

UNITED STATES OF AMERICA

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SURFACE TRANSPORTATION BOARD

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PUBLIC HEARING

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UNITED STATES RAIL SERVICE : Ex Parte No.
 : 724
 ISSUES :
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Suite 120
395 E Street, S.W.
Washington, D.C.

Thursday,
April 10, 2014

The above-entitled matter came on
for hearing, pursuant to notice, at 8:30 a.m.

BEFORE:

DANIEL R. ELLIOTT III Chairman
ANN D. BEGEMAN Vice Chairman

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P-R-O-C-E-E-D-I-N-G-S

(8:31 a.m.)

CHAIRMAN ELLIOTT: Good morning.
Welcome. The Board has called today's hearing to discuss the service problems that have been occurring across significant portions of the nation's rail network.

At the outset, I want to thank everyone, government representatives, carriers and shippers, for appearing on such short notice. We did not want to delay initiating a public discussion on an issue that is clearly impacting so many.

I hope this meeting will spur more open dialogue between shippers

(Interruption in audio)

CHAIRMAN ELLIOTT: -- and follow this meeting with more local meetings to further that goal.

The Board has been closely watching the rail industry's performance metrics, and we are very concerned about the

1 effects of these service issues. Shippers
2 have also contacted the Board to express
3 concerns such as slow and unfulfilled orders,
4 car delays, and increased cycle times
5 particularly on Canadian Pacific and on the
6 northern segment of the BNSF system.

7 We wrote to BNSF and CP to express
8 our concerns, and Vice Chairman Begeman and I
9 met individually with senior management from
10 these two railroads. The Board's Rail
11 Customer and Public Assistance program, or
12 RCPA, have been working with shippers and
13 railroads to facilitate resolutions to
14 specific service issues wherever possible.

15 One of their goals is to get
16 shippers and railroads in direct communication
17 about acute service issues, which can
18 sometimes be a hurdle. That process will
19 continue, and we urge shippers and carriers to
20 take advantage of it.

21 I'd also like to point out that a
22 number of the shippers who have contacted RCPA

1 have not given RCPA permission to speak to the
2 railroad on their behalf. That doesn't mean
3 those shippers' concerns aren't being heard.
4 Based on what we've been hearing from shippers
5 and the information we've been getting, it was
6 important to have a public opportunity for
7 shippers to share their perspectives with the
8 Board and with railroad representatives.

9 It is equally important for
10 railroads to demonstrate how they are
11 responding to these issues. CP and BNSF
12 should address what they've done already to
13 remedy the service issues, what their plans
14 are going forward, and when they expect to
15 return to normal service.

16 We also have a number of other
17 Class I carriers who will discuss what is
18 happening on their networks. I noticed some
19 shippers couldn't be here today. As the
20 Board's hearing notice said and as I
21 mentioned, we are looking to have follow-up
22 meetings outside of Washington so that we can

1 better understand the issues that shippers are
2 facing.

3 Board staff recently held meetings
4 in North Dakota with dozens of shippers from
5 several states. We anticipate similar
6 meetings in other areas. In addition, written
7 comments may be filed in this docket pursuant
8 to yesterday's decision.

9 We also know that shippers are
10 looking for more information from the
11 railroads about when things are going to get
12 better and what the railroads are doing to
13 make that happen. This hearing is a first
14 step in that effort.

15 As for the railroads, we urge you
16 to work to address service issues within your
17 companies, with your customers, with the
18 Board, and with other carriers. Ultimately,
19 carriers are responsible for developing plans
20 that allow them to serve their customers.

21 If Board authority, for example,
22 authority for trackage rights, is necessary to

1 prevent severe shipper impact such as a plant
2 shutdown, you need to bring that to the Board
3 a.s.a.p, and we will act on it a.s.a.p. If
4 RCPA can assist in addressing a shipper issue,
5 you need to use them as a resource. I just
6 want to stress that we'll do whatever we can
7 to help.

8 Before we begin, let me just take
9 a few moments to review a few procedural
10 points about today's hearing. We want to hear
11 today from every party that has filed a Notice
12 of Intent.

13 To allow that to happen, we will
14 ask parties to stick as closely as possible to
15 the time that has been allotted. We recognize
16 that that is not always going to allow you to
17 say everything you want to, but we want to
18 make sure there is an opportunity for everyone
19 to speak.

20 You will have a light before you
21 at the front of the room. One minute before
22 your allotted time is expired a yellow light

1 will appear. When you see the red light your
2 time is expired. Please conclude your thought
3 at that point.

4 If you are scheduled to speak,
5 please make sure that you check in with the
6 clerk at the front of the room. To the
7 carriers, I would ask that you ensure that you
8 have representatives in the room for the
9 entire hearing, even after your testimony, to
10 hear shippers' concerns and possible
11 solutions.

12 I've also been asked to remind
13 speakers to please speak clearly into the
14 microphone. In addition, the public should be
15 aware that a video archive of the entire
16 hearing will be placed on the STB's website
17 within a few days of the close of the hearing.

18 In the unlikely event that we have
19 a fire alarm or other event requiring
20 evacuation, please proceed in an orderly
21 fashion out of the double doors at the back of
22 the hearing room and out of the building

1 through the front entrance. Specific
2 instructions have been posted at the back of
3 the hearing room for assembly and notification
4 of return, if any, to the hearing room
5 following any evacuation.

6 Also a note regarding PowerPoint
7 presentations. If you haven't done so, within
8 the next two days please provide two hard
9 copies of the PowerPoint presentation to the
10 Office of Proceedings. Finally, if you have
11 not done so already, please turn off your cell
12 phones.

13 With that I will turn it over to
14 Vice Chairman Begeman.

15 VICE CHAIRMAN BEGEMAN: Thank you.
16 I want to begin by thanking the chairman for
17 agreeing to hold this hearing so that we have
18 an opportunity to discuss the very serious
19 rail issues that are affecting a large portion
20 of this country. Not the entire country, but
21 important segments of the country.

22 And I also want to thank all of

1 the witnesses -- the shippers and the
2 carriers. I certainly recognize it's a
3 relatively short-notice hearing, and that's
4 because of how important we view this issue.

5 I know shippers have gone to great
6 expense to be here, to fly from the Midwest.
7 It's not easy to get here. You don't have
8 direct flights, and it costs a lot of money on
9 short notice. So thank you for the effort.

10 As the chairman mentioned, he and
11 I met separately over a month ago with both
12 the presidents of Burlington Northern Santa Fe
13 and well as CP. I had a lot of questions
14 during my very long meetings with them. I
15 still have a lot of questions.

16 I want to hear an update on where
17 they are since we last met. Certainly I've
18 been following the data that they've provided
19 us. It's not all good news, I will say that.
20 But, I hope that this hearing will let the
21 shippers and the Board really become informed
22 on what our expectations should be. I'm not

1 looking only for the good news, I want the
2 truth.

3 You should know, I hold you
4 railroads accountable. I don't want to
5 micromanage your operations, but that said, we
6 do have emergency service order authorities
7 and if we need to use them, that's going to
8 have to be on the table. I don't think we're
9 there yet, but I really look forward to
10 hearing from you and we will continue this
11 dialogue in the days ahead. Thank you.

12 CHAIRMAN ELLIOTT: Thank you, Vice
13 Chairman. Also I saw yesterday it was 71 in
14 Minot, so hopefully that'll be helpful. I
15 still have that on my weather.com site. So I
16 want to start on a positive note.

17 So why don't we begin with Panel
18 Number 1. We have the administrator of the
19 Federal Railroad Administration here, and Mr.
20 Szabo, why don't you begin?

21 MR. SZABO: Well, thank you,
22 Chairman Elliott and Vice Chairman Begeman.

1 On behalf of Transportation Secretary Anthony
2 Foxx, thank you for the opportunity to testify
3 today about the negative impact service
4 degradation in our nation's rail network can
5 have both on rail safety and Amtrak's on-time
6 performance.

7 Let me talk first about FRA's top
8 priority which is safety. Over the past
9 decade, our database oversight and enforcement
10 program has helped the industry achieve a 47
11 percent decrease in both train accidents and
12 derailments, and a 35 percent decrease in
13 highway rail grade crossing accidents.

14 By virtually all measures, fiscal
15 year 2013 was the safest year on record. But
16 the bottom line is we owe it to the public to
17 always do better. And that's why the
18 railroad's weekly metric showing railroad
19 performance declines among the Class I
20 carriers are a big concern to us.

21 As railroad performance declines,
22 rail velocities diminish, cars on line

1 increase, terminal dwell times increase, and
2 above all, our past experience tells us that
3 safety can suffer as well.

4 We saw this firsthand with the
5 significant service degradation that Union
6 Pacific and Southern Pacific faced about 15
7 years ago when we testified before this Board,
8 and this was an example of how quickly
9 operating conditions can change and affect
10 safety.

11 Experience tells us there can be a
12 safety breakdown when it comes to the ability
13 of supervisors to perform their jobs as a
14 consequence of additional work pressures.
15 Ineffective crew utilization can lead to
16 employee fatigue, and in order to ensure
17 adequate rest, crews need absolute
18 predictability as to when they go to work.

19 And as the railroad pushes to gain
20 the upper hand on service issues it becomes
21 necessary to hire new employees, and without
22 adequate training that instills the proper

1 safety culture there's risk that the number of
2 accidents can rise.

3 As large of a role that the
4 nation's freight railroads have in serving our
5 nation's business and economy, no concern can
6 ever come before safety. And so that's why
7 we've been monitoring the situation closely
8 and have begun meeting with the railroad CEOs
9 to gain assurances that carriers are operating
10 in the safest manner.

11 In BNSF's letter to the Board in
12 response to the Western Coal Traffic League's
13 request for proceeding concerning rail service
14 problems, the railroad announced that it will
15 be hiring 5,000 employees in 2014 to relieve
16 these service pressures. And while this is
17 laudable, it's imperative that the railroad
18 undertake the proper training to ensure that
19 the railroad operates in the safest manner.

20 We've also noticed a marked
21 increase in delays to Amtrak trains and
22 associated degradation in on-time performance.

1 DOT and FRA provide financial assistance to
2 Amtrak to partially fund its operations and
3 capital investments, and work to support
4 Amtrak's efforts to enhance its passenger rail
5 services. For these reasons Amtrak's
6 financial performance is of great interest to
7 us.

8 And in keeping with our nationwide
9 mandate to improve the safety of passenger and
10 freight railroads, we focus closely on the
11 safety of Amtrak's facilities, equipment, and
12 transportation operations, and it should be
13 noted that Amtrak has set ridership records
14 ten out of the last 11 years, and last year it
15 was relied upon by more than 32 million
16 travelers.

17 So service issues that ultimately
18 delay intercity passenger trains have many
19 negative implications for travelers, for
20 Amtrak, and the transportation network as a
21 whole.

22 Late trains that cause travelers

1 to miss connections or abandon their travel
2 plans entirely reduce ridership, and
3 additional operating delays cause Amtrak
4 immediate and potentially long-term financial
5 harm. A slower, less efficient passenger rail
6 network reduces travel options for some and
7 may put more strain on other modes of
8 transportation.

9 And so DOT and FRA closely monitor
10 the on-time performance of Amtrak services,
11 because even just a few months of poor
12 performance have the potential to cascade into
13 long-term problems.

14 Over the past 12 months we've
15 witnessed a steady decline in timeliness of
16 Amtrak trains, particularly those that operate
17 over the freight rail network. Only about 63
18 percent of Amtrak's long distance trains
19 reached their endpoint on time between March
20 2013 and February 2014, 12 percent worse than
21 the previous 12-month period.

22 From December 2013 to February

1 2014, half of all long distance trains were
2 late to their final destination. On time
3 arrivals to intermediate stations on long
4 distance routes were even less frequent, only
5 at 48 percent over the last 12 months, and
6 just under 40 percent this past December
7 through February.

8 Shorter state corridor trains did
9 not fare much better, with nearly a quarter of
10 them arriving late over the past 12 months.
11 Amtrak's on-time performance has been a long-
12 term interest of this Department and of
13 Congress, and Amtrak tracks and reports all
14 train delays to FRA.

15 For February 2014, the month for
16 which data was most recently reported, delays
17 attributed to the host freight railroad were
18 the highest in over five years. The largest
19 category of Amtrak delays in recent months has
20 been host freight train interference.

21 Such a designation is based on the
22 Amtrak conductor's immediate observable cause,

1 and these extreme delays to Amtrak and other
2 users of the network are a symptom of a
3 fragile network that is strained and
4 struggling to react.

5 So thank you for the opportunity
6 for DOT to comment in this proceeding, and I'm
7 happy to answer any questions that you have.

8 CHAIRMAN ELLIOTT: No questions.
9 Thank you very much. We always appreciate
10 hearing from you, and

11 MR. SZABO: I'm dismissed.

12 CHAIRMAN ELLIOTT: You're
13 dismissed.

14 MR. SZABO: Thank you.

15 CHAIRMAN ELLIOTT: Take that long
16 commute back.

17 MR. SZABO: Yes, on foot.

18 CHAIRMAN ELLIOTT: And why don't
19 we bring up the second panel.

20 (Pause)

21 CHAIRMAN ELLIOTT: Okay, why don't
22 we begin. We'll go across this way. We'll

1 let you guys provide your testimony, and
2 subsequently we'll ask questions after
3 everyone's done.

4 MR. MCMILLAN: Very good. Good
5 morning, Chairman Elliott and Vice Chairman
6 Begeman. My name's Dave McMillan. I'm senior
7 vice president of external affairs for ALLETE,
8 and executive vice president for Minnesota
9 Power.

10 I'm appearing here today on behalf
11 of the Western Coal Traffic League and
12 Minnesota Power. The League is comprised of
13 shippers of coal mined in the western United
14 States. Currently, the League members pay to
15 transport about 140 million tons of coal
16 annually.

17 ALLETE is a diversified energy
18 company headquartered in Duluth, Minnesota.
19 Our principal operating division is Minnesota
20 Power generating, transmitting, and
21 distributing electricity across a 26,000
22 square mile chunk of northern Minnesota to

1 about 144,000 customers, 16 municipalities,
2 and some of the nation's very largest
3 industrial customers.

4 Coal is our primary fuel source,
5 and we currently operate three coal-fired
6 power plants that utilize about five million
7 tons of coal a year. This coal originates at
8 mines in Wyoming and Montana, transported by
9 BNSF either in single carrier or joint carrier
10 service.

11 Minnesota Power is a long-term
12 member of the Coal League. I'm joined here
13 today by a second Coal League member, Bob
14 Kahn. Bob is the general manager of the Texas
15 Municipal Power Agency. Bob's remarks will
16 follow mine.

17 On behalf of the League, Minnesota
18 Power, and Texas Municipal, I want to thank
19 the Board for holding today's timely and
20 important hearing. The League has submitted
21 two filings with the Board, one dated March
22 13th and the second dated March 24th. These

1 filings graphically depict the problems that
2 faced by coal-fired utilities in recent months
3 due to BNSF's ongoing service issues.

4 These issues include precariously
5 low stockpiles often dipping below ten days,
6 emergency trucking of coal, and reduced coal-
7 fired generation and its replacement with
8 higher priced generation resources resulting
9 in increased wholesale and retail electric
10 costs.

11 Minnesota Power specifically has
12 experienced all these problems firsthand. Our
13 stockpiles at three of our three coal-fired
14 plants dipped to dangerously low levels, and
15 I say dangerously very intentionally. Our
16 levels dropped to as low as four days at our
17 largest power plant earlier this year.

18 We were forced to begin emergency
19 high cost trucking of coal we had in storage
20 in Superior, up the north shore to our second
21 largest plant at Taconite Harbor, and most
22 importantly we were forced to curtail

1 generation both last year and earlier this
2 year and replace it with higher priced
3 purchased power, which in turn has led to over
4 approximately \$10 million in additional
5 electric service costs that our customers have
6 to pay when we go to market for power that we
7 could not generate.

8 These costs have been borne mainly
9 by our large industrial customers. They're
10 customers whose names I think you'll recognize
11 operating globally and competing in
12 international markets. Names like
13 ArcelorMittal, United States Steel, Cliffs
14 Resources, UPM-Kymmene, Blandin, Sappi, Gerdau
15 Ameristeel, NewPage, who I note is here today
16 to talk to you as well.

17 Other Traffic League members have
18 experienced similar problems. Bob will
19 discuss TMPA's service problems, and three
20 other Traffic League members, Kansas City
21 Power & Light, Wisconsin Public Service, and
22 Western Fuels Association have asked me to

1 briefly describe their current service
2 problems to the Board.

3 Starting with KCP&L that utility's
4 BNSF-served stations have experienced cycle
5 times in 2014 that are between 27 percent and
6 39 percent longer than comparable times in
7 2013. With performance worsening steadily
8 from the fall of 2013, coal inventories at the
9 BNSF-served plants have not been at target
10 levels since July of last year and have
11 decreased precariously over the last seven
12 months.

13 Actual BNSF deliveries during this
14 period have been as much as 22 percent below
15 nominations. Wisconsin Public Service's
16 Weston Station is served by UP and CN. At the
17 start of December '13, coal inventory had 107
18 percent of target levels, by year end it had
19 dropped to 72 percent of target levels. It
20 kept falling in 2014 so that by March, WPS had
21 to reduce burn in order to prevent inventory
22 from reaching zero.

1 Over the same December to March
2 time frame, tons delivered by UP/CN fell short
3 of nominations by more than 375,000 tons and
4 transit times increased from 176 hours to 372
5 hours.

6 Lastly, Western Fuel purchases
7 coal transportation for several BNSF-served
8 cooperative utilities. WFA reports that
9 BNSF's current cycle times are up to 50
10 percent higher than historic averages.

11 Stockpiles at many plants are
12 extremely depleted. Several of its member
13 companies have had to engage in expensive coal
14 service mitigation measures including
15 emergency coal trucking and generation
16 curtailment, and unless BNSF's service
17 improves soon, even with conservation efforts
18 some of its members may run out of coal this
19 summer.

20 While the unfortunate and costly
21 results of carrier service failures are well
22 known to utility coal shippers, what is less

1 clear to the Traffic League members is, first,
2 why did these service problems occur? Second,
3 what are the carriers doing to fix them? And
4 most importantly, how long will they last?

5 We will be listening with great
6 interest to hear the carriers' responses to
7 these three basic questions. The League also
8 requests the Board to take four immediate
9 steps.

10 First, direct BNSF to publicly
11 submit on a bi-weekly basis the coal service
12 data we identified in our March 24th filing.
13 Second, direct BNSF to publicly submit a
14 specific service recovery plan along with
15 periodic bi-weekly progress reports.

16 Third, to closely monitor
17 developments and exercise its broad authority
18 as necessary to issue specific remedial
19 service orders. And fourth, to collect
20 interchange dwell times and yard dwell times
21 in Illinois and Wisconsin for UP and CN as
22 well as UP coal train cycle times from the PRB

1 and Colorado to Chicago. The League may
2 supplement the record with additional requests
3 following today's hearing.

4 Finally, at Minnesota Power we try
5 and approach problems with creativity and
6 optimism. I want to end my remarks on that
7 spirit, with that spirit.

8 Minnesota Power has had a long
9 relationship with BNSF that dates back to
10 1968. We were BNSF's first western coal unit
11 train shipper, and I want you to understand
12 we've had a long and mutually beneficial
13 partnership with BNSF that we certainly expect
14 to continue.

15 In recent years we've worked
16 closely with BNSF to proactively look for ways
17 to address the infrastructure side of these
18 issues. For instance, we're working together
19 in energy-rich and energy-friendly states like
20 North Dakota to support new investments aimed
21 at reducing congestion with new
22 infrastructure. We're also exploring loop

1 track investments and enhancement at our
2 largest power station.

3 During the recent crisis, we've
4 been in constant communication with BNSF
5 regarding these problems and the impact they
6 have on our operations and our customers.

7 We want the Board to know that
8 BNSF has made its people available to us from
9 the CEO down whenever we have asked. For
10 example, BNSF's chief marketing officer Steve
11 Bobb, who I understand is speaking to you
12 today as well, traveled to Duluth and spent
13 the better part of an entire day with our
14 largest customers helping explain the current
15 situation.

16 So while BNSF has listened to us
17 and taken steps this year to address problems,
18 we still have a long way to go. Like all
19 successful long-term relationships, sometimes
20 one partner needs to hear frank feedback from
21 the other. Providing that feedback is my
22 primary purpose for being here today.

1 We now have one generation of
2 assets, that's our baseload coal-fired Gibbons
3 Creek Steam Electric Station located near
4 Iola, Texas, and it has a net generating
5 capacity of 470 megawatts.

6 We also operate transmission
7 facilities into the ERCOT grid, Electric
8 Reliability Council of Texas, that serve our
9 customers, and all the power we generate goes
10 to those four cities.

11 We burn approximately 1.57 million
12 tons of Powder River Basin coal a year, and BN
13 delivers all of our coal. We rely on BN.
14 Their performance has significant consequences
15 for us.

16 Only a year ago, we had a full
17 coal pile with nearly 60 days of inventory at
18 Gibbons Creek. Today we have less than ten
19 days on the ground. In any event, their
20 service began its decline in May of 2013.
21 BNSF regularly struggles to provide
22 locomotives, crews, and rail cars in adequate

1 amounts to move our coal needs.

2 On two occasions, December 2013
3 and April 2014, just a few days ago, when
4 inventory levels dropped below ten days, TMPA
5 filed DOE reports declaring fuel supply
6 emergencies. The notice is filed when the
7 utility believes that fuel supply difficulties
8 could impact electric power system adequacy or
9 reliability.

10 Simply put, our projections show
11 that we're going to run out of coal probably
12 mid-summer, mid-July. The harsh reality is
13 that TMPA will forced to either shut down the
14 plant or significantly curtail its production.

15 In turn, similar to what David
16 said, our members, you know, could be forced
17 to buy much more expensive power on the grid.
18 It's also possible that BNSF service issues
19 could threaten the availability of electricity
20 across ERCOT through other coal plants in
21 Texas.

22 As a side note, I am a former CEO

1 of ERCOT, and I'm keenly aware of the
2 consequences of coal-fired electric generating
3 stations having to curtail generation during
4 the summer months in Texas. That would not be
5 good.

6 What is most disconcerting is that
7 no resolution of BNSF's problems seem
8 imminent. In fact, in our experience, they
9 say all the right things but fall short on
10 execution. For example, I was at a coal
11 conference that they put on the Dallas area
12 last fall. One executive after another got up
13 there and said they were upset with their
14 performance, they'll do better. In fact, it's
15 gotten worse.

16 Their cycle time performance
17 dropped by 15 percent in 2013. At the end of
18 2014 (sic) we were 84,000 tons short of our
19 total nominations. It left us with only 15
20 days of coal on the ground, and we think it's
21 just going to continue into 2015. We don't
22 see it getting any better.

1 We're also concerned about the
2 planned construction and maintenance
3 activities that BNSF with the Tower 55
4 construction project in Fort Worth. Because
5 of that project cycle time is going to
6 increase. It's going to force them to take
7 longer routes coming to us and returning.
8 We're also going to have shorter trains, not
9 as many cars.

10 To minimize the impact of the
11 Tower 55 project, in December, on the advice
12 of a BNSF executive we requested that BNSF
13 increase our first quarter 2014 deliveries to
14 build up our coal pile. We didn't ask for
15 more coal overall, we just asked that it be
16 moved up into the first quarter so we'd be
17 ready for the summer. Despite its own
18 suggestion, BNSF has failed to deliver on
19 TMPA's request. They delivered approximately
20 112,000 tons less than our December nomination
21 for January through March, and missed the mark
22 by 66,500 tons in March alone.

1 In light of the service problems,
2 our member cities have already spent a lot of
3 money to deploy energy conservation methods
4 which preclude Gibbons Creek from running on
5 an economical basis in order to minimize coal
6 burn and build inventory.

7 But as soon as we enact those coal
8 conservation measures, BNSF basically goes to
9 the person who has a lesser pile than us, and
10 so it really doesn't help us to minimize our
11 coal use. They just run from problem to
12 another.

13 On the upside, BNSF has
14 communicated well and in recent weeks it has
15 seemed to focus more on the seriousness of our
16 situation including delivering a plan to put
17 four trains in TMPA which is really the bare
18 minimum given BNSF's current performance.

19 However, with slower cycle times,
20 which as you know is the key, there's no
21 margin for system interruptions. I mean, just
22 last week we had four trains on the way. Two

1 got stuck in Oklahoma. They couldn't find
2 crews, and it took an extra day or two for
3 those two trains to get there.

4 TMPA has not just pressed BNSF to
5 improve. We've also asked BNSF to consider
6 other remedial measures. We've requested that
7 they grant permission for us to pursue
8 alternative service with UP and place TMPA
9 leased cars in service, but we have not
10 received a written response yet. Instead,
11 they just reassure us that we won't run out of
12 coal. I'm hopeful but not confident.

13 And I'd just like to conclude by
14 saying we understand the Board has
15 considerable power and discretion to aid
16 shippers when severe service issues arise. As
17 David mentioned, WCTL has several specific
18 requests for the Board with respect to data
19 collections from BNSF. TMPA also urges the
20 Board to consider any other actions it
21 believes will aid all the shippers impacted by
22 BNSF's service crisis.

1 On behalf of TMPA, its member
2 cities, and WCTL, I thank you for allowing us
3 this opportunity to testify today, and David
4 and I are happy to answer any of your
5 questions.

6 MR. WISNESS: Good morning,
7 Chairman Elliott, Vice Chairman Begeman,
8 ladies and gentlemen, and thank you for this
9 opportunity to testify at this hearing of the
10 Surface Transportation Board.

11 My name is Bob Wisness. I'm a
12 farmer from western North Dakota, a father of
13 four grown children, two of whom are involved
14 in our family farm, and I am president of the
15 North Dakota Grain Growers Association.

16 I also serve on two committees of
17 the National Association of Wheat Growers
18 where I am chairman of the environmental and
19 renewable resources committee. I'm honored to
20 represent all of those interests at this STB
21 meeting as we try to better understand the
22 issues surrounding rail service particularly

1 as they apply to shipping agricultural
2 products in the northern Great Plains.

3 In order to understand where I'm
4 coming from so to speak, it's important that
5 we learn to appreciate the geography, history,
6 and economics of North Dakota. So here's a
7 condensed view of North Dakota in just a few
8 minutes.

9 You surely know where North Dakota
10 is, but it needs to be emphasized that our
11 location right in the middle of the North
12 American continent is central to today's
13 discussion.

14 From my home in rural Watford City
15 in western North Dakota, it is nearly 700
16 miles to Minneapolis, 700 miles to Denver, and
17 1,200 miles to Seattle. We have no seaports
18 or navigable rivers, and we have Canada on our
19 northern border. Essentially, we are
20 landlocked geographically and geopolitically.

21 Yes, I am from Watford City, North
22 Dakota, which is now better known as a Wild

1 West boomtown in the epicenter of the Bakken
2 oil play. It's become a very interesting
3 place to live and farm during the past few
4 years.

