330:20 330:22 333:3,11 337:15 338:20 339:18 357:3 358:10 360:11 390:20 391:15,21 392:12,13,14 396:9,11 413:8 420:6 421:7 422:19 423:1 427:14 428:17,20 429:4 429:21 430:10,14,20 431:1,5,9,13,16 442:2 451:14,18 453:8 member's 35:8 92:2,14</p>	<p>375:13 members 3:14 6:6 8:10 10:7 14:1,13 22:12 30:13 31:17 35:6,14,15 36:1 37:18,21 38:5 40:12,15 41:1 42:17 44:22 46:4,7 47:7 52:8 52:13,21 53:3 55:2,13 56:11 57:2,10,13,15 58:5,8 61:20 62:21 63:4 63:18 64:19 65:19 69:22 79:1 80:7,20 87:3 89:5,11,21 90:9 92:12 92:15,17 93:6,7,11 94:11,13,13 95:22 99:5 100:20 102:12,19 103:4 103:6,9,15,19 104:14 104:19 105:22 108:4 114:6,10,20 115:11 116:5 117:9 118:20 119:1 120:14 125:21 130:4,6 132:12 133:7 133:21 145:2 150:17 156:19,21 157:20 160:4 162:9 164:11 170:8 174:16 179:5,13 180:7 180:8 182:17 233:7 254:21 267:18 273:9 280:5 313:20 356:17,22 357:15 360:6,8 362:14 362:16 371:22 374:20 376:4,11,19 377:20 378:5,9,14 379:10,19 380:6,20 381:5,7,12 382:5,12,20 385:14 393:3 397:3 402:7 404:9 412:8 membership 33:8,14 119:9 Memphis 365:21 men 117:5 120:11 123:20 mention 31:14 138:1 396:3 438:1 mentioned 14:5 65:11 76:11 83:10 95:5 99:21 176:14 183:10 251:12 275:17 280:6 318:7 327:12 347:2 360:7 367:17 411:12 413:21 420:6 421:21 438:3 444:9 merchandise 143:19 334:14 merely 314:16 merger 9:2 358:17 mergers 51:8</p>	<p>merit 251:5 message 21:19 24:17 106:17 131:8 189:17 236:3 358:21 messages 356:11 met 126:11 402:1 metals 212:20 308:3 metered 23:20 111:16 metering 112:2 method 15:8 165:14 methodologies 427:4 methods 19:16 50:16 314:7 407:14 metric 48:9 138:17 176:22 222:3 342:13,22 343:22 345:11 metrics 12:7 42:20 77:14 86:19 87:10 125:1 141:18,21 176:15 177:2 213:5 219:11 222:9 223:14 227:5 229:6 233:10 240:13,15 241:5 242:16 249:21 295:15 333:14,16 398:20 399:11 425:17 445:12 Mexico 386:19 mic 144:17,20 172:4,7,16 172:21 173:2 174:11 178:13 182:6 193:7,11 226:17 232:21 324:9,15 327:21 330:21 332:19 385:12 392:12 426:19 Michael 2:13 28:17 94:8 354:7 442:9 Michelle 94:4 313:20 micromanager 415:4,5 microphone 13:19 22:2 30:7,10 254:3 microphones 30:3,5 mid-2019 295:9 mid-career 119:17 mid-February 200:7 middle 63:20 65:22 66:3 113:13 136:18 172:9 306:7 Midland 142:9 midst 388:18 Midstream 5:11 375:1 Midwest 35:16 79:22 199:7 migrate 263:17 migrating 259:3 Mike 32:18 91:20 92:1 mile 20:3,3 43:4,4,8,13 44:4,4,8,8 59:17,17 81:21,22 86:19,19</p>
--	---	--	---

105:4,4 106:6,6,14,14 137:11 164:19 171:16 173:4 192:14 240:21,22 263:20 345:20 347:9 362:10,10 370:4,4 373:8,9 383:4 402:6 416:22,22 448:12,12 449:9,10 453:15 miles 127:1,5 138:7,13 140:18 144:6 152:14,18 153:1,5,8,13 164:6 171:15,17 173:1,3,13 224:21 227:9 345:4 347:16,19 350:12 353:3 353:5 383:9 399:6,19 425:4,4,5 milestones 276:13 military 190:8 mill 352:2 millers 33:10 million 33:17 38:9 47:7 53:7,22 100:3 165:19 269:20 270:4,7 353:3,5 365:4 368:1 375:13,16 394:3 millions 38:3 356:8 mills 36:14 37:2 47:15 49:3,9 mind 30:18 34:8 127:12 180:3 187:18 189:15 216:18 217:5,6 260:18 333:15 339:9 340:6 354:9 355:22 401:10 410:1 447:15 mindful 230:4 244:16 minds 118:7 mindset 188:22 mine 20:22 226:3 minefield 201:20 minimizes 166:10 minimizing 299:2,13 minimum 49:14 82:14 120:19 148:16 277:8,18 303:12 382:16 mining 212:20 Minneapolis 135:5 minorities 189:21 190:4 minute 29:16 31:8 108:9 108:22 254:12 312:18 353:16 354:12 356:14 minutes 138:5 162:7 259:10 271:12 292:6 304:14 370:21 371:1 398:6 mirrors 42:10 118:4 misconception 163:4	misdiagnose 296:9 misdiagnosed 308:8 mishandled 261:4 mismanagement 161:18 161:21 179:7 mismatch 35:1 missed 55:9,18 319:19 342:12 360:9,12 361:1 378:2 453:17 misses 417:10 missing 312:9 388:2 mission 289:14 330:10 337:20 Mississippi 331:7 Missouri 148:4 171:22 mistake 185:14 294:3 380:12 mitigate 262:13 mitigating 266:21 383:6 mitigation 405:13 432:11 433:21 435:16 mix 96:18 243:3 334:19 335:2 mixed 96:11 352:4 mobile 412:3 modal 259:9 mode 62:15 199:9 200:21 294:12 model 131:4 159:8,22 160:17,21 166:15 168:13 189:4 205:20 296:7,12 376:13 377:6 399:11,17 model's 159:1 modeling 271:18 models 158:9 293:22 294:1 moderated 215:6 modern 375:8 modernized 412:3 modes 55:3 56:22 257:5 259:7 363:3,17 modest 299:15 modifications 31:12 69:13 modify 22:16 111:19 Molson 5:6 362:22 363:1 364:12,15 366:2 372:22 374:8 molting 365:18 mom 191:15 moment 175:8 251:8 312:19 326:9,19 403:21 momentarily 132:16 momentum 153:7 407:1 Monday 95:9,19 181:13	181:20 money 125:12 141:4 207:14 208:22 314:12 315:5 318:2,15 329:10 434:4 436:9 monitor 87:10 219:21 222:3 monitoring 339:4,8 371:14 382:15 monster 147:16 monsters 143:22 Montana 140:15 month 11:20 65:2,7 78:9 98:16 118:19 143:7 156:4,5 182:22 184:3 197:8 201:1 238:11 239:18 246:19 270:5 304:6 310:19 313:5 323:15,15 365:20 367:14 387:15 394:4,7 403:5 405:15 411:17 417:10,11 433:19 436:8 monthly 227:20 months 15:18 21:11 48:6 55:14 72:10 74:9 76:13 77:4 82:21 96:11 98:4 98:11 100:9 101:11,17 128:20 147:14 156:20 182:22 183:2 184:4 186:8 202:17,19 207:8 227:17 231:9 239:15 244:8,9 249:19 251:3 265:18 266:13 271:16 273:20 274:9 276:15 279:10 286:4 291:10,22 295:16 304:16,16,20 311:7 315:11 322:21 351:2 352:13 361:7 366:16 367:3 372:3 418:10,11 423:19 424:11 425:13 436:9 444:7 monumental 388:15 morale 150:3 Morgan 4:5 31:16,19 194:16 morning 6:6 7:20 8:8 14:11,12 21:18 32:6,18 46:21 59:19 71:10,11 95:14,20 114:9 150:16 157:22 245:16 274:8 314:1 346:9 351:10,15 355:2,6,9 446:11,11 449:14 456:11,19 mothballed 382:7 mother 52:6 191:8,10	motivated 268:16 mount 162:15 mountain 140:8 mountains 137:10 348:14 348:16,21 mounting 10:18 275:3 move 10:2,20 15:5 17:6 20:11 24:19 28:8 37:14 40:22 41:19 43:8 51:3 58:19 59:20 60:7 64:1 71:16 72:16 79:16 99:13 100:14 104:15 106:17 126:1 128:4 131:17 139:5 140:8 175:3 195:19 197:18 199:3 213:15 219:16 221:13 222:10 226:20 229:22 238:1 245:22 246:1 253:19 267:12 283:3 294:13 297:7 307:3 322:11 348:10 351:1,8 353:21 367:7 371:18 383:7 387:16 390:4 403:10 410:3 416:21 449:17 moved 31:18 51:2 83:19 99:19 104:17 139:17 151:1 172:13 243:7 246:3 280:16 306:19 375:18 389:10 movement 8:15,16 16:6 24:21 35:8 47:9 151:18 168:2 movements 48:7 260:11 264:9 moves 62:19 326:20 moving 9:16 10:10 11:10 13:9 27:17 48:11 57:9 60:12 62:13 73:13 74:5 80:18 86:4 116:4 126:16 167:11 213:14 213:21 214:1 216:12,16 218:18 225:19 227:19 228:9 240:1 245:18 246:15 294:5 329:13 331:6,11 335:3,4 365:1 371:12 375:6 389:6 406:20 419:8 449:1 multi-fold 50:17 multi-layered 35:15 multi-national 356:20 multiple 56:17 80:16 111:12 147:17,22 163:14,20 164:10 166:19 219:4 261:1 349:4 401:20 419:19
--	---	--	---

<p>municipalities 256:5 266:4 mutually 326:2 mystery 111:3 234:2 mystified 342:4 myth 169:19</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>N 6:1 nail 236:21 name 32:18 46:21 71:12 79:6 114:16 133:22 143:20 145:3 150:17 157:22 193:10 262:17 267:21 280:6,11 301:20 362:22 372:1 374:22 385:16 397:7 443:18 named 160:15 nameplate 393:17 narrow 64:9 167:18 NARUC 199:5 nascent 25:7 Nathan 396:6 nation 24:11 159:2 167:2 168:15 nation's 9:7 25:14 33:12 35:3 79:15 81:11 116:14 130:4,8 157:15 158:8 159:7 169:22 national 2:11,14 10:1 32:20 34:17 90:2 119:5 121:4 124:9 133:19 158:1 168:5 189:10 247:14 262:12 268:11 277:14 279:2 400:15,19 nations 26:21 natural 198:12 216:17 218:7 232:5 242:17 375:14 naturally 309:13 310:4 454:21 nature 52:6 112:15 202:9 navigate 30:1 201:21 213:21 217:6 navigating 8:22 near 49:20 75:17 103:18 248:14 260:9 376:8 386:3 393:1 nearest 139:19 nearly 47:6,11 48:15 79:10,19 159:16 255:22 260:13 262:21 270:4 397:9 436:22 Nebraska 36:6 199:8 necessarily 97:6 174:20 215:9 253:6 356:3</p>	<p>417:7 443:18 444:16 453:11 necessary 52:9,11 82:4 119:2 122:9 132:13 209:22 263:13 279:21 297:18 409:14 need 11:9 12:13 16:12 24:18 26:17,19 29:12 39:22 46:1 51:17 59:8 62:21 64:1,18 74:7,13 74:17 76:18 77:20,22 82:9,18 93:8 97:21 99:7 101:6,7,15 103:2 113:11 118:11 137:4,14 139:4,16 143:22 144:1 149:6 150:10 169:6 180:16 188:3 190:21 196:6 197:12 198:8 202:18 207:3 210:20 211:14 220:19 222:8 232:10 235:4,4,5,8 237:10 239:10,20 244:8 244:13 247:3 251:2 262:14 269:13 272:10 279:8 282:22 283:5 285:10 290:4 292:15 305:13,14,14,15 312:9 322:11 329:7,8 334:17 336:5 337:12 339:20 344:2,3 345:6,12 353:16 357:7 365:11 370:16 371:16,17 373:3 373:11,13 374:11,16 387:14,22 388:10 395:1 395:21 407:8 410:22 414:22 415:4 424:11,20 425:10 428:14 429:7 430:9 439:16,22 441:1 441:6,19 442:6 445:2 448:1,16 449:9 452:18 454:5 455:6,8 needed 9:21 31:11 44:14 64:8 67:22 69:2 72:4 75:14 109:20 123:12 131:13 132:18 142:7 143:4 307:9 349:2 356:11 365:13,17 369:22 370:4 372:11 384:3 399:8 408:2 443:8 needing 36:11 118:20 needs 24:11,20 60:16 64:20 72:6,10 76:14 84:11 97:18 98:2 112:19 124:20 142:16 188:5 204:9 205:18</p>	<p>211:20 256:20,21 271:14,21 272:5,12,22 273:2,7 275:12,20 279:10 283:13 321:15 322:18 328:13 340:7 341:7,17 388:19 389:21 401:22 402:9 405:2 410:11 415:21 422:8 423:13 437:20 442:21 444:8 446:21 452:5 negative 200:16 381:6 negatively 63:17 145:11 145:17 148:19 168:7 350:19 364:11 381:15 393:8 negotiate 313:13 negotiated 155:17 363:14 negotiating 119:5 121:4,4 negotiation 377:19 neither 112:12 nervous 93:19 nervousness 100:5 net 58:14 77:21 198:10 208:3 305:21,22 313:7 323:15 network 6:13 25:20 47:8 48:11 56:7 57:16 59:4 69:1 78:5,8,10 88:17 101:16 109:12 110:8 113:20 154:4,6,8 158:19 164:3,10 166:18 174:1,8 195:9,20 196:1 196:4,13 197:1,14 199:9,15,19,22 200:5 200:20 201:5 202:12 227:12 228:13,14 229:13 235:5 237:15 261:5,8,20 270:17 271:8 272:7 275:14 279:7,14 284:7 286:14 292:14,17,22 293:2,8 295:3 299:6,11 300:11 300:13 302:10 316:21 321:12,14 323:2 324:21 334:17 335:18 336:9,11 336:14 337:6 341:4 346:15,19 347:4 348:12 349:21 352:8 375:10 376:22 378:19 379:1,9 381:19 384:1,5 385:7 386:11,19 400:12,15,19 400:20 401:12 415:9 443:8,16,17 449:2 450:2 454:14,16 network's 232:6 network-wide 339:10</p>	<p>networks 10:6 50:10 69:19 205:4,7 208:13 218:1 229:4 237:13 255:13 336:14 454:21 never 16:17 35:9 49:3 61:15 67:1 70:15 120:6 138:13 155:21 166:22 187:17 191:9 226:7,8 266:7 293:8 304:13 368:14 384:1 407:10 418:4 441:9 447:15 new 11:21 54:9 59:10 67:2 78:9 109:15 117:22 119:18 129:16 131:7 149:7 155:16,18 156:4 157:9,11 160:19 160:19,21 169:10 177:9 186:2 187:4 192:1,4 209:3 220:3 271:2,15 273:21 274:13 275:16 276:22,22 278:16 294:6 298:1,7 304:17 318:9 318:16,16 323:10 328:11,12 332:18 336:8 337:19 351:3 355:19 362:9 379:10 387:21 389:11 399:10 407:9,14 407:19 408:3,5 409:21 410:2,18 411:16 417:21 420:7,12 newest 98:9 newly 40:8 277:7 news 51:7 54:17,18,20 200:2 226:1 307:8 315:17,18 355:13 newspapers 278:12 NFGA's 32:21 33:14 NGFA 28:17 33:5,20,22 35:8,10,14 36:12 37:17 37:21 38:1 40:12,15,22 41:8,19,21 42:4,12,19 43:2 44:7,9,21 45:18 46:7 86:18 95:1 NGFA's 34:9,10 41:3 night 216:13 278:1 366:3 373:20 456:13 nightmare 128:9 nights 181:21 422:4 nine 80:17 149:16 157:11 199:21 231:9 276:15 360:13 361:6 no-brainer 249:8 non-ag 39:20 non-captive 258:13 non-competitive 93:9 non-plussed 342:1</p>
---	--	---	---

<p>non-PSR 205:16 Norfolk 4:15 56:1 128:19 175:19 184:15 197:19 199:2 201:13 229:10,21 231:3 254:11 267:12,20 268:1,9 270:8 277:7,17 278:13 280:7 281:3,8 281:16 285:3 286:22 290:10,13,19 291:9,10 291:17 292:8 295:7,14 297:14 300:3,9,13 301:17 302:14 309:4 316:18 319:21 329:7 337:19 344:9 norm 207:6 normal 11:7 66:4 74:8 200:19 238:12 321:3 359:22 369:2 379:4 381:19 normalizes 401:1 normally 147:10 north 3:4 36:5 38:16 71:13 94:22 144:19 158:5 211:2 255:14,19 264:10 363:2 northern 134:2,4 144:3 150:18 261:14 notably 402:8 notch 152:19,19 153:2,6 153:14 154:10,16 185:22 187:7,9,15 note 30:10 39:11 259:13 261:4 noted 31:2 90:10 91:20 269:5 270:18 notes 167:8 354:12 notice 13:22 22:16 163:9 198:22 260:20 262:4 377:18 388:20 390:11 409:1 noticeable 258:8 noticed 147:3 noting 66:18 71:1 notorious 127:20 November 33:20 199:21 243:14 NPRM 362:7 NS 73:5 111:1,17 128:20 159:15 160:12 163:15 166:16 175:22 198:7 238:9 254:1 295:6 299:6 300:2 305:9 314:22 320:12,15 331:22 333:12,17,20,22 350:18 351:9 353:3 365:7,20 391:19 440:14</p>	<p>NS's 297:21 NSF 110:22 111:16,19 NSF's 166:6 nuance 343:9 number 15:19 17:1,5 39:19,21 40:1,6,7,10 41:22 42:13 48:4,11,13 48:20 50:11 53:10,14 68:2 75:13 77:18 78:8 80:6 82:16 87:16 88:4 92:19 110:13 115:10 122:18 124:4,13 133:4 148:16,17 154:22 160:4 183:13,21 188:18 192:11 201:1 202:16 203:14 204:6,14,17 208:20 209:2,20 210:2 224:18 230:3 235:18,19 239:10 241:1 269:3 279:17 297:20 303:12 305:18 306:4 307:12 308:12 309:9 310:2 322:11 324:22 334:2 335:10 340:6 341:12,13 341:21 344:5,6 363:14 373:5 379:8 381:1 386:1 418:21 424:18,19 428:18 429:1 430:4 435:12,15 439:14 440:3 441:1,2,18 442:4,18 444:14 449:4 450:5 453:1,10 numbers 43:6 103:1 143:1 154:16 155:19 179:22,22 224:12 235:17 270:14 276:4 302:3 303:4 305:22 311:18 312:5,16,22 313:1,9 342:11 352:14 353:8 360:2 369:9 404:2 407:5 410:8,22 415:3,5,8,9 417:12 423:17,22 431:11 435:5 435:7 436:21 437:10 438:2,4,6 439:6,7,12 440:16 441:7 442:10 443:7 445:9,16,18,21 451:6 453:4 455:10,12 numerous 261:6 286:1 360:5 361:5 380:22</p> <hr/> <p style="text-align: center;">O</p> <p>O 6:1 o'clock 373:19 O'Malley 5:13 354:6 385:13,16 390:18</p>	<p>392:13,16 oath 252:18 Oberman 6:3 8:10 13:13 13:18 14:13 20:22 22:11 23:1 28:1,12 32:7 33:3 34:10 46:12 52:15 61:18 70:21 78:20 82:11 84:15 85:13,19 86:8 87:12 94:2 98:3 106:10 108:16 110:1 114:4,10 133:20 144:17 144:20 145:2 150:14,16 157:17,20 170:5 172:4 172:7,11,15,21 173:2 173:11 174:11 177:6 178:4,13 179:12 183:4 185:4,9 189:16 191:4 192:9 193:7,11,18 194:13 212:2,14 226:17 232:21 236:2 240:8 243:11 245:11 248:5 249:9 251:7 252:18 253:9 254:20 264:22 267:9 301:11 302:7,20 311:19 312:21 324:9,12 331:19 332:10,19 340:2 341:11,22 342:9 344:21 348:4 350:21 354:1 355:10 356:5 358:12 362:19 374:16,20 385:11,13 390:17 392:10 394:21 396:12 397:2 404:9 413:4 431:14,18 432:17 433:3 433:17 434:16 435:2,9 435:18 436:13,17 437:11 438:17 440:8 444:21 449:13 451:17 455:7 object 148:15 objections 66:6 obligation 18:4 19:8 44:17,19 112:12 113:2 380:4 obligations 70:16 132:19 158:17 167:2 384:22 observation 265:8 352:19 395:3 observe 28:4 observed 265:11 observers 245:19,21 246:1 obstacle 47:18 obstacles 282:11 obtain 19:17 384:7 obtaining 195:10</p>	<p>obvious 48:2 obviously 14:2 57:14 195:16 198:19 205:3 214:16 215:8,17 216:9 220:4 222:21 223:21 225:13,16 227:9 230:8 238:1 325:22 339:6 359:14 387:15 388:14 392:20 427:14 occasionally 138:8 occasions 80:16 360:20 360:20 occupying 36:9 occur 77:7 127:13 259:13 350:15 401:15 442:21 453:12 occurred 84:7 117:20 321:22 359:18 occurrence 361:15 occurring 361:15 390:3 ocean 253:4 363:3 October 74:3 198:5 odds 380:5 offer 19:19 176:22 313:17 339:14,15 349:17 419:14 421:2 offered 269:12 279:9 313:11 436:1 offering 206:6 278:16 289:16 408:12,19 411:4 412:3 offerings 412:2 offers 277:15 278:4 419:13,20 office 2:17 184:2 210:7 officer 2:14,20 4:17,19,21 5:13,19 32:20 150:22 151:5 268:1,6,8 291:6,9 385:17 398:9 officer's 193:10 officers 130:18 140:21,21 184:21 offices 50:20 offline 332:22 offset 197:12 198:9 223:22 239:11 411:19 offsetting 237:19 offsite 80:15 oh 84:11 192:22 253:20 355:13 426:4 Ohio 270:21 275:21 oil 33:10,17 36:21 37:2 375:14,17 386:21 387:3 388:17 389:11,20 OJT 421:1 okay 21:21 46:18 83:15</p>
--	--	---	--

