

Vice Chairman Mulvey's Opening Statement
July 22, 2008

STB Ex Parte No. 677 (Sub No. 1)
Common Carrier Obligation & the Transport of Hazardous Materials

Thank you Chairman Nottingham. Good morning and welcome to our panelists and other attendees. I have thoroughly read the testimonies submitted for this hearing, and I am eager to engage in discussions with our panelists. I also want to thank those stakeholders who submitted written testimony only, which I found very helpful in framing our inquiry today. I especially want to thank the Railway Supply Institute for its excellent testimony; it raised many thought-provoking issues.

This hearing follows from our more general hearing on the common carrier obligation in April. That hearing underscored that the common carrier obligation is the foundation on which the Board's regulatory framework is based. The common carrier obligation is the basis on which our transportation systems developed, and has been "around" far longer than the hazardous materials at issue today. Safe and efficient transportation of hazardous materials, and especially certain toxic inhalants, is critical to our nation's economy, and is often best accomplished by rail. These materials are essential for our nation's manufacturing industries, agriculture, and the overall public welfare, and they are not materials for which there are ready substitutes.

Now, I sympathize with the railroads' fears about the potential consequences of accidents and other incidents involving hazardous materials – but many firms operate in an environment in which there is the potential for catastrophic harm. In an ideal world, there may be a way to make whole any of those people who are harmed by an accident. That does not mean we must shield the railroads from their share of the responsibility for

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such occurrences. In my view, the Board's overriding duty is to enforce the common carrier obligation, not to exempt or protect railroads from it. Indeed, the railroads themselves, in their testimonies today, note that they are not seeking to be exempted from their common carrier obligation to haul hazardous materials.

I am very interested in listening to suggestions about how a balance can be struck between the need for shippers to move TIH and other hazardous materials by rail with the desire of the railroads to not have to "bet the farm" every time they transport these materials.

I look forward to hearing today's testimonies. Thank you very much Chairman Nottingham.