5 Also geographically it's important
6 to realize that North Dakota isn't just about
7 oil. We are a state dominated geographically
8 and economically by agriculture. In fact,
9 less than 20 percent of our state is in the
10 Bakken oil region, and even in that region
11 agriculture continues to dominate the
12 landscape. Oil gets the headlines while
13 agriculture is not only our bread and butter
14 it is our backbone.

15 It may seem odd, but North Dakota
16 is also landlocked economically in many ways.
17 We rely heavily on the railroad to move our
18 abundance of agricultural goods, coal, and oil
19 to where they can be used by industry and
20 consumers. In spite of our somewhat isolated
21 location, North Dakota is one of the key
22 drivers of the American economy.

1 We lead the nation in the
2 production of 14 crops, and we are the number
3 two oil producing state. North Dakota is also
4 a major supplier of coal, electricity, and
5 wind energy. We are America's breadbasket and
6 Saudi Arabia rolled into one great state.

7 Some historical perspective is
8 important to understand why rail service is so
9 important to North Dakota. In many cases
10 North Dakota was built around the railroad.
11 Indeed, most of the towns that sprang up some
12 100 years ago were along rail lines, either
13 main lines or the dozens of shorter branch
14 lines.

15 Rail service was critical to move
16 our agricultural goods to market 100 years ago
17 and it remains that way today. Through the
18 decades, the relationship between railroads
19 and agriculture has had its ups and downs.

20 I've already described the heyday
21 of the rail service in North Dakota, those
22 early years, but they are long gone. Perhaps

1 the biggest down was the railroad's
2 abandonment of many of the branch lines that
3 served the smaller communities of the state.
4 Branch line abandonment was a contributing
5 factor to the depopulation of our small towns,
6 and the smaller farmer operators had no place
7 to locally market their grain.

8 Obviously the railroad is an
9 incredibly powerful force in North Dakota.
10 That's why I'm here and that's why these
11 meetings are critical to our farm, our state,
12 and our nation.

13 Nowadays, North Dakota farmers are
14 facing another challenge from the railroad and
15 it's not caused by a lack of railroad business
16 but rather an excess of business. Everybody
17 wants to ship their products by rail, and
18 obviously the railroad wants to accommodate as
19 many shippers as possible. I cannot blame the
20 railroad for wanting to maximize their
21 profitability, but their choices are putting
22 thousands of North Dakota's farmers in

1 jeopardy. Here are some of the impacts.

2 Excuse me, I saw a red light?

3 CHAIRMAN ELLIOTT: Yes, take your
4 time.

5 MR. WISNESS: How much time did I
6 have? Okay, thank you. I have a lot more to
7 say.

8 All right, here are the impacts
9 we're seeing on the farms and ranches in North
10 Dakota. Millions of bushels of wheat, barley,
11 corn, and soybeans are essentially
12 unmarketable and stranded on farms as grain
13 trains are running weeks or even months late.

14 Unfarmed grain inventories are at
15 all-time highs for this time of year and the
16 reason is not too much crop to move, it is
17 that the crop is not being moved. We've had
18 big crops before, but we have never had this
19 poor service from the railroads. On my farm,
20 at least three-fourths of my 2013 production
21 is still in the bins. Typically, I have
22 delivered most of my grain by now.

1 Number two, cash flow problems are
2 plaguing our farmers simply because we cannot
3 turn our crops into cash. I've been forced to
4 borrow hundreds of thousands of dollars to
5 cover my farm expenses while my grain is
6 undeliverable.

7 Number three, timeliness is very
8 important in agricultural shipping. Our crops
9 do have a shelf life and that they cannot be
10 stored indefinitely before they're marketed.
11 Significant spoilage and loss does occur when
12 farmers are forced to hold their crops off the
13 market for extended lengths of time.

14 Number four, crop storage capacity
15 will also be a major issue if the past year's
16 crop is not taken off the farms before the
17 next harvest which is fast approaching. At
18 the current pace of grain movement, it's
19 likely that up to one half of the next crop
20 will end up piled on the ground which will be
21 a major disaster.

22 Number five, all of this grain has

1 to get to market somehow and the only means
2 left is by truck. The decades-long
3 degradation of rail service has meant that
4 farmers must often purchase fleets of trucks
5 and hire drivers to find a place to market
6 their grain.

7 My local grain elevator is seven
8 miles from my farm, and when I can deliver
9 there it saves me many hours and miles on the
10 trucks. Most of the time, however, my local
11 elevator's full and we're forced to haul much
12 longer distances, up to 150 miles one way to
13 move our crops and turn them into cash. Trust
14 me, it didn't used to be this way.

15 More than 50 percent of the wheat
16 grown in North Dakota is exported. It all has
17 to go on the rail as there is no other choice.
18 Montana's percentage of export is even higher
19 than North Dakota's. If there's not a
20 concerted effort by the railroad to move grain
21 on a much more massive scale and in a timely
22 manner, our reputation as a consistent,

1 reliable exporter of high quality wheat will
2 be damaged. Losing our critical export
3 markets would be devastating to northern
4 farmers and our state's economies.

5 Number seven, basis rates for
6 Northern Plains grains are currently extremely
7 high due to the tight rail car situation.
8 This has resulted in depressed prices that
9 farmers receive.

10 Number eight, as of March 29th,
11 2014, Burlington Northern Sante Fe Railway
12 reported that 46 percent of all cars
13 nationwide, those which were destined for
14 North Dakota locations were at average of 22.8
15 days late.

16 Cars with Montana destinations
17 accounted for another 20 percent of all late
18 arrivals on a nationwide basis. In other
19 words, these two states account for two-thirds
20 of all of the late arrivals nationwide. This
21 is simply unacceptable. In any other business
22 this would be called a disaster.

1 It should be noted that
2 agriculture is not the only industry suffering
3 from BNSF's poor performance but it appears to
4 be the most affected. I can attest to the
5 fact that finding a grain elevator with space
6 for grain in or near the Bakken area has been
7 nearly impossible since last fall.

8 For North Dakota farmers, the
9 railroad is a lifeline to reach out to markets
10 both foreign and domestic. Unfortunately
11 we've been let down by the railroads before
12 and we're hesitant to accept their promises
13 during these latest challenges.

14 In the past, farmers have done
15 everything the railroad has asked only to
16 receive poorer service. We need more than
17 promises, we need action. The question is
18 whether agriculture can somehow survive in
19 this new world as the grain trains are forced
20 to fit somewhere on the tracks after the oil,
21 coal, and intermodal shipments pass by.

22 We know there's limited space on

1 the tracks, but we must demand that the grain
2 moves first and not last before irreparable
3 damage occurs to the farm economy in the
4 Northern Plain states.

5 That brings us to today. How do
6 we move forward to solve these problems? In
7 spite of many agricultural leaders'
8 criticisms, the truth is that there are no
9 bigger supporters of the railroads than
10 Northern Plains farmers. We have no other
11 options and we believe that a strong rail
12 system is critical for us as farmers and for
13 the entire country. Strong rail service is in
14 the national interest.

15 We sincerely hope and trust that
16 the railroads are working to upgrade their
17 systems, and that their promises of better
18 service will soon come to pass. We realize
19 that these improvements will take time to
20 implement but our patience is exhausted. We
21 simply cannot wait several years for the
22 promised improvements as we have crops that

1 must be delivered now.

2 Let's think ahead a bit and on a
3 larger scale. There are numerous oil shale
4 formations scattered around the United States
5 that will surely be exploited over time. Will
6 that oil also be transported primarily by rail
7 as well? Is that good policy? Will those
8 agricultural regions share the same problems
9 as North Dakota?

10 It's imperative that America's
11 energy independence be allowed to flourish,
12 but we must not sacrifice our agricultural
13 independence. Let's learn from the problems
14 that North Dakota has experienced and not make
15 the same mistakes.

16 As a representative for over
17 20,000 North Dakota wheat and barley growers,
18 it's my duty to demand that the railroads
19 immediately put more grain trains on the
20 tracks to help alleviate this backlog of farm-
21 stored commodities.

22 Thank you for the opportunity to

1 give our side of the story, and thank you for
2 extending my time.

3 CHAIRMAN ELLIOTT: Thank you.

4 MR. SCHICK: Good morning,
5 Chairman Elliott, Vice Chairman Begeman. I'm
6 Tom Schick. I'm here to speak on behalf of
7 the American Chemistry Council, and we
8 appreciate this opportunity to be here to talk
9 about rail service issues.

10 The American Chemistry Council
11 represents the leading companies engaged in
12 the business of chemistry. Our members apply
13 the science of chemistry to make innovative
14 products and services that make people's lives
15 better, healthier and safer.

16 I'd like to underscore the
17 important role that the products manufactured
18 and shipped by the ACC members serve in
19 virtually every aspect of our lives. The
20 nations depends on the chemical industry to
21 produce materials that are necessary for safe
22 drinking water, lifesaving medications,

1 medical devices, a safe and plentiful food
2 supply, energy saving solar panels, and much,
3 much more.

4 As you know, our members depend on
5 efficient and reliable rail service. Given
6 the relatively short amount of time since this
7 hearing was announced, I've gathered comments
8 from a number of ACC member companies that
9 could not be here to testify today.

10 My remarks, therefore, reflect the
11 views of a range of companies that ship by
12 rail in our industry. In sharing this
13 information I will address the carriers in
14 alphabetical order.

15 For BNSF I have six observations
16 from six different companies to relate to you
17 this morning. The first company reports, our
18 cycle times on BNSF have more than doubled
19 since the first of the year. Most of this is
20 the result of BNSF utilizing more circuitous
21 routings to avoid sending traffic across the
22 northern tier line.

1 So at least they are making an
2 effort to keep traffic moving, even if it does
3 result in much longer cycle times for our
4 private equipment, that is, the rail cars, the
5 shippers' rail cars.

6 By way of example, says the
7 company, we have seen normal outbound loaded
8 transit times go from the average of ten days
9 to between 20 and 30 days this year, with
10 empty return transit times similar to that for
11 our outbound loaded movements. We have not
12 had to secure additional equipment, but we
13 have had to shift cars between plants because
14 of the longer cycle times.

15 The second member says, we have
16 big issues with BNSF and with the connecting
17 Short Line. BNSF west of Chicago is a mess
18 and has been since Thanksgiving, although they
19 are adding railroad to ease congestion. The
20 Short Line does not have sufficient capacity
21 for all the business it has.

22 In terms of metrics, this company

1 reports that transit times from its origin in
2 the northeastern United States to the
3 destination in the Pacific Northwest was
4 averaging 17.3 days. This is in the period
5 January 1st to April 7 last year, 17.3 days,
6 it's averaging 26.1 days during the same
7 period of 2014. So it went from 17 days to 26
8 days.

9 Equipment is a big deal because
10 they're not getting the turns on the cars,
11 meaning the round trips of the loaded cars and
12 the return for reloading takes longer. This
13 is not entirely the fault of BNSF, although if
14 it weren't for the paper barrier we could use
15 Union Pacific to reach that Short Line.

16 Third report, we've been having
17 considerable difficulty with BNSF recently in
18 the Midwest. One major customer has seen, as
19 a customer of this chemical company, one major
20 customer has seen mean transit time from its
21 plant in the Southeast increase from 12 days
22 to 19 days. That's measured since last

1 December, the increase.

2 I spent, I meaning the company
3 person spent the weekend bird dogging a car to
4 a customer in the Midwest that we shipped out
5 of another plant in the South on March 20th.
6 In the scheme of things, says this company,
7 BNSF is not a major carrier for our company
8 but has been a major headache.

9 Fourth company reports, BNSF
10 handles all of our volume out of a location in
11 Texas. Fortunately we have had very few
12 service issues with BNSF. The majority of our
13 service issues are with CSX.

14 The fifth comment on BNSF is that
15 BNSF is causing this company significant
16 impacts in the Chicago area. They've had
17 congestion issues since the October-November
18 time frame and continue to fail to deliver
19 empty cars that our company owns so we can
20 load them for customer shipment, and they
21 continue to delay the outbound customer
22 shipments when we are finally able to ship.

1 This is primarily driven by one of the BNSF
2 yards in Illinois.

3 The final comment on BNSF is as
4 follows. For inbound chemical shipments to
5 our facilities -- so here the ACC member is
6 the receiver, the consignee -- to our facility
7 in the Pacific Northwest, we've experienced a
8 significant increase in BNSF transit time
9 starting in the fall of 2013.

10 BNSF originates this traffic in
11 the Midwest and the transit time on this route
12 to the Pacific Northwest increased over 100
13 percent at peak versus the historical average.
14 This increased transit time can be attributed
15 to 100 percent increase in the dwell time at
16 one BNSF yard and based on BNSF network
17 congestion due to lack of rail capacity.

18 In 2014, BNSF has responded that
19 their network has not been able to keep up
20 with the substantial crude oil volume
21 increase, and has also told this company that
22 a compressed agricultural harvest is part of

1 the reason.

2 In addition, BNSF indicated their
3 service was further impacted by the winter
4 season in 2014. Since this company's facility
5 is served only by BNSF the service impact on
6 our chemical facility has been substantial,
7 resulting in a 15 percent reduction in our
8 plant capacity with millions of dollars in
9 lost revenue.

10 I'm going to turn to the Canadian
11 Pacific comments. I have reports for you from
12 four of our members. The first member says,
13 we have not had any significant issues with
14 the BN, but have experienced many delays with
15 the CP with cars heading to different ports in
16 Canada.

17 Many cars heading from the Chicago
18 area to Canada have experienced major delays
19 due to the extreme weather we have faced this
20 winter. They are still going through some
21 major congestion issues on CP and it's a major
22 task to get CP to respond to our pleas for

1 help.

2 Second comment as follows, a very
3 small percentage of our volume moves to CP
4 destinations says this company. Given all the
5 winter weather issues we did see delays in
6 moving cars through the Chicago area, however,
7 it was not a significant issue for this
8 company.

9 Third company said that it's
10 primarily serviced by CP at a captive plant
11 location and CP has been consistently
12 improving their service since the meetings
13 were held with them back in August.

14 They've been very responsive to
15 our needs, and they've actually been
16 instrumental in pulling us out of a crisis
17 caused by other railroads experiencing
18 congestion (CSXT). End of that one.

19 Fourth comment from a member about
20 CP service consists of a number of bullet
21 points. Lack of power resulting in last
22 minute changes to plant service potentially

1 cost one of our business units more than
2 \$30,000 per day.

3 Lack of response from CP's
4 operations department regarding status or
5 reasoning of why cars are not moving. Weather
6 is constantly used as an excuse, says this
7 company, even for lines that have nothing to
8 do with Chicago, for instance, from Calgary to
9 Vancouver.

10 Next point made by that company is
11 that multiple plant shutdown forms were sent
12 in for their own company and for customer
13 companies because of the cars not moving. All
14 I know is that they had to send in the forms.
15 I don't know about shutdowns.

16 Another comment from this company
17 is that they've gotten no response from the
18 customer service 1-800 number for CP. They've
19 sensed an ambiguity around the operational
20 responsibility of CP as between the yards and
21 the asset group, and ambiguity around
22 demurrage charges.

1 Deceiving tariff language. For
2 private cars, the demurrage clock will begin
3 the day following constructive placement.
4 This does not mean 24 hours after
5 constructively placed as we were led to
6 believe, it means the day after. So if a car
7 is placed at 11:58 p.m. on April 7, demurrage
8 is charged three minutes later on April 8th.

9 So I will now turn to the other
10 railroads. In the course of surveying the
11 members ahead of this hearing, some carriers
12 other than BNSF and CP were mentioned to me.

13 As you've heard, CSX was mentioned
14 twice in the comments above, but keep in mind
15 also the importance of the interconnections in
16 the rail system. Difficulties on one railroad
17 can spread to and can affect service on other
18 railroads as well.

19 An ACC member would also like you
20 to know about what it describes as
21 "significant cost issues, customer shutdowns,
22 and routing" on shipments that UP interchanges

1 in the upper Midwest with both Canadian
2 Pacific and Canadian National.

3 The details for that observation
4 are that the 2014 winter weather has resulted
5 in a bottleneck on UP; that UP has not
6 provided adequate resources, meaning people
7 and equipment, to adequately clear the traffic
8 backlog; that dwell time remains an ongoing
9 issue; and that dwell time is four to five
10 times the normal time.

11 And that UP service issues in the
12 upper Midwest have increased the company's
13 cost base based upon the need to ship by high
14 cost special trains to avoid plant shutdowns;
15 the addition of new rail cars due to longer
16 transit times; the implementation of high cost
17 rail to truck transfers en route to avoid
18 customers having to be shutdown; subsidizing
19 with truck shipments from suboptimal sourcing
20 points to prevent customer shutdowns; and
21 increased rates to manage traffic over new
22 interchanges to improve transit. Year to

1 date, this one service impact area for this
2 one company is in excess of \$1 million of
3 additional cost.

4 Thank you again for the convening
5 of this important public hearing and for
6 listening to the concerns of the industries
7 that depend on rail service. I'd be glad to
8 try to answer any question you have at the end
9 of the panel.

10 And in closing I would be remiss
11 if I did not point out that if there were a
12 greater level of competition between railroads
13 in this country, it seems likely the shippers
14 would have choices and the carriers might have
15 additional incentives to provide reliable and
16 consistent service. Thanks.

17 MR. STADTLER: Good morning, and I
18 thank you for the invitation to testify today.
19 My name is D.J. Stadtler. I'm Amtrak's vice
20 president for operations.

21 As you know, Amtrak is America's
22 intercity passenger rail provider and we

1 operate the vast majority of the intercity
2 passenger service in America. About 70
3 percent of our train miles are run on a host
4 railroad, and even our New York to Boston
5 Northeast corridor services run over a 56-mile
6 segment of the Metro-North commuter railroad.

7 Consequently, all of us who are
8 here today have an interest in a fluid and
9 well-run railroad system. This matters
10 because in addition to Amtrak's statutory
11 right to preference, which was established by
12 Congress, the 2008 Passenger Rail Investment
13 and Improvement Act, or PRIIA, was intended to
14 ensure a high level of host railroad
15 performance.

16 Section 213 of PRIIA empowers the
17 Surface Transportation Board to investigate
18 any time the on-time performance of an
19 intercity passenger rail train falls below 80
20 percent for any two consecutive calendar
21 quarters. The failure to meet that service
22 quality standard set by Section 207 of the

1 same act is likewise a reason for the STB to
2 take action.

3 Immediately after PRIIA passed,
4 there was a gratifying upturn in train
5 performance. I brought some slides with me to
6 display this performance. This first slide
7 will show you the performance has risen and
8 fallen since 2006 when our long distance
9 trains turned in the worst average performance
10 since 1973, an appalling 30 percent, on the
11 left hand side.

12 Although long distance on-time
13 performance dipped to 63 percent in fiscal
14 year 2011, it's generally been at or above 70
15 percent on an average annual basis through the
16 end of 2013, which had a correspondingly
17 positive effect on Amtrak's financial
18 performance. Last year in 2013, our financial
19 performance was the best it had been in over
20 35 years.

21 There was, however, a legal
22 question about the metrics and standards

1 established by PRIIA Section 207. The U.S.
2 Court of Appeals for the District of Columbia
3 held in July 2013 that the statutory process
4 used to develop these methods and standards
5 was unconstitutional. We saw an immediate
6 drop in on-time performance across the board
7 that was directly attributable to train
8 handling by the host carriers.

9 If we go to the next slide, that
10 will show you minutes of delay due to freight
11 train interference on a monthly basis for the
12 entire Amtrak system.

13 These delays are typically delays
14 that are attributable not to weather or
15 infrastructure condition, but simply to
16 conflicting freight movements. We saw an
17 immediate increase in freight delay right
18 after the ruling in July of 2013. This
19 problem is not confined to a single carrier.

20 The next slide compares the
21 minutes of host-responsible delay for 10,000
22 train miles for each of the six Class Is. The

1 delay on each has grown substantially over the
2 same period in FY2013.

3 By the end of the first quarter of
4 fiscal '14, long distance train performance at
5 all of our stations had fallen a total of 11.4
6 percentage points over the previous year, and
7 by the end of March the decline had grown to
8 a total of 16.2 percentage points bringing us
9 to a system average of just 43.1 percent of
10 trains on time year-to-date.

11 Individual service averages for
12 the most part banded between the high of 77
13 percent for our Auto Train to a low of 30.7
14 percent for the Lake Shore Limited. We did
15 have an outlier on the low end of the bracket,
16 our Empire Builder, which everyone's heard
17 about, arrived on time less than 20 percent of
18 the time in fiscal year 2014 through the end
19 of March.

20 The next slide you'll see shows
21 the different causes of delays for the Empire
22 Builder on all of the hosts. As you can see

1 on the far left, the freight train
2 interference is the single largest cause by a
3 very wide margin.

4 The Empire Builder serves an area
5 with very few transportation choices.

6 Passengers depend heavily on Amtrak, but we
7 are not currently providing them with the
8 service they deserve.

9 In the first quarter of 2014,
10 nearly 100,000 Empire Builder passengers
11 arrived late at their destinations. We've
12 seen rates of delay measured in terms of
13 minutes of delay per 10,000 train miles rise
14 dramatically in 2014.

15 Freight train interference rates
16 have nearly tripled, and this indicates that
17 not only are there more delays but that these
18 delays are of longer duration. In response,
19 our ridership and our ticket revenues have
20 fallen by 15 percent year over year to date.

21 In coordination with the BNSF to
22 support recovery efforts, Amtrak's added an

1 extra set of equipment to the pool used to
2 provide the Empire Builder service and we've
3 temporarily added three hours to the schedule.

4 While I am cautiously optimistic
5 about our ability to jointly address the
6 issues that the Empire Builder confronts with
7 our host railroads, BNSF and Canadian Pacific,
8 I do want to close my statements by returning
9 to the larger issue of systemic delay growth.

10 Amtrak services nationwide are
11 experiencing growing levels of delay on host
12 railroads. If this is not addressed it will
13 translate into significant impacts to our
14 service, to our passengers, and to our bottom
15 line.

16 We desperately want to avoid that
17 and we prefer to address and fix this system-
18 wide problem by working with our host railroad
19 partners. We do, however, have an obligation
20 to provide the traveling public with the level
21 of service mandated by the statute and we
22 therefore believe that the STB could

1 significantly assist us by monitoring the
2 statistics that we publish every month and
3 asking the freight carriers to report
4 periodically to this Board on the handling of
5 Amtrak trains.

6 We believe this would help us to
7 ensure that the public interest in a safe,
8 efficient, and reliable intercity passenger
9 rail service is safeguarded in the years to
10 come. Again, I appreciate the opportunity to
11 speak today and I'm happy to answer any
12 questions.

13 CHAIRMAN ELLIOTT: Thank you.

14 VICE CHAIRMAN BEGEMAN: Thank you
15 all very much. I know you want to hear what
16 the railroads are going to say in response to
17 you, and we all do; they'll have their chance
18 in just a bit.

19 First of all, Mr. Wisness, thank
20 you very much for coming to Washington to tell
21 us your situation. I am a farmer's daughter,
22 raised in South Dakota.

1 I know the difficulty you face,
2 probably the sleepless nights you have just
3 wondering if you're going to have a crop each
4 year based on the weather. You get to the
5 point now, you've had this great crop, and you
6 can't move it.

7 I'm curious. You mentioned the
8 local elevator is full, and the elevator about
9 150 miles away probably growing full. To what
10 extent, or for how long can grain stay on the
11 ground before it rots? I know it rots fairly
12 quickly, but at what risk of losing your
13 production do you and your fellow farmers face
14 at this point?

15 MR. WISNESS: Thank you for the
16 question. We had corn in a pile that we just
17 got picked up off the ground last week. It's
18 imperative to get it off the ground before the
19 weather warms up. It was still, it kept well.
20 It was very cold grain when we harvested it so
21 it kept well over the winter in a pile.

22 But now it's crunch time. It had

1 to be picked up, and fortunately we had
2 created enough bin room over the winter months
3 to move that to the pile. We did not get that
4 grain moved to an elevator, it was to the
5 pile, or to the bin, excuse me.

6 VICE CHAIRMAN BEGEMAN: The bin is
7 on the farm, right?

8 MR. WISNESS: Right, on-farm. On-
9 farm storage. So, and, you know, how well
10 grain keeps in a pile is dependent upon a lot
11 of factors. A lot of the corn especially that
12 was harvested last year was very wet. It came
13 off the fields very wet and essentially could
14 not be piled. It's a good and a bad thing.
15 You have a great crop and you can't take
16 advantage of it.

17 (Off the record comments)

18 MR. WISNESS: So anyway, to answer
19 your question, I mean it's a lot of
20 variability. Once we can get grain in the
21 bins, get it on air, get it dried, it keeps
22 pretty well. But of course we definitely have

1 to move it before the next harvest.

2 VICE CHAIRMAN BEGEMAN: And have
3 you had the opportunity to talk with railroad
4 officials or employees, to communicate with
5 them directly? I know some of the other folks
6 have mentioned they've had some good
7 conversations, but I also know it's hard when
8 you're calling from the farm. Maybe you don't
9 even know who to call. But have you had
10 communications, or could we help establish
11 communications between you?

12 MR. WISNESS: They're well aware
13 of it.

14 VICE CHAIRMAN BEGEMAN: I realize
15 that. I just meant -- I know that they're
16 aware of it.

17 MR. WISNESS: Yes, I've talked
18 with our ombudsman in North Dakota and also
19 been to other meetings with BN to communicate.
20 And then the press, the ag press has been all
21 over the story in our area too, so yes.

22 VICE CHAIRMAN BEGEMAN: And if I

1 could ask a question regarding some of the
2 coal testimony. I'm curious to know, from my
3 fairly short time on the Board, I've read a
4 lot about how coal usage is down partly
5 because of EPA regs or fear of future regs,
6 and I guess because of natural gas prices it
7 suddenly is getting popular again.

8 But, at what point were you
9 seeking to really increase your usage of coal?
10 Railroads don't switch operations quickly, so
11 I'm just trying to understand, was this a year
12 ago or was it in January or December, when
13 it's been so cold?

14 MR. MCMILLAN: Sure. Chair
15 Elliott, Vice Chair Begeman, thanks for the
16 question. I won't speak for the whole League
17 but I will speak for Minnesota Power. Our
18 coal use is pretty stable. We're transforming
19 our fleet over, you know, several decades, and
20 most of our coal use is at one station, the
21 one I talked about, and that is a baseload
22 power station that has run at that level for

1 the last ten years and will for the next 20 if
2 we complete the retrofits on its grubbers and
3 stuff that we're working on.

4 VICE CHAIRMAN BEGEMAN: So for
5 you, there's no surprise for you.

6 MR. MCMILLAN: There's no
7 surprise, and gas prices do not impact our
8 burn. We're very industrial, load driven, so
9 that's high load factor around the year and we
10 don't move that plant much at all unless we
11 have to.

12 VICE CHAIRMAN BEGEMAN: And again
13 because it's going to be a long day, but did
14 you want to comment on that?

15 MR. KAHN: Yes, thanks. Yes, our
16 usage of coal has gone up as gas prices go up.
17 We're more competitive. Our cities are more
18 competitive in the market. When gas prices
19 are down, our usage is off. Last year it was
20 up 18 percent and this year it's probably
21 going to be up over 30 percent.