90:12 96:9 100:5 101:2 141:4 182:20 183:19 194:21 197:18 198:12 212:7 213:16,22 214:1 247:18 325:8 326:5 358:7,8 418:5 439:4 447:3 454:12 Oklahoma 151:11 191:19 old 134:16,16 155:22,22 173:21 191:8 192:3 294:15 oldest 158:4 Omicron 200:19 onboard 273:21 276:3 311:2 336:8 onboarding 274:6 once 40:4 64:10 117:12 123:8 127:4,6 153:10 160:7 197:15 203:6 310:3 377:10 381:18 423:13 434:3,6 436:7 one's 110:2 388:20 one-way 214:7,20 ones 103:7 138:21 149:5 155:6 169:10 173:9 175:10 227:6 246:10 319:12 ongoing 54:21 74:20 121:5 158:8 258:20 online 17:1,6 170:22 176:1,4 183:17 347:6,8 348:20 349:11 350:10 350:11 351:3 421:22 453:1,4 onramps 235:5 onset 269:6 onsite 17:19 140:12 260:8 onward 228:15 oops 231:11 op's 366:6 open 20:10 116:3,19 121:12 216:22 258:3 410:16 448:20 opening 6:7 28:3 32:3 418:18 openings 270:4 276:9 openly 254:17 267:6 282:6 357:22 opens 147:6 operate 15:10 40:9 58:11 73:20 78:5,7,10 104:1 109:21 110:11 116:21 128:6 135:8 142:18 146:8 148:7 162:19 167:11 172:19 188:19 225:11 264:4 303:12,17	347:19 350:20 386:18 426:3 operated 112:16 145:14 149:2 171:19 189:6 327:8 387:1 425:18 427:3,5 operates 166:16 operating 4:17 5:13 33:6 38:4 43:22 49:5 58:14 58:14 75:9 84:4 87:3 111:7 114:20 116:8 117:11 125:3,4,22 148:18 159:18 163:5 166:20 170:18 205:20 207:7,11,16,20,22 208:21 209:3 210:2 211:3,7,11 234:12 242:3,3 247:4 250:19 260:21 261:9 268:8 291:5,9 293:22 294:1 295:8 296:7,12 298:22 300:15,19 303:11 305:4 305:7 322:16 328:1,2,3 328:5,7 333:1 335:16 340:17,18 341:7,15 364:10 376:13 377:6,9 377:11 382:19 385:17 399:17 400:18 405:4 415:18,21 416:1,12 426:3,4,21 427:2,5,12 428:7 442:5 450:22 operation 145:15 262:17 295:2 296:3 300:20 operational 58:16 63:14 84:12 92:17 97:21 104:11 110:9 159:18 164:4 180:10 261:13 294:7 341:17 380:10 399:9 406:4 operations 5:17 15:6 16:11 36:15 37:7,10,15 37:22 42:19 44:13 49:8 53:12 70:8 72:14 73:16 129:9 159:6 179:14 188:21 197:5 202:1,4 236:13,18 246:15 249:11 268:22 272:8 284:1,8,14,17 286:16 286:21 295:20 301:4 316:7 341:14 369:17 376:16 378:2 382:11 386:9,13 387:3,16 397:8 402:17 operator 207:18 opine 168:6 opinion 150:10 184:18	232:2 309:2 opportunities 71:20 277:3 297:4 324:22 411:10 418:18 426:7 opportunity 8:9,13 13:1 13:11 14:15 15:1 20:15 20:20 22:7 27:19 71:18 78:18 92:3 105:13 109:15 114:11,12 121:6 122:5,11 133:15 157:21 170:3 188:15 189:11,14 194:22 224:5 225:1,1 255:1 266:1 267:19 269:12 280:1 281:2 282:18 291:2,15,21 339:14 354:10 374:21 385:14 390:13 397:3 405:17 409:7 411:8 413:6,20 opposed 27:10 opposing 164:19 optimal 74:8 262:17 optimism 376:15 optimistic 240:2 398:12 optimization 293:1 300:12 optimize 205:8 295:19 optimizer 127:19 347:11 351:19 424:22 447:13 450:9 452:2,10 optimizing 352:1 400:19 option 50:22 119:12 209:18 210:12 277:12 398:4 options 49:11 61:3,14 85:7,7 89:17,18 120:15 209:17 376:6 381:21 420:21 421:8 422:6 OR's 243:15 248:10 orange 142:22 orchestrated 62:16 order 31:4 45:15 46:18 82:13 119:14 127:3 175:10 253:1 273:21 274:16 315:3 325:21 327:2 357:3 393:1 426:14 428:14 453:6 ordered 119:14 ordering 317:18 368:2 orders 16:4 45:13 48:12 48:14,16,21 49:1,14,17 50:11,13 69:9,11,20 83:11 145:21 173:5 175:11 organization 47:5 169:16 169:17 265:19 284:14	335:16 341:20 357:3,20 413:18 416:13 organizational 283:22 organizations 34:17 71:1 76:7 400:16 organize 402:18 oriented 282:19 origin 36:7 80:19 85:8 original 35:19 36:10 55:16 originally 212:19 Orleans 332:18 Ossenbeck 4:6 31:16 194:11,15 212:7,15 226:18 234:22 239:16 241:7 242:14 244:15 247:9 250:1 252:22 ostensibly 263:6 ought 59:20 351:13 450:22 outages 75:6 outbound 16:19 37:4,7 366:20 outcome 167:10 outcomes 113:12 outdated 68:2 383:16 outdoor 303:17 outdoors 277:22 outlier 207:16 outliers 245:20 outline 53:17 58:21 outlined 187:21,22 297:19 334:2 339:5 outlook 223:18 336:17 outpacing 263:10 270:6 output 260:17 outrageous 66:7 outreach 298:20 outs 36:8 outset 13:20 14:6 265:1 outside 32:21 124:4 133:9 286:14 438:19 outsider 122:7 outstanding 191:18 over-burdened 257:2 overall 54:19 96:14 102:16 128:5 183:1 227:12 228:14 270:9 275:13 292:16 311:18 323:2 334:21 335:18 345:14 352:10 375:22 401:11 410:22 412:12 overburden 12:16 overburdened 259:5,17 overcome 203:2 282:12 408:1
---	--	---	--

<p>overdue 48:17,17,20 60:12 414:6 overhead 382:2 overlapped 233:2 overlooked 32:8 416:6 overly 258:10 262:18 380:11 overnight 12:21 95:13 101:19,20 177:17 178:3 oversee 22:20 oversight 10:2 13:19 44:5 68:3 131:13 268:2 oversimplified 195:18 oversized 74:22 overstressed 294:21 overtime 125:13 196:18 overview 72:22 145:6 397:22 owned 19:21 60:6 67:12 246:17 383:12,14 387:1 owner's 249:2 owners 246:17 247:7 370:7 ownership 67:7,9,17 68:12 383:15</p> <hr/> <p style="text-align: center;">P</p> <p>P 6:1 99:8 p.m 31:8 456:21 pace 23:12 201:17 218:5 239:9 367:22 368:4 Pacific 16:22 23:21 26:7 141:22 165:22 227:10 291:14 371:13 391:8 package 363:9 packaged 71:15 329:15 329:18 330:1 packed 29:3 packet 149:7 padding 209:22 257:8 264:16 page 233:11 pages 149:7 paid 38:12 161:12 204:9 221:5 276:13 278:9 433:1 436:14 pain 356:2 painful 115:18 197:9 198:6 263:11 309:19 painfully 371:4 pains 399:10 paint 142:22 168:18 painting 288:13 paints 209:14 pair 215:19 paired 232:6</p>	<p>palpable 107:18 pan 83:12 pandemic 7:13 9:17 10:15 24:15 47:20 59:1 63:16 109:17 110:22 115:5 122:3,5,15 159:2 159:5 179:17 188:7 251:18 269:7,14 278:22 286:3 293:10 295:17 298:12 302:16 303:9,13 303:22 304:5,11 307:17 359:14,19 389:4 397:15 399:14 400:5 403:20 405:6 406:3,14 407:5 414:9 418:8,22 423:6 427:19 428:8 432:4 437:14 440:18 441:13 445:19 pandemics 306:6 panel 2:2,10 3:9 4:2,8,14 5:2,15 28:9,13,16 30:18 31:6,14 32:4,8 33:1 82:15 83:5 88:8 89:9 94:4,9 108:10,17 183:7 194:14 250:2 254:10 290:6 298:9 354:2 370:22 374:18 383:16 394:22 396:3 455:8 panelists 79:3 386:2,2 panels 30:19 31:5 panic 128:8 paper 47:15 192:17 280:9 349:10 par 61:2 paragraph 236:17 parameters 224:16 paramount 162:20 parcel 212:18 363:4 pardon 313:22 Paris 329:19 parked 428:5 part 9:22 11:11 21:12 32:22 46:9,13 90:1 114:2 127:14 147:5,11 152:9 160:14 182:8 183:13 187:12 189:9 193:4 197:15 200:11 216:15 218:4,6,7,17 223:12 225:2 244:14 255:11 287:19 290:22 302:13 317:1 318:14 319:4,10 328:14,15,17 333:18 340:16 348:12 375:10 377:3 419:15 443:17 448:18 partial 360:20</p>	<p>participant 14:5 38:10,12 participants 413:5 participate 212:1 277:13 participating 14:3 participation 7:6 25:4 particular 54:14 60:11 65:4 95:2 180:11 225:5 236:12 331:2 333:15 335:19 348:9,10 349:14 393:2 particularly 6:15 10:20 13:4 45:16 72:9 82:21 83:9 86:2 89:16 99:8 100:15 103:12 177:14 179:16 272:13 276:10 316:8 350:8 383:4 415:17 446:17 449:19 453:17 454:22 parties 29:6 123:2 385:6 partly 97:13,13 393:15 partner 33:15 52:5 317:3 329:5,6 367:1 400:17 partnering 401:15 402:4 partners 289:22 partnership 13:6,16 33:19 34:5 224:20 405:11 parts 202:2 236:14 271:8 311:1 335:12 349:4 party 386:22 pass 146:21 164:16 174:5 280:3 319:16 419:17 420:16 passage 384:2 passed 38:13 59:8 167:14 248:9 296:17 passenger 8:15 13:2,7 passengers 140:15 passes 19:12 143:21 passing 125:17 126:2 263:9,14 passion 319:15 374:13,17 passionate 291:3 passionately 328:19 Patelli 396:7 path 109:16 112:5 137:13 137:18 170:2 359:7 362:13 pathway 317:9 patient 353:10 395:9 Patrick 86:8 236:6 240:9 240:17 246:3 353:17 442:1 Patterson 4:4 31:15 194:11,15,19 234:4 237:12 238:16 239:5</p>	<p>240:17 242:9 244:6 246:16 248:20 250:17 251:11,17 252:16,19 Paul 146:18 pay 15:15 19:5 40:18 41:13,15 50:2 64:22 102:4 107:5 121:10 125:15 151:7 181:11 182:13 204:8 208:14 276:12 277:1,5,8 325:14 330:15 351:17 370:8,10 403:9,11 405:21 408:17,19 412:7 pay-offs 338:16 paycheck 435:1,3 paying 16:7 37:18 51:1 351:22 352:3 395:3 payment 370:7 payoff 319:8 payroll 110:4 170:17 305:8 342:2 432:19 pays 36:21 37:1 144:12 376:1 380:16 peak 123:3 215:19 262:4 266:3 399:12 peers 200:2 penalizes 118:19 penalties 19:20 40:19 42:2 43:16 259:15 penalty 249:4 pending 9:2 82:17 Pennsylvania 111:18 428:1 pension 243:3,6 people 8:15 9:20 10:19 11:9 13:8 21:5 27:21 29:8,11 30:11 86:20 88:8 96:15 98:1,7 106:13 107:12 122:16 123:12 134:5 140:10,17 140:20 141:1,6,7,19 157:5,12 170:17,20,22 174:14 184:17 190:7,14 191:1,3 192:1 198:10 216:1 219:7 221:22 232:1 236:1 240:3 245:1 249:19 266:12 270:7 284:16 285:2 303:10,12 304:10,19 305:8,14,18 307:1,9 308:4,12,13,14 311:9 312:8,12 313:4,7,14,17 321:17 322:5 323:20 324:5 331:9,22 332:12 332:15 339:5,12 340:11 345:9,16 346:21 351:1</p>
--	---	--	--

351:9,15,22 352:2 357:8,12 368:16 369:11 369:13,18,22 389:4 391:1 394:13 396:4 406:11,15 407:13 408:10 410:22 414:10 414:18 415:2 418:5,6 418:16 419:5,14 420:8 420:17 421:8,19 422:3 422:9 425:10 428:9,14 432:14,18 433:4,6,7,10 433:13,14,18 434:10 435:10 436:13 437:2 439:16 441:16,19 443:21 445:13 450:15 450:17,22 454:4,5 455:9,12,16,22 456:12 perceived 209:5 211:6 percept 10:14 16:9 17:3 23:10,14,16 24:1 26:2,2 26:4,5 33:16 47:12,13 48:15,21 49:21 53:6 55:7,8,13,15,20 62:12 67:7 73:4,12 74:6,7,16 76:1,5 79:15,17,19 98:17 110:3 111:1,2,2,3 122:1 159:17 195:17,18 195:21,21 197:12,12,16 198:7,8,9 200:9 206:7 206:17,21,22 207:20,22 208:2,3 209:4,6,13 215:22 216:15 241:3 247:4 253:5 256:10,13 256:14 277:6 288:18,22 289:4 303:10 304:8,8 305:11 311:10 326:10 329:22 353:4 357:2 377:11 379:15 380:15 380:17 381:5 386:21 394:1 399:15,19 400:7 408:17 419:14 420:12 423:7 432:18 434:18 435:15,17,19 440:17 441:4 445:18,20 percentage 38:18 42:7 241:4 307:12,13 373:12 380:17 436:11,12 perception 349:19 perfect 239:2 310:11 430:12 perfectly 233:2 perform 117:5 161:15 162:10,21 274:11 424:10 performance 6:18 56:1 72:12 74:8 206:11	231:5 241:18 261:13 263:8 275:13 285:9 299:2 302:14,17 334:11 334:16 397:19 398:20 399:4 400:2 427:11 performed 117:1 performing 39:5 77:7 85:10 102:5,18,19 103:7 128:15 186:2 200:5 227:14,15,16 287:22 370:7 401:13 423:21 424:2,14 period 182:19,21 183:1 183:22 206:22 241:16 280:16 289:17 310:20 311:7,13 333:15 335:7 392:19 399:4 403:14 412:8,17 417:11 435:13 436:5 periods 123:1 262:16 333:18 permanent 279:11 Permian 386:22 387:2 permit 42:1,5 170:1 permitted 126:12 133:1,3 permitting 58:6 perpetual 222:16 258:12 259:11 261:14 perpetually 260:2 perpetuates 137:6 140:2 perpetuating 138:22 perseverance 179:17 persevere 413:2 persevered 412:17 persistent 53:11 person 14:8 87:16 88:2 88:14 92:5 96:20 116:13 185:18 284:9 301:19,20 312:6,11 318:21 326:14 354:20 357:16 419:4 420:22 422:1,18 449:20 persona 322:1,2 personal 7:22 107:14 224:22 411:9 personally 21:19 107:16 119:4 170:10 358:9 personnel 17:18 63:12 188:21 334:3 perspective 14:16 20:16 59:7 145:16 183:18 188:15 213:12 218:12 222:19 223:13 225:3 226:12 227:16,21 228:17 229:10 230:2,10 230:14 231:15 235:1	239:17 241:8 245:10 255:15 257:10 293:4 322:6 346:22 387:12 perspectives 212:12 persuade 131:6 pervasive 65:5 84:6 Pete 2:3 8:5 petition 41:21 Petra 375:1 petrochemical 5:9 375:2 375:8 376:1 379:16 petrochemicals 5:10 375:6,18 380:21 petroleum 387:18 389:10 PFI 63:6 phases 420:13 phenomenal 190:11 phenomenon 269:22 phone 97:5 98:5 197:6 316:8,9 318:21 319:3 366:11 phones 28:22 phrase 152:2 physical 182:4 221:7 physically 235:8 physics 137:22 pick 98:5 197:6 218:4 226:20 227:6 pick-up 69:7 picked 65:10 picking 146:14 picture 90:21 168:19 201:10 287:21 288:14 pictures 213:19 pie 50:4 72:1 150:12 154:20 192:17 203:11 241:20 316:4 331:15 338:6 347:1,2 349:9 394:9 416:22 pieces 193:20 284:19 293:1 335:12 419:9 Pierce 119:3 pill 263:11 pilot 11:21 piloting 410:18 pinch 104:22 pipeline 300:5 332:16 398:18 401:7 408:3 437:9 444:8,15 pipelines 387:1 444:19 pitfalls 376:12 pivot 208:5,9,19 211:15 233:16 235:2 pivoting 234:12 243:21 place 25:6 34:5 37:10 43:10 51:17 85:15	127:7 144:5 150:5 180:17 208:13 215:8 232:2 250:7,14 279:21 295:9 296:15 326:1 336:20 356:4 362:4 378:7 384:9 417:20 429:8,9 430:18 443:3 448:6 placed 17:20 31:1 places 9:20 83:13 139:13 147:16 188:18 275:14 379:21 411:1 444:4 450:9,12 451:1 placing 122:3 260:7 plan 6:22 44:9,12 72:18 76:11,19 77:4,6,8 92:18 97:7 104:5,21 122:13 148:14 152:12 164:4 250:19 251:3 271:13 277:14 292:12 295:9 297:10 300:15,19 302:1 302:2 303:13 305:4,7,8 306:2,12 310:18 314:5 315:1,22 316:1 322:16 322:20 336:15 337:8,9 340:12,17 341:7 342:13 342:22 343:12 352:11 399:1 426:6 427:10,20 427:21,21 428:3,8,13 428:21,21 429:1,7,8,9 436:18 437:15,15 438:21 439:2 441:15 445:17 446:16 planned 96:22 162:18 442:12 planning 87:10 101:1 104:20 143:11 271:11 272:2,8,9 339:8 341:13 412:4 453:19 plans 12:11,13 18:16,20 44:14 45:5 77:12 82:2 85:22 86:5,10,11,12,13 86:14,18 104:3 122:16 241:18 261:1 285:20 310:9 427:20 428:4 442:5 plant 51:21 73:15,16 83:19 134:11 260:9 360:8,16,22 361:7,9,13 365:18 367:18 391:13 391:13 planting 63:19 64:21 65:12 177:15 451:9 plants 56:17 177:16 260:14 352:6 363:7 379:21 391:16
--	--	--	---

<p>plaque 158:8 plastic 53:20 plastics 308:3 375:15 plate 28:4,5 platform 55:5 209:8 247:1 284:10 296:2 314:21 315:1 platooning 327:7 Platt 137:11 play 12:5 73:9 195:10 217:9 263:18 268:10 358:10 played 230:12 playing 220:22 plays 189:9 308:21 377:1 plea 24:10 please 28:10,22 29:20 30:7,9 93:1 127:12 133:6 144:14 152:3 157:1,3 178:7 212:8 226:16 288:19 306:15 308:21 337:3 358:15,22 pleased 413:7 pleasure 22:5,9 290:16 plentiful 116:19 PLLC 5:8 plug 105:4 plummet 197:2 258:18 plummeting 206:6 plus 48:20 157:11 201:4 261:17 426:15 PNW 39:12,14 pockets 133:11 257:8 264:16 444:7 454:10 point 23:7,13 49:18 59:8 60:2 65:4 100:17,19 106:19 117:10 122:21 126:5,5 144:11,11 149:8 152:1 153:16 156:9 168:16 170:19 171:13 174:9,9 176:9,9 177:6 178:16,16 193:13 196:22 197:5 199:22 202:12 209:15 216:16 220:6,21 223:1 226:22 228:13 229:6 230:7 234:16 235:8,10 245:14 248:8 250:2,10,16 256:22 283:3,3 307:17 323:7 331:18,20,20 333:4 337:16 340:4,6 366:1,18 373:13 415:10 435:14 436:10 442:22 447:21 pointed 110:1 192:13 303:15 410:21 413:9</p>	<p>pointing 378:18 points 29:8 58:22 135:20 136:8 145:15 176:11 211:9 227:22 243:6 253:11 261:20 416:21 poised 79:16 polar 202:22 203:17 251:19 303:18 306:9 policies 26:15 120:5 156:12 160:2 161:18 167:22 180:2,9,12 policy 41:5 42:9,10 90:21 118:15,18 119:5,18 133:4 154:3 155:16,18 155:22,22 156:4,15 166:8 182:15 191:8 192:3 412:5 433:9 political 171:3 211:14 pool 189:20 408:6 pools 163:7,10,15,20 266:5 444:11 poor 15:14 16:5 19:17 43:16 56:20 57:12 63:8 65:1 137:22 210:6 316:9 361:10 378:8 pop 187:3 popping 225:10 population 96:2 272:12 port 23:10 24:13,15 25:2 26:7,12 27:6 143:5 218:10 316:19 portfolio 206:12 portion 33:1 133:1 155:2 155:12 160:13 270:22 347:7 348:13,16 375:22 397:18 portions 270:16 401:11 ports 9:9 11:16 22:19 24:12,21 25:7,8,13,15 26:1,2,4,4,8,9,13,13,16 27:16,17 39:14 213:14 214:3,5,20 217:8 219:22 221:8,10,22 223:10 258:21 poses 266:14 position 38:10 185:20 356:13 414:2 432:7 positioned 27:16 103:1 284:3 300:6 positioning 103:4 positions 152:17 161:1 311:5 408:7,15 positive 14:2 131:8 242:10 298:6 398:16 401:9 413:9 positively 322:5 410:4</p>	<p>possess 128:17 possibilities 106:1 possibility 178:5 361:19 possible 20:20 51:7 58:19 59:21 62:10 65:18 68:10 81:11,14 115:22 124:6 125:13 155:20 209:2 267:2,3 268:20 273:22,22 279:22 288:8 311:3 351:7 368:9 392:9 400:19 404:1 443:12 possibly 252:14 post 442:7 post-pandemic 283:14 posted 270:5 295:14 postings 278:11 potential 22:14 45:8,16 88:22 114:15 216:4 220:14 223:20,21 224:11 229:1 376:6,12 388:8 408:9 potentially 9:1 98:17 208:16 238:22 239:4 245:8 250:8 367:21 388:4 poultry 16:15 33:11 36:15 pouring 178:8 power 38:22 67:3 75:7 117:18 118:6 125:6 132:3 136:3 139:19 144:9 149:5,17 154:22 155:12 166:19 177:18 196:8 198:18 199:2,14 200:3,4,8 201:16 205:5 206:3 208:12 229:19 236:20 249:16 321:11 346:1 348:7 349:2 406:20 446:14 powered 127:8 148:6 powerful 281:14 287:13 powers 88:21 362:2 PR 128:9 practicable 43:1 practice 146:3 380:11 practices 128:18 190:2 262:14 263:22 407:14 455:2 pragmatic 69:5 pre-COVID 75:18 215:15 pre-eminent 160:7 pre-pandemic 39:7 55:21 102:6 341:6 379:4 398:11,22 401:2 410:8</p>	<p>415:12 442:4 pre-position 63:18 pre-PSR 346:21 precious 140:16,16 184:9 184:10 precipice 130:15 precise 163:3 441:1,18 442:4 precision 57:18 58:1 63:9 109:19 114:13 115:8 124:21,21 159:9 163:5 170:16,20 258:6 354:18 374:5 376:9 predecessor 61:6 predicable 44:1 predicament 263:5 predict 182:2 predictable 109:9 289:18 337:8 predicted 219:7 441:14 prediction 359:9 predictive 271:13 prefer 102:2 266:19 preference 34:10 preferred 267:5 premium 50:1 367:14 prep 438:18 prepare 7:7 prepared 46:8 52:10 295:8 302:8 341:21 preparing 16:15 217:3 preponderance 291:12 prepositioned 101:1 presence 13:14 408:13 present 44:2 113:14 115:3 168:20 212:12 321:2 388:16 presentation 29:20 30:2 183:21 194:20 211:21 212:6,9 396:14 398:7 404:6 413:12 429:17 444:9 presentations 30:14 160:17 232:22 253:15 presented 122:11 240:12 242:1 297:4 397:11 436:19 presenting 29:14 132:14 211:5 presents 11:8 12:18 preserve 169:15 President 2:13,20 3:6,11 3:13,19 4:10,11,16,18 4:20 5:4,10,17,18 32:19 79:7 109:4 114:17 115:10 119:3 152:11</p>
---	--	---	---

158:2,7 166:9 255:6 267:22 268:6,7 291:8 375:1 397:8 398:8 404:12 President's 11:13 79:16 Presidents 135:10 319:22 press 30:3 218:15 301:17 301:22 302:13 355:3,5 355:9 pressure 133:10 211:9 213:8 238:2 239:9 296:5,8 355:19 395:5 pressures 293:13,17 411:6 pressuring 48:4 pretty 84:6 94:21 96:11 96:13 135:9 137:12 181:19 222:22 225:14 229:8,17 230:15 231:20 232:9 235:22 306:5,8 312:22 321:19 374:10 454:4 prevalent 276:10 prevent 41:10 51:18 53:19 57:6 106:5 118:11 133:17 167:15 168:1,9 365:14,19 prevented 119:14 preventing 124:8 125:14 previous 303:14 previously 63:7 285:22 397:14 421:11 PRFBA 31:17 254:8,14 255:3,4 354:2 360:6,7 360:11 362:14,16 price 26:19 37:17 50:17 51:7 202:5 234:5,6 242:22 256:21 259:19 375:22 380:15 381:15 456:6 prices 15:15 64:13 75:3 385:22 388:21 389:3,14 389:18,18 390:1 393:11 394:12,20 446:19 pricing 67:4 206:1,2,4 208:12 210:8 236:20 262:7 392:21 426:10 pride 115:2 123:21 256:7 278:5 298:11 403:18 prides 255:20 primacy 208:20 primarily 173:21 270:19 primary 22:13 35:18 49:15 167:14 205:17 259:1 Primus 13:22 22:12	61:22 62:3 87:14,19 90:6,12 92:8 93:3,21,22 183:4,6 185:11,21 187:19 236:3,8 238:14 238:17 240:7 265:5,7 290:7 324:12,14,17 325:2,7 326:5,17 327:21 330:20,22 392:10,12,13,14 396:11 422:19 423:1 427:14 428:17,20 429:4,21 430:10,14,20 431:1,5,9 431:13,16 principle 69:4 principles 33:22 prior 77:17 110:22 145:14 197:13 210:17 215:17 250:2 320:8 359:18 priorities 59:12 115:14 334:4 335:5,20 338:22 prioritize 275:20 prioritized 17:5,9 27:9 81:13 prioritizing 299:8 300:4 priority 11:1 115:10,11 124:4 183:21 268:19 273:11 275:22 291:16 297:20 299:12 322:22 340:13 398:5 Prius 148:10 private 4:9 5:3 42:3 60:4 67:10 73:13 74:4,14 77:11 86:3 89:14 102:2 199:10 254:8 255:2 277:16 331:2 354:2 356:15 370:7,9 371:11 371:14,16 379:8,12,18 381:14 383:19 privately 19:21 246:10 246:21 383:14 privilege 280:7 privileged 98:9 prizes 411:10 pro-competitive 60:17 proactive 438:14 proactively 283:6 410:15 probability 204:4 probably 21:5 29:2 66:17 92:18 93:1 98:3 101:20 156:13 181:14 186:15 193:2 200:15 208:11 211:18 230:5,6 238:8 246:20 247:16,17 250:16 253:7,14 288:3 332:22 338:2 343:22	344:4 350:13 355:17 383:20 419:16 455:3 problem 10:18 21:4 31:22 65:5 70:5 84:3 96:21,22 101:18 104:20 105:12 110:18 129:19 136:11 140:2 164:1 182:1 195:5 196:15 198:1,6 199:1,2 200:4,4 204:22 205:3 215:10 221:2,5 230:18 249:17 251:6,20 252:7 286:13 296:9,12,13,15 306:5 306:11,14 312:10 313:18 332:8,17 352:11 353:13 360:1 390:16 395:5 418:5 425:3,11 430:16 438:16 443:1,4 445:1,8 447:13 448:3,4 448:10 449:21 454:7 456:6 problems 6:12,21 7:20 8:3 20:7 21:8 38:17 39:2 53:16 54:22 55:6 61:7 63:8 69:19 83:8,10 83:15,16 84:6 90:16,18 96:16 97:4,22 98:20 99:2 110:14 133:18 138:14 141:9 155:22 158:8 159:4 161:20 164:15 174:22 175:3 177:14 188:2,9 191:9 200:13 201:16 207:18 282:2 283:7,8,9 286:20 302:22 320:6 350:22 359:11 360:5 376:6 390:10 446:7 448:20 449:6,16 451:10 453:22 procedural 28:21 procedures 122:16 proceed 32:4 194:14,18 395:12 proceeded 119:8 proceedings 20:9 231:22 process 78:3 97:16 114:2 121:6 133:2 167:20 197:8 235:16 271:15 272:2 273:6 274:6 310:5 370:20 409:15 processes 368:2 processing 33:13 73:19 processors 33:10 37:2 procurement 5:5 363:2 produce 101:4 153:4 276:18 364:18 394:18 produced 62:12 313:7	producer 72:2 286:7 producers 15:3 16:13 36:14,18 64:2 79:9 100:12 101:13 329:18 produces 99:15 256:8 299:10 producing 398:16 product 51:3 56:19 63:19 64:1 67:6 71:16 74:18 99:20 100:22 115:20 124:5 125:14 249:4 256:10,19,20 260:4 262:7 266:13 283:2 290:20 292:8 295:3 308:4 324:8 336:16 338:7,15 361:8 366:20 369:22 371:12,18 376:2 386:11 388:3 392:21 393:15 410:5 production 33:18 35:12 49:12 54:14 55:1 56:11 62:11,14 64:3 66:2 73:15,19 79:11 80:9 81:2 100:21 101:15 206:21 360:18 productive 53:6 116:11 productivity 125:11 231:17 273:2 299:5 300:16 products 6:16 15:4 33:18 35:9 39:20 47:9,11,15 56:15 73:18 124:19 132:4 238:21 255:21 256:4 259:22 266:6 280:19 337:21 363:9 364:14,18 366:17 369:15 375:7,14,15 380:22 387:17,19 388:12 profession 404:14 professional 116:2 277:3 professionalism 412:18 professionals 115:18 140:11 proficient 420:15 profile 154:1 profit 113:20 149:19 167:1 169:7,18 170:2 207:22 267:8 profitability 51:14 120:10 133:12 profitable 10:4 66:7 169:17,18 214:12 218:21 profitably 289:15 profits 10:5 66:9 111:7
--	--	---	--

121:14 125:12 150:12 151:15 158:17 258:10 259:3 262:18 264:15 384:20 profound 269:15 program 11:21 98:4 128:21 129:14 185:3 186:8 242:2 274:10 276:18 295:13 327:15 405:18 420:9,11,13 421:9 432:4,11,22 435:11 programs 11:12 128:16 129:13 411:4 417:19 433:11 progress 217:11,21 218:3 275:18 311:14 323:5,9 339:17 344:13 401:3 404:11 410:19 413:6 456:15 prohibitively 66:22 project 84:14 273:2 projected 25:9 40:9 75:17 430:4 projecting 39:9 projection 342:2 430:7 projections 87:9 projects 54:4 prolonged 37:12 335:7 promise 57:18 455:2 promised 30:16 209:5 promises 59:9 295:7 promising 131:9 promote 60:9 68:7 169:14 262:15 promoted 20:9 129:1 134:22 135:1 150:20 280:12 promotes 295:2 promoting 409:10 410:16 411:9 promotion 129:18 301:19 promotions 135:3 prop 56:14 proper 72:15 119:7 124:6 149:18 181:7 422:20 properly 110:17 251:4 275:3 336:4 358:22 proposal 19:20 383:8 384:13 proposals 121:7 proposed 9:4 22:16 69:13 83:1 105:6 384:4 390:11 412:7 proposing 59:10 proposition 287:10,10	prospective 180:7 protect 122:9 163:17,20 169:3 434:11,13 protected 141:2 protecting 108:4 protections 383:1 proud 33:15 135:9 247:1 357:20 406:19 prove 107:19 proved 116:15 proven 12:1 107:21 169:5 382:21 provide 12:9 14:16 15:13 18:4,15 19:1,15,16 20:16,20 27:6 29:22 33:12 34:20 39:4 43:19 44:18 45:5 53:3 72:21 75:13 79:17 82:9 83:4 111:4 112:10 123:12 124:18 129:8 149:18 168:17 171:11 202:1 204:19 227:13 236:14 262:20 268:12 283:6 286:15 287:20 292:11 292:16 297:1 311:16 333:14,19 339:21 359:2 360:3 361:18 376:6 381:11 383:1 384:10 397:3,4,20,22 403:11 404:4 408:17 422:7 provided 42:6,7 72:16 122:5,13 163:1 178:22 193:3 258:1 264:12 277:11 284:10 349:16 353:2 provider 255:9 387:6 provides 124:2 149:20 162:5 343:19 providing 15:21 19:3 123:22 129:4 258:8 264:9,17 287:11 315:12 340:15 374:21 399:20 405:5 409:20 411:7 provisions 123:5 204:12 384:8 proxy 214:6 PSR 63:10 70:13 115:9 115:15 116:8 117:15 120:16,21 122:2 124:13 125:20 128:7,13 129:10 129:21 130:7 131:3,16 132:14 141:14 142:1,3 145:8,11,14,18,19 146:1 148:14 150:9 159:9,9,22 160:14,20 161:8,14 164:2 165:17	165:18,20 166:6 168:13 169:19 170:11,14 171:2 171:4 176:19 205:3,3 205:12,16 225:12 247:11 258:7 259:4 293:19 295:7,10 302:1 302:2 303:8,13 305:4 306:12,20 309:3,22 320:10,12 321:18,19 342:15 346:17 352:21 353:6,9 359:4,18 376:9 376:9,20 377:6,9 379:2 379:17 380:11 382:21 385:3 440:16 441:2 442:7 PSR's 130:20 PTC 347:13,14 public 1:4 17:11 19:4 41:20 71:4 89:16,16 129:6 147:20 264:18 267:1 295:1,4 333:21 334:6 339:16 426:20 427:2 438:20 440:20 publications 54:11 publicity 118:9 publicly 21:6 60:22 246:17 250:5 334:12 publish 86:11 343:7 Puerto 47:7 pull 98:2 100:8 136:4,17 139:8,18,18 140:7 146:20 pulled 35:22 140:17 149:13 368:9 424:9 pulling 95:3 176:2 pulls 80:14 pulp 47:15 pump 352:3 pumps 139:8 purchase 16:10 74:13 75:3 purchased 161:5 327:12 purely 454:12 purpose 22:13 42:14 255:10,12,19 267:8 327:20 purposely 126:19 166:13 purposes 167:15 248:9 pursue 88:21 113:11 pursuing 278:7 398:3 pursuit 111:7 259:3 267:7 push 27:12 374:15 pushed 67:8 197:11 246:11 364:6 pushes 199:1	pushing 367:10 370:9 451:12 put 36:13 45:1 100:1 106:21 109:15 134:17 136:17,18,19 137:16 140:20 143:1 151:15 176:1 184:8 194:4 213:8 216:14 224:9 230:9 235:4,6,16,19 245:11 250:6,14 252:13 253:15 259:16 263:5 306:20 310:22 312:11 314:4 317:17 328:6 346:2 349:3 350:9 351:11 362:4 379:20 387:12 417:19 421:20 423:22 426:15 428:11 428:12 444:18 452:21 453:5 puts 51:14 147:19 176:12 338:10 putting 49:12 54:22 105:3 167:1 202:14 224:16 244:2 245:12 249:16 296:15 426:17 puzzle 394:9
Q			
Q1 234:15			
Q3 238:8 239:2			
Q4 234:15 238:10			
qualification 78:7			
qualifications 123:9 163:21			
qualified 140:10 270:10 311:17 339:21 402:16 408:10			
qualify 19:10 274:12 410:2			
qualifying 42:16 409:12 409:15 411:16			
quality 18:4 110:6 111:10 169:9 244:20 282:10 315:9			
quantifiable 369:10			
quantify 224:10 369:16			
quarter 38:8 48:1,12,13 48:19,20 49:20 55:20 57:5 58:13 63:6 66:12 73:7 201:18 232:11 270:6 275:8 299:16 323:17 364:19 399:13 399:13,22 409:2,3 410:9 437:10,17			
quarterback 312:4			
quarters 49:19 225:14			

<p>question 33:1 84:1,8 85:6 92:9 93:3,20 98:7 100:11 102:8 105:2,19 106:11,20 107:9 171:13 172:16 180:15 183:13 183:20 187:20 202:7 232:13 237:5 243:13 244:5,6 248:15 249:9 251:18 252:5 266:13 285:7 297:13 304:22 311:20,22 312:14 314:11,11 315:20 316:5 316:11 320:7 322:13 324:17 332:7 334:10 340:8 342:18 345:15 391:6 392:11,16 394:20 396:15 397:10 413:19 429:3 431:20 440:12,12 440:18 441:9,17 446:4 446:6 451:16</p> <p>questions 27:20 29:10 30:17 46:10 61:17 70:20 74:11 82:8,12 87:13 144:16 151:20 152:6 170:4,6 171:7 183:5,8 212:3,5 233:5 236:4 240:9 248:6 254:12,13 265:4,6 267:10 288:1,13 292:1 301:10,13,14 306:13 313:20 324:13 330:18 334:1 385:10 390:18 394:22 395:19 396:1,10 413:7 429:19 431:22 432:2 441:22 442:17 444:22 456:8,10,16</p> <p>quick 19:16 88:5 121:5 139:8 182:17 204:17 235:16 254:4 258:22 265:21 322:9 414:22</p> <p>quicker 123:3 195:15</p> <p>quickly 18:12 41:16 59:15,21 79:17 81:14 124:6 183:16 196:17 210:4 236:10 249:17 268:20 270:15 273:10 273:17,22 279:22 308:7 311:2 331:20 400:9</p> <p>quit 40:11 129:18 156:18 157:13</p> <p>quite 24:20 64:4 95:22 101:8,11,12 214:7 215:17 216:9,20 217:21 219:19 224:13 228:21 230:14 239:17 244:18 248:2 348:3 353:13</p>	<p>394:12 432:6</p> <p>quitting 129:14 157:10 269:21</p> <p>quo 282:1</p> <p>quote 54:11 58:13 60:19 61:10 85:2</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>R 6:1 405:20</p> <p>race 238:2</p> <p>radar 355:16</p> <p>radiates 197:1</p> <p>radio 138:12 278:10</p> <p>Radios 138:13</p> <p>ragged 239:6</p> <p>rail 1:3 3:4 6:5,13,14,15 6:17 8:11,16,16,20 9:1 9:3,5,12,14,18,22 10:12 10:16,20 11:6 12:6,16 12:21 13:2,7 14:17 15:7 15:12,18,21 16:5 17:10 19:17 20:2,16 21:16 22:20 23:14,18 24:8,18 24:22 25:19 27:5 33:4 34:1,2,6,11,12,13,21 35:2,11 36:9 37:4,8,16 38:1,14,20 39:5,17,18 39:21 40:2,5,17,18 41:4 41:6,10,14 42:1,5,6,10 42:15,16,21 43:2,4,21 44:5,16 45:2,4,15 47:8 47:12,17 48:4,9,11 49:15,16 50:3,7,18 52:12,22 53:11,19,21 54:21 55:7 56:21 57:3,7 57:9,16 59:4 60:6,9,9 60:18 61:13 62:19,21 63:4,11,13,21 64:4 65:1 65:8 66:6,14,15,18,20 67:3,5,8,11,17,17,22,22 68:3,7,11,12 69:1,18 70:6,12 71:13,21 72:4,7 72:8,11,22 73:8,13,14 73:22 74:5,14,16,22 75:4,7,11,16 76:12,16 77:2,16 79:20,21 80:7 81:8,20,20,22 82:1,5,20 92:10,11 93:11,13 95:16 100:18 101:12 107:17 109:7,12,15 110:8 112:9 113:14 114:1,1 120:22 122:1 126:17 134:7 136:3,12 140:4,12 158:7,8 159:4 161:20 168:4 179:16 180:5,6,9 187:4 206:1</p>	<p>207:6 209:11 211:19 217:18,20 218:11 219:20 223:14 224:8,10 224:11,20 225:5 228:4 230:7 233:10 234:18 235:13 243:14 244:13 253:4 257:16 258:18 262:1,9 263:17 264:17 266:19 267:4,4 269:8 280:22 286:14 287:9,12 289:21 292:16 293:8 299:4 301:3 303:15 359:6,11 361:4,10,14 361:22 362:1,3,11,20 363:3,5 364:11 365:11 365:17,19 366:22 367:4 368:14 369:4 375:10,16 376:3,17,22 377:3,15 377:17 378:8 379:1,7,8 379:13 380:7,8 381:13 381:19 383:10,14 384:1 384:4,10,18 385:5,7,20 387:6,8,9,15,18,19,22 388:2,7,11,14 390:6 397:5,9 400:12,13,20 426:9</p> <p>rail's 382:12</p> <p>railcar 4:9 5:3 49:21 50:8 74:4 75:2 77:11 254:8 255:2 264:9 354:3 356:15 379:12</p> <p>railcars 19:21 37:11 42:3 42:7,8 47:22 57:13 68:14 73:17 74:15 86:3 138:7 255:16,17 256:11 257:20 357:1 378:10 379:8 383:20 387:9 402:20</p> <p>railroad 4:4 17:2 18:2 23:18 24:9,11 25:4 27:3 27:12,18 33:15 36:22 40:21 41:2 58:17 59:2,9 77:7,18 83:14,15 87:8 109:10,13,21 110:12 114:14,18,19 119:10 120:4 122:4 123:19 126:14 128:13,14 130:10 131:16 132:18 133:8 134:20 136:3 137:7 141:17 142:12 148:15 151:8,21 156:19 158:9,18 160:6 162:19 171:6 178:15 179:1,9 185:15,18 188:12 189:5 189:20 190:1 193:2 194:1 196:11,21 203:9</p>	<p>204:1 207:17 210:6 231:20 237:13 243:9 244:10 245:22 246:9,12 249:11 255:5,13,18 262:21 263:3 264:6 273:18 277:9,13 278:8 293:1 294:11,20 295:2 299:15 304:14 305:1 307:11 320:10 328:6 333:20,22 343:12 347:17 355:3 359:15 360:13 361:3 367:22 368:12 370:16 371:15 372:6,10 373:22,22 374:5 376:16 381:6 382:1 383:12,14 384:7 390:2 391:16 397:10 399:22 405:4 408:15 413:22 414:4 417:1,2 418:5 424:1 425:9,19 426:1,15 427:1,5,6,10 427:22 428:5,7,8 434:5 434:21 436:16 438:7 447:9,13 448:13,17 450:7 452:20 454:12 456:3</p> <p>railroad's 76:19 77:15 115:15 117:4 122:7 123:11 124:1 129:8 190:2 205:19 342:17 358:20 382:19 384:20</p> <p>railroader 409:6 421:18 422:1,12</p> <p>railroaders 121:13 134:15 190:12 277:5 406:19 412:19 414:16 447:5</p> <p>railroading 57:19 58:1 63:10 109:19 114:13 115:8 116:12 117:12 124:22 133:12 136:1 138:1 143:15 144:9 150:11 159:9 163:5 258:7 354:18 376:9 407:21 415:6</p> <p>railroads 6:21 12:1,9,11 15:13 18:4,15,19,22 19:2,8,12,15 20:5 23:11 23:13 25:10 26:1,8,10 26:16,18 27:9 35:5 41:9 41:18 42:2,5 43:5,19 45:4 49:1 52:8 54:10,21 55:5 57:12,20 60:1,3,14 67:3,14 68:21 69:4,6 70:10 72:8,11 74:19 75:8,12,19 76:15,21</p>
--	---	---	---

78:13 81:12 82:1,18 85:2,14 90:18 94:7 97:10 98:21 107:4 108:2 110:13,16,20 111:4,12 112:4,10,16 116:8 117:10,16 118:13 120:15 121:2,16 123:13 123:14 124:8,16 125:15 126:18 127:9,14 128:9 128:21 129:5,19 131:5 135:19 157:15 158:11 162:16 163:11 166:1,16 168:9 175:22 176:15 177:8 180:17 181:5 190:3 192:12 193:12 195:9,13,16 202:1,8 203:14 204:2 205:14 206:13,19 207:1,11 209:20 211:7 217:9 224:1 233:14 234:14 236:16 237:9 240:15,18 251:2,12 252:2,14 253:6 255:18 256:12 257:17 258:1,1,5,10,14 258:22 259:6,12,14 260:21 261:5,15 262:13 263:4,10,22 264:2,3 267:5 291:12 294:10 333:5 343:11 344:22 349:18 357:5,5,7 359:3 359:22 360:7 361:17 363:14 364:1,6,8 366:7 368:16,22 369:6,8 370:6,8,13 371:10,20 376:18 377:7 378:15,17 379:2,3,6 380:8,10,11 382:7 383:18,19 384:9 385:1 388:1,13 391:7 391:10 395:1,3 400:17 431:19 438:10 442:8 445:4 454:5 455:19 rails 212:16,22 217:22 218:8 223:9 225:11 227:13 228:2 232:10 238:3 243:5 375:19 426:17 railway 4:15 51:10,13 150:19 167:13 267:21 railways 48:5 50:4 195:7 rain 137:19 raise 15:4 raised 22:22 107:6 184:6 286:18 352:21 raises 64:3 156:17 raising 332:2 Ralsky 354:7	ramp 277:1 295:20 310:16 rampant 122:6 359:12 ramping 310:16 373:6 ran 175:19 307:10 395:17 395:18 ranchers 16:3 19:4 20:13 47:6,10,19 52:4 ranches 51:14 random 395:14 range 6:12 181:16 230:11 278:2 347:16 391:9 440:7 449:18 ranging 33:14 rank 135:4 ranks 279:6 414:17 ranting 243:14 rapidly 200:13 rate 19:19 182:11 198:22 203:8 224:21 242:4 263:9 270:9 274:15 311:9 323:11 331:2,21 407:19 420:7 421:10 rates 15:13 25:15 67:6 75:3 112:11 115:20 117:14 120:4 214:9 215:21 258:19 297:22 318:7 332:2 333:8 377:21 388:4 ratio 111:7 117:11 135:7 206:6 207:7,16,19 208:21 209:3 210:3 211:3,7 214:9,22 234:12 242:3 247:4 262:17 276:7 328:1,2,3 328:5 426:3,5,22 427:2 427:12 ration 49:9 rational 122:16 ratios 43:22 125:3,4 207:11,20 364:10 377:9 377:11 382:19 raw 37:6 363:6,10 Raymond 4:22 5:20 razorblades 142:15 re-establish 76:15 re-evaluating 408:7 re-examined 409:14 re-explore 351:7 reach 81:13 208:11 235:5 241:5 260:5 383:7 386:9 448:19 reached 399:19 reaches 259:21 reaching 135:3 react 196:17 198:1 219:8	273:8 360:1 reactive 327:19 read 157:3 240:20 308:8 readily 123:8 reading 178:9 ready 20:19 28:13 107:16 108:10,13 194:13,20 390:14 395:12 405:11 real 10:18 17:17 20:12 43:7 45:1 86:21 88:5 93:5,18 100:5 123:17 137:12 144:10 167:17 171:3 197:9,18 205:10 211:5 236:10 251:20 252:6 259:17 273:8 311:3 331:20 388:6 414:22 422:1 440:18 realign 402:16 realistic 384:16 426:8 realities 122:1 130:19 reality 132:7 168:22 210:19 265:22 266:2 376:20 392:19 realize 248:6 372:14 420:18 421:20 realized 414:10,17 418:16 realizing 129:13,22 really 21:17 29:4,6 65:5 67:14 69:12 70:17 71:4 93:12 100:7,12,14,19 101:7,12 103:10 106:6 131:3 139:4 142:18 150:6 155:15 170:9 176:21 187:9 194:3,7 213:1 214:6,17 215:18 216:20 217:10,17 220:8 221:4 223:9 224:6,7 225:17 227:4 228:21 230:5 232:4 233:3,3,3 233:21 243:1 253:12 265:13 266:7 272:17 282:19 286:13,21 287:11 302:5,17,21 310:1 316:14,21 317:11 317:22 318:13 320:13 321:1,19 322:3 326:13 334:15 335:1 340:3,20 343:3,14 350:1 351:2 352:20 354:13 370:6 371:9 395:7 404:10 415:14 416:7,7,17,18 418:6,10 441:17,20 445:7,14 446:18 451:4 456:15 rear 136:18 172:10,18	187:2,11,13 rear-ended 187:1 reason 32:7 40:22 89:5 144:2,8 179:6 202:9 218:17 290:18 326:3 327:17 339:1 347:18 371:16 377:3 401:1 424:12,13 reasonable 19:11 44:18 112:10,11,14 113:3 384:6 398:3 reasoning 89:7 reasons 31:18 35:18 90:22 112:7 208:20 210:16 225:21 228:19 234:11 245:4 296:13 378:19 rebalance 400:21 reboot 382:8 rebounded 405:11 406:6 rebouncing 389:3 rebuild 74:1 327:15 rebuilt 324:1 recall 157:7 283:11 361:15 406:10 414:10 recalled 269:10,12 recalling 196:18 418:15 433:13 receive 16:11 48:22 51:7 64:11 129:15 288:7 367:22 403:9 434:22 received 6:11 21:6 160:10 243:10 246:5 261:4 347:6 360:19 368:3 378:14 411:16,18 receiver 312:9 receivers 37:13 41:12,14 44:12 receiving 18:13 119:2 369:1 recess 194:9,12 recession 418:8 recipe 287:19 reciprocal 19:18 42:14 60:12 68:5,6,19 81:19 263:21 360:4 362:10 370:12,19 373:13 383:21 384:8,13 reciprocity 68:11 69:2 70:9 reckless 117:6 259:8 recognize 121:15 268:13 278:20 291:18 292:17 339:20 recognized 183:3 recognizes 45:18 52:1
--	---	--	---