22 VICE CHAIRMAN BEGEMAN: If I could

1 just ask a quick question on the Amtrak
2 charts. One of the charts talked about host-
3 responsible delay. Is that according to
4 Amtrak, or is it agreed between Amtrak and the
5 host railroad?

6 I know that between the railroads
7 and Amtrak, folks do different sorts of
8 reporting. I'm just curious, is this delay
9 your view or is it the consensus view, in the
10 weekly/monthly reporting?

11 MR. STADTLER: Thank you for that.
12 I would say that it's Amtrak data that comes
13 from the conductors that are on the train. So
14 when a train is delayed they determine whether
15 it was from excess baggage movement or
16 passenger delay or if there's a freight train
17 in front of them.

18 We currently have a paper-based
19 system which is probably state-of-the-art for
20 the 1980s and we're working to improve that.
21 That goes to the different dispatchers at the
22 different host railroads, and if they have

1 differences in data we reconcile that.

2 So for the most part, Amtrak and
3 the host agree on that data. I think you'll
4 probably hear, if you ask the hosts, some have
5 a much higher confidence in the data than
6 others.

7 Over the course of this summer
8 we're implementing an electronic delay
9 reporting system that will make that process
10 more seamless, and I think the data will be
11 more joint data than Amtrak data at that
12 point.

13 CHAIRMAN ELLIOTT: Just a couple
14 broad questions mainly for the panel. You've
15 mentioned communications. Are any of you,
16 reaching a point where, I know you're
17 frustrated, but are you frustrated by
18 communications, like are there no
19 communications going on, or do you feel like
20 at least your side of the story is being
21 heard? You may not be ecstatic about the
22 result, but I'm just wondering if at least

1 there's some conversation going on.

2 MR. KAHN: Thanks for the
3 question. I think we're having good
4 communication. The problem is what we hear
5 is, trust us, we're not going to let you run
6 out of coal. And we just are not confident
7 that that's going to happen.

8 CHAIRMAN ELLIOTT: Anybody else
9 with specific problems? I'm more interested
10 in hearing if there is a communication issue,
11 because that is something that we can
12 immediately resolve if there are any.

13 MR. WISNESS: Yes, I have no
14 problems with the communications level. It's
15 the ombudsman in North Dakota has been
16 excellent in communicating in any way that's
17 necessary as well we've been invited to
18 numerous meetings with BNSF particularly.
19 It's not a communications problem, I don't
20 believe, it's a performance problem.

21 MR. SCHICK: My information is
22 secondhand, not firsthand, and I think it kind

1 of ranged from, I know some of the companies
2 have gotten a lot of attention from the
3 carriers in these situations, others have
4 expressed, as I read, frustration with not
5 even being able to get customer service to
6 give them some feedback.

7 So there's some range there. I
8 don't think it's consistent. And I'm not
9 getting to the result, I'm just talking about
10 the communications aspect, Mr. Chairman.

11 CHAIRMAN ELLIOTT: Sure. I guess
12 this is probably more towards coal and the
13 chemical shippers. I don't know if it is, so
14 please jump in if it's applicable to you, but
15 do you see any other opportunities out there
16 as far as service is concerned where another
17 railroad that's not having as significant
18 congestion issues could help out, either
19 taking the traffic or allowing the other
20 carrier to run over their tracks?

21 We do have some resources here at
22 the Board that we're able to provide for

1 shippers in certain situations, and obviously
2 it would make it easier if the railroads would
3 cooperate with those requests.

4 But do you see any of those
5 opportunities out there or is any of that
6 taking place as we speak?

7 MR. KAHN: We sent a letter to
8 BNSF on March 11th asking questions about
9 letting us use UP or to lease cars and we have
10 not received a written response yet. They,
11 like I said I don't want to keep droning on,
12 but they keep saying, don't worry, we're not
13 going to let you run out of coal.

14 CHAIRMAN ELLIOTT: And that's
15 specifically with respect to TMPA, or is it

16 MR. KAHN: Oh, I'm sorry. Yes,
17 TMPA.

18 CHAIRMAN ELLIOTT: Yes. I'm
19 sorry. That's our short way of referring

20 MR. KAHN: Yes, okay. Never heard
21 it called Tempa.

22 CHAIRMAN ELLIOTT: Right. It's

1 not Tampa. Okay, no, that's helpful. I just
2 want to urge everyone also, I know this has
3 been mentioned in my opening remarks, but we
4 do have a very good Rail Customer and Public
5 Assistance program.

6 And when you do run into
7 situations where there may be a possibility of
8 bringing the two of you together and possibly
9 needing a mediator where you're running into
10 a roadblock, I do urge you to use that
11 resource if need be.

12 MR. KAHN: And I have been talking
13 to them.

14 CHAIRMAN ELLIOTT: Great. Great.

15 MR. SCHICK: Our members are well
16 aware of the service. I know some of them
17 have made use of that service on back to the
18 question about alternative ways of moving rail
19 traffic.

20 In the comments that I had
21 summarized for you here today, I think they
22 ranged from a specific mention of a captive

1 plant which would make it probably pretty
2 difficult to get an alternative service, you'd
3 need some kind of directed service order to
4 get in there, all the way to the other end of
5 the line where one of the companies mentioned
6 that the destination point was served by, I
7 think it was the destination point, was served
8 by Short Line.

9 And they can't use the other Class
10 I road to get to the Short Line because
11 there's a paper barrier, or there are other
12 words for paper barriers, as we know, but
13 there's a paper barrier.

14 So BN's got the traffic even
15 though the other railroad could interchange
16 with the Short Line and get to the customers.
17 So I guess it covers, as it often does, it
18 covers the whole range of possibilities.

19 CHAIRMAN ELLIOTT: Sure.

20 MR. MCMILLAN: Chair Elliott?

21 CHAIRMAN ELLIOTT: Yes.

22 MR. MCMILLAN: With both your

1 questions specific to Minnesota Power, I
2 referenced this in my testimony but it's
3 significant enough to say it again,
4 communication has been superb with BNSF.
5 They've put their top decision makers on the
6 spot with us when we've needed to.
7 Performance as you've heard isn't there, but
8 communication's excellent.

9 Your second question, and I'll
10 answer on behalf of the League, alternatives
11 are always good and are very, very hard to
12 exercise as currently out there, but if those
13 opportunities were there for switching I know
14 a lot of League members would look for
15 opportunities to do that especially when times
16 are dire like they are here. Thank you.

17 CHAIRMAN ELLIOTT: Thank you.

18 Mr. Wisness, I think you mainly
19 referred to BNSF in your comments. Is that
20 correct?

21 MR. WISNESS: Well, they are the
22 primary carrier in our area, so yes. But the

1 delays are coming from basically all of the
2 other lines too. BNSF, however, is the
3 dominant one.

4 CHAIRMAN ELLIOTT: Okay. I just
5 wanted to make sure I knew what railroad you
6 were referring to in your comments.

7 MR. WISNESS: Yes, I could mention
8 the others as well. I mean, it's kind of
9 equal footing as far as I'm concerned. As I
10 mentioned in my comments, you know, a lot of
11 times when we have to make these extended
12 hauls of grain we will go to, you know, an
13 elevator on another line because they happen
14 to have had a train that has run.

15 And so, I mean we use all of the
16 rail lines, and basically we have to deliver
17 wherever there's an opening. But it's not
18 limited to just BNSF.

19 CHAIRMAN ELLIOTT: And last
20 question for the shipper group. Somebody
21 mentioned a very quick demurrage charge; have
22 any of the other shippers here, I suppose this

1 is more applicable to the grain shippers,
2 suffered consequences as a result of the
3 deterioration in service, penalties to your
4 customers or whoever you're shipping to as a
5 result of this?

6 MR. WISNESS: I would have to
7 defer that answer to somebody more in tune
8 with --

9 CHAIRMAN ELLIOTT: Okay.

10 MR. WISNESS: I'm not aware of
11 that.

12 CHAIRMAN ELLIOTT: Okay, thank
13 you.

14 MR. WISNESS: Thank you.

15 CHAIRMAN ELLIOTT: And just to
16 Amtrak, shippers can rest for a little while.
17 I did see this last chart with respect to
18 performance, and I don't think I've seen it
19 exactly put this way and thank you for that,
20 and it did cause some alarm based on the date
21 of the decision versus the downturn in the
22 metrics.

1 I also noted that some of it also
2 coincides with the service crisis or the
3 service issues that we're having at the
4 present time. Do you see that as a
5 combination of factors or do you correlate it
6 just with one or the other?

7 MR. STADTLER: No, I think if
8 you're looking at the last chart as part of
9 the performance degradation over the December
10 to February, it's got to be weather. I mean,
11 weather issues on our side and weather issues
12 on the freight side.

13 So not all of it is freight train
14 interference but a big portion of it is.
15 It'll be good for us to watch as it's 71 in
16 Minot how that goes up, because we have it
17 code by code what's freight train interference
18 and what is weather. We're hopeful that we're
19 able to minimize the delays as we move
20 forward.

21 CHAIRMAN ELLIOTT: So I take it
22 you're hoping to see that as the weather

1 improves, that that line will go back upwards
2 would be the hope.

3 MR. STADTLER: Yes, that's the
4 hope. But if you look at the other chart, the
5 one before, you can see that on the far left
6 freight train interference is really --

7 CHAIRMAN ELLIOTT: A significant
8 number. And are you content? I mean, you
9 mentioned the preference, the statutory
10 preference requirement. Are you content that
11 that is being met as this number has gone
12 down, or do you relate that large number that
13 you just pointed to on the second to the last
14 chart with respect to not abiding by the
15 preference requirement?

16 MR. STADTLER: I would say it's
17 the latter. I would say that not abiding by
18 preference --

19 CHAIRMAN ELLIOTT: Thank you.

20 MR. STADTLER: -- is the cause for
21 the delay.

22 VICE CHAIRMAN BEGEMAN: May I ask

1 just one last question of Mr. Wisness? Where
2 is your grain going? Is it going west to the
3 ports? I've heard from many that the Chicago
4 area is a significant cause for all of this
5 delay, and if you're going east they're not
6 moving your grain. I'm just curious, where is
7 your grain going, if it goes anywhere?

8 MR. WISNESS: Well, for my area in
9 the western part of the state, virtually
10 everything goes west. Now there was a
11 significant increase, I think, that Burlington
12 Northern has documented of soybean shipments
13 that went out to the west coast over the
14 winter, so that was a demand feature that they
15 experienced. But generally, you know, the
16 western half at least of North Dakota grain
17 moves west.

18 Virtually all of the wheat move
19 west, and the current soybeans tends to move
20 either south or east. And certainly if
21 someone has a better handle on that I'd
22 encourage them to speak on it later, but from

1 my point of view that's how it appears.

2 CHAIRMAN ELLIOTT: Okay, I think,
3 first of all, thank you very much for
4 appearing today. It's been very helpful. And
5 thank you for making the trip here, and I know
6 it's not been easy with the cherry blossoms
7 going. At least you didn't have to drive
8 through it this morning. So you are now
9 excused and we'll bring up the next panel.
10 Thank you very much.

11 We'd also like the secretary of
12 agriculture to come up with the next panel,
13 and why don't you sit down at this end? Yes,
14 I think so. We'll have him lead off.

15 MR. WISNESS: Do you want copies
16 of our presentations?

17 CHAIRMAN ELLIOTT: Yes, what we'd
18 like you to do is provide two copies of any
19 type of PowerPoint. You didn't use a
20 PowerPoint so I think you're okay. Actually,
21 you don't need to provide it.

22 Why don't we begin with the third

1 panel, and we will have the secretary begin
2 the testimony.

3 SECRETARY LENTSCH: Well, good
4 morning. My name is Lucas Lentsch. I serve
5 as secretary of agriculture for South Dakota.

6 And yesterday I had the great
7 opportunity of finding myself in the midst of
8 transportation delays but they were of the
9 aerial nature. A cancelled flight, a broken
10 connection, and so I was looking for the
11 aerial transportation board this morning upon
12 my arrival.

13 But no, I am very thankful to be
14 here with you today, and it's an honor to come
15 in front of you and on behalf of the state of
16 South Dakota and read into record, first off,
17 our letter from our governor, Dennis Daugaard.

18 "Chairman Elliott, Vice Chairman
19 Begeman, members of the Surface Transportation
20 Board, thank you for your attention to the
21 dire railroad service challenges facing
22 farmers, grain elevators, ethanol plants, and

1 other shippers throughout the Midwest.

2 "Agriculture is South Dakota's
3 number one industry, generating over \$21
4 billion in economic activity each year. As
5 governor of South Dakota, I appreciate the
6 opportunity to express my concern for the
7 backlog of rail shipments.

8 "South Dakota's three largest
9 grain commodities are corn, soybeans, and
10 wheat. Our farmers grew excellent crops in
11 2013, producing 808 million bushels of corn,
12 a new record; 183 million bushels of soybeans;
13 and 77 million bushels of wheat. A total of
14 more than a billion bushels of grain, yet
15 according to the National Ag Statistic
16 Service, half of that production, a little
17 over 500 million, 506 million bushels remains
18 in storage.

19 "The lack of rail transportation
20 for these agricultural commodities has already
21 led to some spoilage of grain stored on the
22 ground. Some elevators can no longer accept

1 grain from local farmers because they have no
2 storage capacity at their facilities. And
3 when South Dakota farmers cannot sell their
4 grain, entire communities dependent upon the
5 economic activity of agriculture suffer.

6 "The shortage of rail cars is so
7 acute that our storage facilities may not have
8 enough space to accommodate the wheat harvest
9 this summer and the corn and soybean harvest
10 this fall.

11 "I've received numerous reports of
12 grain shippers requiring thousands of rail
13 cars to move the grain currently in storage.
14 Three grain elevators in central South Dakota
15 are short a total of almost 4,000 rail cars.
16 Other grain shippers report shortages of an
17 additional 11,000 rail cars.

18 "And the problem extends beyond
19 grain transportation. A number of farmer-
20 owned ethanol plants in South Dakota have had
21 to shut down for three to four days or longer
22 because the lack of rail service has caused

1 their production to outpace their storage
2 capacity.

3 "With more than 90 percent of our
4 ethanol shipped by rail, the lack of rail
5 service has had a considerable negative impact
6 on this industry. Certainly the impact of
7 severe weather and ongoing construction
8 efforts combined with the large grain harvest
9 has caused challenges for the rail system.

10 "With spring's arrival, however,
11 it is imperative that reliable rail service be
12 restored. Our railroad partners need to
13 address the inconsistent delivery of cars.
14 Locomotives and crews must be allocated to
15 expedite shipping service to underserved
16 areas. And investments in track improvements
17 should be better coordinated to alleviate the
18 tremendous backlog that is currently taxing
19 the system.

20 "I appreciate the acknowledgment
21 of this problem and the efforts underway to
22 alleviate it. I encourage our railroad

1 partners to employ a wide variety of solutions
2 from increasing hours of service for crew
3 members to adding additional cars and
4 locomotives to the lines to eliminate the rail
5 car shortage before the 2014 harvest begins.

6 "Farmers, biofuel producers, and
7 other small businesses in South Dakota depend
8 upon reliable rail service to operate their
9 businesses efficiently and profitably.
10 Prolonged disruptions to rail shipping will
11 escalate into very real economic harm, and I
12 stand by to assist in the collective effort to
13 prevent this from happening.

14 "Thank you for your consideration
15 and assistance. Sincerely, Dennis Daugaard,
16 Governor of South Dakota."

17 As secretary of agriculture for
18 South Dakota, I thank you for your willingness
19 and leadership to have this hearing. South
20 Dakota agriculture producers and shippers are
21 in need of solutions.

22 As a state we pride ourselves in

1 independence and a pioneering spirit.
2 However, we recognize the vital dependence we
3 have on effective and reliable rail service.
4 Today it is imperative that I deliver a
5 message respectful of our rail partners'
6 unique and integral relationship with our
7 state. Without their commitment, South Dakota
8 becomes the world's warehouse for grain,
9 literally.

10 By location alone, South Dakota is
11 one of the farthest points away from grain
12 markets. Historically, this has placed our
13 commodities at a disadvantage through high
14 transportation costs. Rail is our only
15 option.

16 A few highlights on how we arrived
17 here today. The world demand for grain
18 commodities combined with increased dry
19 milling for our ethanol in the state gave a
20 signal to our farmers to increase production.
21 Geographically, we are in a good position to
22 feed the world demand for grain via rail

1 transport. Over the past few years grain
2 companies recognized the fact that grain
3 production was about to explode in South
4 Dakota, and capital investments in grain
5 handling facilities, mainly shuttle loaders,
6 has created significant investment and
7 totaling hundreds of millions of dollars.

8 Railroads handled this increase in
9 grain production with their current
10 infrastructure until the increase in demands
11 have overloaded their rail infrastructure
12 itself.

13 Farmers spent the capital to
14 increase production, grain companies have
15 spent the capital to handle this new
16 production, and now it is up to the railroads
17 to spend the capital to get this production to
18 export.

19 Grain production in South Dakota
20 is geographically stranded. We have two end
21 users for corn, predominately livestock and
22 the ethanol grind. All excess bushels of

1 grain raised have to be put on a train and
2 railed out to an out-of-state end user.

3 But in summary, meeting this
4 demand for grain to feed the world is a three-
5 legged stool.

6 The first leg, the farmer
7 responded to market signals for increased
8 production; and the second leg, grain
9 companies recognized the need to build up
10 existing grain handling facilities to handle
11 this new production; and the third leg, the
12 railroad takes this production to export
13 market, and now is the time to build up the
14 rail infrastructure to handle this increased
15 production. We are all partners together in
16 the ag production, and if one leg collapses
17 the whole stool tips over.

18 When America asked for energy
19 independence we turned to our farmers for help
20 and they answered. In South Dakota with over
21 a billion bushels of grain produced last year
22 and over a billion gallons of ethanol created,

1 we need our transportation partners.

2 We understand there are a number
3 of factors that make this a complicated issue.
4 As Governor Daugaard stated, we want to be an
5 active partner to assist in providing
6 solutions.

7 And quickly, it is worth
8 mentioning that South Dakota has shown a very
9 real commitment to investing in rail. We
10 believe so strongly in the importance of rail
11 service especially for agriculture that we've
12 been willing to put our money where our mouth
13 is. The state has invested nearly \$30 million
14 to improve the state-owned line from Mitchell
15 to Chamberlain.

16 So on behalf of our state's ag
17 producers, thank you for listening and
18 assisting in supporting a path forward to
19 reliable and consistent rail service. Thank
20 you.

21 CHAIRMAN ELLIOTT: Thank you.

22 Would you like to go then?

1 MR. HANDCOCK: Thank you, Chairman
2 Elliott and Vice Chairman Begeman. My name is
3 Milt Handcock. I'm the general manager of
4 Midwest Cooperatives, a CHS Incorporated
5 company.

6 We are a seven-location, regional
7 cooperative and serving central and western
8 South Dakota. We are served by both the CP
9 and the BN rail. We load up to 75-car units
10 for the CP and 110-car units for the BN. I'm
11 a member of the South Dakota Association of
12 Co-ops and the South Dakota Grain and Feed
13 Association also.

14 At elevators served by the CP in
15 my area seem to be getting farther behind. In
16 January, facilities were up to 875 cars
17 behind. February, 1,500 cars. March, 2,200
18 cars. April, 2,300 cars. The oldest want
19 date as of April 7th that I know of is January
20 15.

21 BN, 26-car to 210-car units have
22 been spotted up to two months late. Other

1 concerns have been late penalties and rolling
2 fees, contract penalties. There have been
3 numerous reports from central South Dakota of
4 fees in excess of \$150,000 imposed on
5 elevators for late penalties in individual
6 grain contracts.

7 The cost of getting bought in on a
8 spring wheat train can be as high as \$120,000
9 on a 25-car unit. That would be \$1.50 a
10 bushel. Numerous grain contracts were bought
11 in during the months of January, February, and
12 March as evidenced by the high spot market
13 prices at the end of each month at times
14 exceeding \$5 over the Minneapolis market
15 delivered to Chicago.

16 Late cars are also causing issues
17 with our bird food commodity buyers. Most of
18 our bird food millet and sunflowers are sold
19 as single cars, not unit trains. Single cars
20 are extremely challenged as shippers are using
21 all cars to fill unit train orders.

22 We are up against some major

1 service issues for spring wheat planting as
2 well. When contract plant food product that
3 is to arrive on rail is late, we are forced to
4 buy in spot trucks on the open market to serve
5 our customers.

6 This leaves us in a long position
7 and vulnerable to declining market values with
8 no way to hedge our risk. If it wasn't for
9 the snowstorm this past week, we'd be in the
10 position right now where we'd be completely
11 out of fertilizer in our area.

12 The slow fall of the Mississippi
13 is only going to exacerbate the situation.
14 Barges bringing up fertilizer and moving grain
15 down will be slow, which will put more
16 pressure on the rail. I can't see how the
17 pace can quicken with the grain that needs to
18 be moved.

19 Producers ultimately suffer.
20 Current customers of ours are hauling
21 commodities to whoever gets the next train.
22 This could mean that producers will haul up to

1 300 miles round trip.

2 This creates the situation where
3 producers cannot contract their grain causing
4 them extreme market risk. Example, if we use
5 the 2,300 cars that I referenced earlier, our
6 local producers could have conceivably lost
7 close to \$14 million just in my area.

8 This is how I calculate the
9 number. Average basis level on 15 protein
10 spring wheat during the January, February and
11 March was \$3.33 over Minneapolis market
12 delivered to Chicago.

13 The basis today is \$1.60 over
14 delivered to Chicago. The difference is \$1.73
15 a bushel. Twenty-three hundred cars at 3,500
16 bushels per car calculates to 8,050,000
17 bushels. That times \$1.73 equals \$13.9
18 million. I'd venture to say that number would
19 be much higher as the 2,300 cars I referenced
20 was just at one location.

21 Lack of rail services force
22 producers to carry inventory longer, putting

1 stress on their finances for spring needs, and
2 as temperatures warm there's a real threat of
3 grain going out of condition in the farmers'
4 bins. This is also evident with the many
5 ground piles at South Dakota elevators.

6 On a final note, earlier this week
7 CP advised U.S. shippers that they would not
8 fill any orders if the shipper intended to
9 build a shipment over the Chicago gateway.
10 They would only fill orders to alternative
11 markets.

12 This is being dictated regardless
13 of the shippers' commitments or contracts
14 which are already several months late. In
15 South Dakota I would venture to guess that 80
16 percent of our wheat on any given year moves
17 over Chicago destined for U.S. flour mills.

18 I want to conclude today with
19 expressing my gratitude to you, the members of
20 the STB, and for the time to speak today. As
21 I see it, forecasting rail demand for the ag
22 industry in the future will be at a high

1 premium.

2 Ag must be seen as a priority.
3 Rural America and the agriculture industry
4 cannot afford to repeat this. Thank you, and
5 I'll stand by for questions.

6 CHAIRMAN ELLIOTT: Mr. Whiteside?

7 MR. WHITESIDE: Good morning, Mr.
8 Chairman, Vice Chair Ann Begeman. I want to
9 talk this morning about and kind of complement
10 what everyone else has been doing.

11 But the real issue here is that
12 we're very happy that the Board has called the
13 hearing, and we've been working very closely
14 with your staffs, with Lucy Marvin and Tom
15 Brugman, and all of them. But I want to kind
16 of cover a little bit about some of the issues
17 that we've heard.

18 The effects of the service
19 meltdown continue to focus on the Burlington
20 Northern and the CP, but we're starting to see
21 it in the rest of the big four.

22 It's important for the rail

1 shippers here to be present at the hearing,
2 but testifying at an STB hearing was difficult
3 for a lot of grain shippers for fear of
4 retaliation. It isn't because of the Cherry
5 Blossom Festival that is the problem. Here,
6 the reality is what we deal with every day.

7 Rail shippers must compete in
8 their marketplace. Most rail dependent
9 shippers large and small cannot risk
10 alienating a railroad that services their
11 facility no matter how bad the service might
12 get.

13 This Board may not comprehend the
14 reality of this market, but it's one that we
15 live in every day. It isn't a matter of being
16 brave, it's a matter of trying to survive in
17 a competitive market. At times I get the
18 feeling that the Board personnel does not take
19 the danger of railroad retaliation as a
20 reality.

21 I compliment all the shippers that
22 did show, and the breadth of shippers is

1 impressive. Personally we've held phone calls
2 and phone conferences and meetings in the
3 Northern Plains together with the STB Office
4 of Public Assistance, Governmental Affairs,
5 and Compliance to assist them by providing the
6 information directly from the shippers, most
7 of which who want to remain anonymous about
8 the effects of the service meltdown in their
9 businesses.

10 We've conducted phone surveys
11 hosted by myself and conversations reviews
12 with multiple groups of grain shippers from
13 multiple states. These conversations have
14 been coordinated with the North Dakota Grain
15 Dealers Association and Steve Strege, and many
16 Montana growers, grain dealers, the Montana
17 state government, Montana Wheat & Barley
18 Committee, the Montana Department of
19 Agriculture, and the growers and grain dealers
20 in South Dakota.

21 Additionally, we've had interviews
22 and interviewed a number of ARC members, and

1 those shippers include shippers of coal,
2 agricultural commodities and manufactured
3 goods. And lastly, we've been working with
4 the STB Office of Public Assistance to clarify
5 and provide factual predicate about the
6 service meltdown.

7 So what I want to do is I want to
8 survey or summarize with verbatim quotes from
9 many of these shippers that participated in
10 the conferences. A continuing theme in the
11 conferences was how do we stay in business
12 with these service disruptions that we're
13 having to pay for?

14 Two main topics, the continuing
15 worsening and lengthening of the rail service
16 crisis, and the BNSF, what we call the 48-car
17 marriage rules and its effect on smaller, non-
18 shuttle elevators in Montana and North Dakota.

19 The purpose of the conference
20 calls was to educate the farmers and the
21 shippers including the staff at the OPAGAC and
22 the STB. Elevators expressed that local BNSF

1 personnel operating in oilfield areas have
2 stated that servicing grain traffic, which by
3 the way has been moving about 100 years, is
4 annoying. Is annoying now.

5 Several elevators talk about the
6 real fear of railroad retaliation if they or
7 their company talk to regulators. Fact, many
8 local elevators are muzzled by their parent or
9 financing elevator companies from appearing or
10 testifying.

11 This doesn't mean that they're not
12 terribly interested. It doesn't mean they're
13 not suffering. Many elevator operators are
14 showing 60, 90 days behind on getting cars.
15 One South Dakota shuttle elevator, as they
16 talked about, put the number at over 2,000
17 cars behind last week.

18 Oil shipments have taken away
19 capacity and are being prioritized over grain.
20 Quote, loads of wheat trains are just sitting
21 there. End of quote. Some grain shippers
22 talked about late deliveries of empty grain

1 trains to the elevators, a slow pickup of the
2 loaded cars from the elevators.

3 (Off the record comments)

4 MR. WHITESIDE: The delay in local
5 yards with shipments of loaded grains, quote,
6 loads of wheat trains are just sitting there.
7 Quote, working more and more with durum and
8 peas, less with wheat due to struggling of
9 getting cars.