68:22 recognizing 102:10 179:16 271:14 recommend 39:20 40:5 169:21 recommendation 42:9 211:1 recommendations 41:3,4 81:16 recommends 44:7,10 reconvene 354:2 reconvened 108:17 record 16:5 46:9,13 66:8 66:13 109:2 120:3,4 150:12 155:18 162:5 178:11 183:3 207:13 211:8 230:3 247:10,20 267:7 269:20 330:16 344:5 354:12 423:21 424:10 427:12 438:20 recorder 127:6 recording 31:2 records 58:13 433:5 recover 75:14 119:21 226:7,9 231:6 239:13 265:18 recovered 216:20 recovering 264:14 268:18 recovers 72:7 389:4 recovery 18:17 200:20 212:10 237:5,7 238:7 297:10,21 299:13 300:10,13 326:10 347:4 recreated 126:10 recrews 126:14 recruit 407:9 408:10 recruited 135:13 190:14 recruiting 180:9 271:15 404:20 408:4 443:19 recruitment 179:15 180:12 recruits 407:19 420:8 rectify 113:22 red 29:17 128:15 152:21 153:10,22 198:17 201:19 206:15 211:7 427:19 452:13,14 redefined 176:18 redesigned 283:21 reduce 17:3 41:6 43:22 58:5 112:3 130:3 138:18 152:18 164:9 321:12 331:10 379:8,14 379:19 381:13 433:6 reduced 23:20 37:22 38:3	55:9,18 110:2 123:1 145:22 158:11 159:22 260:19 269:8 377:13 409:19 440:17 442:14 reduces 197:3,4 239:10 347:21 349:6 447:17 reducing 13:9 126:21 141:19,20 159:10,11 233:20 263:7 331:6 333:4 349:20 388:3 reduction 23:13 58:7 146:1 179:3 303:10 307:2 328:4 377:21 379:18 382:19 393:7 435:9 441:4 reductions 17:5 38:21 102:21 113:5 121:8 122:11 183:11 233:20 261:18 269:6 380:3 382:1 405:14 refaced 273:18 refer 153:20,20 156:1 157:1 276:20 301:22 338:13 reference 67:16 82:18 228:13 302:7 referenced 68:18 192:11 302:12 referral 276:17 278:16 408:12 referrals 276:18 referred 155:5 322:16 referring 302:11 refined 375:15 386:11 refineries 79:22 375:8 386:7,17 387:7 refinery 386:20 387:14 389:19 391:9 393:14,16 refining 312:6 379:16 386:6 392:22 394:1,7 reflect 68:8 69:13 290:11 reflected 38:12 131:22 132:5,8 189:22 398:19 reflection 193:15 322:2 reform 68:2 70:12 reforms 60:18 refresher 195:15 refuse 123:4 163:11,14 refute 367:21 regain 234:14 263:1 Regan 3:11 108:11,20 109:4 187:20 regard 59:13 161:14 195:3,8 202:5 211:22 299:18 regarding 29:15 44:3	61:6 62:21 72:20 362:7 regardless 124:19 205:18 regards 21:20 region 54:15 78:15 219:13 260:6 regional 384:19 386:18 regionalized 393:18 regionally 204:2 regions 34:13 78:12,16 85:9 regular 40:6 74:10 191:17 regularly 129:15 178:18 regulated 169:4 regulation 118:10 131:12 132:13 248:10 252:13 regulations 59:11 69:11 83:1 112:13 133:16 223:20 390:12 regulators 345:3 359:9 regulatory 2:21 3:6 68:16 69:3 79:7 209:17 211:6 252:9 reign 112:8 reimagining 189:4 reimburse 369:6 reimbursement 409:19 reinforce 249:7 reintroducing 382:5,7 383:22 reinvented 409:14 reinvested 10:5 reiterate 282:13 rejected 219:13 rejects 110:4 relate 449:18 related 22:18 33:18 51:7 88:9 93:9 192:10 205:16 256:15 293:10 334:1 353:7 401:14 419:16 relates 174:21 relations 2:16 168:5 272:7 relationship 34:4 180:1 415:20 relationships 93:12 relative 215:13,14,17 relatively 75:3 183:16 220:3 270:11 relay 376:5 relayed 149:22 release 301:17,22 302:13 355:3,5,9 released 54:7 83:2 releases 389:9	reliability 64:6 111:10 170:2 241:17 263:8 402:22 427:11 reliable 10:2 15:12 34:1 34:21 35:2 44:1 50:6 76:15 258:2,9 268:12 287:3 289:18 295:3 337:12 338:6,15 387:9 388:13 reliably 292:12 reliance 200:10 388:4 reliant 49:8 relied 25:14 relief 9:4 18:13 19:17 83:4 223:11 390:12 451:2 relieve 83:7 178:1 reluctant 209:2 reluctant 210:15 406:9 rely 10:20 24:14 51:22 59:8 375:9 relying 451:7 remain 10:7 34:5 164:21 405:14,16 410:12 411:21 remained 215:17 270:10 287:8 remaining 73:5 161:11 remains 25:9 35:5 64:10 201:1 401:7 455:14 remark 28:3 remarkably 245:14 remarks 28:15,21 29:9 29:14 61:10 115:3 302:8 306:19 remedies 68:17 292:19 remedy 384:2 remember 100:19 295:6 376:11 391:1 432:13 reminder 57:17 Remington 193:9 remote 14:4 32:1 remotely 30:8 140:9 remove 175:13 removed 130:12 309:9 415:8 removes 239:9 removing 175:15 264:15 447:11 Renaissance 206:1 renewable 380:21 389:19 renewables 386:7 rent-seeking 60:19 reopen 238:19 reopening 240:3 repair 40:10 110:11
---	--	--	--

244:10 repeated 92:19 report 16:18 23:21 38:2 56:4 75:19 76:21 87:5 96:13 163:1 209:9 224:9 240:18 241:12 243:21 442:11 reported 36:1,4 37:18 55:4,8,9,19,22 105:9 184:20 249:22 437:5 Reporter 30:6,8 reporting 40:6 42:22 43:3,4 44:8,9 55:17 81:22 200:3 270:4 370:4 reports 6:18 17:2 18:19 35:20 38:5 44:10 129:16 245:14 represent 90:20 123:18 151:5 208:9 representation 416:16 representative 110:18 288:11 representatives 272:6 289:1 349:16 represented 109:6 representing 16:8 34:18 47:6 79:9 114:19 158:5 159:17 273:9 363:1 375:5 represents 62:7 134:3 160:12 262:5 reprioritized 279:6 reputation 357:21 request 17:18 18:15 39:21 44:18 46:8 76:22 113:9 365:6 requests 19:10 260:4 require 12:10,12 40:6 145:22 180:19 189:14 195:18,21 224:19 277:22 305:7 450:15 required 41:12 86:11 128:4 158:16 162:1 163:7 338:14 409:21 requirement 112:15 requirements 44:9 113:1 271:21 408:8 requires 62:14 112:10 113:8 161:9 208:6,7 364:17 449:7 requiring 44:10 45:3 81:22 169:10 369:6 rescheduling 360:18 researching 369:20 reserve 389:10	reserves 236:19 reset 218:1 223:7 229:13 resets 229:8 reshaped 281:3 295:18 reside 259:7 resignation 109:18 121:20 160:15 270:1 resignations 119:18 133:5 157:6 160:1 resigning 155:18 160:9 resilience 59:5 205:16 298:11 resiliency 14:22 203:10 205:13 211:14 234:20 322:12 334:8 335:5 resilient 202:1 236:13 295:22 333:20,22 337:6 337:13 338:7,15 resolutely 278:21 resolution 97:7 121:5 167:20 288:19 resolve 41:18 72:19 90:17 92:17,20 93:2 133:17 288:2,9 376:7 383:21 389:22 403:19 resolved 110:15 288:10 288:18 resort 115:21 248:21,21 resource 143:3 213:9 225:13,18 237:21 262:12 294:1 322:17 resources 59:4 83:17 97:14 141:20 143:8 196:2 198:16 205:5 237:15 261:12 268:3 271:9 272:7 273:14 274:1 279:21 285:3 292:13,15 296:15 299:8 318:16 321:4 332:12 363:21 364:3 400:3,4 402:10 404:14 412:12 respect 14:17 108:3 333:9 387:5 401:17 447:3 452:3 respectfully 46:8 respective 119:9 respond 96:16 98:22 105:2 279:13 447:1 responded 319:18 400:9 responding 244:1 276:5 451:15 response 9:11 47:20 92:8 93:3 292:18 365:13 responsibilities 17:14 67:9 268:2 responsibility 18:2 44:6	159:20 257:12,14 278:4 283:10 287:1 responsible 164:10 363:2 383:19 responsive 60:15 85:14 85:17 92:9 93:20 rest 7:3 32:8 99:3 119:2 120:19 121:17 175:6 190:20 215:11,12 216:8 216:21 224:11 225:4 301:13 332:6 362:19 434:21 456:18 rested 162:20 resting 132:2 restock 220:20 restocking 220:15 222:9 restoration 398:11 restore 82:5 196:10 268:16 319:10 378:16 restored 197:16 401:2 restoring 9:3 279:16 291:17 340:14 restraining 119:14 restricted 36:8 124:13 restricting 174:2 restriction 152:22 347:10 restrictions 154:18 166:6 175:21 restrictive 182:20 result 37:12 41:14 45:9 80:22 109:17 123:6 128:16 132:17 158:9,13 159:8 163:12 166:20 168:2 195:10 202:21 205:6 259:2 260:16 261:2 271:3 283:20 293:2,10 299:7 300:10 307:5 359:5 361:13 392:1 394:19 402:22 407:18 resulted 260:9,17 361:7 resulting 17:19 81:5 202:4 236:18 260:3 397:15 results 55:11 64:12 133:4 164:22 360:16 393:7,10 398:17 445:22 446:1 resume 389:11 RETAC 352:5 379:20 retail 81:5 330:2 386:8 retailers 71:16 316:22 retain 17:13,21 129:17 169:9 409:3 412:13 retaining 180:9 retaliation 89:1 107:10 107:18	retention 179:15 180:12 181:11 191:6 192:1 273:13 398:5 rethinking 440:22 441:3 retired 40:11 305:21 retirement 160:6 277:9 279:4 434:5,8,21 436:9 436:16 retribution 290:8,15 return 49:6,10 123:3,14 157:8 162:3,17 189:1 195:16 242:3 293:22 294:15 296:16 325:1 333:17 334:18 381:19 406:9 returned 39:6 102:6 359:22 returning 51:4 419:9 returns 207:19 210:3 244:8 246:20 rev 153:3 reveal 48:9 51:9 revealed 54:7 revealing 48:18 revenue 24:2 26:20 27:10 47:13 58:14 84:10 224:11 229:2 328:2,6,7 333:5,6 360:9,17 426:7 revenues 23:22 38:7 revered 117:12 reverse 198:21 review 19:19 133:2 159:14 177:1 198:13 273:5 397:19 reviewed 211:17 revise 271:22 revised 402:17 revisions 390:11 reward 115:6 234:1 411:4 rewarded 125:10 rewarding 408:15 rewards 338:11 rewind 356:14 Rick 4:4 31:15 194:10,14 194:17 212:2 233:11,19 236:9,11 248:7 Rick's 235:8 Rico 47:7 rid 173:22 228:4 311:21 332:3 riders 209:14 ridiculous 121:7 156:14 240:18 371:8 372:2 373:2 rife 257:2
--	---	---	--

<p>right 7:15 10:1 13:5 21:20 23:7 28:12 31:18 46:15,18 58:3 61:2,19 63:3,9,20 65:6,19 69:20 69:22 71:11,11 89:21 90:14 91:10 100:17 101:3 102:15,19,20 105:19 106:3,15 108:16 109:3 111:5 114:7 117:18 124:5 131:7 136:7,15 137:17 139:8 143:13,16,19 147:4 155:9,21 157:10 166:20 176:13 181:3,11 182:13 183:9 186:16 187:14,15 188:22 190:6,6,15,22 191:20 195:7 198:22 199:3,4 200:15 214:8 218:2 226:6,10 227:9 227:14 231:12 232:1,1 232:2 234:6 237:14,21 238:3 241:1,3 244:13 245:7 248:21 252:1 253:17 254:20 266:5 267:9,12,16 269:3,4,4 275:22 279:17,18,18 282:4 292:21 297:11 306:8,17 308:12 310:5 310:17 316:9 317:5 318:12 322:14,21 325:22 341:1 344:21 345:18 354:1,7 358:5,8 367:9 372:8,15 374:3 374:19 392:19 394:10 395:10,10,11 396:18 397:1 399:1,1 411:1 420:4 427:16,17 428:7 429:6 430:2,4 431:14 435:15 437:14 441:4 443:3,8,15 444:4,12 445:5 446:12 450:6 455:9 rights 168:8 200:14 rigorous 274:10 rigs 164:10 ring 29:2 ringing 326:14 ripple 299:10 rise 199:21 237:20 rising 204:3 risk 37:21 40:19 49:13 51:15 147:19 211:16 262:5 266:14 338:11 384:11 risks 259:15 340:15 344:16,17</p>	<p>river 137:11,17 RLA 167:16,22 168:3 road 126:10 131:21 165:6 165:10,13 211:20 280:10 335:14 350:4 356:2 367:7,10 388:5 451:21 453:12 454:20 roaring 418:11 Rob 5:10 254:6,12,19 255:3 354:5 357:9,19 374:18,22 385:11 Rob's 254:13 Robert 4:11 13:22 14:2,8 31:17 87:12 89:8 94:2 107:5,22 183:4,5 185:9 236:3,6,7 237:12 240:8 253:19,20,22 254:1 264:22 265:1,5,5,8 267:10,10 324:12 392:10 396:13 431:14 438:18 Robert's 14:1 265:10 robust 11:9 116:9 266:16 rock 108:13 134:16 161:10 Rockies 391:2 Rocky's 144:21 role 12:5 68:22 73:10 263:17 268:10 377:2 408:8 roles 274:21 364:9 403:7 411:16 rolled 302:16 roller 202:4 rollercoaster 236:19 237:2 rolling 320:12 322:21 365:5 rollout 295:15 320:9 roof 142:19 roofing 387:17 room 7:14,21 29:1 162:8 297:9 338:3 388:17 429:15 446:9 449:20 root 77:3,5 381:22 roots 141:15 rotated 435:12 rotating 434:10 rough 237:17 roughly 108:9 134:5 303:21 432:5 445:10 round 64:7 100:15 121:5 204:13 262:21 263:14 280:20 rounds 164:18 route 146:21 242:19</p>	<p>348:14 routes 111:17 146:6 384:7 routine 417:20 routinely 166:16 167:21 row 396:9 RSTAC 255:5 265:11 ruining 248:18 rule 9:4 19:19 28:15 155:3,5 384:4 rulemaking 22:16 45:12 45:15 68:10 390:11 rulemakings 383:1 rules 18:12 22:15,17 42:1 42:15 60:3 81:19 137:22 155:10 362:9 383:13 412:5 ruling 248:13 295:12 348:7 rulings 374:2 run 24:7 37:5,17 81:4 107:4 122:6 134:18 135:18 136:5,5 138:14 139:19 143:13,21 146:22 148:9,15 151:10 155:1 164:4 171:5 172:18,22 174:6 176:4 176:6,8 188:18 193:21 196:22 202:12 203:8 207:15 246:11,12 247:3 294:18 304:14 305:8 308:14 311:21 319:1 321:11 346:15 351:15 359:11 382:18,21 388:3 391:8 393:14,16 395:20 414:21 424:16,18 425:2 427:22 428:8,13 446:15 448:1 450:7,10 454:16 456:3 running 11:7 37:15 42:19 58:10 91:8 103:5 136:6 136:9 139:7 143:12,22 152:21 164:6,22 175:1 175:5 177:11 186:7 196:11 203:20 205:6,9 205:21 231:3 233:17 234:15 237:17 239:6 253:17 260:2 316:2 361:8 365:8 366:13 367:13 369:14 393:1 394:3 415:11 425:4 438:7 452:19,20,21 runs 146:17 174:19 379:22 393:7,22 395:5 rural 15:2 47:19 rush 208:1 211:11</p>	<p>rushing 452:11,13 Russia's 64:14 Russian 388:22</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>S 6:1 S&P 206:12 S.W 1:12 sacrifice 179:18 181:2 380:9 sacrificed 117:4 sad 206:15 safe 10:2 124:5 129:9 184:22 255:11 258:2 260:1 296:2 336:3 409:15 safely 274:11 278:21 405:10 409:13 410:3 412:20 safer 53:5 safest 116:11 117:2 safety 11:8 12:18 115:11 129:1 147:19 151:6,16 158:14,18 163:1 183:14 183:18,20 352:21 353:1 353:8 404:4 412:2 sake 166:3 sales 36:11 49:5 257:18 284:6,17 331:22 Sanborn 4:16 268:7 291:5,7,8 302:6 306:17 320:8,18 323:18 324:10 324:16 325:4,8 326:8 326:18 330:22 332:9,20 334:8 339:18 343:2 346:12 348:6 354:21 Santa 134:2,4 141:13 150:18 173:21 sat 80:18 342:20 354:13 373:19 429:15 430:18 satirical 202:11 satisfaction 115:13 319:9 satisfied 74:7 403:1 satisfy 118:7 169:6 satisfying 292:17 Savannah 176:3,6 save 119:12 126:20 254:9 saving 125:11 savings 27:10 152:12 277:11 447:15,16 saw 8:6 23:13 188:9 217:19 220:8 251:20 302:9 345:21 406:15 419:9 442:7 saying 177:20 232:10 246:3 293:19 296:18</p>
---	--	---	---

331:13 332:2 336:2 337:10 342:16 429:22 432:17 435:18,21 436:20 451:2,3 says 142:2 149:11,13 320:1 431:15,15 scale 71:15 228:12 scared 344:17 scenario 137:8 238:15 schedule 13:21 27:20 29:3 36:7 154:19 167:3 191:17 254:5 261:18 353:15 402:16 408:20 422:13,17 scheduled 36:17 57:19 58:1 63:10 109:19 114:13 115:8 124:22 159:9 161:11 163:5 258:7 260:2 376:9 415:6 452:20 schedules 31:22 163:6 scheduling 31:17 149:18 170:16,21 354:18 357:9 366:12 374:5 school 389:5 Schultz 22:12 94:5 97:9 251:10 267:14 313:21 318:6 397:2 404:9 413:4 417:18 Schulz 14:13 science 273:7 Scientific 2:22 scope 23:20 326:21 score 83:21 325:9 scorecard 449:8 scrambling 50:15 58:8 149:4 scratch 454:15 screen 29:21 387:3 screening 419:17 search 278:10 347:3 381:10 season 17:10 63:20 64:8 64:11,21 65:12 75:9 99:14 100:6 101:1 177:15 239:7,8 262:4 266:3 367:15 394:12,15 451:9 seasonable 218:7 seasonal 225:9 226:12 230:10 seasonally 204:2 seasons 123:1 seats 108:11 Seattle 134:10 140:9 second 11:14 19:14 31:15	58:21 59:22 97:19 115:11 137:4 144:1 213:22 223:12 236:5 247:12 254:5 282:13 293:3 299:12 310:17 323:17 333:18 334:10 370:7 373:20 410:5 secondary 37:16,20 49:16,21 50:2,18 secondly 102:10 204:19 210:18 281:21 283:4 284:5 Secretary 2:3,6 7:17,19 7:22 8:5,8 13:13,15,21 14:10,12,19 16:1 21:7 21:21 47:3 59:17 79:4 95:4 255:4 section 165:9 sector 14:17 47:17 60:14 60:20 66:20 70:6 102:2 277:16 397:17 sectors 269:16 395:1 secular 232:7 secure 378:7 securing 405:18 security 115:12,12 190:19 204:20 277:11 405:21 see 22:10 29:15,17 30:5 46:15 58:20 66:7 114:5 127:2 135:16 144:22 149:11 152:21 153:10 154:1,11 155:4 180:8 181:22 184:20 189:8,8 189:10 194:16 196:9 199:9 201:7,10 205:12 206:10,11 213:20 214:8 214:19 215:13 217:10 219:17 221:14,18 223:10 225:9 227:4,14 229:1,9,20 230:12,21 233:17 235:14 240:4 241:21 247:8 250:8 251:1 263:16 265:5 280:5 294:20 304:7 306:1 307:16 311:18 321:16 322:5 323:14,16 323:16 326:11 331:22 335:6,7 343:15 350:2 352:13 366:16 388:19 392:18 402:19 413:11 437:2 438:3 444:12,15 444:19 451:8 456:18 seed 33:10 36:21 37:2 seeds 33:17 238:22 seeing 52:10 61:22 77:14	103:8 105:22,22 188:2 193:15 200:15 207:15 215:20 216:2 218:5,8,9 223:4 245:15 313:10 339:12 368:6 420:11 421:6,10 454:1 455:10 seek 34:11,14 113:20 292:19 seekers 276:8 seeking 41:22 42:20 161:6 168:9 278:3 388:9 seen 56:17 57:18 80:13 85:17 99:7 111:11 135:18 142:18 144:7,7 151:12 152:19 198:20 199:7,12 216:10 217:16 218:15 219:9 220:18 222:2 223:8 225:2 227:18 228:14 229:3 230:15 242:18 258:8 261:9 293:8 298:7 299:6,15 309:5,17 356:16 364:20 366:20 367:2 405:5 433:4 445:16,18 455:14 sees 182:9 segment 162:19 330:5 335:14 segments 89:18 166:17 279:13 select 261:7 selective 168:19 self-imposed 169:2 179:8 self-inflicted 161:19 166:5 self-serving 125:2 self-sustaining 10:7 sell 56:13 127:10 411:8 selling 16:21 semblance 228:11 Senate 22:7 28:6 send 214:9,12,12 312:3 356:11 365:18 373:22 454:14 sending 220:1 222:13 319:22 366:11 senior 2:15,21 3:2,6 46:22 79:6 190:1 431:15,16,19 seniority 182:1 191:17 422:8 434:7 seniors 180:21 sense 15:5 100:7 103:8,18 103:19 104:2 138:21 140:2,19 141:5 142:4	142:13 143:12,15 152:3 164:5 187:1 204:20 228:7 278:5 404:1 sensitive 256:17 282:19 452:3 sensitivity 330:18 sent 34:16 87:18 92:10 165:9,11 178:10 219:13 430:22 sentence 358:4 separate 46:14 302:19 308:11 309:2 separately 46:16 separation 123:7 separations 447:18 September 197:22 360:14 361:1 serious 6:12,15 12:18 16:2 53:11 69:18 98:2 98:19 107:10 113:20 121:2 133:18 251:20 330:21 391:6 445:7 seriously 164:3 257:14 287:2 301:16 320:2 353:13 356:9,12 374:9 seriousness 7:20 serve 26:9,10 57:14 62:16 62:21 72:22 115:17 120:11 123:22 158:1,6 165:5 188:14 217:18 257:13 259:16 267:21 273:17,20 279:22 282:9 290:16,17 308:17 330:6 386:17 served 73:2,3,5,6 217:20 259:4 381:5 391:9 425:22,22,22 serves 361:4 service 1:3 6:5,14,17 8:12 9:3 10:18 11:14 12:9,10 12:15,17,21 15:12,14 15:18,20,22 16:5,8,20 17:10 18:5,11,14,16 19:1,3,10,11,15,17 20:1 20:2,6 22:15,17,20 23:14,18 24:12,18 26:11 27:3 29:1 33:4 34:1,7,13,21 38:1,14,20 39:17,18 41:6,10 42:21 43:2,4,9,14,17,19 44:1 44:4,18,21 45:3,5,7,8,9 45:13,15,15,22 47:17 48:10 49:16 50:7,18,21 51:5 52:10,22 53:11,18 53:19 54:21 55:5,9 56:4 56:10,21 57:12 59:2,5
---	--	---	--

59:11,17 60:1,22 61:7 61:15 62:22,22 63:8,13 63:21 65:1 66:10 67:4 69:9,11 70:3,8,12,14 71:4,21,22 72:7,9,15 73:8 75:5,12 76:12 77:3 79:21 81:22 82:1,5 83:1 83:11 85:22 86:5,10,14 86:17,18 88:3 92:11 94:7 97:2,14,22 98:6,20 99:2 100:2,18 102:16 105:4 109:22 110:7,10 110:14 111:10,12,14,16 111:19 112:5,9,10,14 113:2 114:1 115:13,19 115:19 116:2 117:7 122:19,20 123:3,7,17 123:22 124:14 125:11 126:7,11 128:3 129:8 132:22 137:2 139:9 141:2 142:10 143:1 145:12 146:5 148:20 149:6 151:15 158:9,14 158:16,18 159:4 161:20 161:22 162:11,21 166:2 168:17 169:1,19 174:22 178:2,19 188:16 195:10 196:10 198:14,21 199:6 201:11,19 202:2,4 208:7 209:1,8 210:6 211:8,19 213:4 219:20 223:14 224:8,20 225:5 227:3 228:2,3 229:18 231:1,4 232:16 233:10 234:15 236:14,19 244:10 240:12 241:9 244:10,22 245:7 246:21 247:15 250:10 254:22 258:9,13,18 259:11 260:7 261:6 262:20 263:19 264:6,12 266:6 268:13,14,17,18,21 269:1 279:16 280:22 281:3 282:10,15,18 283:1,5,19 284:4 285:8 285:10,15 286:10 287:4 287:4 288:3,11 289:1,5 289:9,11,19 290:21 291:17,18 292:1,7,11 292:12,20 293:13,20 295:3,13,15 296:5,19 296:21 297:2,11,14,15 297:21 298:7 299:1,5 299:13 300:6,10,13,16 300:19 303:16 307:4 316:9 318:10,12,13	319:11 324:8 325:19 326:9 327:2 333:13 336:16 337:9,14 338:7 338:15 339:4,6 343:19 355:4 357:15 359:2,11 360:3,5,9,19,20 361:10 361:14,16,18 362:3,8 363:16,17,19,22 364:11 365:11 367:2,16 368:14 368:21 369:4,9 370:5 370:18 371:4,5,17 373:7,21 374:3 376:3 376:17 377:4,8,13,17 377:21,22 378:3,8,8,16 378:16,18 381:7 382:10 382:20 383:2,5,8,18 384:7,10 385:20 386:15 387:9,22 388:3,7,13,15 390:2,6,12 392:1,7 393:6 397:6,19,20 398:11 399:3,11,21 400:9,15,17,20 401:2 401:14,20 402:6,7,9,14 402:16 403:3 405:5 410:5 413:3,15 417:3 417:15 418:1 426:9 427:10 453:7,15 454:1 serviced 135:22 143:2 services 23:20 27:5 33:12 42:6 96:7 124:16 133:8 220:17 223:6 255:10 260:10 274:2 333:11 servicing 95:15 134:21 139:1 365:16 servicing 26:1 56:3 135:14 150:11 372:5 set 75:10 99:19 117:10 138:15 165:9,12 176:15 185:5 205:19 341:5 397:11 426:5,6 434:6 452:8 set-up 14:4 setbacks 261:6 sets 139:7 143:12 setting 146:14 185:20 331:2 seven 80:17 135:3 212:17 270:6 311:7 353:20 355:16 373:19 Seventh 205:22 severe 50:3 55:6 62:22 80:14 84:5 101:11 severely 166:14 168:14 169:20 severity 48:18 Seyfert 2:13 28:17 32:5,6	32:15,17,19 46:12 85:20 87:2 89:8 90:8 94:11 98:22 99:4 102:4 102:17 Seyfert's 84:9 shape 151:18 shaped 317:16,22 shaping 317:11 share 9:8 10:13,16 11:17 12:2 13:12 18:16 24:4 25:21 26:2,3,4,5 27:13 53:10,14 58:15 72:3 208:18 256:18 281:7 286:2 325:17 340:15 341:21 342:7 401:17 413:6 shared 69:14 93:19 109:11 283:11 369:10 408:21 shareholder 51:8 207:10 208:15 shareholders 246:19 338:18 442:11 sharing 11:15,22 12:4 93:19 103:13 408:14 410:17 Shaw 328:9 338:12 shed 20:2 38:18 shedding 390:9 sheets 223:4 shelf 84:17 shell 131:3 shelved 377:13 shielding 253:21 shift 7:15 49:9,15 56:22 67:14 83:17 211:2 223:5 258:8 262:14 446:21 shifted 26:13 57:3 85:17 242:2 275:19 shifting 85:9 339:12 442:20 shifts 85:14 190:10 274:17 422:6 ship 63:18 64:1 73:18 100:22 216:1 237:1 258:17 266:19 267:4 289:21 365:13 367:5 387:10 388:2 shipment 22:18 35:10 76:20 283:3 315:18 343:8,17 367:5 shipments 15:9 22:21 23:8 57:7 58:5 64:6 65:11 80:8 99:6 124:15 165:2 214:14 220:9	260:12 304:1 314:9 315:2,2 363:9,11 364:13,16 365:19 367:7 367:13 368:7 380:1 387:13 shipped 53:22 57:5 79:19 142:14 175:13 241:10 shipper 44:2 61:14 64:21 67:15 68:21 75:2 79:3 115:19 125:17 241:8 255:1,5 286:12 372:21 shipper's 115:13 124:20 shippers 9:5 11:19 13:10 15:10 16:6 17:3 18:12 19:3,17 20:4,7,12,17 28:9,14 37:13 41:11,14 44:11,12 48:19,22 49:15 50:1,12,15 53:20 57:21 61:9 63:22 64:2 67:9,12 68:15,20 69:5 70:17 72:18 93:13 107:12 108:3 112:20 115:16 116:2,5 124:11 130:4,22 132:4 133:7 135:21 165:7 166:2 169:22 201:20 211:4 221:21 245:16 250:12 254:9 257:4,17 258:3 258:14 262:12 263:20 286:5,6 287:15 332:3 342:16 345:10 351:4 361:22 362:9 369:7 370:9 377:16 379:7,13 380:7,9 381:13,18 383:10 384:5,10 445:4 shipping 6:16 15:8 26:10 26:20,21,22 36:22 39:12 66:8 77:9 115:21 257:15 258:7 263:16 368:5 shock 237:4 293:9 shocking 188:7 shoes 292:2 short 31:10 37:5 40:1 73:2 84:20 86:22 100:3 134:5 149:3 179:8 201:11 210:14 234:4 242:13 255:18 292:6 295:16 298:13 377:18 381:17 391:18 399:7 418:7 short-term 18:22 57:4 72:5 77:13 83:18 84:14 85:21 189:1,2 243:17 243:19 244:17 251:6 273:14,17 351:7 352:10
--	---	--	---

366:19 378:21 shortage 74:1 121:3 128:11 146:8 149:20 159:20 161:7 164:1 195:5 259:1 367:9 404:18 438:13 449:12 454:4 shortages 50:8 75:7 76:10,19 120:5 199:14 201:8 229:9 249:13 251:13,15 258:12,17 260:16 261:7 273:19 403:8 shorten 175:14 184:8 346:4 392:4 shortening 183:22 249:16 shorter 148:1 178:15 321:5 392:4 424:19 436:4 shortfalls 50:9 195:11 270:16,19 271:3 shortly 21:8 150:21 167:6 167:9 185:1 213:15 401:9 shotgun 443:4 shove 137:16 shoved 141:5 show 55:11 76:22 93:15 95:8 107:13 125:18 152:20 154:19 182:4 198:15,16,17 222:5 226:19 230:10 231:14 235:21 369:8 401:3 419:15,18 444:10 446:1 showed 9:18 154:6 420:3 showing 65:20 214:19 374:4 shown 132:6 445:21 shows 49:20 127:7 155:10 167:4 188:22 198:13 201:18 419:22 shrank 109:20 shut 37:6,9 56:19 72:14 111:17 119:10 139:14 216:12 217:22 307:19 387:14 454:16 shutdown 216:17 360:22 365:19 399:14 405:6 shutdowns 16:19 57:6 73:20 219:20 260:9 360:8,17 361:7,9,13 shuttered 377:12 shutting 37:22 260:13 261:2 352:6 365:14 366:5 shuttle 37:19	shy 30:15 sick 118:19 156:6,6 161:12 side 89:14 93:4 100:11 103:16 104:11 105:16 137:13 138:15 143:1 185:21 207:12 208:14 221:9 222:7 223:11,15 224:22 229:11,21 231:1 231:2 247:13 253:4 266:15 280:15 298:22 299:21,22 327:17 333:1 339:6 353:8 394:15 402:20 415:18 416:12 452:22 sides 135:15 136:20 siding 36:9 126:2 164:20 324:3 346:4,15,22 454:14,17,18,19 sidings 37:7,9 146:18 164:16,18 175:4 176:11 346:5,13 446:15 Sidley 4:22 5:20 sign 227:21 348:2 420:9 signal 105:12 298:17 348:2 signals 329:16 signed 34:16 396:4 significant 9:1 10:13 15:21 51:8 62:20 68:15 73:21 98:13 160:4 164:14 199:5 201:8,19 257:19 259:11 262:5 274:1 275:12,18 278:5 289:8 376:16 406:4 significantly 98:21 178:1 208:15 239:18 269:8 270:12 277:10 323:3 358:19 signifies 285:4 signify 48:3 signs 169:8 222:22 225:15 339:2 siings 450:3 silly 374:10 silver 52:2 105:17 similar 40:14 66:16 95:11 231:3 317:6 366:20 404:15 436:21 simple 109:11 136:1 143:17 144:10 205:9 281:14 287:11 288:1,12 289:15 309:8 321:19 330:10 384:9 424:21 428:10 447:15 simpler 300:20	simplicity 287:11 simplified 295:2 simply 24:12 65:19 67:18 73:17 109:12 111:9 127:20 160:5 164:5 166:2 202:9 264:8 311:4 sincere 18:10 single 12:20 45:20 60:13 84:4 92:12,15 113:17 146:18 164:17 165:21 191:8,10,15 203:10,11 208:16 220:4 226:21 289:11 344:9 381:5 387:6 sir 90:11 173:20 177:22 193:14 354:9 356:7 sit 22:1 109:11 131:21 132:3 144:8,10 149:16 203:19 244:9 302:2 345:2,17 351:13 394:10 430:17 450:22 site 217:15 258:22 sittings 139:17 143:21 sits 448:6 sitting 13:22 35:20 95:19 354:21 355:22 388:16 396:8 situation 55:12 58:2 59:1 59:9 61:1 73:7 76:5 90:14 92:20 105:14 106:9 116:7 159:3 175:16 191:11 196:6 201:9 252:12 253:8 286:18 288:19 320:5 339:13 359:16 362:17 367:11 389:9,22 400:22 416:2 448:9 449:12 450:19 452:9 situational 91:15 situations 35:8 39:3 45:17 57:4,8 80:11 96:12 105:3 254:17 362:4 376:18 six 74:9 77:4 98:4 110:3 116:7 128:20 137:3 141:17 146:16 151:13 153:11,14 156:19 172:8 186:8 197:8 198:1 202:17,18 239:15 265:18 266:13 270:6 280:13 304:15 310:18 351:2 352:13 355:16 368:17 403:5 411:17 size 77:11 89:17 117:18 153:8 408:3 409:2	439:21 sized 116:20 sizes 409:17 ski 391:2 skier 391:1 skin 357:2 skipped 231:11 sky 137:19 slack 186:15,17,19 slam 452:14 slamming 452:13 slashed 128:20 377:12 slashing 59:3 slate 388:3 sleep 120:12 slide 29:21 194:20 213:22 214:8 219:2 221:19 226:7 230:5 231:12,14 233:9 326:11 399:3 401:4 439:2 slides 29:19 30:1 149:3 210:17 212:9 213:11 227:2 396:20 436:19,20 slight 31:20 180:17 slightest 455:11 slightly 199:11 313:2 slip 218:11 slippage 103:8 Sloan 2:21 32:11 90:13 96:9 97:12 105:1 slot 452:8 slow 25:18 56:18 72:13 127:16 128:1 145:20 154:4 187:13 189:19 196:13 197:3 349:13 360:1 399:7 slowdown 16:18 177:4 196:7 203:13 225:16 slowdowns 73:15 175:3 slowed 146:10 218:3 261:13 398:11 slower 63:5 80:11 249:5 271:5 347:15 371:10 slowing 37:22 100:21 126:18,19 127:20 166:13 174:4 359:12 slows 195:20 196:16 small 71:14 96:1 161:15 201:1 251:5 284:11 356:16,18 389:18 393:18 smaller 10:11 166:2 208:1 314:20 346:20 SMART 3:12,14 114:17 145:4 166:9 358:18 405:12 408:16 433:22
---	---	--	---

436:6 smells 290:14 smoke 118:4 smoother 24:6 123:3 snap 440:10 so-called 109:18 sob 101:10 social 257:10 277:11 407:10 409:9 socially 406:11 409:22 society 256:7,9,16 257:7 259:22 soda 260:18 soften 265:22 software 127:18 sold 130:11 sole 159:20 solid 101:16 solidly 102:20 solution 74:20 96:22 126:4 211:18 249:2 251:5 286:15 330:12 solutions 4:12 18:8 20:8 33:5 34:6,11 65:9 84:20 85:3 102:2 255:7,8 257:11,19 282:2 284:22 286:2,9,13 289:17 381:10 382:3 384:15 400:11 401:16 449:19 453:20 454:7 solve 6:22 21:4 45:20 104:20 106:4 283:6 286:19 296:15 313:18 390:15 403:18 425:3 443:1 solved 424:17 solving 90:18 141:9 332:12 somebody 98:5 136:4 140:12 144:11 171:10 174:3 177:11 303:22 304:17 331:13 373:14 373:15 419:3 423:14 somewhat 229:20 439:9 449:18 son 141:22 soon 42:22 62:1 68:10 103:15 142:10,20 192:17 288:7 sooner 297:3,3 347:20 sop 347:18 Sorfleet 5:18 398:7 404:7 404:8,11 419:12 420:10 421:12 432:10,21 433:10 437:4,18 sorry 32:8,9,13 61:21	85:4 93:2 157:2 185:9 213:16 308:22 326:17 354:13 355:14 356:6 374:13 392:13,14 430:6 434:7 437:6 447:22 sort 65:4 70:5 84:12 176:15 183:14 189:10 217:19 222:3,15 224:4 233:13 235:3 238:6 249:3 253:8 265:14 293:8 341:22 346:7 372:14 419:22 420:20 453:19 sorts 239:22 sound 171:5 sounding 109:7 sounds 177:16 249:5 352:17 439:1 445:22 454:13 source 71:16 261:19 266:6 sources 71:2 386:20 sourcing 409:12 south 139:16 197:21 200:14 386:8 southbound 331:7 southern 4:15 128:19 150:20 175:19 184:15 197:19 199:2 201:13 231:3 254:11 267:13,20 268:1,9 270:8 271:1,6 277:7,17 278:14 280:7 281:4,8,16 285:3 287:1 290:10,13,20 291:9,10 291:17 292:9 295:8,14 297:15 300:3,9,14 301:17 302:14 309:4 316:18 319:21 329:7 337:20 344:10 428:2 443:17 Southern's 56:1 southwest 386:9 space 24:13 116:19 spare 101:9 speak 8:13 30:7 31:18 46:16 71:18 78:18 89:22 90:8 91:13,16 94:6 103:17 112:13 152:7 182:8 185:16,17 185:18 213:19 247:21 251:14 254:17 255:1 264:21 281:2 290:10 291:2 314:6,21 318:8 318:22 354:11 355:21 357:4,22 358:2 396:11 417:22 448:16	speaker 374:17 speaker's 30:11 31:13 speakers 31:4,7,19 166:9 speaking 28:2 31:4 50:22 87:22 88:2 103:9 185:16 speaks 353:14 special 7:8 362:12 386:14 421:17 422:1 specialized 134:11 specific 12:6 44:3 77:14 86:5 97:10 102:13 105:8 152:9 161:14 171:7 180:2 200:14 223:2 259:10 298:22 333:13 338:22 339:9,15 341:1 349:11 398:9 432:8 441:7 446:5 specifically 303:5 360:7 376:17 383:3 specifics 132:10 404:5 spectrum 210:13 259:21 404:17 spectrums 334:13 speculate 91:4 speculators 158:13 speeches 152:4 speed 127:6 145:20 153:1 153:14 166:10,20 171:20 172:1,20 173:15 174:1,7,7,8 176:6,7 197:3,4,11 198:14 200:7,12,21 225:7 237:20 239:11 300:13 347:9,22 349:14 350:14 453:10 speeds 145:22 195:20 197:2 199:19 spend 150:6 214:4 220:16 275:1 366:11 369:11,22 426:14 spending 120:13 214:16 228:20 293:11 369:17 369:20 spends 84:9 spent 120:10,16 146:11 162:7 280:13,17 291:11 291:13 314:12 315:9 SPG 300:15,16,18 322:17 336:10 337:7 spike 222:11 230:21 231:5 spikes 230:16 spin 197:14 238:11 spinning 196:5,5 spiral 120:6	spirit 344:14 373:18 374:1 spite 456:4 split 147:4 172:17 spoke 94:8 107:17 spoken 71:1 88:7 293:3 Spoods 402:13 sporadic 167:20 sport 303:17 441:15 spot 214:9 239:17 245:12 245:12 spotlight 188:8 spots 145:21 275:19 443:11 spotted 149:11 spraypainted 142:22 spread 215:10,12 217:4 218:20 220:7 377:6 spring 39:12 63:19 64:8 64:21 65:12,22 66:3 springtime 100:16 squad 312:7,11 square 201:19 squared 442:15 squarely 454:4 squeeze 455:21 St 142:14 146:18 stab 433:20 stability 169:7 223:4 stabilized 215:16 stable 337:12 338:6,15 stadium 144:19 staff 7:9 17:20 20:17 21:2 32:15 59:3 70:16 71:7 97:21 110:17 275:2 316:7 382:13 414:15 441:4 staffed 116:18 staffer 22:6 staffing 66:10 97:13 161:10 376:16 382:1,15 382:17 397:5 404:20 408:4 410:13 415:1 440:22 441:15 442:14 442:16 stage 240:1 Stagger's 60:10 384:2,22 staggered 191:11 staggering 72:19 stagnated 407:16 stakeholder 293:18 stakeholders 6:12 7:5 15:22 17:12 45:6 85:3 253:10 281:20 290:4 310:13 stand 70:4 93:8 116:1
---	---	--	--

117:16 282:17 standard 172:19 389:19 standards 17:15 128:17 158:14,16 263:20 264:2 standing 294:5 standpoint 102:15,16 331:4 334:17 336:13 339:9 347:8 stands 20:18 154:21 230:9 300:16 390:14 standstill 165:5 star 211:2 stark 57:17 start 17:19 24:15 73:21 86:3 88:20 104:21 108:19 170:6 179:15 180:15 194:10 205:22 210:10 213:10 214:3 216:3 217:9 218:9 220:16 221:13 225:8 274:7 276:9 306:17 326:8 339:19 346:10 347:3 360:21 364:12 370:5,16,19 371:14 373:3 376:8 421:14 426:16 433:12 438:9,10 453:19 456:11 started 103:5 203:19 207:15 212:19 213:7 218:4 219:5 269:13 280:10 288:15 304:12 310:21 311:7,14 317:9 326:11 353:6,7 408:7 414:9 418:11,15 425:18 433:13 444:10 starting 54:16 60:2 157:11 181:9 197:21 213:13 218:6,11 238:19 240:5 274:13 298:2 323:10,14,15 327:15 433:12 443:10 starts 215:9 324:18 starved 237:15 state 47:7 95:1 109:7 112:9 147:12,13 172:2 362:1 383:15 387:20 391:3 405:1 stated 34:9 63:7 155:13 211:7 statement 46:8,14 60:17 243:8 327:4 statements 6:7 32:3 150:1 150:4 281:14 382:6 states 15:16 24:16 27:14 62:9,18 98:14 101:3 114:18 154:1 155:7	181:5 361:12 375:12 376:10 386:9 387:20 389:21 418:13 stating 161:3 station 84:18 139:20 stationed 143:6 stations 278:12 statistic 313:3 353:1 statistics 269:19 270:4 276:6 311:8 status 282:1 368:13 401:6 statute 112:12 statutory 44:17 68:16 69:3 stay 42:19 46:17 162:1 202:13 214:16 294:14 410:10 432:8,18 stayed 363:15 435:15 staying 185:21 215:4 217:20 stays 22:2 STB 7:18 23:1 28:6 45:21 52:8 59:22 60:8 76:22 112:17 159:3 169:13 210:10 223:19 226:4 248:15 263:17 264:14 382:14 383:7,17 384:12 437:4 STB's 355:16 382:22 steadily 445:10 steady 270:11 steel 286:6 steep 50:17 stem 389:14 step 12:20 86:7 182:16 249:11 289:6 294:22 409:14 416:16 stepped 9:15 stepping 217:7 steps 18:9 82:3 97:10 122:9 181:7 188:1 389:16 413:16 Steve 145:3 Steven 3:16 108:12 stewards 257:12 stick 416:21 stifling 388:8 stimulus 25:12 220:18 stipends 411:18 stitches 251:9 stock 26:19 120:11 326:4 456:6 stocks 235:13 253:4 stone 279:19 299:20 stop 26:19 49:10 65:20 92:19 126:4 128:8	132:16 137:13,14 147:16 167:20 244:3 340:5 347:20 348:2,2 438:5 stopped 138:3 387:13 450:3 stops 241:1,6 storage 51:1 81:2 99:19 100:3 132:3 146:6 148:15 224:1 261:15 346:2 377:22 storages 130:20 store 15:15 132:21 144:2 stored 144:7 149:19 199:16 stores 386:7,8 stories 138:20 408:14 storing 142:5 storm 239:2 story 95:11 101:10 133:22 144:15 321:16 420:22 straight 174:20 straighten 174:17 strain 404:2 strained 57:16 271:9 279:13 strains 57:16 strange 60:21 239:14 strategic 256:3 258:8 283:18 284:22 389:10 426:6,22 428:21 strategy 208:6 282:14,17 282:22 317:11 402:11 streamed 30:20 streamlined 271:15 274:5 streamlining 311:1 street 1:12 117:5 128:16 133:9 144:18 177:11 211:10 222:3 233:8,10 233:18,22 243:17,22 245:19,21 246:1,5,7,11 248:11 252:10,11,15 345:12 364:9 377:15 385:2 456:5 streets 221:18 strength 54:12 strengthen 23:5 54:17 412:12 stress 147:10 198:15 199:5 218:22 271:6 289:9 292:14 385:6 stresses 70:9 147:9 stressful 392:20 stretches 259:20 stretching 163:20	strictly 125:2 strike 119:9,15 167:17 168:4 201:4 strikes 167:21 170:14 strikingly 58:3 strive 328:21 strong 21:12 64:18 76:8 76:13 79:2,4 101:6 191:2 256:18 300:5 302:13,15 307:1 357:21 392:6 412:22 stronger 241:16 413:17 strongly 42:4 65:16 81:15 290:21 295:1 369:5 384:12 struck 249:21 345:1 structural 66:17 67:19 203:2 structurally 57:9 211:19 structure 204:7 208:12 283:22 struggle 15:14 27:4 struggled 423:3 struggling 73:9 195:7 200:17 studies 154:5 329:21 stuff 173:9 184:18 187:3 187:4 315:20 317:21 342:18 345:7,9 357:17 357:18 stumbled 200:6 stunning 24:1 stunting 49:12 sub-par 128:17 subject 405:14 subjected 360:12 submission 160:8 166:8 193:5 356:19 submit 92:5 submitted 66:13 81:17 89:11 91:21,21 94:21 99:22 109:2 396:21 suboptimizing 293:2 subsequent 80:8 115:16 subsequently 379:22 subset 311:17 subsidies 406:16 substantial 67:3 288:14 412:1 substantially 63:5 substitute 37:19 subtle 107:18 189:17 succeed 290:1 329:3 success 206:3 269:2 295:12 297:10 301:5 368:19 398:18
---	---	---	--