10 Quote, BN does not seem to be
11 prioritizing shipments of non-oil products.
12 Another quote, farmers are paying for this,
13 was a comment heard throughout the conference
14 calls from the farm producers. Another quote,
15 pea and lentil cars delivered the week of
16 April 7th in northeast Montana were cars that
17 were ordered to be delivered in January 1st.

18 The next quote was, the shuttle
19 train spotting seems to be easing, while less-
20 than-shuttle cars are falling farther and
21 farther behind. Next quote was, we sense
22 favoritism. The delivery of sand and gravel

1 gets access within nine to 15 days, but we're
2 30 days on grain and now we're up to 90 days
3 out and counting.

4 I won't cover the basis points
5 that the other guys have, but it's the same.
6 Less-than-shuttle rates have taken us out of
7 the business of handling wheat. Quote, as
8 shuttle cars are becoming available the less-
9 than-shuttles will not be available.

10 Quote, increasing grain, the
11 delays for grain struggling in Montana, North
12 Dakota, and Minnesota, trying to be the
13 squeaky wheel, but not a big shipper, thus
14 where we can we're moving to truck and
15 changing the business practices which affects
16 our bottom line. In most cases we can't do
17 that.

18 From a specialty grain elevator,
19 quote, markets to Europe, three weeks now to
20 Chicago, missing contracts with the breeders
21 in Europe, can't continue to operate and stay
22 in business doing this. Quote, our plea to

1 the STB, we need more cars.

2 One of the major grain companies
3 said we're backed up for months due to lack of
4 trains falling back on the backs of the
5 farmers. From pea and lentil shippers, quote,
6 shipments are being delayed so much, the 30-
7 day phyto-sanitary certificates issued for the
8 trip to PNW are running out before the
9 shipments can make Portland. So they have to
10 have them reissued.

11 The BNSF problems seem to be self-
12 imposed. Insufficient manpower, not enough
13 rail cars, not enough locomotives, Bakken oil
14 shipments have increased by 3,000 percent
15 since 2005 and six fold since 2011, end of
16 quote. In North Dakota, CP service may be,
17 quote, worse than the BN. How long will these
18 service delays go on?

19 Let me change subjects. Montana
20 lumber shippers are being told in the summer
21 of 2013 they should expect delays for the next
22 three to five years as BN repairs and

1 increases capacity along the BN Hi-Line. And
2 the Hi-Line is old GN line.

3 In August 2013, BN blamed the
4 service on rail construction and upgrades. In
5 September, as the service continued to
6 escalate, BN told the STB that they did not
7 see too many problems in handling this year's
8 business.

9 In October, as service delays
10 continued to escalate, BN stated that the
11 wheat harvest, which comes every year by the
12 way, was straining the system. In November,
13 as the service issues continued to escalate,
14 BN started to talk about service issues caused
15 by locomotive/power issues and also publicly
16 stating they were gearing up to move a million
17 barrels a day of Bakken oil.

18 In November and December as
19 service continued, BN, blaming a greater than
20 normal corn crop, stated that service issues
21 may continue until late spring. In January,
22 as service continued to escalate, service

1 issues, BN blamed cold weather.

2 In March, as the service issues
3 continued to escalate, BN said that the
4 service disruptions will continue through
5 2014.

6 Analysis of export coal and
7 domestic oil movements are outlined in the
8 Heavy Traffic Still Ahead study, which was
9 testified to by Montana Farmers Union and they
10 submitted that testimony in this proceeding so
11 I won't go through that.

12 The 48-car marriage rule. The BN
13 issued a rule in August of 2013 which said
14 that the small elevators, 48-55s, must go out
15 and find another one. They've got to go to
16 their competitors to marry up with that
17 shipment. The alternative is that they
18 couldn't use the 48-55 car rates anymore.

19 This effect arbitrarily cut off
20 the ability of small elevators to utilize 48-
21 55 car rates and requires them to coordinate
22 with their long-time competitors to ship to

1 the same locations at the same time.

2 What I've done just real quick is
3 done -- maybe this will work. Okay, rail
4 rates. Rail rates are the highest they've
5 ever been. So what I've got here, and I'm
6 going to be filing all these comments, but
7 this is the 55-car rate.

8 If we look at the shuttle rates,
9 same problem. We've got these for hundreds of
10 stations. If we look in there, there's on-
11 basis. I'll just leave it there. We've also
12 got values in talking about the rate levels
13 all over the West.

14 Coal companies. BN's dictating to
15 coal companies, and you've already heard this,
16 inventory, how much they can keep in
17 generating stations, unless your numbers are
18 in -- this was a quote. Unless your numbers
19 are in single digit days, don't bother
20 ordering more trains. And they're talking
21 about their inventory piles.

22 Coal shippers continue to see the

1 rail service meltdown negatively affecting
2 their operations. Many power plants are faced
3 with trying to save their stockpiles for the
4 upcoming heavy power usage months.

5 A lot of people don't realize that
6 the heavy power usage months are the summer,
7 not the winter, and especially up in the
8 Northern Plains they don't understand that.

9 Ethanol companies. Conversations
10 with South Dakota ethanol companies show that
11 several ethanol producers are days away from
12 closing or are already shut down due to lack
13 of transportation of the ethanol that they
14 produce. Most of them have no more than ten
15 days worth of production that they can store
16 on site.

17 The Canadian situation, and this
18 does affect what's going on here. As of March
19 25th, Canadian railroads were 70,000 cars
20 behind. And there were 39 vessels waiting for
21 grain on the West Coast, 28 in Vancouver and
22 11 at Prince Rupert.

1 Canadian wheat farmers had a
2 better than expected wheat harvest. The real
3 possibility is that the 2013-14 crop will not
4 get moved in large quantity by the time the
5 2014-15 crop gets there. That's very
6 disconcerting to the wheat farmers, and
7 carryover estimates may run as high as 28
8 million tons.

9 Shipper issues up in Canada,
10 falling grain prices, widening basis, creating
11 cash flow crunch, driving spreads apart,
12 storage bins are already full. Grain company
13 issues in the country are a widening basis,
14 payment of vessel demurrage on late
15 deliveries, and paying contract extension
16 costs and lost opportunities.

17 Canadian wheat producers are
18 starting to move grain now down south onto the
19 Hi-Line. That creates more problems on top of
20 what we've already got. CP head, Hunter
21 Harrison, confirmed what the shippers have
22 long feared. The railroads view grain and

1 coal as something they can move now or later.

2 Speaking to the Wall Street
3 audience on March 12th, 2014, Harrison said
4 bulk shipments including grain were modestly
5 affected by the severe wet winter weather, but
6 his railway did well moving container traffic.

7 Quote, because that's the one
8 commodity we're sensitive to, quote, if you
9 miss you miss. It's not like grain or coal,
10 where if you're a little bit late you're still
11 going to haul it away. It's still going to be
12 there. If the intermodal train trailer comes
13 in Friday night and you're not able to handle
14 it, it probably won't be going there on
15 Monday. This is one of the concerns in the
16 grain community. It's still going to be
17 there. We're going to have some rotting
18 problems, but the grain traffic's still going
19 to be there.

20 So summary, on March 21st BNSF was
21 16,000 cars behind, 23 days. The states of
22 the greatest backlog are North Dakota,

1 Montana, South Dakota, and Minnesota, areas
2 where the BN has had the greatest market power
3 to dominate traffic.

4 Outlook, it's probably too early
5 to tell, but USDA is already saying in their
6 statement in this proceeding that a lot of the
7 2013-14 crop won't be moved. It will still be
8 in the bin by the time the 2015 crop comes on
9 board.

10 Estimates of new PNW traffic for
11 export coal and domestic oil may add as many
12 as 116 million to 160 million tons of freight
13 into the Pacific Northwest over the next five
14 to ten years.

15 Now to put all that in
16 perspective, if we take all of the grain that
17 moves into the PNW we're talking about 40
18 million tons. So they're talking somewhere in
19 the hundred and -- and Matt Rose has already
20 said it's between 50 and 100 million that
21 they're going to be increasing there.

22 So the growth in traffic and

1 associated necessary rail expense will lead to
2 continuing issues for maybe even the next
3 decade.

4 Shippers need to be treated
5 fairly. This is our request. Captive and
6 non-captive. Railroads are not like private
7 companies. Rather, they are federally granted
8 franchises that are greatly affected with the
9 public interest and railroads are required to
10 serve all customers fairly with statutory
11 common carrier obligation.

12 We need the STB to issue service
13 orders to ensure fairness in the allocation of
14 cars and locomotive power throughout the
15 system. We need to have transparency in this
16 process, and above all, the shippers, and
17 you've heard it today, need a Department of
18 Straight Answers at the railroads. Yes, we're
19 talking to them. No, we're not getting
20 anywhere.

21 Consideration should be given to
22 opening up constricted systems to increased

1 access by other rail carriers to provide power
2 and cars to the move the product. We
3 respectfully request the STB keep this record
4 open. And then I'll affirm what Tom Schick
5 said at the ACC regarding the comments about
6 increased competition. Thank you.

7 CHAIRMAN ELLIOTT: Thank you.

8 Go ahead, Mr. Peterson.

9 MR. PETERSON: Good morning,
10 Chairman Elliott, Vice Chairman Begeman. On
11 behalf of the American Soybean Association, we
12 appreciate the Surface Transportation Board
13 holding this public hearing on rail service
14 issues and providing the opportunity for us to
15 share with you the impacts being experienced
16 by soybean farmers.

17 My name is Lance Peterson. I'm a
18 soybean farmer from the western part of
19 Minnesota in a town called Underwood. I'm a
20 member of the board of directors of the
21 American Soybean Growers Association.

22 ASA is a national trade

1 association that represents our nation's
2 nearly 600,000 soybean farmers on national and
3 international policy issues. Like other crops
4 and commodities, transportation has a large
5 impact on the bottom line for soybean
6 producers.

7 Soybeans are especially impacted
8 by transportation costs as over 50 percent of
9 U.S. soybeans are exported and soybeans and
10 soy products are the leading U.S. agricultural
11 export with an export value of over \$28
12 billion in 2013.

13 Soybeans provide an essential and
14 efficient source of protein and vegetable oil
15 that contributes significantly to feeding and
16 nourishing the growing world's population.
17 With tremendous increase in demand for
18 poultry, pork, and beef which are fed with
19 soybean meal is a primary reason for increased
20 global demand for soybeans.

21 Many in the world rely on U.S.
22 soybean farmers to meet their protein and

1 vegetable oil demands. U.S. farmers in turn
2 rely on trucks, rail, and barges to move our
3 products to those markets.

4 A great deal of discussion has
5 taken place in the last few months in regards
6 to inadequate rail movement in the upper
7 Midwest. The discussion is centered on slow
8 shipments due to cold weather.

9 I understand that challenge, but
10 I'm very concerned that the warmer
11 temperatures are not going to fix this. The
12 real issue is the shifting of rail assets to
13 the rapidly expanding oil industry. This is
14 occurring at the expense of longstanding
15 shippers who rely heavily on rail movement to
16 conduct their business.

17 As an agricultural producer in
18 western Minnesota, I am faced with a direct
19 and substantial financial impact. Inadequate
20 rail service directly drives up the cost per
21 rail car by thousands of dollars.

22 Within much of agriculture

1 including the soybean industry, when
2 transportation costs escalate those costs are
3 usually not passed on to the ultimate
4 customer, instead they rest with the farmer on
5 the local level.

6 Currently elevated transportation
7 costs in my area equate to about 60 cents per
8 bushel above what we have traditionally been
9 paying, and we are seeing a 40 cent per bushel
10 additional cost at least nine months out.
11 This equates to real dollars.

12 I was able to get part of my 2013
13 crop moved before this transportation issue
14 largely developed, so I am looking at a loss
15 on my 2013 crop of about \$40,000 on the
16 remaining bushels that I need to ship. Income
17 lost on next year's crop is projected to be
18 much larger, far in excess of \$100,000.

19 This is a loss for just one
20 producer. When tabulated for the thousands of
21 farm operations across the upper Midwest, the
22 losses could be in the hundreds of millions of

1 dollars. This is making lenders hesitant, and
2 it could make it difficult for farmers to get
3 operating loans to finance their business. A
4 restriction on operating loans would have a
5 devastating impact on farmers and on the rural
6 economy.

7 Rail is an integral part of the
8 competitiveness of U.S. agricultural exports.
9 The United States has developed longstanding
10 international marketing relationships built on
11 delivering consistent quality and timely
12 shipments.

13 Grain sales are made and freight
14 is locked in with the understanding that
15 shuttle trains will be operating with a
16 turnaround time of roughly three trips per
17 month. Recent shuttle turnaround times have
18 been much worse and now a great deal of
19 uncertainty exists in regards to future
20 service.

21 Will adequate shuttle capacity be
22 available to efficiently meet demand? Major

1 railroad investments have been talked about
2 but will they materialize and will they come
3 before tremendous loss has occurred for
4 shippers?

5 The impact to agriculture
6 producers is not just on the shipping of
7 harvested commodities to market, but also in
8 getting inputs such as fertilizer to the farm
9 to produce a crop in the first place. For
10 many of us that time is now or is rapidly
11 approaching.

12 The demand for rail shipments of
13 soybeans is expected to continue to grow in
14 the coming years, and this is supported by a
15 farm-to-market study commissioned by the Soy
16 Transportation Coalition and conducted by
17 Informa Economics in July of 2012.

18 The study shows that in key states
19 where we already are experiencing rail service
20 issues today, the demand will continue to rise
21 from the soybean sector. For example, in
22 2009-10, 126 million bushels of soybeans from

1 Minnesota were transported by rail and that
2 number is projected to increase to 137 million
3 bushels in 2020-21.

4 In South Dakota, it's projected to
5 rise from 108 million in 2009-10 to 128
6 million in 2020-21. For North Dakota it goes
7 from 147 million bushels by rail in 2009-10 to
8 187 million bushels in 2020-21.

9 The annual marketing report for
10 the Upper Great Plains Transportation
11 Institute at North Dakota State University
12 shows that North Dakota soybean shipments have
13 already gone over 172 million bushels for
14 2012-13.

15 Making production projections into
16 the future is an imprecise endeavor, but the
17 takeaway from most forecasts is that soybean
18 shipments will be increasing, and the rail
19 network needs to accommodate this growth along
20 with the growth in crude oil shipments.

21 We know that there has been an
22 increase in demand and severe winter weather

1 has contributed to service disruptions.
2 However, ASA is urging the companies and the
3 STB to ensure that the service provided to
4 soybean and agricultural commodities is in
5 balance with that provided to other sectors.

6 For our part, to address demand
7 over the long term ASA will continue to carry
8 the message to Congress and the Administration
9 in support of policies that encourage or
10 provide direct investment in expanding
11 transportation capacity including rail,
12 trucks, and waterways.

13 This will include a tax credit
14 applied to new rail infrastructure, funding
15 for waterways infrastructure, and increased
16 truck weight limits that will expand
17 transportation capacity and increase
18 transportation service competition. Steps to
19 improve and expand energy infrastructure could
20 also alleviate rail demand by providing
21 alternative ways to accommodate the growing
22 domestic oil and gas production.

1 Thank you again for the
2 opportunity to testify here today. We
3 appreciate the attention that the Surface
4 Transportation Board has placed on this issue,
5 and encourage you to continue to diligently
6 monitor this process and ensure that progress
7 is made to optimize the efficient movement of
8 commodities by rail.

9 MR. GORDON: Good morning,
10 Chairman Elliott and Vice Chairman Begeman.
11 My name is Bill Gordon. I am also a soybean
12 farmer. I'm from Worthington, Minnesota, and
13 I'm testifying here today on behalf of the
14 Minnesota Soybean Growers Association. Thank
15 you again for the Surface Transportation Board
16 holding the public hearing on rail issues.

17 Minnesota soybean farmers produce
18 over 300 million bushels of soybeans per year,
19 making us the third largest soybean producing
20 state in the country and accounting for over
21 \$4.2 billion in value. Many of those soybeans
22 in Minnesota are exported to China and the

1 Asian market, and get there by a truck and
2 rail to the ports of the Pacific Northwest.

3 Minnesota soybean farmers are
4 largely dependent on rail service, and the
5 transportation issues have a large impact on
6 our bottom line. The rail service problems
7 have been acknowledged by the rail companies
8 and are known to the STB, and will be detailed
9 by many impacted stakeholders testifying here
10 today.

11 As laid out by my colleague in the
12 American Soybean Association, inadequate rail
13 service directly drives up the rail car cost
14 by thousands of dollars as reflected in the
15 price farmers are paid locally. The
16 cumulative financial impact for the thousands
17 of farmers' operations in Minnesota and across
18 the upper Midwest could potentially reach
19 hundreds of millions of dollars.

20 The impact extends to the ability
21 of farmers to get operating loans, which you
22 heard already, which many rely on upon

1 financing their business and the ability to
2 get these materials and inputs to the farms to
3 produce a crop.

4 The demand of the rail shipments
5 of soybeans is expected to continue to grow in
6 Minnesota and upper Midwestern states in the
7 coming years. A farm-to-market study, as
8 mentioned earlier, from Informa 2012, 126
9 million bushels in 2009-10 to 137 million
10 bushels by 2020-21. The rail network needs to
11 accommodate this growth along with the growth
12 of other states and other commodity sectors.

13 We know that there have been
14 increase in demand, and severe weather has
15 contributed to service disruptions. However,
16 the Minnesota Soybean Growers Association
17 along with the American Soybean Association is
18 urging companies and the STB to ensure the
19 service provided to soybeans and agriculture
20 commodities is a balance with the other
21 provided to other sectors.

22 For our part, to address demand

1 over the long term we will continue to carry
2 the message to Minnesota senators and
3 representatives and to answer the
4 Administration in support of policies and
5 encourage investment in expanding rail
6 capacity.

7 Together with our national
8 organization we actively advocate for
9 investment that expand transportation capacity
10 and improve transportation efficiency
11 including waterways transportation
12 infrastructure and increased truck capacity
13 and efficiency. Our competitiveness in the
14 global market and our livelihood depend on
15 being able to reliably deliver our products in
16 a timely and cost effective manner.

17 These other modes of
18 transportation are not within the jurisdiction
19 of the STB, but expanding capacity for those
20 modes may be the only way to increase the
21 transportation service and the competition.

22 Thank you again for the

1 opportunity to testify today. Thank you
2 again.

3 CHAIRMAN ELLIOTT: Thank you.

4 Mr. Andersen?

5 MR. ANDRESEN: Good morning. My
6 name is Dave Andresen. I am the

7 CHAIRMAN ELLIOTT: Or Andresen, I
8 apologize.

9 MR. ANDRESEN: That's fine. After
10 50 years, 60 years, I'm used to it. So thank
11 you.

12 CHAIRMAN ELLIOTT: It's the first
13 time it ever happened.

14 MR. ANDRESEN: I'm the CEO of an
15 agricultural producer co-op in northeast South
16 Dakota and southeast North Dakota. I'll be
17 pretty brief because a lot of my comments have
18 been made. My main premise is that the rail
19 service needs to be restored to levels of the
20 prior years for grain, ethanol, and crop
21 nutrients commonly called fertilizer.

22 Our industry has been told

1 numerous times that the rail carriers have not
2 taken away resources and allocated them to
3 other commodities and that the real reason for
4 the shortage of power is due to the extreme
5 winter. I have lived in South Dakota for 20
6 years and 40 years in Minnesota, and I believe
7 we've had extreme winters before.

8 I would ask the committee to
9 investigate the possibility of other carriers
10 to be allowed to operate in our corridor until
11 this situation is resolved. While there are
12 several shippers who will go into more detail
13 later, I want to give you a flavor of what is
14 happening at the local level, at our local
15 cooperative.

16 Just one of our grain, most known
17 as a shuttle loader, is currently two and a
18 half months behind on service, or 800 cars.
19 While the lack of grain service is dire, I
20 believe the next real crisis is coming in the
21 next week to ten days.

22 The crisis I speak of is the

1 continued lack of service of supplying the
2 corridor with the needed crop nutrients that
3 our patrons are going to need for the next
4 planting season which is right around the
5 corner.

6 Currently all ours, at our
7 cooperative and other cooperatives, all our
8 fertilizer agronomy centers are full of
9 product. However, we turn or refill these
10 plants multiple times during the season.

11 This is a very small window we
12 have to work with. We're being told by our
13 suppliers, do not expect much until the end of
14 May. The planting season's over for corn at
15 the end of May.

16 I got a phone call last night from
17 one of our two major suppliers. Our producers
18 and our cooperative put millions and millions
19 and millions dollars down to buy product last
20 fall and last winter. As of last night we got
21 put on a 66 percent allocation of everything
22 that we've already paid for and everything our

1 producers have already paid for.

2 So if the rail service does not
3 pick up in the next seven to ten days, our
4 producers are only going to get 66 percent of
5 what they paid for and may not get the
6 balance. So if we're concerned about the rail
7 service on hauling more corn out this fall, we
8 may have just fixed part of the problem
9 because it may not get planted. Plain and
10 simple.

11 Like I said, I'll make up for lost
12 time here. In closing, I want to thank the
13 committee for the opportunity to be heard, and
14 ask the committee to please understand that
15 this is a situation that needs to be rectified
16 now and not six months or a year from now.
17 And I would also ask the committee to use any
18 emergency measures in your power to alleviate
19 this crisis.

20 I thank you for your time and I
21 would be available for questions. Thank you
22 very much.

1 CHAIRMAN ELLIOTT: Thank you, Mr.
2 Andresen. Mr. Johnson?

3 MR. JOHNSON: Thank you, Mr.
4 Chairman and members of the STB for holding
5 this hearing. My name is Roger Johnson. I'm
6 here on behalf of the National Farmers Union.
7 I'm the president of that organization.

8 We appreciate very much the
9 opportunity to express our concerns regarding
10 recent service problems with respect to the
11 U.S. rail networks, specifically the areas in
12 Montana, North and South Dakota, and
13 Minnesota.

14 Please note that I'm also
15 providing copies of the North Dakota Farmers
16 Union's testimony at their request. In
17 addition, Montana Farmers Union submitted
18 written testimony. South Dakota Farmers Union
19 is also appearing here in a panel. And I
20 would also like to commend the STB for holding
21 a stakeholder meeting in North Dakota to
22 address some of the issues earlier.

1 We are a grassroots driven family
2 farm organization that represents roughly
3 200,000 family farmers and ranchers across the
4 country. A large portion of our membership is
5 located in these four states. These are
6 states that are most affected by the recent CP
7 and BNSF rail transportation delays as you've
8 been hearing all day.

9 NFU has long advocated for
10 protection of captive shippers. In fact, this
11 is one of the issues at the core of our
12 organization's creation more than 100 years
13 ago.

14 Access to rail transportation
15 continues to be one of the most important
16 factors to the prosperity of rural America.
17 Many farmers often operate on very narrow
18 margins, and when you have these kinds of
19 enormous costs imposed on the system it causes
20 significant financial problems.

21 NFU is very concerned about the
22 service problems on the CP and BNSF systems.

1 Our members report there's a significant lack
2 of rail cars at their elevators which leads to
3 delays and additional costs to elevators then
4 passed on to farmers.

5 The delays we are told are caused
6 by two factors, unusually cold weather and a
7 low priority for agricultural goods in the
8 face of significantly increased rail traffic
9 specifically related to coal and oil. The
10 former reason is understandable. Winters get
11 cold. But it's also transitory and it'll fix
12 itself.

13 The latter reason is a much longer
14 term problem that this Board needs to address.
15 As is stated in Montana and North Dakota
16 Farmers Unions' testimonies, unfortunately
17 agriculture does not seem to be a priority for
18 either of these two railroads. It seems that
19 oil, coal and container shipments are ahead of
20 grain in the list of shipping priorities.

21 Oil production in the Bakken
22 formation of Montana and North Dakota has led

1 to tremendous boom in production. Compared to
2 this time last year, the Bakken is producing
3 around 1.1 million barrels of oil per day, up
4 from 800,000 one year ago and up from 200,000
5 in 2009. It's a phenomenal increase.

6 Incidentally, in 2009 I was still
7 the ag commissioner in North Dakota, and one
8 of my responsibilities was regulating the oil
9 and gas industry. Most of the oil at that
10 point in time was shipped through pipelines.
11 That capacity is full, so now it's largely
12 moved to the railroads.

13 Similarly, there has been a
14 significant increase in coal exports from the
15 Powder River Basin to the PNW. Western
16 Organization of Resource Councils recently
17 released a study, Heavy Traffic Still Ahead --
18 I'll provide copies for the record for the
19 Board -- just released a month or a month and
20 a half ago which shows that coal exports to
21 the PNW have more than doubled just since
22 2012.

1 And these increased volumes in
2 coal and oil shipments have displaced grain
3 shippers leading to long, expensive delays.
4 Because there are fewer cars and ag
5 commodities are not prioritized there are long
6 delays in grain shipments.

7 Our members in North Dakota and
8 South Dakota report delays of 17 to 40 days.
9 Montana Farmers Union reports delays of around
10 28 days. These delays are very costly because
11 end users impose stiff penalties for late
12 shipments.

13 This is referenced in North Dakota
14 Farmers Union's testimony. When delays exceed
15 five days, penalties of five to ten cents a
16 bushel apply per day. Grain elevators
17 contract with these end users and ultimately
18 have to widen the basis in order to cover the
19 cost of these penalties, thus decreasing the
20 cash price and passing these increased costs
21 onto the farmers in the form of lower prices
22 for the commodity being shipped.

1 For wheat that cost is around 40
2 cents to \$1 a bushel which includes the
3 penalty and the additional basis cost. Using
4 just the lower number, this translates to a
5 loss of about \$10,000 per average farm just
6 for wheat in North Dakota.

7 The situation is simply
8 unacceptable. Commodity groups such as wheat
9 have spent a lot of time and money building
10 relationships with customers. As you heard
11 earlier, the wheat in this area of the
12 country, the majority of it, is exported.

13 It has to go over the rail to hit
14 those export markets. Because U.S. wheat has
15 been seen as delivered reliably and as a high
16 quality product, it's often paid at premium
17 for timeliness of delivery. With these
18 ongoing delays, the relationships with end
19 customers are at serious risk.

20 I encourage the STB to address the
21 problems of captive shippers. In particular,
22 I urge the Board to hold railroads responsible

1 for losses due to delayed delivery of rail
2 cars.

3 BNSF and CP need to guarantee that
4 a certain portion of shipments will be
5 dedicated to agricultural products. BNSF and
6 CP need to ensure that there is increased
7 investment going forward to account for the
8 significant increase in demand.

9 Finally, as I know you are well
10 aware, this area of the country has for many
11 years faced noncompetitive rail rates due to
12 the consolidation of the rail industry and the
13 resulting lack of effective transportation
14 competition. The recent oil and coal
15 production increases have now placed further
16 obstacles to fair, competitive rate treatment
17 on agriculture and is a long term problem that
18 needs to be addressed.