<p>successes 299:6 successful 206:6,10 276:14,14,19 300:8 successfully 7:11 388:13 sucking 196:2 199:9 sucks 355:4 sudden 232:7 243:4 448:6 suffer 130:5 200:8 223:17 suffered 360:8 suffers 223:17 264:7 sufficient 75:13 203:10 suggest 19:6 110:13 249:17 suggested 48:7 276:7 365:22 427:17 450:8 suggesting 441:1 449:15 suggestion 293:19 450:8 suggestions 20:8 59:13 83:6 346:8 381:11 453:9 suit 124:12 128:22 suited 131:11 summarize 59:15 370:22 371:2 summarized 109:1 417:18 summary 211:18 289:10 summer 200:6 216:6 262:4 304:13 312:3 366:16 394:11 406:3 sunny 441:16 superintendent 135:4,6 142:6 superior 205:13 287:4 438:7 supermarket 84:17 supplement 278:11 405:20 supplied 47:9 366:15 supplier 393:19 suppliers 260:17 262:2 365:16 supplies 9:20 81:13 260:5 supply 5:5 8:1,12 9:7,11 9:18 10:10 11:16 12:2 15:2 16:20 23:3 24:6 25:10,11 47:20 49:2 50:5 53:13 55:2 56:12 62:8 64:16 72:1 73:22 74:1,2,10 76:16 77:13 79:12,15 109:17 115:6 116:3,9,14 119:11,20 121:12 128:2 130:8,14 130:15,21 133:19 145:12 148:19 159:1,7</p>	<p>166:14 168:7,17 169:22 179:10 188:8 213:12 214:5 216:19 222:20 253:2 256:1 257:2 260:12 261:19,19 262:7 264:5 266:8,10,16,20 278:22 280:21 281:20 282:3 283:7 289:22 293:10 316:17 317:1 359:13 375:10,11 377:2 381:2 385:21 388:9 393:8,10 397:15 398:14 400:21 410:14 supplying 194:5 support 14:22 26:7 53:6 53:7 59:16 64:18 69:12 81:15 205:11 274:18 275:2 281:5 283:6 308:3 375:11 378:10 401:20 402:7,10 406:16 411:22 supported 287:4 409:9 supporters 79:13 supporting 26:16 268:10 supportive 254:16 supports 299:4 412:5 supposed 57:20 283:4 302:5 315:19 357:18 373:22 425:20 sure 7:10 23:1 29:4,12 46:17 58:9 101:4,15 106:8 137:15 139:10 152:1 184:18 212:3 234:22 278:20 281:6 301:1 306:8 309:9 310:2,12 322:4 323:20 330:16 336:3,8,19 337:11 339:20 344:21 350:11 351:8,10 358:8 358:14,14,15 359:1 367:8 368:6 369:13,21 370:2 393:3 395:20 401:7 413:8 415:1 417:12,14 420:15 423:3 437:19 438:15 444:18 448:21 454:10 455:1 surety 317:20 surface 1:1,11 18:5,21 19:22 22:9,14 75:19 77:1 154:8 161:22 294:12 385:15 surfaced 21:8 surge 23:19 75:14 111:4 196:14,15 197:21 200:19 217:2 219:6 222:16 226:9 306:7</p>	<p>389:6 surged 23:15 surges 24:7 surgically 106:8 443:10 surplus 148:14 surprise 124:9,11 125:8 377:14 surprised 234:9 346:7 396:9 surprises 205:2 295:10 301:3 309:21 315:16 survey 53:15 55:11,16 287:20 288:2,4,6 289:4 surveyed 55:2 surveys 288:16 survivors 161:15 suspended 111:14 230:20 sustainability 170:3 268:4 289:20 297:7 sustainable 37:17 53:5 224:3 235:19 247:20 287:5,14 294:12 337:18 sustained 188:4,12 189:2 189:4 369:9 swallow 263:11 swan 202:22 sway 131:15 sweetener's 72:13 swings 400:21 switch 56:1,3 59:3 69:6 88:7 166:1 189:16 209:10 236:5 361:6 363:18 365:6 372:9 373:1 417:10 switched 165:13 260:10 switches 55:9,18 56:2 260:3 275:4 360:9,12 361:1 372:7 374:6 378:2 453:17 switching 19:19 42:15 60:13 68:5,6,19 81:19 85:15 165:14 223:12 260:4,19 263:21 360:5 362:10 365:22 370:12 370:19 373:13 382:11 383:21 384:8,13 419:7 switchman 114:22 414:2 switchmen 145:9 sworn 98:10 symbol 153:17,21 symbols 149:9,10 synchronized 250:21 synonymous 263:2 system 17:6 19:2 23:5 25:7 51:13 58:6 62:16 68:8 73:10 76:3 77:22</p>	<p>86:17 93:10 127:19 128:6 135:16 147:5 152:10 174:12 175:9 196:16 197:15 198:13 200:12 204:15 219:1 222:17 239:20 248:19 255:17 277:9 298:8 314:17 315:4 323:4 346:6 362:11 375:20 382:8 384:19 385:5 386:20 387:14 393:16 394:2,8 399:18 400:13 445:11 452:18 system-wide 270:9 399:6 systematic 287:20 systems 11:17 48:4 116:20 314:19 315:6,8</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>T 82:21 215:13 T&E 198:7 231:21 298:16 303:5,7 308:13 311:17 313:1,4 339:21 340:11 341:14 349:16 351:8 398:15 400:1 401:4 403:12 404:1 405:16 407:2,3,16 410:8 411:7,14,21 413:11 432:7,18 437:5 440:16 table 15:20 24:3 30:11 89:14 119:5 121:4 185:22 250:9 414:5 430:17,18 tackle 8:3 266:18 tackles 249:1 tactic 381:17 tactical 250:18 tactics 115:7 tactive 153:4 take 8:7 12:13 13:16 21:12 23:12 25:6 31:7 31:10 32:22 35:17 53:18 58:9 67:9 82:21 87:9 97:10 98:4 102:11 102:14 108:8,11 113:21 117:2 118:14,20 119:21 123:21 128:19 144:16 147:21 148:3 153:2 156:5,10 157:3 159:19 160:14 175:12 180:16 180:17 182:15 183:19 184:5 198:11 202:11,17 204:3 208:17 209:2,8 211:2 219:14,14 231:13 235:9 244:18 248:1</p>
---	--	---	---

254:1 256:7 257:13 259:9 271:11 273:11 287:1 297:4 301:9,16 302:5 309:17 318:1 320:2 322:10 332:22 335:13 345:19 346:2 352:15 356:12 364:2 369:18 371:21 382:14 385:10 389:17 390:7 395:21 398:19 399:11 404:6 409:1 410:2 413:7,16 414:19 415:16 427:7,9 432:16 433:20 434:2 435:10,17 436:11 446:14 takeaway 403:15 takeaways 226:6 taken 81:11 118:11 133:8 206:19 213:6 262:3 276:3 319:6 382:4 404:5 446:12 takes 43:7 104:9 129:9 135:18 136:2 143:11,11 177:9,10 186:6,8 195:14 196:10 243:13 247:3,3 249:19 271:16 274:8 304:15 313:15 319:1 338:10,11 341:19 410:6 421:22 tale 117:21 talent 274:1 408:6 talented 289:13 301:6 talk 27:22 59:18 90:20 92:16 93:1 94:14 142:8 145:8,8 156:12 183:14 186:3 191:22 192:6 216:19 233:1,21 235:11 237:5 242:21 243:13,20 265:17 276:4 280:2 291:22 297:2 302:21 305:4 309:21 318:21 320:9 327:5 331:1,5 332:13 340:4 355:18 357:14,18,19 366:6 367:16 371:3 414:6 424:22 429:15 444:17 448:18 talked 94:13 103:21 167:2 185:22 186:4,20 200:11 218:19 285:21 290:12 291:1 296:14 308:1 317:4 328:13 332:14 338:9 340:14 342:10 343:20 344:15 352:19 373:17 412:6 420:18 445:3 447:20	talking 80:20 86:18,21 103:19 179:21 187:8 191:6,14 233:16 242:5 243:12 321:9 346:12 355:10,14 372:8,16 415:19 438:12 450:17 talks 233:9,11 290:14 tamed 211:17 tangible 257:20 262:22 tank 379:11 388:20 target 181:14 209:14 335:4 341:5,7 413:11 415:7 416:4 437:16 targeted 39:21 77:18 279:12 targeting 278:17 targets 58:7 104:3 239:3 338:22 339:9,16 385:1 415:3 tariff 85:15 task 19:11 69:14 tasked 125:21 tasks 275:3 taught 187:16 taxpayer 294:14 TCR 207:15,15 TD 358:18 405:12 408:16 433:22 436:6 tea 240:21 teach 140:22 team 216:13 268:22 271:12 273:4,9 278:15 281:7 284:6,8 286:17 301:6 312:3,8,10 318:15 340:18,21 363:1 396:7 399:1 403:22 412:7 415:22 416:1 423:10 424:8 429:17 448:20 teams 272:6 273:14,16 274:2 279:6 281:19 284:16,17 286:17 368:14 Teamsters 158:7 technical 15:21 28:21 274:2,17 277:2 techniques 348:1 technologically 327:14 392:17 technologies 295:21 technology 268:3 287:17 294:7 299:17 316:6 318:1 321:11 324:22 327:6,7,11 328:12 334:3 343:16 347:11 348:3 349:5,6,9,20	425:2 television 278:12 tell 29:12 30:9 87:15 93:14 94:15 95:22 96:20,21 107:13 117:21 133:22 134:13 138:20 141:7 142:11 144:15 174:14 182:3 192:20 249:12 285:16 291:4 301:16 302:2 303:11 308:10 311:8 313:16 321:16 326:14,16,20 331:3 333:1 347:13 362:16 430:6,7 438:19 447:7 448:20 449:5 telling 141:14 326:9,18 353:17 429:7 tells 192:18 349:10 telltale 225:15 temp 261:15 temporarily 49:4 73:16 temporary 84:20 119:14 273:15,19 279:9 403:10 411:13,19 tempting 296:5 ten 108:9 353:16 364:20 tenants 120:5 141:18 tend 276:18 442:13 tendency 272:15 tends 205:11 Tennessee 270:22 275:15 tens 38:3 56:14 79:12 tentacles 130:9 tenure 276:13 tenured 308:20 term 19:6 25:5 86:22 103:18 116:17 152:2 163:4 175:10 244:16 376:8 381:17 383:1 terminal 120:18,20 135:4 142:6 162:11 164:22 165:9,11 166:3,3 219:5 299:1,4 306:22 334:11 365:21 425:5,6,6 452:5 terminals 27:18 81:4 134:8,8 139:3,4 146:12 146:16 164:12 217:8 218:18 221:17 225:8 227:13 299:7,9 328:12 335:13 350:3,5 terminated 192:5 termination 22:8 28:7 155:20 157:6 161:13 terms 18:9 94:20 106:4 124:18 171:11 177:13 177:17 201:2 208:12	209:9 215:20 217:2 223:8 225:4,8 229:17 235:7 241:11 242:14 246:14,15 247:19,21 253:2 284:21 315:18 317:7,21 318:16 328:18 333:14,14,16 334:8 338:10 339:15 344:6 393:13 423:18 437:11 442:6,12 453:14 terrible 13:19 374:3 terrific 194:2 456:9 territorial 163:21 territories 186:11 territory 116:21 126:2 164:17 173:19 184:13 347:13 349:14 411:17 test 444:10,12 testament 47:16 tested 14:2 420:14 testified 61:6 314:1 358:16 360:4 testify 88:14 89:6 91:3 108:21 114:11 117:17 133:15 267:20 291:15 374:21 385:14 390:14 testifying 44:22 76:7 89:10 testimonies 356:1 testimony 13:12 31:9 43:6 72:21 79:4 84:9 89:12 91:22 92:5 94:21 99:22 100:1 109:1 152:11 155:2 168:11 251:11 282:16 297:19 376:2 385:6 397:18 404:21 446:10 tests 420:16 Texas 134:16 151:2,11 152:9 200:14 260:15 387:3 texted 87:18 textile 47:14 TFI 62:7,7 63:3 64:19 65:16,18 66:6 68:1,22 69:2,9 92:10 TFI's 63:18 thank 6:3 7:5,8,8 8:9,10 8:21 9:6 13:11,13,17 20:20,21 21:2,19 22:4 22:11 27:18 28:12 32:17 45:11 46:5,7,11 46:12,18,20 47:1,2 52:13,15,20 61:15,18 61:19 70:21,22 78:17 78:20,22 79:1 82:11
--	---	---	--

85:19 87:14,18 94:2 96:9 98:8 100:10 101:22 108:13,21 114:2 114:4,4,11 133:14,19 133:21 144:15 145:2 150:13 157:15,17,19 170:3,5 179:12,13,19 183:6 187:20 194:7,11 194:16,19,22 211:22 212:2,8,11,15 213:16 226:19 232:18 236:8,9 236:10,11 237:12 240:7 240:8,11,17 251:10,17 253:16 254:21 264:19 264:20 265:15,20 267:10,14,18,19 280:1 280:4 301:8,11 313:21 314:11 319:18 320:3,4 322:13 324:16 353:14 353:21 354:10 356:10 362:19 370:20 371:1 374:13,20 385:8,11,14 390:8,13,20 392:16 395:9 397:1,3 404:8 413:3,8 431:13 433:10 456:17 thankfully 308:7 thanks 12:22 13:15 62:3 82:9 183:7 254:4 264:22 291:7 310:14 319:17 324:14 362:18 390:17 442:19 Thanksgiving 95:11,13 95:18 theme 227:1 themes 102:1 theoretically 162:16 thereof 133:2 they'd 24:3 70:2 434:12 434:18 thin 15:11 thing 30:3 84:13 107:5 139:2 141:12 144:1 168:10 176:13,19 178:5 181:10 183:12 190:5 208:17 211:15 216:18 223:2 224:15 231:16 235:10 254:3 281:6 282:13 289:11 297:1 298:8 315:15 321:7,8 363:15 372:2,14,15 389:20 431:22 440:1 things 19:7 70:4 88:4 89:9,15 92:7 93:1 95:21 103:13 104:18 105:18 129:10 131:6 136:2,5	137:21 138:16,19 142:5 143:17 156:17 170:21 174:4 177:19 182:7 184:11 188:6 192:7,10 193:12,21 194:1 202:10 209:20 214:1 216:16,20 220:12 221:18 222:1,5 224:22 226:20 227:19 228:19 229:15 231:18 235:20 239:21,22 241:10,18 242:18 243:12 252:1,4 283:1 294:16 296:16 302:19 310:15 311:12 317:19 324:7 326:1 327:19 336:7 337:13 339:3 350:18 358:18 369:10 370:13 371:8,19 373:3 373:4 374:7 376:2 380:20 381:2 394:16 395:13 406:4 432:1 443:13 449:14,16 think 21:5,5,7,14 24:2,3,5 28:8 29:1 57:17 60:6 62:22 66:16,18 67:21 83:10 84:1 85:21 86:3,6 86:17 88:15,17,20 89:4 89:20 90:7,14,22 91:1,5 91:15,15,22 92:10,13 92:13,21,22 93:3 94:19 94:20 95:9 96:11,14,22 97:2,12,17 98:21 99:7 99:13 100:5 101:2,9,22 102:4,13,18 103:8,14 103:19,21 104:2,8 105:2,11,18 106:3,5,14 106:16,20 107:10 152:5 171:2,9 172:15 174:2 174:15 176:13,14 179:9 180:15 182:16 183:4 184:7 185:13,19 186:14 187:21 188:3,22 189:3 189:13,13,17 192:22 194:17 195:4,22 202:11 210:18 214:6 216:12 218:14 220:9,22 221:3 222:7,21 223:5 226:15 227:11 228:6 229:5 230:19 232:22 234:19 235:10,12,15,21 236:6 236:20,21 237:8 240:3 240:5 241:12 242:2,19 243:9 244:14,18,21 245:1,9 248:3,14,16 250:3,9,13,15 252:17 252:19 253:8,9,12	254:3 266:17 267:6 272:15 281:9,10 287:6 287:12,18 288:13 294:2 294:10 297:8 299:13 301:20 302:7,18,22 303:22 306:13 307:8 308:10 309:21 311:19 311:22 313:9 318:6,18 319:8,17 320:1,18 321:2,7,8,19,20 322:6 323:9,16 326:7 328:3 329:14 331:1 332:6,21 334:9,15,18 335:17,21 335:22 336:6,12 337:6 339:2 343:22 344:4 345:2,11,12,18 350:7 351:6,13,15 352:9,15 353:14,16 354:6,14,20 355:15 366:8,9 368:15 368:17 370:4,5,18 371:4,7 373:9,20 391:4 392:10 393:16 394:21 395:4,8,12,16 396:2,5 396:10,15 413:16 419:22 421:7 423:2 428:21 431:3,21 436:21 437:22 438:3,17,20 439:9 440:4,11,19 441:12 442:7,21 446:20 446:21 447:1,7,21 448:10 449:10,14 451:4 455:11,13,16,17 456:2 456:14 thinking 102:3 206:10 210:10 294:6 302:18 304:20 344:1 453:21 third 67:13 134:12 137:5 198:5 200:1 232:11 247:12 297:12 348:18 348:20 386:22 409:2 410:9 419:16,18 429:11 437:10,17 Thirdly 19:22 282:4 Thomas 2:17,17 thought 61:11 84:7,11 139:14 188:14 192:16 211:22 231:10 238:18 377:10 395:17 414:19 thought-out 384:8 thoughts 293:6 312:6 thousands 16:7 56:13,14 79:12 110:20 113:13 117:5 132:2 150:7 406:12 threat 161:13 207:10 384:17	threatened 204:1 217:11 361:2 388:1 threatening 133:18 388:7 three 19:6 48:6 53:9 59:13 64:9 75:17 80:15 100:9 107:7 114:6 130:16 132:10 134:4 136:2,5,16,20,22 137:3 139:21 148:3,8 164:6 164:19 171:16 172:9 176:5 177:19 178:17 186:15 193:19 199:19 201:4,12,14 203:7,14 208:20 227:17 234:16 238:11 244:7,11 247:4 251:18 252:2 260:4 270:11 274:9 284:19 288:1,12 290:16,17 291:14 301:18 303:3 304:16,19 319:22 320:14 326:22 334:4 335:5,20 338:21 342:22 346:8 348:21 363:5,13 365:7 369:2 372:2,3,5,6 376:2 387:7 399:4 401:4 407:12 413:15 417:11 418:10,10 423:19 426:6 431:11 434:4,12 438:12 447:11 448:7 449:15 three-fourths 67:11 three-mile-long 143:22 three-quarters 57:2 threw 134:15 143:3,8 197:22 throttle 127:4,8 134:15 152:14,16 153:11,12,14 154:2 155:2,7,12 173:10 174:1 175:14,15 175:21 186:1 187:7 192:15 193:15 446:14 throttles 155:9 throughput 9:9 throw 358:4 370:13 throwing 275:4 thrust 87:8 Thursday 58:12 tide 389:14 tied 211:19 363:17 tier 271:1,6 ties 426:17 tight 27:20 73:22 81:9 110:19 270:15 279:20 293:5 311:4 398:1 407:7 417:22 418:4 419:10 420:4,21 421:8
---	---	--	---