19 Thank you very much for the
20 opportunity to testify. I look forward to the
21 questions.

22 CHAIRMAN ELLIOTT: Thank you, Mr.

1 Johnson. Mr. Thompson?

2 MR. THOMPSON: Thank you, Chairman
3 Elliott and Vice Chairman Begeman. My name is
4 Kevin Thompson and I'm the assistant vice
5 president and the transportation leader for
6 the grain and oilseed businesses of Cargill,
7 Incorporated in Minneapolis, Minnesota.

8 I appear today on behalf of the
9 National Grain and Feed Association, where I
10 serve as the chairman of the Rail
11 Shipper/Receiver Committee. And I also wish
12 to note that this statement is supported by
13 the National Oilseed Processors Association,
14 the North American Millers' Association, and
15 other industry organizations.

16 The NGFA consists of more than
17 1,000 grain, feed, processing, and grain
18 related companies that operate approximately
19 7,000 facilities that handle about 70 percent
20 of all U.S. grains and oilseeds.

21 The NGFA commends the Board for
22 conducting this public hearing and appreciates

1 the opportunity to speak on behalf of its
2 shippers and receivers of grain, oilseeds, and
3 grain products concerning the serious rail
4 service disruptions that's plagued our
5 industry since last fall.

6 The NGFA would first like to
7 provide several real-world examples of the
8 impact in terms of market impacts and costs
9 that rail service disruptions have had on our
10 member companies and producer/customers we
11 serve.

12 Second, we want to share some
13 observations resulting from the ongoing
14 dialogue the NGFA has been having with several
15 affected Class I rail carriers. I'll conclude
16 with several specific recommendations on the
17 types of actions we believe the Board can and
18 should take to improve the relevance,
19 timeliness, and transparency of service
20 related metrics and information that would be
21 useful to rail customers to assist in planning
22 logistics during what we anticipate will be a

1 long, slow restoration of service,
2 particularly in the western United States.

3 Rail service disruptions, which
4 began well before the onset of harsh winter
5 weather, have been widespread and severe. In
6 the West, shippers served by the BNSF Railway
7 and the Canadian Pacific have been
8 particularly hard hit especially in areas like
9 North and South Dakota, Montana, and parts of
10 Minnesota where there are few, if any, viable
11 alternatives to rail moving grain, grain
12 products, or fertilizer.

13 Meanwhile, in the East, NGFA
14 member companies served by the Norfolk
15 Southern and CSX have reported service
16 disruptions as well. In the case of the NS,
17 members have also expressed concerns over the
18 lack of adequate, consistent, and timely
19 information that could have been used to make
20 adjustments in logistics where possible.

21 The NGFA's strong preference is to
22 have individual rail customers resolve service

1 related issues directly through one-on-one
2 discussions with their respective carriers in
3 a commercial business setting. But since
4 early January when the impacts began being
5 felt industry-wide, the NGFA has taken on a
6 greater role at addressing service related
7 issues directly with the rail carriers on
8 behalf of its member companies.

9 The sheer gravity, magnitude, and
10 scope of rail service disruptions now being
11 experienced are unprecedented and have rippled
12 through all sectors of grain based
13 agriculture. As a result, country elevators
14 and other originators of grain and grain
15 products are extremely hesitant to price and
16 book forward sales from farmers or commercial
17 elevators because they cannot count on
18 predictable rail service or reflect the
19 current level of freight cost in their bids.

20 Grain processors and export
21 elevators have idled or significantly reduced
22 operating capacity because of an inability to

1 predictably source sufficient quantities of
2 grains and oilseeds.

3 Millers in the upper and central
4 Midwest are facing facility shutdowns because
5 they're running out of raw commodities
6 including oats and certain classes of wheat.
7 Still other grain processing and animal
8 feeding operations, particularly in the
9 eastern United States, are shifting to
10 comparatively inefficient and much more costly
11 long-haul truck movements in an attempt to
12 obtain sufficient quantities of grain and
13 oilseeds.

14 Still others are switching rail
15 origination to other carriers in the limited
16 instances where that's possible. And for the
17 first time in a long time, the United States'
18 hard earned reputation as the world's most
19 reliable supplier of grains and oilseeds and
20 grain products to export markets has been put
21 at risk.

22 Specific examples of economic harm

1 caused by rail service disruptions have been
2 provided to NGFA by member companies in
3 response to our request. In the West, the
4 Canadian Pacific has been 60 days late or
5 later in providing 100-car unit trains, and up
6 to four months late on non-shuttles.

7 Meanwhile, the BNSF only now has
8 started to provide certificate of
9 transportation, known as COTs, trains that
10 shippers have paid to have delivered in
11 January and February.

12 The NGFA has also received
13 repeated reports of locomotives being delinked
14 from trains and cars sitting loaded, but
15 idled, at grain facilities for over weeks on
16 end.

17 In the East, there have been
18 sharply reduced turn times on unit trains for
19 both domestic and export service, increasing
20 car costs, reducing capacity and causing
21 repeated shutdowns of feed mills dependent
22 upon rail deliveries. Likewise, single car

1 shipments of ingredients for feed in both the
2 East and West have been delayed.

3 Freight delays have caused grain,
4 feed, and grain processing firms to alter
5 commitments to farmers and commercial
6 customers alike. Grain and feed ingredient
7 contracts have been renegotiated and repriced
8 often at a significant penalty as they were
9 underfilled or rolled forward to future
10 delivery dates because they cannot be executed
11 with the contractual time of commitment.

12 Another fallout is illustrated by
13 the values paid in the secondary rail car
14 freight market where the majority of secondary
15 rail freight has traded at values of
16 approximately \$4,000 per car which equates to
17 \$1 per bushel.

18 One NGFA member company provided
19 the following actual case involving a unit
20 train shipment of soybeans from North Dakota
21 to the Pacific Northwest in March, in which
22 the tariff rate was approximately \$5,000 per

1 car and expense to secure the necessary rail
2 freight from the secondary market amounted to
3 another \$4,000 per car. After adding the fuel
4 surcharge, the actual cost translated to \$2.60
5 a bushel, which transportation alone
6 represented 40 percent of that total cost.

7 For a time, our industry absorbed
8 most of these additional expenses. But since
9 early March, such escalating costs
10 attributable to service disruptions have been
11 reflected in lower priced bids to farmers in
12 several regions of the country.

13 Our written statement includes
14 charts that illustrate the precipitous decline
15 in grain price bids offered to farmers in
16 Montana and North and South Dakota.

17 Additional costs have also been
18 incurred by those shippers and receivers that
19 operate privately owned hopper car fleets.
20 One NGFA member company in the eastern United
21 States reported that the number of turns it
22 got in its private car fleet declined to such

1 an extent since March that it effectively
2 increased its fleet cost and decreased its
3 carrying capacity by 60 percent.

4 Cost impacts on individual grain,
5 feed, grain processing, and export facilities
6 obviously vary, but several NGFA member
7 companies have reported that the cost to their
8 individual firms have ranged from \$10 million
9 to \$20 million during the October to March
10 period.

11 Over the past 15 years, the U.S.
12 grain handling, processing, and export
13 industry and producer/customers have made
14 extensive private capital investments
15 including greatly expanding grain handling and
16 loading capacity, private car fleets, and
17 additional track capacity to further enhance
18 efficiency. Some of that investment was made
19 at the behest of rail carriers seeking
20 improved economies of scale.

21 But despite these investments, our
22 industry has found itself unable to serve

1 customers efficiently or reliably during the
2 most recent harvest season because of the
3 precipitous decline and unpredictability in
4 service from several Class I carriers.

5 Even during periods not
6 characterized by the type of severe service
7 disruptions being experienced currently, ag
8 rail users often find that when rail capacity
9 is in tight supply, rail service appears to
10 suffer more for our sector than any other
11 sectors that may be viewed as higher priority
12 by railroads, such as coal, energy, and
13 intermodal.

14 This raises a core question we
15 believe the Board needs to assess carefully,
16 namely, to what extent do Class I carriers in
17 the highly concentrated rail market have a
18 common carrier obligation to provide
19 reasonable service on reasonable requests?

20 At what point is a railroad's
21 decision to skew its allocation of resources
22 and service towards certain products that

1 maximize its profits inconsistent with the
2 statutory common carrier obligation to rail
3 users?

4 What are the carriers' obligations
5 to balance their business desire for greater
6 volumes and greater profitability with the
7 traditional statutory obligation to provide
8 reasonable service across all customer
9 segments?

10 Concerning current service
11 disruptions, the NGFA and its member companies
12 have been in active discussions with several
13 affected rail carriers on the causes as well
14 as each carrier's recovery plans for restoring
15 service. There clearly were root causes not
16 attributable to weather, such as misreading
17 the volume of business that would be generated
18 by agriculture, coal, energy, and other
19 sectors; inadequate locomotive power and
20 crews; and operations related issues such as
21 the continuation of maintenance-of-way
22 projects during the peak harvest period.

1 The NGFA has encouraged each
2 affected carrier to provide more information
3 on when measurable improvements in rail
4 service realistically can be expected, and to
5 ramp up their ongoing communications with
6 customers to provide timely and frequent
7 information if their service commitments
8 cannot be attained.

9 This information is critical for
10 our industry to be able to adjust business
11 plans and attempt to minimize the economic
12 harm to operations and revenues, and to serve
13 customers.

14 We're pleased in particular that
15 the BNSF has responded with increased, ongoing
16 communications with our association and its
17 member companies as well as agricultural
18 producers and other customers. We believe
19 this positive dialogue with the BNSF will
20 continue.

21 However, the NGFA believes the
22 current situation warrants increased

1 monitoring and collection of data on service
2 metrics by the Board. We believe the Board
3 should require affected Class I rail carriers
4 to report, and subsequently should make
5 publicly available to rail customers, the
6 following types of specific service related
7 metrics.

8 This information would assist rail
9 service in making logistical plans and enhance
10 the Board's ability to monitor service.

11 Examples are, real-time information on train
12 velocity and cycle times as well as realistic
13 projections restoring service. Next, weekly
14 car loadings by product and state.

15 Weekly average dwell times for
16 trains hauling grain, grain products, coal,
17 and crude, the date from January 2012 and
18 onward. Weekly averages for miles per day
19 transited for grain, coal, crude since January
20 2012 and onward.

21 The level of capacity utilization
22 by rail corridors, particularly in the heavy

1 grain corridors of the Pacific Northwest and
2 Texas Gulf. For example, if a Class I
3 carrier's capacity is 40 trains per day within
4 the Pacific Northwest corridor, what
5 percentage of that capacity is currently being
6 utilized and what is the product mix?

7 Real-time data on the number of
8 grain and oilseed, coal, and crude oil sets
9 transported by quarter starting in January of
10 2012 and ongoing. Next, breakout of capital
11 spending by Class I carriers.

12 The NGFA commends rail carriers
13 for investing in their infrastructure, but we
14 believe it would be advisable for carriers to
15 report the share of capital spending being
16 directed to new infrastructure capacity, such
17 as new track, versus just replacement of
18 existing infrastructure.

19 The NGFA also recommends that the
20 STB requires carriers to report on a quarterly
21 basis net crew and locomotive changes so rail
22 users can better assess these barometers of

1 potential service improvement. In addition,
2 the NGFA recommends that the Board obtain and
3 make available publicly the following
4 information for each Class I carrier.

5 First, what plans, if any, do each
6 of the Class I carriers now experiencing
7 service disruptions have to make on additional
8 business before current service issues are
9 resolved?

10 Second, what plans do Class I
11 carriers have for reducing operations-related
12 service disruptions that occurred last fall
13 including maintenance-of-way restrictions?
14 Specifically, we believe the Board should
15 require Class I carriers to provide rail
16 customers with advance information on the
17 precise location and duration of specific
18 service disruptions caused by infrastructure
19 projects.

20 Finally, we believe that during
21 this period of service disruption, the Board
22 should require affected Class I rail carriers

1 to provide consistent, web based
2 communications and e-blasts to all their rail
3 customers on the status of their service and
4 train orders.

5 Some Class I railroads are doing a
6 commendable job in such communication with
7 their customers, the BNSF and CSX in
8 particular. But others clearly are not, more
9 so relying on word-of-mouth or calls to
10 specific customers, but not all. Rail users
11 need more consistency in communication across
12 the board.

13 At this stage, the NGFA does not
14 believe it is advisable for the Board to take
15 actions in the United States similar to those
16 implemented by the Canadian government. We
17 fear such measures would likely further
18 exacerbate and slow the recovery and the
19 restoration in U.S. rail service.

20 Thus we are not at this time
21 asking the Board for direct service orders
22 that would create preferences for agricultural

1 shipments, but the NGFA is asking the Board to
2 exercise very vigilant oversight during this
3 period of service disruption to prevent rail
4 carriers from allocating limited available
5 capacity to serve new business from non-
6 agricultural sectors such as coal, energy, to
7 the detriment of ag customers.

8 We also believe the current rail
9 environment points to the importance of the
10 Board's proceeding on competitive switching
11 rules under Ex Parte Number 711. The rail
12 service disruptions experienced by ag shippers
13 are tangible examples of why captive rail
14 shippers and receivers need enhanced access to
15 the lines of other carriers wherever possible
16 to keep facilities open and operating, and
17 markets served.

18 The NGFA also believes strongly
19 that these rail service disruptions point to
20 the urgency of the United States adopting a
21 comprehensive, all of the above transportation
22 infrastructure policy that supports all modes

1 including inland waterways, harbors and ports,
2 and trucks. We need all transportation modes
3 if we're going to move this nation.

4 The NGFA appreciates the
5 opportunity to express its views and
6 recommendations during this critically
7 important public hearing, and I would be
8 pleased to respond to any questions the Board
9 may have. Thank you.

10 CHAIRMAN ELLIOTT: Thank you, Mr.
11 Thompson.

12 VICE CHAIRMAN BEGEMAN: Thank you
13 all very much. Very useful information. If
14 I could start with Mr. Lentsch, and thank you
15 for reading the governor's letter. You
16 mentioned that three elevators have 4,000
17 delayed cars, along with another 11,000 as
18 reported by others, so that's a lot of delayed
19 cars. Is this the amount just that you are
20 aware of or does that pretty much canvas the
21 state?

22 SECRETARY LENTSCH: Vice Chair

1 Begeman, that's what we are aware of at this
2 point. Some of that is anecdotal. Some of
3 that is the conversations that we're having,
4 but by no means is that all-inclusive.

5 From our understanding, and I
6 would just take this moment, it is as much
7 what's in the inventory that needs to be
8 shipped as much as getting ready for the 2014
9 planting season. That backlog of cars is very
10 significant and very concerning.

11 I think Dave Andresen's point
12 needs to be underscored, the fact that we are
13 right on the front end of a very, very
14 critical need, and that's our nutrients and
15 our fertilizer.

16 VICE CHAIRMAN BEGEMAN: Could you
17 provide some insight on the breakdown of the
18 backlog, between, let's say, CP versus BN,
19 since they are the only service available? Is
20 it primarily on one carrier? Is it equally
21 divided in terms of the problem? Any of you
22 are welcome to comment.

1 SECRETARY LENTSCH: Sure, and I
2 would probably lead off with just saying I
3 think it's a systematic situation that we're
4 dealing with. It's pretty clear that across
5 our rail infrastructure in our state there's
6 a need there to be collaborative and forward
7 looking solutions, the main line being of
8 course a BN line, the CP line, as we are
9 looking at our state lines as well, trying to
10 do everything we can to make sure that we're
11 supporting free-flowing trains and rails in
12 our state. But I would defer to others on the
13 panel for additional details.

14 VICE CHAIRMAN BEGEMAN: Great.
15 Mr. Hancock, I'll start with you. You
16 mentioned that you'd been told no cars going
17 east to Chicago. Could you elaborate a bit on
18 what you were told and what option you would
19 have?

20 MR. HANCOCK: Vice Chairman
21 Begeman, the other option would be to deliver
22 that wheat to the Texas Gulf, which is not a

1 viable marketing option.

2 VICE CHAIRMAN BEGEMAN: How do you
3 get it there?

4 MR. HANDCOCK: Rail.

5 VICE CHAIRMAN BEGEMAN: I realize
6 that, but if you --

7 MR. HANDCOCK: It could go on the
8 CP or it could go on the BN, either way.

9 VICE CHAIRMAN BEGEMAN: So the
10 same carriers.

11 MR. HANDCOCK: Same carriers.

12 VICE CHAIRMAN BEGEMAN: It's just
13 that they will take you to a different place.

14 MR. HANDCOCK: It doesn't help our
15 situation at all, it's just a way of deferring
16 the problem. Moving the problem from wheat to
17 corn is what I feel like. They're trying to
18 catch up on the West Coast backlog that they
19 have right now, and so they're trying to use
20 the cars that they normally would have going
21 over to Chicago and east, they're moving those
22 into the corn and bean areas.

1 VICE CHAIRMAN BEGEMAN: But if I'm
2 hearing you correctly that relates, although
3 in a way it may sound good, it really isn't an
4 option that works for you?

5 MR. HANDCOCK: No. I wouldn't
6 have brought it up. It absolutely does not
7 work for us.

8 VICE CHAIRMAN BEGEMAN: And is it
9 because there's not a market?

10 MR. HANDCOCK: Correct. There's
11 not a competitive market. That wouldn't
12 utilize the same rail carriers.

13 VICE CHAIRMAN BEGEMAN: And for
14 your future crop year -- does fertilizer come
15 in tank cars?

16 MR. HANDCOCK: It comes in hopper
17 cars. Well, dry plant food comes in hopper
18 cars and then we also get UAN solutions in
19 tanker cars.

20 VICE CHAIRMAN BEGEMAN: Mr.
21 Whiteside, could you comment a bit further,
22 for my benefit at least; you mentioned the 48-

1 car, I think you called it the marriage rule.
2 And I think you said that Burlington Northern
3 implemented it last August. Did I hear you
4 correctly?

5 MR. WHITESIDE: Yes, ma'am.

6 VICE CHAIRMAN BEGEMAN: Could you
7 tell me the extent to which, and I realize it
8 may be your opinion, but has that rule had a
9 real, true impact on the situation we're
10 talking about here? Or is it just another
11 frustration, that is causing your shippers who
12 have 48 to 55 cars to be unable to move,
13 because they can't find a competitor to join
14 with?

15 MR. WHITESIDE: Well, I think the
16 48-55s, which are the non-shuttles, are
17 suffering from two problems. One is the
18 marriage car rule and number two is no cars.
19 So I don't know that the marriage car rule has
20 had the impact yet, simply because they aren't
21 having the cars.

22 But the governor, or at least the

1 Department of Agriculture director is very
2 engaged in this process of trying to figure
3 out a solution in the state, and we're working
4 with the Burlington Northern trying to find
5 another solution rather than implement this
6 thing fully.

7 But maybe the effect hasn't been
8 felt quite as much as it would be if there
9 were lots of cars available.

10 VICE CHAIRMAN BEGEMAN: Mr.
11 Peterson, you mentioned your personal loss for
12 the year, which to me is extraordinary, and
13 your potential loss for next year, which I
14 couldn't even imagine myself. But, do you
15 have insurance? Does crop insurance cover
16 that type of loss or do you just have
17 insurance for during production?

18 MR. WHITESIDE: Yes, Vice Chairman
19 Begeman, crop insurance would not play a role
20 in this at all.

21 VICE CHAIRMAN BEGEMAN: You just
22 have to -

1 MR. WHITESIDE: Oh yes, this is a
2 risk that popped up that was most certainly
3 not anticipated. So we've got many different
4 types of risks that we need to bear, and this
5 is one that certainly it fluctuates from time
6 to time, especially if a very large crop comes
7 and it needs to be moved.

8 But this one, okay, we addressed
9 the fact that we had major winter concerns,
10 but why are we looking at this problem having
11 such a long tail into next year? Are we
12 already predicting weather concerns for next
13 year too? I think it's the opposite. I think
14 there's so much uncertainty in the marketplace
15 that the railroad's going to actually be able
16 to deliver that then it's driving up the cost
17 of those cars again, because they're saying we
18 don't think we're going to get the cars.

19 So some of the shippers are
20 saying, well, I'm going to have to pay this
21 nasty price now because I've got to have cars.
22 And then all of a sudden, there we've got

1 \$2,000-\$3,000 car premiums built right in
2 because there's so much concern over the
3 ability to move the freight and move the
4 crops, move the goods.

5 VICE CHAIRMAN BEGEMAN: Mr.
6 Andresen, and this will be my last question,
7 you said that you got a call last night about
8 only being allocated 66 percent of the product
9 that you've already paid for. A call from
10 who? Is this a carrier issue or is this a
11 provider issue?

12 MR. ANDRESEN: It's a provider.
13 It's one of our major wholesale providers.
14 There's only so many people in the United
15 States or Canada that you have as a major
16 supplier, and we deal with two major suppliers
17 so we don't have everything in one bucket.

18 And this supplier said, you are on
19 allocation of 66 percent until we can get more
20 freight. And like I said it before, this is
21 things, this is millions of dollars that we
22 have paid for and that the producers have paid

1 for, so now at our level we have to go to our
2 producers starting this morning with the phone
3 call of who do we allocate this to?

4 VICE CHAIRMAN BEGEMAN: So that's
5 basically a shipper problem for the folks that
6 you bought it from?

7 MR. ANDRESEN: Absolutely.

8 VICE CHAIRMAN BEGEMAN: Okay,
9 thank you.

10 MR. WHITESIDE: Madam Begeman, I
11 think there, though, what you're talking about
12 if I might, is that the reason that the
13 supplier is saying 66 percent is because they
14 can't get the cars to move there, so it's
15 still a railroad problem.

16 VICE CHAIRMAN BEGEMAN: I
17 understand that.

18 MR. WHITESIDE: Just reversed.

19 VICE CHAIRMAN BEGEMAN: I
20 understand that, yes.

21 MR. WHITESIDE: Okay.

22 CHAIRMAN ELLIOTT: Back to some of

1 the questions that I asked earlier. One of my
2 biggest concerns here is communications, and
3 so I'm hearing somewhat mixed reviews on that.
4 On this panel, is anybody here running into a
5 brick wall as far as communications are
6 concerned with one of the carriers, or are
7 they seemingly discussing your situations with
8 you as much as, I guess, can be possible?

9 MR. ANDRESEN: There's definite
10 open lines of communication, but as a previous
11 panel member had said, communication goes back
12 and forth but there is no results.

13 CHAIRMAN ELLIOTT: Okay.

14 MR. ANDRESEN: So it's not like
15 they're not talking to us, but

16 CHAIRMAN ELLIOTT: Right. Is that
17 pretty much across the board that you are
18 getting people to pick up the phone, it's just
19 the results don't appear to be there?

20 MR. THOMPSON: Yes, if I could
21 add, communications are much better and they
22 have been since, you know, we really got into

1 the heart of these problems.

2 I guess the one thing I would like
3 to point out is the communications were after
4 the fact, okay. The communications started
5 once the problems really became widespread and
6 started hurting the industry. We weren't
7 communicated as the other product lines were
8 continuing to have increased demand, which
9 ultimately affected a lot of the other product
10 lines.

11 So although being -- and that's
12 why it's very important as we say to go
13 forward to get real-time information and
14 communication from all the Class I carriers.

15 CHAIRMAN ELLIOTT: Okay. As far
16 as the communication, and this is more of a
17 statement than a question. But I do want to
18 encourage those of you who do have problems to
19 use our Rail Customer and Public Assistance
20 program, if possible.

21 I know Mr. Whiteside mentioned
22 retaliation issues from his viewpoint, and I

1 just want to assure you that that would not be
2 tolerated by the Board and that would be
3 something we would take very seriously.

4 But I do want to encourage you to
5 use that process because we have had results,
6 and especially if there is grain rotting or
7 things that are especially of an emergency
8 nature, they have been able to at least get
9 some service there to eliminate those
10 problems. So I do encourage you to use that.

11 Mr. Hancock, back to Vice
12 Chairman Begeman's question regarding service
13 through Chicago. Is that specific to both of
14 the railroads, BNSF and CP, or is that just
15 one of the railroads that isn't taking it
16 through Chicago?

17 MR. HANDCOCK: Mr. Chairman, the
18 only announcement we got was from the CP. We
19 have not heard that from BN.

20 CHAIRMAN ELLIOTT: Okay. I just
21 wanted to clarify that for my own information.
22 Also I've heard some discussion in the hearing

1 about some of these issues that some of the
2 grain cars are either defective or require
3 repair by you while you're on the run,
4 basically. Has that been a problem for some
5 of you?

6 MR. HANDCOCK: I can answer that,
7 Mr. Chair, and I'm actually going to answer
8 this, I hope this is okay, on behalf of the
9 South Dakota Grain and Feed Association
10 because we just did a member survey and we
11 addressed this issue.

12 And there was a range from 3 to 15
13 percent of the unit trains were being rejected
14 as bad orders, so it is an issue, and I can
15 attest to the same thing in our locations.
16 Probably somewhere between 3 to 8 percent of
17 our cars are rejected as bad orders.

18 CHAIRMAN ELLIOTT: And is that on
19 both carriers, BNSF and CP?

20 MR. HANDCOCK: It's probably
21 better on the BN. The CP's cars are older
22 cars for the most part. And on the BN it's

1 all we get are shuttles. We don't get
2 anything smaller than that. So the shuttle
3 cars are usually in good condition.

4 CHAIRMAN ELLIOTT: Okay. Anyone
5 else on that? Also, Mr. Handcock, you
6 mentioned earlier about -- sorry to put you on
7 the spot. That's what you get for coming in
8 late.

9 You mentioned some penalties that
10 some of the elevators are suffering. I think
11 you mentioned \$150,000, but it sounds like a
12 significant number. When you have these
13 communications with the railroads are there
14 any discussions about how those penalties with
15 respect to your service and service issues
16 come into play? I mean do they work with you
17 on that or is just a matter of you take the
18 hit?

19 MR. HANDCOCK: Mr. Chairman, to an
20 extent they will work with you. A lot of
21 these penalties though are the cars do not
22 meet contract time periods and are delivered

1 late and they have to bought in by our buyer
2 from another shipper that has that same
3 commodity loaded already.

4 And so they impose a penalty on us
5 based on what they had to pay for that
6 commodity at that moment in time, if you
7 understand what I'm trying to get at there.

8 CHAIRMAN ELLIOTT: Sure. All
9 right, thank you. That's helpful. Anyone
10 else? Mr. Gordon?

11 MR. GORDON: Mr. Chairman, come an
12 unseen penalty is our export markets for,
13 like, China. China basically imports like 70
14 percent of our soybeans. We have this delay
15 of shipments. If there's not enough product
16 in the Pacific Northwest to fulfill a
17 shipment, China will go to South America and
18 buy beans.

19 So not only do you not have the
20 shipment, the beans are still sitting in
21 Minnesota, North Dakota, South Dakota, you've
22 lost the entire Panamax ship of soybeans to

1 the South American market because they needed
2 the beans yesterday, not three or four months
3 from now.

4 CHAIRMAN ELLIOTT: I see.

5 MR. JOHNSON: And if I could add
6 on that issue, along with that loss is the
7 reputation and the likelihood that next year
8 or the year after you're just a notch lower in
9 terms of reliability. It's a really, really
10 big deal.