<p>tightened 199:15 tightness 293:14 time 6:6 11:18 13:5 16:17 17:17 20:11 23:15,17 29:9,16,16,18 30:11 35:19,19 37:12 39:13 41:13 45:1 46:5,11,16 51:20,21 52:14 55:7 56:6 58:12,15 61:16 62:17 66:2 69:6 73:12 74:11 76:17 77:6 78:18 84:10 86:21 87:10,19 88:18 92:10 97:1 98:13 99:5 100:4 102:11 104:9 118:20 119:7 120:13,17 122:13 125:16,19 129:10 137:3 140:1 142:17 143:14 144:16 146:11,15 147:17 148:12 149:8 150:13 152:5 153:3 157:3,13,14 161:17 162:17 165:14 166:21 168:3 176:8 177:10,11 178:7 180:20,21 182:2 183:11 184:12 187:16 193:18 194:4 195:17 198:11 201:10 203:22 210:2 214:4,7 216:21 217:2,14,21 218:6 220:13 223:19 226:8,10 227:15 229:6 231:21 232:2,6,12,19 233:17 234:18 235:9 236:9 239:6 241:9,17 243:13 244:18 245:5 247:3 248:1,2 253:15 256:17 258:16 260:2,7 262:16 263:8,9 269:4 270:2 273:8,20 279:11,18 285:15 289:1,4 291:13 294:19 295:10,19 296:5 296:16 300:1,22 301:9 302:15 306:18 308:9 310:19 311:13 312:13 313:7 314:12 315:6,10 320:21 321:2 326:20,21 329:1,9 333:15 335:8 338:13 341:19 342:17 342:22 344:1 345:8,10 351:18,19 354:16,21,22 358:16,18,19 359:3,6,7 360:15 361:18 362:21 365:10 366:7,10 369:11 369:20 370:1,11,20 371:7 374:7 376:14</p>	<p>382:14 384:1 385:9,10 385:21 388:16 389:21 392:8 395:17,19,21 398:19 401:17 407:6 410:2,6 416:1 419:4 421:16 422:14 427:11 427:18 429:11 431:1 432:16,22 435:14 436:5 436:10 446:6 452:3,6 452:19 time-consuming 128:15 timed 450:20 timeframe 234:13 238:1 244:8 timeline 18:17 timelines 321:5 410:15 timeliness 64:6 timely 18:4,14 75:15 272:3 315:13 367:6 times 17:19 29:6 35:16 36:1 43:7 55:8,17,19 63:4,8 72:15 74:12 80:8 100:19 111:14 125:17 147:21 166:3 172:2 214:11 227:5 289:8 292:14 296:7 298:12 299:3 316:10,17 317:2 321:1 350:15 355:2 365:7 369:2 371:11 372:2,5 373:12 388:18 392:20 411:2 414:12 417:7,8,10 439:19 441:9 449:5 450:4 tipping 168:16 today 6:19 8:13 13:12 16:1 20:21 27:19 31:4 31:13 35:8 44:22 46:5 52:3,22 53:9 54:12 61:9 62:6 70:18 71:19 72:21 76:7,11 77:1 78:19 79:14 80:2 85:12 89:6 89:22 91:4 108:21 109:10,16 113:12 114:11 115:22 117:3 124:11 127:2 130:16 133:15 143:18 145:3,6 151:17 152:7 156:21 159:14 168:11 169:21 177:21 185:15 189:20 195:1 231:22 236:22 251:11,16 252:12,20 254:16 257:1 265:13 267:15,20 268:5 280:2 281:2 282:17 291:16,18 292:3 293:9,13 296:4 300:10 306:15 320:1</p>	<p>329:13 346:16 350:20 352:5 355:22 357:9,11 359:10 360:12 368:10 369:10 371:3 374:22 377:5,9 382:13 385:15 386:2 388:17 390:14,21 397:19 404:21 413:5 416:10 417:6 438:8,22 439:3,13 440:5 442:15 448:11,18 453:3 454:10 455:22 456:15 today's 61:20 75:2 79:18 109:12 119:16 159:4 254:21 293:20 307:9 376:2 422:3 Todd 5:13 354:6 385:16 told 42:17 65:10 95:16 125:5 154:5 246:6 318:12 365:20 428:10 455:8 tolerance 290:13 Tom 28:18 32:21 46:9,16 46:18 tomorrow 31:6 44:22 106:12 173:13 346:9 416:11 430:13 431:12 439:7,8 456:11,13,14 456:16 ton 154:21 172:1 178:20 tonnage 166:17 206:22 348:8 tons 148:6 164:7 348:9 348:10 Tony 243:15 tool 45:20 362:6,9 toolbox 45:20 tools 20:4 45:21 46:1 113:11 299:17 343:16 412:3 top 21:15 88:8 153:17 154:11 185:7 201:16 214:8 216:3 218:2 227:9 295:8,15,17 300:15,18,21 302:8 322:17 328:6 334:4 335:5,19,20 336:10,11 337:2,7,17 338:21 366:13 399:18 topic 266:18 291:3 topical 205:3 topics 152:6 total 33:16 39:9 47:12 77:15,21 111:12 206:18 256:13 260:17 411:22 450:4 totaling 38:4</p>	<p>touch 11:4 53:8 88:5,6 151:19 351:12 418:3 419:10 452:17 touched 180:4 418:20 435:6 touches 427:8 touching 191:5 tough 198:10 239:6,15,15 356:2 418:20 toughness 179:18 tower 193:22 towns 147:18 Toyota 148:10 TP 270:20 271:6 track 17:16 75:6 102:15 116:19 136:14 137:15 139:8,10 144:13,14 145:21 146:1,18 153:14 164:17 171:20 172:1,20 174:7 176:6,20 209:9 211:8 247:10,20 260:11 314:8 315:2 324:20 328:11 345:4 423:19 424:9 trackage 200:14 tracked 173:21 tracking 176:16,16,18 tracks 130:11 134:18 136:13,17 145:19 164:15 tract 349:6 trade 25:3 27:4 39:14 79:9 80:3 90:19 218:15 375:4 Trades 3:10 109:5 traditional 128:13 393:9 394:14 traffic 10:16 17:4 56:22 80:10,13,15 85:18 87:8 111:18 112:2 123:1 134:7 162:18 164:12 165:2,5 176:2 214:20 220:2 297:18 299:4 304:12,21 307:3,21 378:19 402:18 405:11 452:3 traffics 126:3 trail 187:3 200:7 trailing 349:7 train 16:19 36:20 40:15 40:17,22 41:12 43:10 75:20 76:3 77:19 78:1,2 78:6,9,14 80:13,18 95:8 95:12,19 98:2 99:12 102:11 104:17 110:17 111:1 125:7 126:1,5,8</p>
--	---	--	---

126:17,22 127:5,16 128:2,4 129:9 132:7 136:10,16 138:4,15,17 139:7,11,18 140:21 143:18 144:8 145:19 146:10,20,21 147:2,8 147:20 148:2 149:8,9 151:17 152:22 153:8,17 153:21 154:1,22 155:3 155:8 158:4 159:16 161:6,21 162:15,18 164:2,9,15,20,22 165:3 166:10 169:8 171:17,18 171:20,21,21 172:13,17 172:19,22 173:5 174:6 175:1,2 176:10,16,21 177:9,18 178:16 179:3 186:7,11,18,18 187:1 187:12,13 195:5,17,20 197:7,7 200:7,21 202:14,18 241:1,6 261:18 269:3 270:10 271:5 272:13 276:3 299:22 334:12 335:2 337:8 345:3 346:15 347:18,19,22 349:1,2,3 349:13 353:2,3,5 373:10,11 405:3 407:9 407:11 412:16 424:15 425:4,7 447:17 450:19 452:5,9 454:3 trained 40:8 183:15,17 184:12 186:19 313:8 336:4 trainee 276:12 trainees 129:12 157:9 197:8 274:4,9 275:3,7 276:4,21 278:18 298:2 298:4 300:5 305:16 323:8 351:3 407:3 408:17 409:17,18 437:5 437:6,8 trainers 274:19 training 11:12 40:8 78:3 78:4 82:22 98:4 103:22 104:4,9,10 128:14,16 128:20 129:5,14 166:13 174:7 177:10 183:11,22 184:8 185:19 187:17 190:18 215:18 271:15 274:2,7,10,16,17 275:6 276:15,15 277:2 297:20 298:4,5 310:20 323:7,8 352:21 398:4 401:6,6 407:13 409:1,16 412:2 419:19 420:9,11,13	421:1,9 422:21 437:20 438:1,9,11 trainings 155:5 trainmen 3:18 115:1 158:3,6 trains 17:17 35:20,21 36:4,9,16 40:10 41:16 41:19 42:18 43:8,16 78:5,8,10 80:14 95:3 104:15 116:20 125:19 125:22 126:4,9,16,16 127:3,22 128:6 131:21 132:3 136:9,9 137:1,4,4 137:9,9 138:3 143:7,7 146:12,15,22 147:9,16 148:1,5 149:9,10 151:10 152:15 154:16 154:17 164:3,4,6,7,8,11 164:16,19 165:7,8,16 166:12,13,17,20 171:14 173:7,8,9 175:4,6,14 176:12 177:4,5 178:15 179:2 186:5,10,14,16 186:22 187:11 188:18 198:16,18 199:13,20 200:3,22 205:6,9 225:20 229:5 230:3,12 230:13 241:2,4 249:16 299:3 306:21 321:11 345:16 346:4,6,14,20 346:21 347:15 348:5,7 351:15 374:6 424:17,18 424:19,19 445:9 446:14 446:15 447:20 448:1,2 448:4 450:2,5,18 451:19,20,21 452:1,1 452:19 453:13 454:14 454:17,19 trajectory 410:7 Trans 173:20 transaction 317:15 transcript 30:22 transfer 269:12 279:9,11 403:5 411:18 transferred 411:15 transfers 273:15,19 411:13 transform 13:1 transformation 4:21 267:22 399:9 transformed 284:14 transit 55:8,17,19 73:12 74:1,4,12 216:10 226:8 226:10 261:14 364:20 365:2,3 367:5,12 368:12 371:10 383:9	392:4,5 417:7,8 transition 201:17 442:7 translates 11:18 transloading 56:5 transloads 244:22 transparency 44:3 72:18 285:19 317:19 366:8 400:8 403:1 410:19 transparent 19:9 265:12 310:9 344:16,18 383:3 410:13 413:11 444:18 transparently 264:4 transport 67:10,16 transportation 1:1,11 2:4 2:5 3:10,12,14 4:6,11 5:16 7:17 8:5,14 11:2 14:18 15:7 18:6,21 20:1 22:9 32:22 34:15 35:3 38:11 47:8,14 50:10,20 55:3 59:18 62:15 75:19 75:20 77:1 109:5 114:17 145:5 146:6,7 154:9 255:6 256:15 257:3,5 259:7 268:13 269:8,16 272:8 280:13 280:15 286:17 294:13 297:1 327:1 330:3 363:6 375:20,21 380:14 381:21 385:15 386:15 397:12 404:16 406:6 Transportation's 22:14 transported 375:16 transports 212:22 travel 31:22 95:7 147:21 148:3,5 171:14 traveling 389:5 traversed 126:5 traversing 186:4 450:2 treat 281:11 414:7 treatment 116:6 256:5 260:19 262:6 treats 66:15,16 trees 428:6 tremendous 278:5 298:14 302:9 315:10 355:18 403:18 411:1 tremendously 69:12 trend 27:1 48:2 96:14 229:16 245:3 311:17 339:22 trending 131:6 trends 114:1 213:13 243:14 297:7 341:20 398:16 trickle 240:5 tried 31:21 156:6 190:6	191:16 309:6 310:8,22 311:12 trigger 203:12 triggered 223:1 triggering 196:8,13 197:13,20 trimming 274:6 trip 35:16,19 37:12 44:9 127:18 162:4 204:8 241:18 261:1 342:13,21 343:6,12,17 348:16 351:18 352:1 424:22 427:10 442:12 445:17 447:13 450:9 452:2,10 triple 36:2 374:8 388:11 trips 35:16 190:18 347:11 trouble 313:10 450:2 451:5 troubling 361:21 379:5 trouck 57:3,9 115:22 121:10 161:4 206:22 209:8,10 212:18 215:21 224:21 228:2,3 234:17 239:16 259:1,4 282:20 287:12 294:15,17 313:11 365:14 366:4 381:20 411:10 truckers 316:21 trucking 9:10 24:14 27:17 50:21 188:10 212:17,19 244:20 294:4 370:14,15 388:5 427:1 truckload 224:5 235:3 258:2,15,15 259:17 262:10 263:10 265:21 266:15 363:3 367:13 trucks 50:21 57:5 161:4 208:18 218:2 222:14 232:15 239:9 327:5,7,8 389:6 428:5 true 141:15 161:12 163:6 163:21 168:20 204:3 263:8 283:14 303:13 304:3 308:18 331:17 349:17 truly 87:15 131:5 168:2 209:8 210:19 309:1 316:22 330:17 332:10 362:11 422:21 trust 209:10 263:2 319:9 truth 118:12 122:10 157:14 168:21 try 31:10 59:15 70:19 82:13 91:6 92:19 121:16 175:10 184:8 188:1,4,15 201:21
--	---	--	--

208:5 210:14 211:15 219:15 224:3 225:6,9 225:10 227:6,14 232:7 241:9 251:4 281:22 309:18 371:2 405:9 422:17 439:21 443:5 444:3 448:22 trying 94:16,16 106:4 124:16 128:22 138:15 148:11 152:2 174:20 182:18 193:16 196:19 222:12 223:10 224:10 228:22 248:7 289:6 320:3,6 321:1,3 330:8 337:2 340:11 341:6,16 344:15 354:16 371:19 371:20 374:11 413:22 422:11,13 428:13 433:8 438:18 443:19 TTD 109:6 110:4 Tuesday 1:9 342:21 tuned 205:18 tunnel 84:20 turn 20:22 22:2,3 28:22 30:3,4,12 32:4 36:11 49:11 115:15 179:14 195:17 221:22 222:6 232:8 233:6 237:1 249:4 272:1 291:4 292:5 293:21 348:22,22 362:15 372:20 392:5 398:6 404:6 423:16 439:19 turned 142:15 349:21 turning 143:14 207:5 249:6 398:12 424:22 turnover 11:7 12:17 270:9,13,13 271:10 273:2 323:4 341:2,19 341:20 turns 199:1,12,16 201:18 222:3 228:22 234:8 twice 261:2 424:20 two 9:14 29:3 53:14 75:16 77:18 80:10 89:11 104:17 107:15 116:13 120:22 126:3 129:10,17 138:5,13,21 139:11,17,21 143:7,13 143:17 148:1,4 149:7 156:2,3 157:12 160:1,8 163:9 164:11 172:2,9 172:18 176:11 182:21 184:22 190:18 192:10 196:2 198:15 199:13 202:16 203:18 204:15	209:2,19 210:2,16 214:22 215:13 217:16 224:8 226:6 234:16 238:5 244:11 245:13 246:14 248:5 260:8,13 262:1 274:16 275:1 276:7 283:1 284:2 291:12 302:18 308:11 309:2 320:14 326:22 333:6 334:1 353:7 358:4 360:7 361:10 367:22 368:20 369:2 370:21 371:1 372:18 397:10 399:3 400:22 404:3,15 406:3 417:10 418:10 423:5,8 438:11 446:8 452:11 454:14 two-part 102:8 type 59:1 104:18 190:7 193:15 242:6,7 288:4 292:7 363:17 420:19 types 104:18 165:17 235:7 277:22 408:14 typical 164:6 277:16 typically 49:11 51:21 196:10 214:21 224:2 261:16 321:6 367:19 391:16 451:19 452:2 <hr/> U U 149:10 U.S 2:4,7 22:19 24:12 25:10,17,21 26:1,3,13 27:2,16 33:16,19 38:15 53:7 70:12 73:1 75:16 87:4 101:14 200:12,21 201:5,7 205:14 206:16 206:20,22 208:19 214:12,13 216:2,11 223:8 255:14,19 256:4 256:13 258:22 266:9 277:4,6 280:9 293:8 330:6 359:13,21 362:11 364:17 367:9 386:21 390:6 392:22 393:4 397:17 400:13 ubiquitous 376:21 uh-oh 414:10 Ukraine 64:15 98:17 99:15 100:7 238:20 389:1 ultimately 19:4 20:13 82:6 117:8 231:11 253:3 295:12 300:10,11 386:16 394:6,19 unable 15:5 16:11,14	36:18 48:22 81:6 211:8 379:3 unacceptable 19:13 61:15 108:6 112:9 unavoidable 210:17 unbelievable 423:12 Unbelievably 124:7 unbridled 132:14 uncertain 210:4 uncertainties 320:16 406:1 uncertainty 51:16 269:9 unclear 235:7 unclog 207:2 uncomfortable 210:18 unconstrained 350:10 uncouple 147:6 undefined 44:20 underestimate 415:20 underlining 159:13 underneath 70:2 88:11 underperformed 423:4 underperforming 399:7 underscore 411:14 undersized 161:19 understaffed 163:10 360:3 understand 40:12 77:6 78:15 81:7 90:6 106:18 123:22 141:10 150:8 157:4 171:12 174:21 233:8 268:9 271:20 280:14,21 281:10 282:14 287:3 288:19 289:5 304:15 306:3 328:21 329:10 330:8,18 332:20,21 335:11 337:11 340:21 343:16 356:8,8 370:6 381:9 398:17 412:20 416:13 433:8,17 434:16,19 436:18 438:19 understandable 384:20 understandably 407:11 understanding 112:17 249:10 341:19 343:5 386:14 416:17 445:5 451:20 understands 17:4 318:22 318:22 319:4 understood 257:16 368:20 undertaking 203:1 underwater 199:8 underway 262:5 280:3 undesirable 163:19	undoing 200:11 undoubtedly 110:9 160:16 168:18 unemployed 270:7 unexpected 54:9 63:15 196:15 197:20 269:15 303:14 unfair 383:16 unfilled 16:4 48:12,14 49:14 50:11,13 unfortunate 87:17 109:8 unfortunately 23:11 55:11 101:21 112:12 115:14 119:13 198:2 227:12 271:6 376:19 414:16 unfulfilled 57:18 unhappy 342:16 unified 403:22 unilaterally 65:9 118:16 unintended 211:16 union 10:6 16:22 23:21 114:18 122:22 123:20 130:18 135:13,18 141:22 150:22 151:5,9 158:4 165:22 184:21 227:10 291:14 371:13 391:8 402:4 403:11 414:3 422:11,17 Unionized 414:3 unions 109:6 119:15 155:17 401:16 403:3,4 403:17 unique 195:8,8 201:9 205:19 266:1 293:14 303:16 311:6 318:18 unit 80:13,15 299:22 United 15:16 24:16 27:14 62:9,18 98:14 101:3 114:18 181:4 361:11 375:12 376:10 386:9 387:20 389:20 418:13 units 136:10 138:17 142:19 215:14 Univar 4:12 255:6,8 257:11,19 265:14 unload 40:17 41:16 unloading 43:11 unlock 197:14 237:18,19 252:13 299:17 unlocking 238:8,9 321:10 unnecessarily 126:8 unnecessary 427:7 unplanned 75:5,14 unpleasant 205:2 unprecedented 9:13
--	---	---	---

117:14 160:1 355:2 378:22 388:18 unpredictable 19:3 unprepared 359:21 unrealistic 429:2,5 unreasonable 15:13 unrecoverable 196:8 203:13 unreliable 6:14 71:22 unsafe 164:8 unsettled 51:16 Unsurprisingly 121:16 untenable 383:7 unturned 279:20 299:20 unusually 48:7 unwillingness 234:19 UP's 203:21 update 18:11 69:11 226:21 236:12 updated 55:10 86:20 368:13 updates 68:4 229:7 343:20 updating 69:20 ups 73:21 162:15 173:8 452:4 upstream 213:13 221:7 uptick 359:21 upward 48:2 urge 41:4 42:4 59:11 72:16 362:1 390:7 urged 21:11 urgency 15:19 404:1 urgent 1:3 6:4 52:22 159:13 254:22 urges 42:12,21 69:2 384:12 urging 293:21 USDA 14:20 17:3 18:1,6 18:14 19:7 20:9,14,18 47:3 USDA's 15:19 17:12 use 11:17 18:21 19:21 20:5 41:9 42:3 44:2 45:21 57:13 60:4,5 68:14,21 138:12 152:13 153:12,14 164:15 168:19 177:5 182:19 215:14 262:13 271:22 314:16 346:17 347:10 348:3 362:2 380:19 383:11,14,19 387:7 388:11 391:19 406:15 409:20 425:1 452:2,10 useful 86:15 240:14 241:5 244:2 362:8	users 6:15 55:7 uses 65:14 271:13 374:5 usual 278:11 usually 41:13 50:5 173:9 195:14 227:21 231:16 252:10 253:11 452:1 453:18 utility 86:13 114:22 utilization 221:16 222:13 225:12,18 278:19 336:9 utilize 255:16 263:21 321:10 363:5 402:10 utilized 166:15 301:5 utilizes 347:22 utilizing 41:8 67:15 119:1 255:13 utmost 7:2	vast 316:21 vehicle 452:12 vehicles 381:3 velocities 126:18 velocity 43:6 74:16,22 145:19 164:9 166:11 173:15 176:17,20,21 177:18 178:1,16 179:3 197:16 198:8 225:16 249:15 302:10 334:12 335:2 342:10 398:21 399:6,18 400:6 423:22 425:9 439:13,15 442:10 445:11,11 450:13 vendors 339:6 verbal 127:16 Vermont 387:21 version 109:1 288:4 versus 45:7 77:16 205:16 214:10 335:1,8 437:14 vessels 36:19 99:9,9 vested 68:11 veterans 190:8 VFTMPEA 153:17 VI 4:14 viability 113:19 240:6 viable 381:21 Vice 3:6,19 4:11,16,18,20 5:10,17,18 14:13 79:7 94:5 97:9 135:10 158:1 158:6 251:10 254:19 255:4,6 267:14,22 268:5,7 291:8 313:21 318:6 319:22 374:22 397:2,7 398:8 404:9,12 413:4 417:18 vicinity 197:2 victims 115:7 video 409:5,6 videos 421:20 view 38:17 106:20 170:19 171:13 177:7 178:4 203:4 205:15 213:6 221:6 222:20 223:2 224:19 243:22 253:12 264:4 302:21 303:2 316:3 329:2 402:19 417:3 VII 5:2 VIII 5:15 Vilsack 21:7 violation 380:4 Virginia 260:6,10 351:2 365:5 virtual 409:8 virtually 62:14 69:19	353:5 397:17 visibility 20:6 76:18 77:10 105:5,10 106:7 339:21 vision 156:11 281:5 347:16 visit 87:4 94:17 visited 24:15 vital 47:8 50:4 79:21 166:18 375:10 378:1 382:10 vitality 8:21 Viz 118:15 155:16 156:13 191:9,13 voice 116:1 212:10 287:19 voiced 150:5 volatile 224:20 volatility 244:17 volume 23:19 37:14 196:14 206:5,16 209:10 213:2 220:10 222:17 226:16 227:1,3 230:13 232:17 234:5 242:5 257:18,22 258:4 259:16 274:16 331:6 363:21 volumes 17:3 23:15 25:9 39:20 40:3 64:1 66:8 85:9 202:21 219:9 220:6 223:17 238:1 262:1 268:18 274:3 voluntarily 12:2 112:3 269:21 406:22 411:8 432:12,15 434:1 voluntary 119:17 403:5 411:4,13 432:10 433:15 volunteer 275:1 vortex 202:22 203:17 251:20 306:9 vortexes 303:18 vote 119:9 vulnerable 247:6
<hr/> V <hr/>			
V 4:8 vacation 279:5 394:15 411:8 vacations 394:14 vaccinated 409:22 411:5 vaccine 213:7 230:17 411:7 vaccines 406:10 validity 369:12 Valley 148:4 171:22 391:12 valuable 189:9 254:13 264:12 315:4 value 33:20 208:15 224:3 250:18 255:9,20 278:8 281:4 284:21 285:4 287:9,10,14 289:16 290:4,19 314:19 319:2 319:5,13 328:21 329:1 329:10 330:5,9,15 337:14,21 338:17 358:1 408:22 valued 330:12,12,13,14 values 223:18 281:7,13 285:21 290:12 317:5 344:14 variability 73:14 213:3 230:7 variable 228:1 variation 48:6 varies 94:12 variety 63:2 75:4 81:8 278:9 380:20 various 97:22 190:14 250:4 259:12 266:9 386:18 varying 293:20			
<hr/> W <hr/>			
W 2:8,17,18 99:9 wage 121:7 wages 41:15 121:13 181:12 434:19 wait 36:19,20 99:10 142:22 164:20 244:9 247:6 304:6 327:18 351:2,4 352:13 396:13 448:7 455:17 waiting 49:3 81:3,5 94:15 99:11 149:17 233:16 236:1 247:6 249:18			