11 CHAIRMAN ELLIOTT: I understand.

12 As far as grain car availability,
13 do you see that as probably the most
14 significant problem that you're facing at the
15 present time that there just aren't enough
16 grain cars out there for you, or is it more of
17 a cycle time issue?

18 MR. THOMPSON: I can, Chairman.

19 CHAIRMAN ELLIOTT: Sure. Mr.
20 Thompson?

21 MR. THOMPSON: Yes, I don't think
22 it's so much car availability as it is, what

1 it feels like from our members' statements
2 it's more of a power and crew issue.

3 We have multiple examples where we
4 have shuttle trains which are supposed to be
5 a very efficient method of transportation with
6 high velocity, high cycle times, we've seen
7 many instances where they sit loaded at
8 destination for anywhere from five to 15 days
9 because they have to take power away from that
10 train and take it and allocate it somewhere
11 else.

12 CHAIRMAN ELLIOTT: Okay. Okay,
13 that's very helpful. Thank you.

14 Mr. Whiteside?

15 MR. WHITESIDE: Mr. Chairman, I
16 wanted to make sure that the record's
17 clarified too. The folks that we've been
18 talking with in the conference calls with your
19 staffs and the offices have indicated they're
20 very concerned about retaliation, but there's
21 not been any open retaliation going on. It's
22 a matter of based on past experiences they're

1 very concerned, so that's why they're not
2 opening up. Just to make sure that's clear on
3 the record.

4 CHAIRMAN ELLIOTT: Thank you. I
5 appreciate that clarification. That is
6 important.

7 VICE CHAIRMAN BEGEMAN: Can I
8 interrupt? I am curious how typical is it for
9 you to come to Washington? I don't think you
10 have time for that normally.

11 MR. ANDRESEN: Fortunately I was
12 going to be out here anyhow to do some
13 lobbying, but I was informed just yesterday
14 that I needed to take somebody's place. So
15 glad to be here.

16 MR. GORDON: Madam Chairman, Mr.
17 Chairman, we decided three days ago that eight
18 of us from Minnesota were coming out. We had
19 plane issues so only six of us made it. Three
20 are on Capitol Hill right now lobbying on this
21 behalf, the other three of us, one from North
22 Dakota, is in the room. And we fly out in

1 three hours to go home to start working our
2 planners so we can keep going.

3 VICE CHAIRMAN BEGEMAN: And in no
4 way am I dismissing what you've told us, Mr.
5 Whiteside. I am very sensitive to that. From
6 where I come from, one doesn't really want to
7 come to Washington, well, actually maybe you
8 do. Thank you.

9 CHAIRMAN ELLIOTT: Any more
10 questions?

11 VICE CHAIRMAN BEGEMAN: I just
12 have one more a comment. And the smart people
13 behind me might want to get a hook and pull me
14 off this dias, but that'll be fun to watch
15 too.

16 There is a transaction pending
17 dealing with the state of South Dakota and
18 with CP, and I know if that would go forward,
19 and there's a short time frame; it would
20 appear at this point, to be seamless but no
21 transaction that I've seen, really, is
22 seamless. So I hope that folks will really

1 work together if it does get approved, to try
2 to make it as seamless as possible. Because
3 additional chaos is not something anyone can
4 afford, whether it's the carrier or the state
5 or your shippers.

6 There are a lot of people in this
7 room. I hope they are exchanging cards,
8 that you're introducing one another to each
9 other. Because I do agree with what Dan's
10 theme has been throughout this, it is
11 communication that really is critical, and the
12 more that we can facilitate that
13 communication, the more we would like to do
14 so.

15 CHAIRMAN ELLIOTT: Mr. Whiteside?

16 MR. WHITESIDE: Mr. Chairman, Vice
17 Chairman Begeman, it's really important for
18 you all to understand that the growers need
19 the railroads probably more than the railroads
20 need them. And this is very important to the
21 economy.

22 This fertilizer issue that's

1 coming up in the next two or three weeks,
2 luckily in Montana it occurs a little bit
3 later, but it's only three weeks away up
4 there. If that fertilizer doesn't get there
5 that crop will not be planted. If that crop
6 doesn't get planted, then these effects go on
7 for another whole year. And there's no
8 concrete evidence right now that fertilizers
9 will be there. And so we need action soon to
10 see if that immediate problem can be solved.
11 Thank you.

12 CHAIRMAN ELLIOTT: Thank you, Mr.
13 Whiteside. I'd just also like to thank you
14 very much, all of you, for coming. I know
15 this was short notice and your testimony has
16 been very informative and very helpful.

17 It's sometimes difficult for us to
18 get a real feel for what's going on where you
19 are, and you've really related that to us very
20 well, and we greatly appreciate it and we wish
21 you better luck on your flights back home.
22 Thank you.

1 (Pause)

2 CHAIRMAN ELLIOTT: Great. Now
3 we'll hear from Panel Number IV, BNSF Railway
4 and Canadian Pacific. You can begin.

5 MR. BOBB: Good morning. I'm
6 Steve Bobb, Executive Vice President and Chief
7 Marketing Officer for BNSF. Mr. Chairman,
8 Madame Vice Chair, we welcome the opportunity
9 to review the factors contributing to service
10 issues our customers are currently
11 experiencing.

12 We have been in weekly dialogue
13 with the staff of the Board, and regularly
14 provide service metrics to help the Board
15 better understand both the drivers of these
16 problems and what we are doing to improve the
17 current situation. We are very aware that
18 BNSF service has not met our customers'
19 expectations or our own high standards.

20 Let me say at the outset of my
21 comments to you that we will do everything
22 that can be done to restore service levels.

1 You have our commitment.

2 And to our customers who are
3 present here, and the many others who are not
4 here today, let me say, we know that we have
5 created a supply chain risk for you, and fell
6 short in providing a level of service that you
7 expect from BNSF.

8 I'd like to review a few slides.
9 It is important to view our current service
10 issue in context, so as to better understand
11 how we got here and what is required to once
12 again reach service performance levels
13 acceptable to our customers.

14 You can be sure we are doing all
15 that we can, and expending every resource
16 necessary to restore our network. And will do
17 so in a transparent and accountable manner.

18 To explain how we got here BNSF
19 volumes have continued to grow year over year,
20 since the depth of the recession in 2009. As
21 you will see on Slides 3 and 4, BNSF has been
22 growing significantly faster than the rest of

1 the industry.

2 In fact, BNSF moved over 400,000
3 units of the 800,000 unit growth on the U.S.
4 Rail System in 2013, over 50 percent of the
5 total. You will see in Slide 5 that the
6 epicenter of significant -- Oops, went one too
7 many.

8 The epicenter of significant BNSF
9 growth is in North Dakota. You should know
10 that during first quarter North Dakota grain
11 products has grown 18 percent over first
12 quarter of 2009. And North Dakota grain
13 shipments have grown 41 percent since first
14 quarter of 2009, during this first quarter of
15 2014.

16 This volume, all by itself,
17 represents 20 percent of the Rail Industry's
18 growth in 2013. The growth continues, as
19 noted on Slide 6. Compared to 2009 BNSF
20 handled more traffic in 2012 and 2013. So far
21 in 2014, even with our current difficulties
22 our volumes are higher yet.

1 During the first quarter of 2014,
2 versus '13, South Dakota grain shipments are
3 up 48 percent, and grain product shipments
4 were up 14 percent. Volumes on our railroad
5 are near our all time high of 2006, with a
6 fundamental difference.

7 The growth rate of experience is
8 on different parts of our railroad than the
9 traffic of 2006. Specifically, this
10 concentration is on the Northern Transcon.

11 The automatic assumption is that
12 all this growth has been crude. But that is
13 not the case. We have seen growth across many
14 sectors of our railroad, with our largest
15 volume increases coming from the domestic
16 inter-modal shipments.

17 Twice this year we have moved over
18 200,000 units in a week. This hasn't happened
19 in the first quarter since 2007. The
20 assumption that all volume growth is crude is
21 also linked to the persistent belief that
22 service for crude shipments is given

1 preference over other commodities on the
2 railroad.

3 The reality is that crude volumes
4 have seen a velocity reduction as well.
5 Regardless of commodity, if a customer is
6 experiencing a sever service issue we escalate
7 the situation and focus resources to avoid a
8 facility or plant from having to temporarily
9 halt operation. This process is the same for
10 all shippers and for all commodities,
11 including grain, crude, and coal.

12 Looking to the long term, as we
13 continue to do what we have always done, and
14 continue to do, we're going to invest in
15 resources to accommodate growth.

16 The last four years are our
17 largest capital programs ever. This year and
18 2013 are each of the largest ever in the
19 freight rail industry. We have processes for
20 short and long term planning. And we have
21 forecasts that are continually adjusted
22 throughout the year. Every year we have a

1 plan to flex up or down as needed.

2 What is problematic is that demand
3 in 2012 and '13 exceeded what markets and our
4 customers forecasted. This has resulted in
5 being consistently and constantly flexed up
6 for sustained and extended period of time as
7 we continue to at capacity. Unfortunately,
8 the flex wasn't enough.

9 The strain on our network was
10 magnified last October when egg volumes spiked
11 in a very short period of time, jumping about
12 40 shuttle sets in a two week period. At the
13 same time, as crude spreads widened, and the
14 additional facilities came on line, crude
15 volume ramped up as well. Coal sets had also
16 been steadily increasing since mid-summer.

17 Network velocity was declining
18 during this period late last year, leading
19 into one of the hardest winters we've
20 experienced in decades. The sustained cold
21 and record levels of snow had a severe impact
22 on an already strained system. The Chicago

1 complex in particular, which you'll hear more
2 about today, became an incredible impediment
3 to velocity and serving our customers.

4 We implemented numerous
5 countermeasures, and added significant
6 resources, such as people and locomotives
7 during this time to keep freight moving. We
8 have worked hard to be open, transparent and
9 forthright with all of our customers during
10 this challenging time.

11 We have worked on an individual
12 basis with our customers to provide the most
13 up to date information, and maintain two way
14 communication to ensure we take care of their
15 most critical needs. Some of those customers
16 are here today.

17 With weather finally getting
18 warmer, and summer maybe around the corner, we
19 remain focused on working our way through this
20 situation and improving service. There are
21 signs of improvement, which are reflected in
22 the current volume numbers. We also continue

1 with our long term efforts to add capacity,
2 and grow as our customers grow.

3 Capacity is added four ways,
4 people, power, equipment, and physical plant.
5 BNSF is investing heavily in all four. And
6 much of that investment will be in the north
7 where this growth is occurring.

8 We will work our way through the
9 current issues, and come out of it a stronger
10 railroad. The capacity being added will
11 benefit all of our customers going forward.

12 Not all improvements are awaiting
13 infrastructure investment. For example, we
14 will have current Ag demand moved, and be
15 positioned for a new crop this fall.

16 My colleague, Bob Lease, Vice
17 President Service Design and Performance, will
18 now walk us through this in more detail, along
19 with our expectations going forward in our
20 three primary regions.

21 I will then review the efforts we
22 have taken with our customers during this

1 time. And then we will be ready to answer any
2 questions you might have. Bob.

3 MR. LEASE: Thanks, Steve.

4 Chairman Elliot, Vice Chairman Begeman, good
5 morning. Steve provided you an overview of
6 growth, volume, and some of our challenge.
7 I'll offer some further details. And to do
8 so, I'll review a handful of slides, so as to
9 better frame the testimony we're providing.

10 So on the first chart, too quick
11 on the button. On the first chart you'll see
12 there's an overview of our Ag volumes. And
13 this compares all Ag shipments moved in the
14 fourth quarter of 2013, last year, versus our
15 peak year in 2006.

16 Customer shipment activity, you
17 can see, is very concentrated on our north
18 region. The largest increases are in loaded
19 shipments, primarily moving from these north
20 origins to Pacific North West export
21 facilities.

22 On the next page is a view of our

1 network that depict industrial products, which
2 includes crude by rail, and shows the volume
3 surge we experienced, also in the fourth
4 quarter of last year. Concentrated towards
5 Chicago, but also increases in traffic towards
6 the PNW. This traffic, along with Ag
7 shipments, concentrated on our north region.

8 You will likely hear, and you have
9 so far from some of our coal customers
10 today, regarding delivery stockpile, delivery
11 cycles and coal stockpiles. We do put a lot
12 of resources into supporting coal.

13 And the substantial run up of coal
14 that occurred last year in both train sets and
15 associated locomotives from the second quarter
16 to the third quarters, we responded to
17 increased demand with coal with an increase of
18 30 percent of cars and locomotives.

19 Increasing those sets dedicated to movement of
20 coal from 340 sets to 445 sets.

21 Drawing your attention to this
22 slide, which does depict a lot of information,

1 but really is a key element of timing of
2 various activities.

3 As I just shared with you, through
4 the second and third quarter volume in our
5 large commodity sectors was quite strong.
6 Then came October, which is where the lines
7 converge towards the right side of this chart.
8 That's October of last year.

9 Spreads in the crude oil market
10 began to widen, driving up instant demand for
11 more crude by rail capacity. Added to that a
12 record grain harvest in a very compressed time
13 period was underway.

14 We flexed resources from across
15 our entire network, from all lines of business
16 to support this surge in traffic, all of which
17 occurred on our northern region. And then
18 velocity began to slow, which resulted in a
19 pattern that incrementally required more
20 locomotives, more train crews, and more track
21 capacity.

22 This slide really does sum up the

1 situation we faced in the fourth quarter.
2 Grain surged, coal jumped, crude oil spiked,
3 and velocity slowed down.

4 Earlier Steve outlined the four
5 critical requirements of railroad capacity,
6 locomotives, rolling stock, train crews and
7 track capacity.

8 Looking here specifically at
9 locomotives, we continue to add them in
10 historic record numbers. Growing our
11 resources in response to our customers growing
12 their business. The same can be said of our
13 train crews. We are adding train crews at a
14 pace that exceeds our planned volume.

15 This is a view of how we think
16 about and how we plan for capacity across our
17 network. The traffic forecast that we have
18 drives our review of potential bottlenecks to
19 be solved.

20 In terms of critical resources,
21 adding track capacity takes the longest time.
22 In particular on our north region where the

1 construction season is seven months long.

2 This slide looks at one key
3 subdivision in our north region, the Glasgow
4 sub, where we're investing close to \$400
5 million to double the train capacity on just
6 this one subdivision in four years.

7 Talking about winter, which is
8 then repeated multiple times, a recurring
9 thing through the day today. As we worked
10 through our traffic surge from the fourth
11 quarter we were behind in terms of velocity,
12 behind in locomotives and crews. Then a
13 really, really tough winter took hold, and the
14 outcomes got worse.

15 We operated shorter trains due to
16 the temperatures. We had to redeploy manpower
17 from across our network to support the
18 Northern Transcon, as well as operations in
19 Chicago.

20 The resulting congestion in and
21 around Chicago, brought about by winter
22 conditions, had a ripple effect on all three

1 of our key corridors, as trains were held in
2 stage to manage the flow in and out of
3 Chicago.

4 This began a period through
5 February and March where interchange traffic
6 as shifted away from Chicago to alternate
7 gateways of St. Louis and Memphis. So of
8 course, we did extend the transit times for
9 shipments for many customers to traffic,
10 rather through Chicago.

11 Many of our Ag customers, ethanol,
12 sugar producers, crude producers and coal
13 utilities, as well as others, experienced
14 longer transit times as cars were moved on
15 these alternate routes.

16 We operate a winter railroad on
17 BNSF. We know how to execute across the
18 northern plains. We've been doing it for a
19 long time. But this winter was very harsh,
20 and the numbers reflected on this slide can
21 show that.

22 Going too fast. Given the surge

1 in traffic, a tough winter, and declining
2 velocity, we took additional short term
3 actions. Aggressively increased our hiring
4 program for train crews, with emphasis on our
5 north region, brought on additional
6 locomotives and added supervisors, and
7 strengthened our customer service processes to
8 better ensure that severe service issues were
9 captured and escalated as we continued an all
10 hands on deck approach to recovering our
11 network and network capabilities.

12 No railroad had spent \$4 billion
13 in capital until we did it last year in 2013.
14 Followed by a \$5 billion capital program this
15 year. That's an average of greater than \$4
16 billion a year over the last four years. We
17 were significantly reinvesting in our railroad
18 for growth, and our customers' growth. You
19 can see the allocation of this year's Cap Ex
20 program.

21 We knew the short term actions
22 were not enough. We are taking steps to

1 strengthen our commitment to growing our
2 railroad alongside our customers. Our hiring
3 plan now has been increased to 5,000 new
4 employees this year. We're purchasing over
5 500 locomotives, adding to the increase in our
6 road fleet from last year, as well as
7 acquiring additional rolling stock.

8 Continued emphasis in adding train
9 capacity, with significant investments in
10 additional sidings, double track, as well as
11 terminals.

12 Looking again at the map of our
13 network, it shows the targeting capacity
14 investments across our Northern Transcon,
15 which are reflected by the stars that are
16 concentrated across the top of the map.

17 I'm certain -- I'm not getting a
18 response. There we go. I'm certain everyone
19 would like to understand our outlook for the
20 balance of 2014 and beyond. And to do that
21 I'll offer an assessment of our three
22 operating regions.

1 This shows our south region. The
2 south region's our premium expedited
3 inter-modal corridor, with connections to the
4 Texas Gulf area.

5 As we enter the second quarter and
6 work through the final effects of winter
7 associated with the Chicago complex, the
8 outlook is very strong for this segment of our
9 railroad to execute the operating plan that's
10 been similar to past levels of performance.
11 Key indicators of dwell and velocity both bear
12 that out, with productions in dwell and
13 improvements in train speed.

14 The central corridor, the second
15 of our large three regions, represents the
16 majority of our heavy haul coal route, and
17 includes the Powder River Basin area, as well
18 as many of our utility customers and
19 destination facilities.

20 While this corridor does not
21 connect with Chicago through most of February
22 and March, there was considerable congestion

1 as traffic flows for manifest trains, as well
2 as many unit trains, were shifted away from
3 Chicago to gateway junctions on this corridor.

4 Heavy haul requires heavy
5 maintenance, most of which is still ahead of
6 us in 2014. Maintenance windows will slow
7 train velocity. But we know how to do both,
8 how to run trains and how to work on track.
9 On balance, this quarter should see similar
10 year over year performance.

11 Terminal dwell is improving on
12 this region. Velocity is slightly degraded.
13 Although all the alternate gateway traffic is
14 now shifted back to Chicago, and we should see
15 train speeds start to stabilize.

16 Coal tons, again, representative
17 on this region. Looking at the tons of coal
18 delivered, we're recovering from a really bad
19 winter. And you can see that in the bar
20 reflecting February. The coal tons delivered
21 in March is our sixth biggest month in the
22 last 27 months. We continue to handle a lot

1 of coal.

2 Tons delivered is largely a
3 product of velocity and equipment sets. As
4 velocity degraded more sets were added. As
5 velocity begins to rebound less sets are
6 needed to deliver the same tons. There
7 certainly is a clear cut lag in what our
8 customers see and experience. But on balance,
9 our coal train business is improving.

10 Our north region. Train crews,
11 locomotives and rolling stock will be
12 on-boarded to catch up with the growth in this
13 corridor. At the same time the majority of
14 our expansion capital will be spent on the
15 northern route. This track capacity will not
16 come on as rapidly as the other critical
17 resources.

18 We fully anticipate 2014 will not
19 return to the same level of train velocity
20 that has been the norm in the past, or was
21 experienced in the first and second quarter of
22 '13.

1 Although terminal switching, local
2 train service, including connections in and
3 out of Chicago, will be restored to previous
4 levels of performance, run times across the
5 quarter will be longer while the variability
6 will be reduced, until the majority of the
7 capital projects are completed. Each new
8 capacity investment piece will incrementally
9 improve performance as it comes on line.

10 North performance, compared to our
11 baseline from the peak of winter conditions,
12 both train speed and terminal dwell have
13 improved.

14 We have a long tradition of
15 handling unit grain shipments across the upper
16 Midwest to the export facilities in the
17 Pacific Northwest, as we've heard this
18 morning. Delivery of loaded units did not
19 meet all customer demand.

20 But compared to previous harvest
21 periods we have moved substantial volumes. We
22 fully intend to be nearly current with past

1 due grain orders by the start of this year's
2 harvest.

3 Of course, the Board has heard
4 about Amtrak performance issue, as well as
5 Administrator Szabo's comments. Trains have
6 been late, and variability has been high.
7 Winter conditions and surges in train volumes
8 have impacted all trains on our north region,
9 as well as the empire builder and Amtrak
10 Number 7 and 8.

11 As we move into April the overall
12 lateness has been reduced. And the
13 variability of performance has been
14 compressed. Nonetheless, we've clearly not
15 met or performed up to our commitments to
16 Amtrak or their passengers.

17 We have crafted a new schedule, as
18 was mentioned, with Amtrak on our northern
19 route, that takes effect next week. This new
20 schedule more closely reflects post winter
21 track conditions and slow orders, as well as
22 the increased volume of trains on the

1 corridor. Steve.

2 MR. BOBB: I'd like to make a few
3 comments about customer contact during this
4 period, and then wrap up. During our
5 operating challenges we have increased our
6 customer contact significantly. And I will
7 offer just one example.

8 Our industrial products team might
9 routinely have about 100 business reviews with
10 customers per quarter. During the first
11 quarter that team had scheduled weekly
12 meetings or phone calls with a focus on
13 service numbering about 100 per week.

14 In addition to those scheduled
15 interactions over 500 industrial products
16 customer meeting or conference calls with a
17 focus on service were placed during first
18 quarter. A similar increased tempo of
19 customer communication took place across all
20 four business units.

21 We will continue a high
22 transparency approach to customer

1 communications as we work to add capacity
2 throughout 2014.

3 We understand that we have shared
4 a lot of information in a short amount of
5 time, on a subject with many complexities that
6 merit serious discussion. We also recognize
7 that while we have experienced remarkable
8 growth, and handled tremendous volumes, we
9 have disappointed many of our customers in our
10 handling of that growth.

11 I have no doubt that as we
12 continue to analyze our approach and our
13 actions for handling this increased volume,
14 we'll find in our plan reviews that some of
15 the root causes of the current congestion
16 could have been prevented with a better
17 understanding of the growth that had occurred,
18 and is continuing to occur. And better asset
19 planning could have occurred as a result.

20 At the same time I know that other
21 factors, like the weather, were simply out of
22 our control. We've heard comments, and I

1 expect to hear more comments from our
2 customers today, that will detail specific
3 experiences where we failed to meet their
4 expectations, and/or were unable to execute a
5 needed service recovery.

6 I will be here throughout the day
7 to make sure I hear their issues, and able to
8 review what's happening, and what we're doing
9 about it.

10 I also note that submitted
11 comments suggest various segments wanting
12 their freight moved in front of or instead of
13 other freight. Freight rail is a network
14 business. We will build our capacity with the
15 goal to accommodate all of this demand. We
16 understand that is our responsibility.

17 I'll add that the practical
18 ability for direct service to move more volume
19 is unlikely, given that the primary constraint
20 is track capacity. We will continue our
21 efforts to restore velocity and service levels
22 in our network.

1 And we hope that you appreciate
2 the level of energy and financial investment
3 that we have focused on improving this
4 situation as quickly as possible. We are
5 confident that we are gaining momentum, seeing
6 the improvements, and that much more are on
7 the way.

8 As we move forward we are also
9 committing that same level of energy to
10 communicate with our customers on the status
11 of their individual situations, along with the
12 improvements on the network.

13 You will hear from several of our
14 customers again today that are here. And I
15 would expect that they will tell you we are
16 not doing enough, and we're not meeting their
17 demand.

18 We understand that velocity caused
19 equipment shortages and/or variability in our
20 operation, are forcing rail traffic to truck,
21 impacting plant operations, and impacting
22 operations of our customers' customer. At the

1 same time, it's important to remember that we
2 are a very busy railroad, handling lots of
3 volume.

4 As we restore network velocity we
5 will be in a position to handle customer
6 demand. I promise you that all of us at BNSF
7 understand the important and the urgency of
8 improving their service. We also understand
9 the importance of communicating with our
10 customers frequently and with transparency.
11 I look forward to your questions. Thank you.

12 CHAIRMAN ELLIOTT: Thank you Mr.
13 Bobb and Mr. Lease. And I do greatly
14 appreciate your commitments to work towards a
15 solution. Mr. Creel.

16 MR. CREEL: Good morning Chairman
17 Elliot, Vice Chairman Begeman. I'm pleased to
18 be here this morning to have an opportunity to
19 discuss the status of rail service this year,
20 and to provide context in the challenges we at
21 CP have been experiencing to reinforce that
22 these conditions are temporary. Full service

1 will be restored in the weeks ahead. And to
2 confirm that providing quality service is how
3 we work, and how we differentiate ourselves.

4 We're very aware of the impact
5 this reduced network velocity has had on our
6 customers and to their businesses. I can
7 assure you of our commitment to turn the
8 situation around as quickly as possible. And
9 we'll do it as safely as possible.

10 As this is done we'll continue to
11 communicate directly with our customers
12 regarding our progress. I'd also like to
13 stress that continually, we'll be involved in
14 the steps required to return the U.S. network
15 to above normal service levels.

16 But before I go any further I
17 think it's important that we address two
18 pervasive myths regarding our service. First,
19 CP is not steering resources to Canada at the
20 expense of the U.S.

21 Secondly, crude volumes are six
22 percent of our U.S. traffic base. These are

1 not displacing grain volumes, which represent
2 22 percent of that base, or other commodities
3 for that matter. In fact, in the case of
4 grain, it moves in large part different lanes
5 than crude does.

6 Today I'll plant to focus my
7 remarks on two important areas, service, and
8 capacity on the railway. I'll review two
9 major variables and their impact on our
10 performance over the last several months.

11 From CP's perspective the single
12 largest challenge to the railroad supply chain
13 in the U.S. is congestion in the Chicago
14 gateway. The railway supply chain both in
15 Canada and the U.S. has had to deal with
16 extraordinary extreme winter weather.

17 Yes, winter does happen every
18 year. We prepare extensively for it. But
19 from this past December to February railroads,
20 and all modes of transportation, were severely
21 impacted by the extraordinary cold and severe
22 weather.

1 To quote some facts, according to
2 the National Weather Service, between the
3 months of December and February 67.4 inches of
4 snow were recorded in Chicago, making it the
5 third snowiest winter on record. It was the
6 third coldest winter on record.

7 Based on the previous 119 years of
8 data, the National Climactic Data Center
9 released their analysis of the past winter
10 recently as well. They ranked the period from
11 December through February as the 25th coldest
12 on record in North Dakota. Minnesota was even
13 colder, ranking 6th on record.

14 These conditions delivered
15 significant operational headwinds, to say the
16 least. Sustained frigid temperatures become
17 a tipping point in the railway industry. As
18 you know, extreme temperatures requires us to
19 reduce our train links to ensure we keep our
20 air brakes functioning safely and properly.

21 Train link productions at 50
22 percent are not uncommon. This greatly

1 affects train velocity, yard dwell and
2 service, as a direct result of this reduced
3 capacity.

4 The second critical point,
5 emphasis added in CP's perspective, is our
6 dependency on the fluidity of the Greater
7 Chicago terminal. Roughly 40 percent of all
8 CP U.S. traffic touches Chicago.

9 All carriers operating within the
10 defined limits of the Chicago terminal are
11 dependent on the terminal and its intermediate
12 carriers and the bilateral relationships
13 between railroads.

14 CP's operational performance,
15 particularly in the United States, is tied
16 directly to the fluidity of the terminal.
17 After several months of congestion this
18 continues to be our major challenge.

19 These conditions prompted the
20 Chicago Transportation Coordination Office to
21 escalate the terminal load levels rapidly. In
22 fact, conditions drove from an Alert Level 1

1 straight to an Alert Level 3 over a period of
2 one week in early January. In fact, over two
3 days in January.

4 This Alert Level 3 remained in
5 effect until approximately three weeks ago.
6 The alert levels and the conditions are
7 relevant, as they trigger a requirement for
8 all of us to alter train design to block
9 manifest shipments arriving and departing
10 Chicago.

11 This decreases our overall network
12 capacity by increasing the volume of switching
13 activity and on line car dwell incurred at
14 various locations across the system. Such
15 measures are in place to assist Chicago's
16 fluidity.

17 Train staging and on line
18 switching activities are workload components
19 that often get missed in our direct
20 measurement of system or terminal fluidity.
21 This combined with the inter train volumes
22 which get routed via Chicago, and a high

1 frequency of daily commuter trains and links,
2 consumes needed capacity in the Chicago
3 terminal.

4 The situation in Chicago will
5 improve dramatically when the Belt Railway
6 Company is able to become and remain fluid.
7 They're experiencing congestion as a result of
8 extremely high volumes. They're dependent
9 upon traffic being moved on time by all
10 carriers consistently.

11 If not, as a result, their
12 departure yards will fill up, classification
13 capacity decreases, which in turn results in
14 creation of pole tracks and re-humps, or
15 effectively double handling cars.

16 The net result is sustained delays
17 in meeting demand in the traffic moving
18 towards or through the Chicago terminal.
19 Especially in a case like CP, where we're so
20 dependent upon this terminal.

21 We've acted to alleviate
22 congestion in Chicago by holding trains as far

1 back as Minneapolis. We're asking all
2 carriers to bring, and not hold any CP
3 traffic. And we're moving some westbound
4 trains over Chicago. We're switching at St.
5 Paul and blocking eastbound traffic as far
6 back as Canada, as well as adding additional
7 resource and crews.

8 The complexities of the service
9 issues which surround the relative fluidity of
10 our Chicago terminal have become a North
11 American problem that requires every carrier
12 to commit to appropriate solutions. It
13 requires leadership and commitment, with an
14 equivalent sense of urgency directed at
15 increasing capacity through this gateway.

16 I'm confident we will get the
17 Chicago terminal reset to normal operating
18 levels. It's important to understand,
19 emphasis added again, that not one single
20 railway alone will improve and solve Chicago's
21 service.

22 The challenges of --

1 (Interruption in audio)

2 MR. CREEL: -- in the terminal.

3 As you would expect, all commodity routes have
4 an effect on these typical operating
5 conditions. Service measured to CP --

6 (Interruption in audio)

7 MR. CREEL: -- versus last year.

8 In an effort to address some of
9 the more specific questions, let me share some
10 information relative to how CP is performing.
11 Most importantly, we're dealing with
12 normalized operations across the system.

13 Since early February we've been
14 working with the shippers across the lines of
15 business to find alternative routings, and
16 ship around the Chicago terminal. This has
17 been challenging for our customers. But such
18 action is effective and necessary in seeking
19 the appropriate routing relief.

20 We need to be taking action which
21 promotes efficiency, improvement, and service
22 for Chicago, and transit time for our

1 customers. These choices may not always mean
2 the shortest route, but under these conditions
3 that should not be the deciding factor.

4 I'll give you a very powerful
5 example. Take two energy customers that CP
6 serves, as an example under current
7 conditions. We encouraged both to route
8 around Chicago. One quickly chose an
9 alternate longer mileage route. The other
10 declined. They followed the normal routing
11 agreement.

12 The results speak for themselves.
13 And they were dramatic. The decision to
14 implement the alternate route saved the
15 additional dwell time experienced over the
16 period, and enabled one shipper to achieve
17 nearly comparable year over year volumes.
18 This is better for the shipper, better for the
19 railroads and better for Chicago.

20 That was not the case of the
21 alternate shipper. Let me take for a moment
22 to expand on the significance of routing

1 agreements. The way I see it, it's pretty
2 simple. We need industry agreement on dynamic
3 routing protocols that can be implemented
4 quickly and effectively.

5 This means that we respond to
6 extraordinary and escalating conditions with
7 immediate plans to leverage to find alternate
8 gateways. We need to have these in place
9 pro-actively, and be positioned to reallocate
10 resources promptly.

11 But I've got a slide here I want
12 to show, moving to some grain comments. Let's
13 see if I can -- Anybody have any idea where it
14 would be? How about CP? There we go.

15 Okay. Down to the grain crop
16 year. The grain shipping season in August
17 took off with a slower than average start. As
18 you can see, billing, or shipments came in
19 below normal levels due to a later harvest.

20 We see the typical fall peak
21 arrive between the months of September and
22 November. CP grain shipments came in at 2,100

1 plus cars a week, with weeks in excess of
2 2,400 cars handled. The three year average is
3 2,200.

4 During this period we kept pace
5 with demand and the flow of new customer
6 orders. The challenge began in mid December
7 when the orders outpaced average demand
8 levels. Meaning, that just prior to severe
9 weather and Chicago terminal congestion, we
10 headed into the Q1-2014 environment with a
11 climbing order deck.

12 With over 30 percent of all U.S.
13 grain routing through Chicago issues
14 performance issues became inevitable, given
15 the environment outline.

16 However, while our eastbound grain
17 performance, in comparison, came in below
18 normal levels, more fluid operating conditions
19 in the Pacific North West gateway, which is
20 effectively North Dakota and South Dakota
21 origins going to Canada, across Canada, and
22 back to western U.S. ports, we were actually

1 able to move volumes comparable to last year.

2 Arguably, had the overall
3 operating conditions been more favorable we
4 would have maintained momentum and service,
5 and been in position to deliver a very
6 reasonable percentage of last year's volumes.
7 However, this isn't the case, as we know. And
8 it's one of the reasons I'm here.

9 Through the month of April as the
10 Chicago terminal improves we will regain our
11 2013 momentum across all corridors. Based on
12 sustained demand this would translate to
13 exceeding 2,200 cars a week through the end of
14 the crop year.

15 Performance to that level would
16 exceed the three year average by about 600 CP
17 cars per week, or 33 percent. We'll need
18 customer support to make this happen, and to
19 validate that all new orders take into account
20 what is also outstanding.

21 I understand that some are calling
22 for more cars and locomotives. To add more

1 cars and locomotives to a system that is
2 congested and impacted by weather is the wrong
3 thing to do.

4 This would be like adding more
5 vehicles to an increasingly congested highway
6 during rush hour, and hoping the traffic would
7 move faster. It's simply not going to happen.

8 To put power in context, for those
9 that may think we don't have enough power at
10 our U.S. operations, during the month of March
11 this year our U.S. locomotive counts matched
12 2013.

13 We're acutely aware of increased
14 cycle time impacts, and the resulting
15 constraint on car supply across industries.
16 We have, and we'll continue to manage
17 resources when and where it makes sense.

18 Other actions we've taken include
19 ensure that we have the appropriate power plan
20 to run maximum train links. This is ensuring
21 that power is fed into the appropriate areas
22 in a balanced fashion. We're building

1 destination blocks to assist key locations, to
2 ensure efficiency delivery and improve cycle
3 times.

4 With respect to hiring and crew
5 resources, there's no doubt that service
6 levels have put a strain on our workforce.
7 This has not stalled plans to hire and train
8 both conductors and engineers. Classes are
9 scheduled to cross the property are ongoing.
10 And we'll bring in excess of 200 new hires in
11 2014.

12 I can tell you that in my two
13 decades of railroading experience, these North
14 American railroading conditions have
15 challenged our operating employees in ways
16 that I've never seen before. In the face of
17 such operating conditions I'm proud of our
18 railroaders who continue to work tirelessly,
19 27/7 to move this volume and improve service.

20 As I've stated, we'll get back to
21 performance levels matching last fall and
22 better. To achieve these results across our

1 U.S. network we'll require matched effort from
2 absolutely every service provider.

3 With all that said, I hope it's
4 clear, we are not interested in finger
5 pointing. Rather, we seek to maintain a
6 constructive dialogue with how we all create
7 additional capacity inside and outside of
8 Chicago.

9 These efforts will normalize
10 terminal throughput and service in the weeks
11 ahead. We'll continue to keep communication
12 channels open with our customers. In the near
13 term customers can also assist.

14 Additional capacity is achieved
15 when rail cars are unloaded once available,
16 seven days a week, 24 hours per day by all
17 customers, across all roads. We need everyone
18 to be thinking velocity to create the needed
19 car capacity.

20 To unlock capacity and normalize
21 service we'll need to seek the most
22 appropriate approach in the near term, and to

1 create the right efficiencies across every
2 road and terminal. This will directly benefit
3 Chicago and improve rail service across the
4 board.

5 In closing, doing nothing ensures
6 getting the same outcomes the next time these
7 conditions exist. It isn't enough that we
8 just do things differently. We simply need to
9 do different things.

10 I can't speak for the other roads,
11 but you've got CP's commitment to do exactly
12 this. CP and its employees are committed to
13 turning things around safely, and as quickly
14 as possible. Together with our customers and
15 partners we'll get it done. Thank you.

16 CHAIRMAN ELLIOTT: Thank you, Mr.
17 Creel. A few quick questions to start. And
18 as far as some of the commitments are made, I
19 think I'm hearing from both of the railroads
20 that are up here today that you are committed
21 to work with your customers as much as
22 possible during this, during the service

1 problems, to reach mutually workable
2 solutions. Is that basically what I'm hearing
3 from BNSF and CP?

4 MR. BOBB: We have, during these
5 circumstances, worked with our customers to
6 adjust priorities. To deal with tactical,
7 sometimes car by car, sometimes train by train
8 circumstances. As well as, we are committed
9 to the longer term, things we talked about
10 relative to building out our network to handle
11 all this demand.

12 CHAIRMAN ELLIOTT: That includes,
13 in addition to working with your customers,
14 committing to getting the proper resources
15 where they need to be, in order to make this
16 problem go away? Is that correct?

17 MR. BOBB: We are committed to
18 putting the resources in place to move the
19 volume on this railroad, yes.

20 CHAIRMAN ELLIOTT: Thank you. CP?

21 MR. CREEL: CP is absolutely
22 committed to work with the customers. But

1 it's such for CP, it's supported at the state.
2 This is not a resource issue at CP. This is
3 a velocity issue. This is a corridor capacity
4 issue.

5 So it's not that our track doesn't
6 have the capacity to handle it. It's not that
7 the car fleets -- the issue is, CP's connected
8 to Chicago in a huge way. And if our
9 customers direct traffic to Chicago, and if
10 these bridge carriers that we have to operate
11 with become congested due to very real extreme
12 winter conditions, these things will occur.

13 As soon as Chicago corrects
14 itself, fixes itself, our capacity concerns go
15 away. Now, we'll continue as we have, to work
16 with customers in the meantime to try mitigate
17 the impact of Chicago. And as I've stated,
18 some have and some haven't. Those that have,
19 have seen the benefit of it. Those that
20 haven't, we still continue to work with them.

21 It's just, it's hard to do
22 something with something you can't get around.

1 As of yesterday certain bridge carrier in
2 Chicago, when we're holding 15 trains trying
3 to get into the terminal. Adding 15 more is
4 not going to do a lot to help it. You have to
5 do dramatic things, which we're prepared to
6 do, and we have done, and will continue to do.

7 CHAIRMAN ELLIOTT: And I've heard
8 quite a bit as far as hiring and adding power
9 from BNSF. And I heard you mention that
10 you're looking to hire about 200 new train and
11 engine people on the railroad. Is that
12 additional 200 over and above the number that
13 you have right now? Or are you just filling
14 in positions as they attrite?

15 MR. CREEL: From CB's perspective
16 it's more attrition. And there's a small
17 increment for additional business. We don't
18 have the same opportunity that BN has with
19 that kind of growth. I wish that I did, but
20 we don't. So that's pretty much where we're
21 at with CP.

22 CHAIRMAN ELLIOTT: Okay. So,

1 based on that would it be fair to say that CP,
2 in addition to cars and power, that this isn't
3 really a manpower issue, as much as a
4 congestion issue?

5 MR. CREEL: Yes. I'm not going to
6 suggest there's not some times we run out of
7 power. If we start continually re-crewing
8 trains, or run up crews, continually
9 re-crewing trains you're going to run out of
10 people.

11 But by and large it's not a people
12 issue at all. It's a velocity issue. It's
13 the car issues. And it's the car cycles that
14 get slowed down.

15 And when you can't get cars to
16 destination and unloaded, and turned back as
17 an empty, you can't fulfill grain requests or
18 orders for those cars that are needed. That's
19 the primary issue at CP.

20 CHAIRMAN ELLIOTT: Okay. One
21 question I had. I thought I heard earlier
22 from BNSF that you felt that you would be able

1 to meet the grain shippers for, that you would
2 be ready for the next crop. Did I hear that
3 correctly?

4 MR. BOBB: Yes, you did.

5 CHAIRMAN ELLIOTT: Okay. I think
6 that would be an assurance that a lot of
7 people in the crowd would enjoy hearing. Is
8 there something special that we're going to be
9 doing?

10 I've heard some quotes in the
11 press that the north is going to be slowed
12 down, which I think you did say in your
13 charts. Do you think you can do that, even
14 with the capacity issues that you've had over
15 the last several months?

16 MR. LEASE: I would say very
17 similar to CP, or Keith's comments. It's
18 about velocity. And for us right now as we
19 continue to recover velocity, and particularly
20 with grain shipments, we're seeing reduction
21 in past due orders that progressively decline
22 as we get more current on those past due

1 orders.

2 And as we pick up more velocity,
3 both Chicago as well as across our network,
4 that generates its own capacity. Higher
5 velocity means less locomotive demand, less
6 crew demand, less car demand. And that
7 actually creates capacity. So the velocity
8 that we need to support the next harvest
9 really is the net result of running a faster
10 railroad.

11 As to capacity investments, we'll
12 incrementally leverage as they come on line.
13 And speeding up the general throughput post
14 winter.

15 CHAIRMAN ELLIOTT: I heard
16 earlier, and I don't know whose customer this
17 is. But Mr. Andresen mentioned that he's up
18 against it with respect to new trains for the
19 future crop.

20 In situations like that, where
21 you're seven or ten days out of not having
22 what you're needing as far as customers are

1 concerned on both the railroads, are you
2 working with those individuals to make sure
3 that they get what they need if --

4 I guess in his situation, he's not
5 going to be able to get his crop in. Or in
6 the situation of the coal, shippers that were
7 saying that they're just going to run out of
8 coal and have to shut down plants, as well as
9 the chemicals.

10 MR. BOBB: Let me address both
11 fertilizer and coal question. And then, Bob,
12 if you want to fill in some details. But from
13 the standpoint of fertilizer, we're aware that
14 we have very large demand to move fertilizer
15 on our railroad.

16 We've been in communication with
17 our fertilizer customers about that. And we
18 know that this is going to be a real
19 challenge. In terms of facility by facility,
20 where we're at on a seven or ten day window,
21 I couldn't tell you specifically that here
22 this morning.

1 But we are taking points to make
2 sure that the empties and loads in that
3 service are capturing every opportunity to
4 move that we can.

5 CHAIRMAN ELLIOTT: Okay.

6 MR. BOBB: Relative to coal, we
7 work with our customers on a ongoing basis to
8 understand where they're at on their
9 stockpiles. And make sure that we have the
10 conveyor belt tuned, both the number of sets
11 as well as the delivery rate to stabilize
12 stockpiles.

13 And we've been doing this all
14 through last fall as velocity declined on the
15 railroad. And as winter compounded that we
16 continued working with customers.

17 And in many instances we have
18 stabilized stockpile situations. We're not
19 100 percent there yet. It's something that we
20 continue to work on week by week.

21 CHAIRMAN ELLIOTT: In line with
22 that, I was asking earlier some of the

1 shippers, is there any chance or ability to
2 work with other Class I carriers, if they're
3 in a situation where they don't have as much
4 congestion and there is capacity on their
5 lines? Coal comes more to mind than grain,
6 obviously. But do you see any of those
7 opportunities, while you're in this situation?

8 I remember when you had the
9 flooding, and BNSF did an excellent job of
10 pulling out of the flooding, and threw a lot
11 of resources at it. But at the same time, I
12 know there was some cooperation with the other
13 railroads. Do you see any opportunity for
14 that here, as you go forward?

15 MR. BOBB: We are in discussion
16 with a number of utilities about opportunities
17 for them to move coal adverse to our existing
18 contracts.

19 CHAIRMAN ELLIOTT: Okay. I
20 appreciate greatly hearing that. And if there
21 is anything we can do to help that along, I
22 did mention in my opening earlier that we will

1 act as quickly as possible, if that needs to
2 be -- Anything with respect to CP?

3 MR. CREEL: No. No issues with
4 coal at CP, unfortunately.

5 CHAIRMAN ELLIOTT: Okay. One last
6 question, and I'll turn it over to Ann, so I
7 don't hog the microphone. A lot of the
8 shippers were expressing some concerns about
9 the amount of information they're receiving.

10 And I know that's not the top
11 priority that you have right now. The top
12 priority is making the system work. But would
13 you also commit to providing the information?

14 And I think you have done this
15 fairly well with respect to the Board. But to
16 the public and to the shippers, in order that
17 they can see that things are changing and
18 improving as we go forward.

19 MR. BOBB: We believe that we have
20 increased our communication quite
21 dramatically. And we would be very
22 comfortable opening the information that we're

1 giving to the Board, and putting it on our
2 website for all of our customers to see.

3 CHAIRMAN ELLIOTT: I appreciate
4 that.

5 MR. CREEL: We'd have no objection
6 to doing the same.

7 CHAIRMAN ELLIOTT: Right. All
8 right. Well, I appreciate your commitments
9 that you have made. And I appreciate you
10 coming here today. Vice Chairman?

11 VICE CHAIRMAN BEGEMAN: Thank you.
12 I apologize if any of my questions are
13 redundant. The Chairman had a lot of my same
14 questions. But first of all, thank you. I'd
15 like to start, if I could, by asking that you
16 put the talking points down.

17 From what you've heard this
18 morning, what is your reaction? Can you
19 comment on what you have heard and give a
20 clear message to your shippers as far as what
21 they can expect?

22 Steve, you know, I had a little

1 concern when you said, "we'll be ready by next
2 fall." I realize that's good news. I also
3 realize that it's a long time between now and
4 then.

5 And that means the folks that need
6 that fertilizer are really, potentially, in
7 serious risk. So I just would like for you to
8 comment on what you've heard. Both of you, of
9 course.

10 MR. BOBB: Well, certainly as I
11 listened to the associations this morning, and
12 we'll hear from customers here later in the
13 day. We have, we heard many of the things
14 that are reflected in my comments.

15 We understand that we have put
16 risk into our customers' supply chains. We
17 understand that we have impacted their
18 operations. We understand we've impacted our
19 customers' customer. And so we understand
20 those impacts are out there.

21 We have, throughout the course of
22 this, when we've learned of plant issues that

1 involved a rail car or a train, that if it's
2 not delivered within a time frame it will
3 impact operations. We have focused on that
4 specific movement, and done everything we
5 could to make it happen.

6 Unfortunately, it didn't always
7 happen. And sometimes that was weather.
8 Sometimes it was a compounding of influences.
9 But it's not for not knowing. And it's not
10 for not trying.

11 We always focus on and hear about
12 the ones that didn't work. But there have
13 been a number of occurrences over the course
14 of the last two quarters where our employees
15 have made dramatic things happen to serve our
16 customers.

17 But given the amount of customer
18 communication that we've been doing, I would
19 have to tell you that what I heard so far this
20 morning is not surprising to have heard it.

21 MR. CREEL: And, Vice Chairman, I
22 would say that similar comments, very

1 empathetic with our customers concerns.
2 Obviously, not losing their business is not in
3 their best interest. And it's not in our best
4 interest trying to run a railway business.

5 Our car loads are down. Our
6 revenues are down as a result. Our costs are
7 up. This winter, as much as, I guess the
8 common thing people say and they think, winter
9 happens every year. And it's cold in Minot.
10 Well, I've been working in Canada for the
11 last, more than a decade. And it's colder up
12 there than it is in Minot.

13 But I've never seen the type of
14 severity, the prolonged severity across both
15 continents that spans west coast to east
16 coast, down to the Chicago corridor, which
17 happened to be where all, effectively where
18 all this tonnage is, to have this kind of
19 impact on train links and snow.

20 It just never came so long, so
21 much at the same time, in such a condensed
22 fashion. And I'm not going to suggest it's

1 the new normal. I think it's a very abnormal
2 situation. I think that we're adequately
3 resourced. I think that in time, specific to
4 the grain, we're doing --

5 Historically at CP we've done a
6 good job of moving grain from our U.S.
7 destinations. I'd argue the same for the
8 Canadian. Although that perception might not
9 be there right now.

10 But nevertheless, I'm confident
11 that as our fluidity restores, and we're
12 starting to see progress as well. The past
13 several weeks we're back up to our historical
14 levels as far as car spots. We just got a big
15 hole to dig out of.

16 But we're committed to do that.
17 I'm seized with that. Our team is seized with
18 that. And rest assured, you know, some of the
19 comments that I've heard that Hunter may have
20 made, and that are taken out of context to me.
21 That is not Hunter Harrison's focus, nor is it
22 my focus day in and day out.

1 We understand how important grain
2 is. All of our customers' freight's
3 important. But some of the rhetoric that's
4 out there, the stuff about crude. Crude is
5 important. I value my crude shippers.

6 But if you know the facts of the
7 business and the economics, I make more money
8 hauling grain than I do hauling crude. So
9 it's not a fact that we don't care about grain
10 at CP. That's not the case.

11 And we'll just have to work hard
12 to restore our credibility, to restore our
13 customers' faith by moving their product. And
14 do it in a timely and efficient manner. And
15 I'm confident we have the talent and the
16 ability, and the resources to do that at CP.

17 MR. LEASE: I think, if I can,
18 Vice Chairman, I would have the following
19 comment. I don't know that we do an effective
20 enough job of telling our story that we're a
21 network business. We run an outdoor assembly
22 line.

1 So when a customer comments about
2 a loaded grain shuttle sitting for a week,
3 that's been loaded with soybeans in South
4 Dakota. And why it hasn't moved, and the
5 power's been removed. They don't have the
6 transparency to recognize, in running a
7 network we have a clogged pipeline.

8 We're holding trains short of
9 destination going to the Pacific North West.
10 We do nothing to help to move them if we
11 advance that origin. I think sometimes those
12 elements of running a network are not obvious
13 to the customers.

14 I think in that line, following up
15 on Steve's comments, where we can perhaps
16 leverage communications a little bit more is
17 perhaps around the elements of running a
18 network business.

19 VICE CHAIRMAN BEGEMAN: Mr. Bobb,
20 I was happy to hear your response to the
21 Chairman's question, that you are in
22 discussions with your competitors to --

1 MR. BOBB: Let me be --

2 VICE CHAIRMAN BEGEMAN: --
3 potentially --

4 MR. BOBB: -- clear. We are not
5 --

6 VICE CHAIRMAN BEGEMAN: To
7 potentially -- I'm sorry, I thought --

8 MR. BOBB: We are not talking to
9 our competitors. We are talking to our
10 customers.

11 VICE CHAIRMAN BEGEMAN: I thought
12 it was just in response to certain areas, of
13 where another carrier could come in, that
14 isn't currently --

15 MR. BOBB: We are talking to our
16 customers about exercising that option.

17 VICE CHAIRMAN BEGEMAN: Only to
18 your customers. Okay.

19 MR. BOBB: We are not talking to
20 --

21 VICE CHAIRMAN BEGEMAN: Okay.

22 MR. BOBB: -- our competitors.

1 VICE CHAIRMAN BEGEMAN: Well, I
2 was curious when Mr. Kahn mentioned that he'd
3 talked about this, the possibility of doing
4 this since, March 7th or 11th. He said he had
5 not heard anything back officially. Is he
6 going to hear back from you?

7 MR. BOBB: Yes, he will.

8 VICE CHAIRMAN BEGEMAN: Soon?

9 MR. BOBB: Yes.

10 VICE CHAIRMAN BEGEMAN: Well, the
11 more that you could talk with your customers,
12 if there are areas that trackage rights would
13 work, I want to join in what the Chairman
14 said. We certainly encourage you to do so, if
15 it can help unclog the network in a quicker
16 period of time. Or unclog the shippers'
17 backlog. What I'd like to know is, what, from
18 your perspective, can the Board do to be
19 helpful?

20 MR. BOBB: Okay. I will start.
21 First, I'd like to talk about what I think the
22 Board shouldn't do. And I mentioned it in my

1 comments.

2 But engaging in a directed nature
3 to focus prioritization to a specific piece of
4 traffic or a specific piece of geography at
5 the detriment of others, we think would be
6 very harmful, not only to the network, but to
7 our customers overall.

8 The rail network is a network
9 business. And we are focused on moving all
10 the volume. And so focusing on part of the
11 volume, we don't believe is a solution.

12 Turning to what the Board can d.
13 We believe that the things that you have done
14 relative to monitoring our metrics,
15 encouraging us to make those metrics public,
16 encouraging dialogue like this forum, and
17 holding us accountable to our commitments are
18 all the things that we think would be helpful.

19 MR. CREEL: The only thing I would
20 add to that, Vice Chairman, is to encourage
21 the customers to continue to work closely with
22 the railways as well. There's discussions

1 both ways where the railways don't want to
2 work with us sometimes, as in my case.

3 When you're dealing with a
4 particular customer that you're bending over
5 backwards to try to help them solve their
6 supply chain problems, and they refuse to
7 alter a gateway to fix the issue, it's tough.

8 And it creates a situation where
9 that customer may be putting you into crisis
10 mode, making special news, expending resources
11 to avoid shutdowns, which has a ripple effect
12 to other customers that may be working with
13 us.

14 So from that perspective, I would
15 encourage that Board that when customers call
16 expressing concerns, just to ask the simple
17 question, are you doing all you can do to work
18 with the partnership of the railways, to try
19 to mitigate the pain as well?

20 VICE CHAIRMAN BEGEMAN: And just
21 so the record is clear, Mr. Bobb, I was not
22 suggesting any kind of anti-trust violations,

1 or encouraging them. Thank you.

2 Mr. Creel, you talked at length
3 about Chicago. You talked about it when we
4 met over a month ago, about that really, in
5 your perspective, being a primary cause of
6 your service problems at the moment.

7 You've been at CP for a little
8 over a year, I think. Have resources going
9 into the Chicago area been altered during your
10 time? You know, have any facilities been
11 closed, or downsized? Or is it sort of
12 standard operating procedure in terms of crew,
13 locomotives, and power?