340:7 365:13 452:14 waived 365:12 wake 294:6 walk 160:5 196:9 213:18 walked 107:6 210:7 walking 137:12,18,18 238:22 239:1 walks 290:14 Wall 117:5 128:16 133:8 211:10 233:8,10,18,22 243:17,22 245:19,21 246:1,5,7,11 248:11 252:10,11,15 345:12 364:9 377:15 385:1 456:5 Wallace 3:19 108:13 157:18,19,22 170:5 175:18 178:6,12,14 193:1,8 Walmart 121:9 313:11 Walmsey 28:17 Walmsley 2:15 46:14,19 46:20,21 52:15 want 7:5,7 8:10,21 9:6 18:9 29:4,11,11 31:13 33:2 45:11 47:1,2 53:10 58:21 83:21 85:1 87:18 88:19,20 90:13 91:1,3 92:9 93:2 103:17 107:3 107:5 108:18 116:2 119:10 121:18 131:9 150:6 154:4 170:7 171:1,6 179:14,15 180:20,20 181:5 182:19 183:8 187:9 198:19 201:22 207:1 210:19,22 219:14 223:1 227:6 234:3 235:6 236:9,10 236:16 246:12,21,21,22 265:15,16 276:4 278:20 281:1,6,6 282:13 285:9 287:2 293:18 296:20 298:8 301:15,20 302:2 306:9,11 308:11,19 309:20 310:2,12,14 313:2 314:14,16,20 316:11 317:22 319:20 320:4 324:6 328:8 329:4 330:15 331:5 335:3 336:19 337:3,11 337:22 338:4 339:19 340:10 344:11,12,18 346:17 351:1 352:2,3 352:13 354:8,13 356:9 358:4,5 370:22 372:1 374:8 398:2,21 411:14	414:15 415:8 418:16,21 419:1,1 420:14 422:4,4 422:5 424:16,18 425:1 429:19,21 430:9,11,15 431:22 432:15 433:18 434:2 435:19,21 436:17 438:4,19 441:11 442:2 456:3,5,17 wanted 93:20 103:14 116:1 151:4 178:5 192:10,19 213:10 254:11 309:9,12 318:20 339:14,15 352:19 356:5 371:3 405:16 432:3,7 432:13,18 442:16 444:22 wanting 85:14 wants 123:14 129:21 187:13 189:7,8 236:4 296:22 306:15 319:4 329:4 338:3 war 39:14 98:16,19 136:12 441:13 warehouse 25:14 warehouses 11:16 221:21 316:21 warehousing 363:4 421:2 warn 118:3 warned 119:4 359:7 361:19 warning 119:8 warnings 133:6 warrant 140:21 warranted 132:13 133:14 362:5 wary 118:3 Washington 1:13 140:4 wasn't 88:6 198:2 243:1 253:6 307:1 373:22 400:2 407:5 429:16 430:19 431:20 435:5 waste 360:18 wasted 11:18 watch 115:18 138:4 191:15 watched 254:2 258:18 watching 218:13 220:12 226:11 240:6 333:9 water 53:13 256:5 260:18 262:6 264:10 way 6:8 7:16 10:2,21 20:19 27:6 50:6 60:4,8 66:4 68:6 72:2 83:17 107:21,22 119:20 125:3 125:12 135:3 137:7 141:16,17 151:18,21	159:2 162:11 171:5 172:13 173:5 174:4 183:8 184:21 188:12 189:5 195:22 202:13 206:9 207:3 219:15,21 246:12 264:8 267:3 281:22 282:7 284:20 289:13 294:10 296:16 301:21 309:11,12,19 310:3 312:16,22 313:1 313:9 317:17 318:11 321:13 325:5 328:5 335:17,22 337:18 344:8 344:20 351:7 353:15 357:13 374:14 383:5 390:15 403:20 414:6,7 414:20 418:14 423:4 427:3,4,8 434:19 437:2 439:14 454:18,22 455:15 Wayne 275:21 ways 9:15 11:4 23:5 141:10 160:1 165:8 216:1 266:14 269:15 294:6,15 295:18 327:9 333:6 337:16 344:22 364:22 392:2 410:18 we'll 29:22 31:4,6,7,9 53:10 100:7 108:13 137:20 139:5 141:8 174:12 190:5 196:9 212:4 214:2 217:7 231:22 233:6 236:6 240:6 253:14 301:9 326:22 334:20 335:11 340:1 353:20 358:3 395:6 410:8 422:16 425:12 455:2,5 456:18 we're 6:10 7:16 21:17 28:13,16 29:5 30:14,17 32:1 52:10 53:13 59:1,7 61:1 63:8 65:22 79:16 82:12,13 83:3,7 84:18 85:3 87:20 93:2 98:18 99:8 100:4 101:2,9,20 102:18 105:16 106:16 108:8 124:7 134:10 135:20,20 136:6 143:14 144:13,13 148:9 156:12 174:11 175:11 177:7,21 179:8 188:2,11 191:6 191:14 194:6,9 195:4 203:8 209:19 212:3,3 215:20 216:2,17 218:5 218:8,8,9 219:15 223:8 225:19 229:16 230:4	236:5 237:6 239:14 241:15 245:15 248:18 248:20,22 249:18 251:7 252:20 253:17,18,21,22 254:1 266:2 268:11 274:16 275:9 276:5 278:7,8,18 281:10 282:5 283:8 285:15 287:16,21 290:2 298:13 299:16,19 302:11 306:3 306:6,7 310:4 313:9 315:12 316:18,20 317:1 317:15 318:2 319:10,12 319:13 321:1,3 322:14 323:5,9,19 324:5,7,20 326:19 327:12,15 328:8 329:2,9 330:8 331:9 332:1 333:9 335:1 336:2 10 337:2 338:5 341:6,15,16 344:8,15 344:17,20 345:19 347:5 350:22 352:9,12 353:21 356:6 357:18,20 365:12 366:3,13 367:14,22 370:13 371:9,19 373:4 378:22 391:11 393:18 393:19 394:3 395:20,21 403:22 410:17 416:12 417:13,16 420:11 421:6 422:10 423:6 424:2,4,9 425:3,11,12 426:4 428:14,15 430:8 438:5 438:12,15 440:8 443:6 443:10 444:3,17,18 448:14 449:10 451:7,9 451:12 452:7,19 453:3 453:5,20,22 454:1,11 455:15 456:1 we've 9:8 12:21 16:13 17:1 21:10 30:15 56:17 57:18 59:13 69:14 70:1 80:6 85:16 88:7 90:10 101:17 103:21 104:13 106:17 111:11 120:8 137:16 177:7,15 178:4 179:21 187:21 191:2,16 198:20 203:17 214:20 216:10 217:16 220:12 220:18 222:2 223:7 227:18 228:14 229:3 232:10 235:1,2 238:7 242:18 246:6 248:1 250:11 257:19 274:13 274:22 275:7,19 276:3 278:11 279:5,9 281:2 281:13 283:18 286:2,4
--	---	--	--

288:15 302:3,22 305:1 310:8,22 314:11,17 315:9,14 316:5 317:9 317:18 318:15 320:12 323:8 326:11 336:18 343:14 347:6 350:17 354:3 357:5 365:6,11 365:13 366:22 373:9 374:10 404:5 407:10 409:19 414:17 416:6 418:4 420:18 438:8 440:21 443:7,16 445:2 445:3 451:10 452:22 453:5 weakened 239:17 wear 409:22 wearing 406:12 weather 50:9 63:15 196:14 203:11 219:10 226:13 229:14 277:22 408:1 weathered 201:5 website 30:22 31:1 444:9 week 23:19 31:3 36:1,5 59:11 64:9 150:7 156:3 163:8 198:5 200:1 203:20 226:22 230:3 250:4 274:14 298:2 323:10 352:5 358:15 364:18,21 366:5 372:22 373:17 405:15 433:1,19 434:3,6,11 436:7 week's 260:20 weekend 156:3 weekends 96:8 181:2,21 278:1 422:5 weekly 6:17 18:19 229:7 273:5 402:2 411:9 weeks 6:11 38:4 58:4 80:6 107:15 128:21 149:1 184:16 185:19 198:1 199:13 200:6 251:3 261:3 274:6 275:1 301:18 372:6 423:8 434:4,12,13 weigh 164:7 weight 137:14 weighted 49:18 welcome 6:3 14:11 62:5 71:19 91:17 94:9 152:6 252:10 449:4 welcomed 258:3 welfare 121:8,11 277:14 405:19 well-being 412:1 well-documented 63:1	well-established 206:4 well-informed 409:11 well-known 54:9 63:1 258:16 well-received 244:21 wellbeing 49:13 Wenatchee 140:3,4 went 95:20 135:11 143:4 184:15 190:17,18 198:3 243:7 304:1 308:2 309:6 320:12 355:13 414:2 420:22 421:1 427:2 weren't 221:4 355:10 408:9 west 23:17,18 25:22 35:17 111:15 214:5,10 215:9,10,16,19 216:2 217:10 221:13 223:9 238:6 260:10 351:1 368:3 westbound 218:20 western 217:22 238:10 361:11 whatsoever 142:4 wheat 99:14,15 wheels 138:9 wherewithal 315:6 White 11:20 355:2,5,8,14 371:6 wholesale 80:4 wholly 132:1 195:1 whopping 111:3 wide 33:14 278:2 312:9 widely 206:5 widspread 97:4 377:4 Wilcox 2:17,18 28:18 32:21 86:16 wildfire 203:21 239:8 willful 160:3 willing 12:1 50:1 91:3 107:13 330:15 373:14 willingness 25:1 wind 29:18 101:19 window 64:9,10 windows 65:15 winning 243:19 wins 210:3 winter 75:9 86:11 200:19 226:13 306:9 427:22 Wisconsin 140:3 wise 14:2 wish 62:1 258:4 309:4 449:2 wishes 87:19 witness 8:6,7 14:9 21:21	157:18 witnesses 7:5 130:16 132:10 194:3 265:17 303:15 413:9 woefully 121:21 129:13 woke 206:2 women 117:6 120:11 123:20 189:21 190:3 192:6 wonder 83:13 170:18 245:21 450:21 wondered 251:14 314:6 318:8 417:22 wonderful 93:7 wondering 83:9 94:5 180:3 240:13 413:13 wood 47:15 word 94:3 95:12 182:19 185:2 320:18 355:7 366:8 words 127:6 254:6 309:11 358:10 361:8 wore 406:3 work 8:22 12:21 13:7,10 14:20 20:18 22:8 23:4 25:8 26:9 27:12 42:13 52:11 59:12 81:19 82:8 86:1 95:20 97:15 105:13 113:10 117:15 118:2 120:14,18,22 123:9,12,21 124:22 127:3 129:20,21 130:18 136:15 139:5 141:2,3 143:9 150:18 151:10 152:8 156:7 157:8 161:11 162:12,18 163:9 173:6 174:13 179:16 181:20,21 190:12 194:1 194:5 197:18 224:7 230:16 234:21 246:14 250:20 270:7 274:11 278:6 281:17 290:2 292:10 301:5 305:20 308:16 309:10,19 310:3 314:21 326:3 336:5,7 338:3 344:11 369:19 382:15 384:15 389:5 403:16 406:19 407:22 409:13 411:22 412:3,20 418:21 419:3 420:19 421:4 422:4,4,6,10,16 432:15,21 433:19 434:2 435:21 436:7 437:8 439:17 454:22 worked 7:10 9:9 114:20 135:12,17,17 141:22	178:17 192:3 278:21 280:6 286:4,7,11 295:19 314:17 402:15 408:16 421:3 423:4,9 423:11 worker 118:18 workers 9:14,18 11:6 12:16 26:9 38:20 109:6 114:14 115:4 117:22 126:17 158:19 159:11 168:4,6 179:16 180:9 269:21 270:3 406:7,18 435:20 workforce 9:10 10:11,14 11:8,9,12 12:14,15 109:20 110:2 111:1 112:19 113:5 116:9 128:10 159:22 161:16 161:19 188:4,16 192:7 270:16 271:3,11,14 272:1,4,16 273:1 278:19 279:3 299:20 305:11 325:22 377:12 401:10 404:3 405:1 407:6,20 408:4 412:13 433:7 working 8:3,17 20:5 22:6 34:15 65:3,8 71:14 90:17 91:6 102:10 104:14 109:12 123:17 123:19 124:5 125:21 133:16 146:11 151:8 161:22 163:13,18 169:14 181:1,12,13 277:22 280:8,13,17 291:11 296:11 297:17 298:12 311:14 313:8 338:5 340:20 358:7,18 366:22 372:19 400:16 403:2 405:10 408:14 409:11 419:4 422:11 425:12 443:20 454:8 workload 140:20 142:3 works 60:13 191:19 195:15 246:6 412:10 444:12 world 53:5 62:10,12 64:15 71:17 98:15,19 99:3 101:10,14 117:13 136:12 141:12 205:10 216:21 225:12 317:17 418:12 422:9 world's 79:8 98:18 worldwide 293:10 worried 90:15 199:4 worry 202:14
---	--	---	---

<p>worse 53:16 55:12,14,20 80:22 162:15 219:19 227:3,20 230:18 251:21 251:21 264:7 359:16 worsened 215:18 worsening 64:15 227:20 worsens 12:17 worshipping 244:4 worst 120:8 137:8 198:21 376:19 380:5 worth 66:17 108:7 151:2 151:6,10 191:19 wouldn't 29:2 66:2 141:10 183:3 210:4 242:20 250:16 312:3 345:8 350:13 432:21 455:9 wreaking 126:6 write 156:21 writing 345:22 written 89:11 99:22 127:2 160:8 162:5,22 166:8 193:5 wrong 19:5 89:21 138:8 195:13 205:10 210:9,9 227:19 296:6 416:17 wrongdoings 131:11 Wyoming 139:15,15 144:3</p> <hr/> <p style="text-align:center">X</p> <hr/> <p>X 142:7 309:17</p> <hr/> <p style="text-align:center">Y</p> <hr/> <p>yard 114:22,22 132:8 134:1,3,6,6,22 135:4,12 136:15 137:1 140:4,5,7 141:8,13 165:9,19 166:1 173:16 191:16 198:5 271:4 342:20 372:3,10,12 yarded 125:7,19 yards 56:3 59:3 63:13 70:14 116:19 130:12 131:20 133:1 136:12 140:13 164:12 165:15 165:17 169:11 203:20 261:12 372:5 377:22 382:10,10 yeah 71:10 90:13 92:7 93:5,7 105:15 173:10 178:8 180:22 193:8 226:16 233:17 234:4 239:5,14 244:15,15 247:9 358:8 391:11,14 426:18 430:3 433:21</p>	<p>437:4 443:15,19 451:17 451:22 454:9 year 23:9,13,21 24:7 39:9 39:9,13 51:22 55:1 62:13 63:6 64:7 66:12 72:15 74:6,6 75:17 78:1 95:12 100:13,15,18 104:5 111:13 118:17 121:10 135:1,6,7 137:20,20 141:4 195:14 196:10 197:20 198:12 199:20 200:18 203:22 203:22 206:18 207:17 216:8 218:4 219:4,10 220:13,16 227:15,20 230:10 231:6,8 232:3 232:11 235:12,12 237:5 237:7 239:2 244:7,10 253:1 260:5 262:21 263:14 274:14 275:8,8 275:10,10 277:18 283:12 302:4 305:20 310:17 311:15,15 323:12 324:2 326:12,22 341:9 342:8 363:22 364:19 365:5 367:20,22 368:4 369:1 387:10 399:4 402:12 403:5 405:7 409:3 410:4,6 426:6,16,16 428:22 430:7 437:17 439:11 440:4 445:10,11,19 years 7:18 9:14 10:9 13:2 16:1 20:10 34:3,6 38:19 51:21 59:2 61:8 63:2 66:11 67:5 69:15 71:14 77:17 107:7 109:8 110:3,21,22 116:8 119:21 134:16 135:2,12 135:14 144:10 145:13 150:19 151:12,13 156:18 159:17 160:5 165:15 167:14 180:22 192:3 193:19 195:2 201:12,13,13,14 203:7 203:18 205:13 206:19 209:9,16 212:17 224:10 230:11 234:16 242:18 248:4 251:19 252:7 254:14 270:11 280:7,13 284:2 291:11,13,14 293:7 296:10 304:6 314:13 315:11 319:7 320:13,14,14 343:1 355:16 364:1 368:17,20 378:12 379:11 380:18</p>	<p>390:22 397:9,11,21 400:22 404:3,13,14,15 414:6,9,12,21 415:6 423:5 424:11 425:13,18 428:22 431:12 438:12 yellow 29:17 198:13 217:18 yep 62:2,2 238:16 yesterday 80:21 yield 112:17 yields 64:12 York 271:2 275:16 young 391:1 younger 180:18 353:17 YouTube 30:21</p> <hr/> <p style="text-align:center">Z</p> <hr/> <p>zero 112:20 135:7 152:17 152:19,22 153:11 154:3 154:10,15 166:8 290:13 zones 350:10</p> <hr/> <p style="text-align:center">0</p> <hr/> <p>0.6 206:17</p> <hr/> <p style="text-align:center">1</p> <hr/> <p>1 31:5 118:17 153:20,21 154:12,17 155:6 182:16 207:20 256:13 1,000 33:6 46:7 119:17 197:7 1,500 36:6 1,800 134:11 1.9 256:14 1/2 304:7 394:3 1:00 31:8 1:45 194:9 10 35:17,21 79:14 80:12 92:19 138:5 195:17,18 195:20,21 197:11,12,16 201:12,12,13,14 203:6 252:7 270:19 304:6 350:14 10-14 347:16 10,000 136:10,16 146:12 146:15 148:2 186:18 387:10 394:4 100 16:8 38:9 79:11 140:18 167:14 251:19 256:10 288:22 326:10 357:2 393:22 432:18 100,000.00 367:14 100.00 217:12,13 106.7 155:8,11 107 48:21 108-A 153:17</p>	<p>11 36:7 47:13 48:17,20 112:1 270:4 312:11 404:13 11,000 303:20 305:3,15 307:6,9,12 11,556 303:7 11:25 108:8,15 11:35 108:13 110,000 453:3 110,000.00 121:10 313:11 313:16 115-A 153:22 12 76:1,5 80:17,18 101:11 135:2 153:7 162:3,7,10,12,13 183:2 198:8 207:8 244:8 246:19 360:20 380:15 12-month 183:1 125 34:3,5 125th 33:21 13 47:13 98:17 147:12 206:21 312:11 137,000 48:14 14 80:12 153:16 184:4 400:6 145 172:19 15 33:16 36:5 55:20 73:11 74:5,7,16 79:17 138:5 153:8 154:10,18 155:6 193:6 214:11 364:17 150 57:5 452:17 155 71:13 155,000.00 365:15 16 100:3 141:2,3 149:2 192:3 400:6 16,998 171:19 16.8 23:13 16.9 399:15 17 150:19 170 51:20 175,000.00 368:3 18 112:2 128:21 145:13 184:15 201:1 206:19 269:6 286:4 291:10 356:17 380:16 180 342:3 1863 158:5 19 439:14 19,786 430:5 19.4 399:6 1980 158:11 1985 67:7,13 1994 358:17 1997 134:22 1998 150:20</p>
---	--	---	---

<hr/> 2 <hr/>			
2 183:13 375:12 426:14 2,200 255:16 2,500.00 365:10 2.1 53:22 2.29 353:3 20 7:18 10:14 17:3 35:17 67:5 149:2 160:5 162:2 203:22 215:14 274:22 361:1 365:18 379:15 427:22 20,000 74:15 164:7 20,000.00 365:20 20,211 430:5 200 54:2 67:7 144:10 439:16 452:17 200,000 54:6 200,000.00 277:20 2004 142:18 150:21 206:1,7,14,17 208:13 2007 25:22 143:3 2008 135:6 207:15 2009 141:15,16 151:2 358:20 2010 135:10 353:4 2011 143:12 2013 361:16 2013-2014 362:3 2014 202:22 203:17 213:4 251:19 361:16 399:4 2015 201:18 2015-16 354:14 2016 399:5 400:2,7 2017 61:5 243:4 359:3 376:10 399:8 2018 49:19 79:20 198:21 231:4 302:11 306:18 307:16 308:22 2018-2019 309:3 2019 26:3 39:10 40:1 47:11 75:18,22 76:2 107:15 165:20 199:8,12 215:14 295:16 301:5 302:8 303:6 306:18 307:16,16 309:1 337:3 342:15 353:6 399:13 415:11 423:20 424:5 438:3,6 453:1 2020 53:21 216:21 217:19 219:6 226:8 228:15 288:15 302:16 303:8 304:13 307:17 313:3 399:14,22 405:3 406:3 415:11 423:20 432:5,19 433:4 437:1,2	445:14 2021 48:13 49:19 73:8 74:3 219:19 221:14 230:21 269:6,21 270:6 270:19 277:19 299:16 302:17 311:7 353:4 360:21 361:1 368:3 400:5 407:17 2022 1:9 38:8 39:10,22 48:2,8,13,20 49:20 50:4 57:5 74:3 77:16,20 153:16 154:18 238:13 299:1 360:16 364:12 369:7 437:3 2023 238:13 341:12,21 2030 54:6 205 375:16 21 23:10,16 34:16 48:19 217:20 295:8,15,17 300:21 302:9 336:11 337:2 360:14 417:10 21st 169:15 22 360:14 225,000.00 366:6 23 162:7 364:18 24 34:9 73:20 111:2 139:20 162:2,13 163:8 244:9 439:15 24.00 181:15 25 53:6 72:14 129:16 150:19 305:11 360:20 397:9 423:7 434:18 25,000 159:16 25.8 399:5 250 138:7 143:13 26 1:9 341:12 439:16 26.3 399:19 27 111:1 303:10 304:8 440:17 441:4 270 138:6 28 148:10 180:22 28.00 181:16 29 110:2 298 171:22 29th 236:13	176:8 180:13,22 210:17 215:21 235:18 291:11 291:13 293:7 296:10 305:11 334:7 335:19,20 338:22 342:3 390:22 404:14 413:17 416:8 446:2,8 451:5,8 30-60 446:17 30.00 181:16 300 243:6 300,000 393:17 31st 144:18 32 111:2 329 145:5 33 34:17 33,000 158:5 34 280:7 399:15 35 159:17 172:6 209:4 274:18 312:8 365:4 350 54:3 36 399:19 365 141:3 377,000 79:20 39.3 26:2 395 1:12	48 139:20,22 143:15 228:10 453:18 49 323:9 49.9 210:7
		<hr/> 4 <hr/>	<hr/> 5 <hr/>
		4 33:17 53:7 198:7 209:13 239:2 4,000 255:16 4.0 154:19 4/15/2022 153:22 40 55:12 127:1,5,7 134:9 152:14,17,22 153:1,5 153:11,12 154:3,15 158:11 162:12,12 166:8 171:15 173:3,4,13 174:2 192:14 312:6 345:19 347:9 379:15 408:17 409:17 420:11 435:15 40,000 114:19 40/550 152:12 154:10 400 243:6 364:15 437:13 401K 277:11 415-22 192:14 42,000 172:1 43 111:3 323:8 44 62:11 44.1 26:4 45 153:5 206:22 209:6 224:17 235:17 345:4 45,000 110:4,5 368:15 46 332:15 47 269:20 47,697 76:4	5 154:17 155:7 253:5 301:18 5,000 148:4 5:15 353:15 5:22 353:20 50 16:8 137:17 173:1 199:13 209:6 345:4 419:14 425:18 434:10 50's 206:7 500 49:20 134:5 135:9 139:6 143:12 206:12 401:5 455:8,12,16 500,000.00 37:18 368:4 52,000.00 277:8 313:15 54 353:4 54,133 76:3 55.9 26:5 550 155:7 165:19 166:8
			<hr/> 6 <hr/>
			6 47:6,12 128:21 155:4,4 155:10 184:16 206:18 206:18 253:5 350:14 6,244 433:5 6,400 75:21 6,500 36:5 407:17 6,600 407:3 437:14 60 48:15 55:8 143:7 171:17 176:7 261:10 311:9 342:3 347:19 350:12 377:11 416:8 425:4 435:16,19 451:5 451:8 60.7 26:1 600 198:10 62 313:5,7 64 445:20 67 445:20 690 394:5
			<hr/> 7 <hr/>
			7 31:5 35:22 98:10 158:12 159:17 163:8 207:22 253:5 394:3,3 7-day 226:19 7,000 401:5 437:14,17 7,054 437:2 7,100 400:1 7,134 433:4 437:2 7,200 405:3

<p>7,700 304:9 7,710 313:4 7,772 313:5 7.00 232:5 7.4 47:12 7:11 395:17 7:27 456:21 7:30 456:14 70 79:19 386:21 425:4 700 304:10,19,22 75 381:4 441:16 768 60:3 86:2 770 1:2 78 55:7</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 31:6 55:15 143:6 152:17 198:9 304:7 350:14 360:15 8,000 33:7 143:18 146:19 146:20 303:21 305:3,16 307:6,13 447:22 8,400 304:9 340:11 8,500 176:10 80 80:3 200:9 329:22 425:5 437:1 80's 22:6 207:20 800 282:20 800,000.00 64:22 81 445:18 83 206:7 85,000 453:1 850 275:6 298:3 850,000.00 367:19 89 79:9 890 433:6,7 435:9</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 79:10 9,000 306:4 400:2 9:00 456:11,19 9:30 1:10 6:2 90 73:4 288:18 334:7 339:1 342:3 413:17 428:1 451:9 93 289:4 93,000 48:14 94 277:6 94,000.00 277:18 95 272:17 322:18 340:22</p>			
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