14 MR. CREEL: Well, since I've
15 joined the company we've actually increased
16 capacity in the corridor going to Chicago,
17 specifically in St. Paul. We've invested just
18 last year about \$15 million dollars.

19 We're in the process of a Phase 2
20 and a Phase 3 in St. Paul, to do additional
21 blocking for Chicago to take cars, instead of
22 sending them to the belt, or instead of

1 sending them to a bridge carrier to go direct
2 hit to railways. So it's increased, it hasn't
3 decreased.

4 And Chicago overall, I'm
5 cautiously optimistic. The weather's better.
6 But there's such a backlog that's been created
7 by this winter, as these railroads sort of
8 flush out, for the lack of a better term,
9 these bridge carriers only have so much
10 capacity. So we have to do dramatic things to
11 help them out individually.

12 So yesterday, you know, I
13 mentioned the number of trains that we were
14 holding for a particular bridge carrier. We
15 did some dramatic things. And we switched
16 some trains. And we've worked with our
17 colleagues in the industry.

18 I could connect all the roads.
19 They're all working very hard. It's not for
20 a lack of effort or resources. It's just
21 again, there's only so much capacity, and so
22 much you could do so quickly. But it is

1 getting better.

2 But we all have to stay seized
3 with that same commitment, to make sure we
4 push it until it gets to the point that it's
5 reset itself.

6 VICE CHAIRMAN BEGEMAN: I believe
7 it was Mr. Hancock on the previous panel who
8 mentioned the directive that he was aware of
9 recently from your railroad, about not taking
10 orders going east. Although you mentioned,
11 there was a willingness by your part to
12 redirect to the south.

13 MR. CREEL: Yes. I'm glad you
14 allowed me an opportunity to clarify that.
15 Effectively, what's happened over the past
16 couple of weeks since we last met, you
17 mentioned this pending transaction that the
18 STB has to review. We're anticipating and
19 hoping for a favorable outcome.

20 We've worked with that railway to
21 source additional cars at our expense, prior
22 to the transaction, to bring those cars on

1 line with an objective to apply those to
2 corridors to orders that are open, that are
3 old, that are outstanding, that avoid Chicago.

4 Now, we're not telling our
5 customers that they can't ship to Chicago.
6 That's inaccurate. In fact, we field on
7 average 400 orders to Chicago for the past
8 several weeks. I went back and checked it
9 after he made the comment, versus a historical
10 average of about 600. So we're not meeting
11 all the demand.

12 And we are trying to discourage
13 avoiding Chicago. Because I do not want to
14 get these additional assets, the 15th or the
15 16th or the 17th train in line, and
16 effectively end up with all of your fleet
17 under load. And our orders would go even down
18 further, which would adversely impact the
19 customers even more.

20 So there's a fine balance we're
21 trying to manage. I regret that the
22 perception of the Association is we're taking

1 no orders. That's not the case. We're just
2 not filling all orders. And we are
3 discouraging orders going through that market.

4 VICE CHAIRMAN BEGEMAN: And maybe
5 this is a question for both of you. But for
6 those situations where you do re-routing with
7 another carrier, a lot of it due to prevent
8 facility shutdowns, and working with your
9 customers in order to switch traffic to
10 different gateways, do they have to pay more
11 for that?

12 MR. CREEL: Typically the customer
13 does not, no. It's more about the shared
14 revenue between the railways. So the
15 commercial teams have to get together and
16 essentially decide how they're going to shift
17 and how to share the revenue.

18 MR. LEASE: Many of our movements
19 were a change of the operating junction, not
20 the revenue junction. So we changed it effect
21 tactical re-routing of trains, not to change
22 the revenue, or the division of revenue

1 between the carriers that participated in it.

2 VICE CHAIRMAN BEGEMAN: And on
3 the, I think it probably technically was the
4 second panel, with the gentleman from Amtrak,
5 I asked him about some of his charts.

6 I was curious if either of you
7 have any differing view regarding the cause of
8 delay, by the host railroads? Everyone knows
9 that you have an obligation for priority. If
10 you wanted to comment on what his view was?

11 MR. LEASE: To just elaborate a
12 little bit further. So the source of
13 information that is the capture mechanism for
14 delays has been the conductor on the train
15 trying to then, through communication with the
16 dispatcher, or between, back to Amtrak's
17 office, to try to understand the scope and
18 nature of a delay. They then capture,
19 catalogue and report those delays.

20 I'll refer back to, we're a
21 network business. And the fact that may have
22 had a crossing accident that occurred 250

1 miles away, but it consequently has backed up
2 traffic, because we have an impediment to
3 flow, may not be an awareness point to either
4 A, the dispatcher where Amtrak is currently
5 at, or the train crew themselves.

6 So there's, at times there's going
7 to be a mismatch in terms of what we think the
8 actual cause of delay is, and what the
9 reported cause is. I would say that
10 collectively with Amtrak, and at least with
11 BNSF, we spent a fair amount of energy over
12 the last several years trying to reconcile and
13 improve the process.

14 So I think there may be errors
15 now. But it's on the margin. I think we've
16 gotten a lot better at that process. So that
17 there is more accuracy in trying to capture
18 the legitimate cause of delay.

19 MR. CREEL: CP's not very, not
20 exposed to the same degree, or involved with
21 Amtrak or routes from Milwaukee down to
22 Chicago. They're affected by Chicago. So if

1 Chicago's running well, then those trains get
2 over the road well, and the service is well.
3 If Chicago is not, it's going to be a tough
4 challenge to make that happen.

5 VICE CHAIRMAN BEGEMAN: Mr. Creel,
6 can you comment regarding the Canadian Mandate
7 from a little over a month ago? Not the
8 proposed manate.

9 MR. CREEL: Candidly comment?

10 VICE CHAIRMAN BEGEMAN: Well, use
11 your own judgment. But, you know, I'm curious
12 to know the extent to which the requirement to
13 move, what was it, 500,000 tons. How does
14 meeting that mandate, and I understand a
15 mandate you need to meet --

16 MR. CREEL: Yes.

17 VICE CHAIRMAN BEGEMAN: -- how
18 does that impact your ability to serve
19 customers here?

20 MR. CREEL: It's not affecting.
21 Short answer it's not affecting. We're
22 actually moving under the mandate the same

1 level of grain that we were moving back in
2 February, in the toughest of winters.

3 The, I guess I don't want to say
4 the luck that we had, or the fortune that we
5 had, the corridors we were moving the grain
6 in, back in the worst of February, was west of
7 Calgary to Vancouver, which happened to be
8 warmer. So we didn't have the same challenges
9 with the weather and with the temperature.

10 And at the same time our
11 competitor, due to their own operational
12 challenges, they were not moving quite as much
13 grain into that corridor. So we sort of
14 filled the vacuum. Our assets turned very
15 fast. So even now, we're still moving the
16 same amount of volume.

17 It's challenging in the Canadian
18 network, balancing that against all the other
19 Canadian bulk business that we have to move.
20 So it's not easy. But it's insulated. And
21 it's not affecting the U.S. operation at all.

22 VICE CHAIRMAN BEGEMAN: And of

1 close this portion, at what point can shippers
2 hope for normal, a return to normal service?

3 I know you mentioned next fall for
4 grain movements, et cetera. You probably have
5 different answers to that question. But what
6 should our managed expectations be?

7 MR. CREEL: I would be guessing
8 mine's going to be strictly dependent upon
9 Chicago. The weather is good. It's just all
10 the backlog that has to be cleared up. And
11 cycles have to be restored to normal.

12 So my guesstimate would be six
13 weeks, four to six weeks things should be
14 normal if everyone does their part. At least
15 that's what I'm anticipating an hoping for.

16 MR. BOBB: I would draw a
17 comparison to when do we reestablish what we
18 experienced last year, and return to
19 operations that were more like last year,
20 which certainly wasn't what we would say is
21 good enough. But certainly better than what
22 we experienced during the first quarter.

1 So we think that as the system
2 evolves with additional capacity we'll come to
3 a new normal. But we are already seeing the
4 benefits of increased locomotives and
5 increased crews on the railroad. We've
6 obviously seen the benefits of weather.

7 Some of the track capacity, that
8 will take longer to come on line. And so we
9 have a lot of infrastructure that will be
10 built out this year. And we also believe that
11 there will be additional infrastructure that
12 gets built out next year.

13 So when we think about it, as Bob
14 went through the various quarters he gave a
15 sense of within each of the regions, what
16 customers should expect, as compared to last
17 year. That's how we think about it.

18 So we think that in the north we
19 will recover from the weather challenges. But
20 given the volume and the amount of
21 infrastructure to add in the north, we do not
22 see a return to pre 2013 velocity. It will

1 take a while to get that network back.

2 Contrast that with the south. We
3 believe we will get back to pre 2013 velocity
4 as the Chicago complex normalizes, coming out
5 of the winter. So that's how I would address
6 it.

7 And the important point I would
8 add is that this is about moving volume. And
9 so to your earlier question about coal
10 customers, we're working with coal customers
11 about making changes to contractual
12 commitments that help them deal with their
13 circumstance.

14 So it might be contractual
15 commitments that are relative to volumes. It
16 might be contractual commitments that are
17 relative to moving in and out of specific
18 origin destination pairs, if we can relax that
19 and give them the ability to divert mines,
20 that helps as we work through this.

21 Contrast that with saying, putting
22 another railroad, operating on those same

1 congested tracks. We don't see that helping
2 circumstances at all, especially when the
3 issue is track throughput.

4 So our view is, we're working with
5 our customers around the existing
6 infrastructure to maximize the ability, given
7 the volume and the velocity constraints that
8 we face.

9 VICE CHAIRMAN BEGEMAN: All right.
10 Thank you. And thank you for agreeing to stay
11 for the rest of the hearing, and listening to
12 the rest of what the shippers' comments are.

13 MR. BOBB: Of course.

14 VICE CHAIRMAN BEGEMAN: And with
15 that, I hope you will really take to heart
16 what you heard from the previous panel about
17 the next three weeks, and whether or not we're
18 even going to have a crop season for you to
19 move. Thank you.

20 CHAIRMAN ELLIOTT: Just one last
21 kind of bring it to a conclusion type
22 question. I think earlier I heard that we

1 don't want this to happen again, and that we
2 have to do this differently.

3 And I heard a lot about some of
4 the investments, the capital investments the
5 railroad is making at BNSF. Are you working
6 on a plan to make sure this doesn't happen
7 again as we go forward?

8 MR. BOBB: As I mentioned, we
9 certainly will look at our planning and
10 forecasting processes, and see if there was
11 information that we could have used
12 differently for a different outcome.

13 But the reality of the
14 circumstance that we faced in 2012 and '13 is
15 that our volumes increased, certainly faster
16 than we expected. Certainly faster than many
17 of our customers expected.

18 And while we had existing
19 processes to have both rail and terminal
20 capacity plans out into the future, so that as
21 volumes differently than we expect, we can
22 either pull those projects forward or delay

1 them.

2 The last two years we've been
3 pulling those projects forward. And at some
4 point in time you bump against the practical
5 reality of you got to get a permit to build
6 it. And we've pulled that pipeline completely
7 forward.

8 So what we would say is perhaps a
9 key learning is we just make that pipeline of
10 pre-planned projects even bigger than we have
11 in the past. And that's one thing that we
12 think we've consistently done, is add the
13 capacity that facilitates volume growth.
14 Because we believe volume growth is inherently
15 good.

16 Volume growth is good for the
17 network, it's good for our customers, it's
18 good for the communities that we serve.
19 Because the more robust of a network that we
20 can build, the better it is for all the
21 participants in that network. And you build
22 a robust network by having volume.

1 MR. CREEL: All right. Chairman,
2 I would say, as I've stated before, capacity
3 is not the issue at CP. It's Chicago capacity
4 specific. And obviously, we can't build
5 another rail yard or another rail terminal.

6 So what we're seized with is,
7 we've been going through, and will continue,
8 and I'm going to escalate this with all the
9 different roads, is routing protocol. Simply,
10 if it doesn't need to be in Chicago, given we
11 have a capacity problem, the way to mitigate
12 it is, don't have it in Chicago.

13 So from a perspective of
14 operational efficiency, as opposed to
15 commercial efficiency, we're going to work
16 closely with each of our partner carriers to
17 see if we can do some things to get traffic
18 out of that city that does not need to be in
19 that city.

20 CHAIRMAN ELLIOTT: Thank you very
21 much for coming today. And your testimony was
22 very helpful. And thank you for your

1 commitments. It's much appreciated.

2 (Pause)

3 CHAIRMAN ELLIOTT: All right, why
4 don't we get started again. We will now hear
5 from the fifth panel, basically the Class I
6 railroads. Why don't we start with the AAR.
7 Mr. Harris.

8 MR. HARRIS: Thank you, Mr.
9 Chairman, Madam Vice Chairman. My name is
10 Jeff Harris. I am Assistant Vice President of
11 Operations Planning with Norfolk Southern and
12 I am Co-Chairman of the Chicago Planning
13 Group.

14 So today I would like to provide
15 the Board with a brief perspective of the
16 makeup, the function, the interaction and the
17 coordination structure, network if you will,
18 of the Chicago regional rail operation.

19 Disclaimer that I realize I may be
20 using some unfamiliar terminology. I'm
21 basically an operating guy so if I say
22 something confusing please question me on it.

1 Sometimes operating terminology is a little
2 different than legal terminology, so I would
3 beg your indulgence there.

4 But my intent here today is just
5 about four things in connection with Chicago,
6 what it is and what it isn't, how the
7 railroads interact and coordinate their
8 movements, what happened and what we did about
9 it.

10 So basically Chicago is the
11 nation's largest rail hub. Twenty-five
12 percent of the nation's freight touches
13 Chicago. There is nothing else like it.
14 There are six Class I railroads, two
15 intermediate switch carriers.

16 Amtrak and Metra operate about
17 1,300 daily trains through Chicago. Seven
18 hundred and sixty of those trains are
19 passenger trains and those passenger trains
20 run on shared corridors with freight trains.

21 Roads interchange or deliver to
22 each other every day about 10,000 to 14,000

1 cars. On any given day, there are anywhere
2 between 40,000 and 58,000 railcars within two
3 days of Chicago, headed towards Chicago,
4 pointed towards interchange.

5 Also the railroads handle their
6 own traffic, that is not interchange traffic,
7 their own personal traffic, through Chicago as
8 well.

9 And issues in Chicago obviously
10 have a definite ripple effect in both
11 directions through our respective railroad
12 networks.

13 How we manage Chicago is it's a
14 unique collection of railroads and we try to
15 coordinate the throughput of Chicago using
16 tools and committees.

17 No one railroad controls the
18 majority of Chicago and we do need to keep
19 Chicago focused as operating like a unit.

20 So underneath the umbrella of the
21 AAR, our Safety and Operations Management
22 Committee, or SOMC, which are our chief

1 operating officers, have a couple
2 subcommittees, the Terminal Oversight
3 Committee and the Chicago Planning Group of
4 which I am Co-Chairman.

5 Beneath the Chicago Planning
6 Group, we have our organization in Chicago
7 which is called the CTCO. That stands for the
8 Chicago Terminal Coordination Office.

9 The word coordination is important
10 because it's not a command center and it is
11 not in charge of Chicago. It's in charge of
12 coordinating the throughput through Chicago by
13 using several tools.

14 CTCO is staffed at a
15 superintendent level from all of the Class Is
16 and the switch carriers as well as Amtrak and
17 Metra. We have 100 percent participation. It
18 is fully staffed and it is led by a general
19 manager at a director's level.

20 They are charged with
21 implementation of institutional improvements
22 such as communication processes, train

1 protocols, daily conferences, facilitation
2 geared to maintaining fluidity throughout.

3 And they have a daily metrics
4 collection review to keep them kind of focused
5 on the pulse or the health of the Chicago
6 terminal.

7 Some of the tools that the CTCO
8 has. We have twice-a-day conference calls
9 between carriers for exception planning and
10 resolution of conflicts which also allow them
11 to keep their thumb on the pulse of Chicago.

12 They have instituted protocols
13 that prioritize the operation of trains based
14 on train type.

15 They do maintenance scheduling
16 with reroutes to avoid service disruptions
17 during our planned outages and we have
18 corridor reroute plans in anticipation of
19 potential unscheduled or emergency outages.

20 They do winter weather
21 preparedness checks. They have a visibility
22 of the current operation corridor through

1 dispatch screens and RTC real-time modeling.

2 We are working on automation of
3 the exchange of information between carriers
4 and they have direct access with all carriers
5 for minor dispute resolution and escalation if
6 necessary.

7 One of the tools we have in
8 Chicago is our CREATE program. It's a
9 public/private partnership. It's a \$3.8
10 billion program and that's currently under
11 construction in Chicago.

12 The CTCO has also established a
13 Chicago-specific alert plan with alert levels
14 and action items.

15 The plan is very detailed and very
16 specific. It's revised as needed and it's
17 fully supported at our chief operating
18 officer's level.

19 And basically when you get to the
20 highest level, which is Level 3, the action
21 items in Level 3 are designed by their nature
22 to be extreme and short term to allow us to

1 relieve the congestion in Chicago to enable
2 the traffic to resume a more normal route and
3 it's probably geared for a couple weeks' worth
4 of activity.

5 What's happened in Chicago is the
6 railroads have obviously seen steady growth as
7 you've seen for the last few quarters prior to
8 2014.

9 New opportunities increase in many
10 rail markets and the traffic mix that we see
11 has changed dramatically from the last few
12 years.

13 Our surge capacity individually is
14 diminished due to a combination of weather and
15 volume. We no longer have the ability to add
16 extra trains to the mix.

17 And, of course, the weather as
18 you've heard from everybody is, I don't want
19 to reinforce it too much but it was the
20 coldest winter in Chicago's history, the third
21 most snowfall in Chicago's history.

22 We had nine major winter storms

1 that affected either Chicago or the network
2 that ran into and out of Chicago.

3 And those kind of conditions have
4 a dramatic impact on the railroad operation.
5 They have a compounding impact on the
6 resources of the railroads. Basically the
7 weather was one of our worst enemies this
8 year.

9 The state, local, federal
10 government offices closed. The lake was
11 closed to shipping. The interstates were
12 closed in many occasions.

13 The Chicago Public Schools closed
14 so many days they canceled spring break, but
15 the railroads remained open, moving traffic
16 through Chicago 24/7 and never closed the
17 gateways.

18 Generally we averaged 11,000 cars
19 a day exchanged between each other during the
20 winter. The worst day was January 6th where
21 we only exchanged 3,350 cars between each
22 other and the worst week was the first week in

1 January where we averaged 6,800 cars a day
2 between each other.

3 So the impact of the
4 weather-related reduction in interchange
5 caused obviously the backlog in Chicago, and
6 as we've heard, railroading in bad weather is
7 challenging.

8 So we also during this winter
9 maintained the integrity of the passenger
10 operations, Metra and Amtrak, through Chicago.

11 How did we handle it? We went to
12 Alert Level 1 on January 3rd, which caused
13 elevated communications and interaction
14 between the carriers.

15 On Sunday, January 2nd in
16 anticipation of the next snowstorm we went to
17 Level 2, which allows us to begin to implement
18 some of the Level 3 action items in
19 anticipation of going to Level 3 which we did
20 the following day, January 6th.

21 So on January 6th we executed the
22 action items in our alert plan and effectively

1 diverted about 90 to 100 trains a week or
2 8,300 cars every week for ten consecutive
3 weeks as well as a tactical plan where several
4 railroads who were not diverting traffic did
5 self-help by reswitching cars to avoid some of
6 our switch carriers. That accounted for
7 another 3,800 cars a week that did not go into
8 the switch carriers. We did this for about
9 ten weeks.

10 And we also prepared an inactive
11 plan in case things got progressively worse
12 because as bad as it got we always had the
13 potential of getting worse.

14 So on January 29th, we brought the
15 service design folks from all the railroads
16 together in Chicago to see if there wasn't a
17 little more we could do because we weren't
18 satisfied with the activities bringing enough
19 -- I got a couple more seconds here, but --

20 CHAIRMAN ELLIOTT: Take your time.

21 MR. HARRIS: Okay. We weren't
22 necessarily satisfied that the activities were

1 giving us enough relief in Chicago so we
2 enacted more alert level items.

3 As a result it took 70 days until
4 March 17th, and on March 17th we reduced the
5 terminal from Level 3 to Level 2. Now, at
6 Level 2 we still do many things until we are
7 able to resume the normal flow of traffic in
8 Chicago.

9 How did we do? We stayed open for
10 business. We never closed all the while. I
11 grant you that there is a backlog of traffic,
12 a large result of the reduced flow accounting
13 for weather and some of the traffic that we've
14 diverted.

15 The traffic dwell was still too
16 high. The staged and recrew trains are still
17 too high. We're not necessarily satisfied.

18 But basically, I mean, the Chicago
19 terminal and all of its parts worked pretty
20 well together. Did I lose the mic? No, I'm
21 sorry.

22 CHAIRMAN ELLIOTT: No, you're

1 fine.

2 MR. HARRIS: A large part into our
3 CTCO office. I think the coordination of many
4 efforts in Chicago was probably at heart in
5 keeping Chicago, at least our head above water
6 during this terrible time.

7 Now, CREATE played a positive
8 role. Had we finished more projects, which we
9 will in the future, I'm sure it'll play a
10 better role because CREATE is a capacity
11 enhancement. Allows us to move between
12 railroads much more fluid.

13 As an industry, are the railroads
14 satisfied with what happened in Chicago? No.
15 Can we do better? Yes.

16 What are we going to do? We're
17 going to remain focused on, first of all,
18 getting the terminal back to normal.

19 Second of all, we're going to
20 continue to debrief on the action items that
21 worked well and the ones that didn't and we're
22 going to develop better methods to have

1 metrics in place to allow us to better
2 forecast the upcoming conditions to react a
3 little more in advance of problems rather than
4 after the problem.

5 We'll finish the construction of
6 the CREATE projects and we'll keep the CTCO
7 focused on coordination in Chicago, but
8 basically the Chicago operation is very
9 complex. It requires a great deal of
10 cooperation and interdependency.

11 Planning and execution of
12 movements between Chicago railroads can be
13 very difficult, sometimes very stressful and
14 seldom very easy and always a challenge as the
15 operation never stops.

16 So while the waterways and the
17 interstates and the airports and the schools
18 all closed, the railroads were out there
19 working and Administrator Szabo said we were
20 doing it very safely. Thank you.

21 CHAIRMAN ELLIOTT: Thank you, Mr.
22 Harris.

1 MR. LIEPELT: Chairman Elliott,
2 Vice Chairman Begeman, thank you for the
3 opportunity to appear today. I am Jeff
4 Liepelt, Senior Vice President of Southern
5 Region Operations for the CN and I am
6 responsible for managing the CN's U.S.
7 operations.

8 As Jeff Harris outlined, there is
9 little question that the carriers operating in
10 and through Chicago have had a difficult
11 winter, one of the most difficult in decades
12 and one that compromised service severely.

13 Further, given the volumes of
14 traffic moving to, from and through the area,
15 the issues in Chicago radiated outward to
16 servicing areas beyond Chicago.

17 Through our networks, the issues
18 on other parts of the respective networks that
19 faced similar winter conditions and concerns,
20 if not worse, impacted Chicago also.

21 In Chicago we have worked together
22 and individually this winter to confront the

1 problems presented to minimize as best we
2 could service disruptions to our customers and
3 the public. It was impossible in the
4 circumstances to avoid all, and not every
5 customer was pleased.

6 But speaking for CN, where there
7 were issues in service, we had policies in
8 place designed to treat customers fairly,
9 generally assigning power and crews, for
10 example, to shipments that had waited the
11 longest.

12 One of the lessons those of us in
13 Chicago know is good weather and bad, but
14 especially in extreme winter conditions like
15 those in the past months that will cause
16 locomotive breakdowns, strained crews, shorter
17 trains and greater congestion, is the
18 importance of maximizing the use of available
19 assets and area rail capacity as well as
20 improving and growing that capacity to meet
21 ever increasing customers' demand and safe and
22 efficient rail service.

1 Even with the EJ&E, CN did not
2 escape the conditions of the past several
3 months, but the EJ&E has allowed CN to absorb
4 most of its trains that would otherwise have
5 had to move through the central Chicago core
6 which, in turn, has taken our trains off the
7 BRC and the IHB and allowed other railroads to
8 take those spots to benefit all the other
9 carriers.

10 Another example, the improvements
11 being undertaken in CREATE to improve and
12 expand rail capacity will likewise produce
13 efficiencies that should help mitigate the
14 conditions that severe winters such as the
15 past one presented.

16 No improvements are inexpensive.
17 After acquiring the EJ&E, CN has invested over
18 \$270 million in added improvements on the
19 line, including close to an expected \$60
20 million of our share of the two grade
21 separations imposed by this Board.

22 The infrastructure we added and

1 the improvements we have made to the EJ&E have
2 allowed the fast recoverability when there are
3 disruptions such as those we experienced this
4 winter.

5 And while you can't spend your way
6 out of winter, dealing with winter is
7 expensive too. CN spent more than \$4.3
8 million in Chicago alone directly related to
9 snow removal this past winter. That's five
10 times more than the normal winter.

11 Large locomotives cannot just run
12 through heavy snow and when it comes to
13 switches and rail yards it takes very little
14 snow to impact the rollability on a hump or
15 the automatic switches to move.

16 We make these investments and
17 expenditures to improve our ability to serve
18 our customers and to help them succeed in
19 their markets.

20 And without those investments,
21 both ours and our fellow carriers in Chicago,
22 the ability to deal with problems this winter

1 in Chicago could have been considerably worse.

2 There is still more work to be
3 done and we will continue to identify
4 opportunities to make Chicago more fluid and
5 deal with the winter in other ways.

6 With spring arriving, the service
7 is returning to normal levels. CN will be
8 debriefing shortly while this winter
9 experience is still fresh in our minds to
10 determine how we can be more resilient next
11 winter. It is about mitigating impact as
12 winter will always come and there will always
13 be issues.

14 We are committed to prepare better
15 to reduce the recovery time so that the impact
16 to our customers is as minimal as possible.

17 Thank you for this opportunity to
18 speak. I will be happy to answer any
19 questions you may have. Thank you.

20 CHAIRMAN ELLIOTT: Thank you.

21 MS. BROWN: We have a
22 presentation. If we could put it up on the

1 screen, please. Okay.

2 Good afternoon, Chairman Elliott
3 and Vice Chairman Begeman. My name is Cressie
4 Brown and I am Vice President, Service Design
5 for CSX Transportation. I'm glad to see you
6 again following my recent appearance at the
7 subject of forced switching.

8 I appreciate the opportunity to
9 provide information about the specific impact
10 of the 2013/2014 winter, a season of near
11 historic proportions in terms of the duration
12 and the depth of frigid temperatures,
13 accumulations of snow and ice and their impact
14 on transportation systems, production lines
15 and the economy in general.

16 Over the next few minutes, I'll
17 describe the impact and its consequences,
18 CSX's response and the recovery and our
19 ability to return to the high service levels
20 our customers expect.

21 Turning to Slide 2, CSX's entire
22 system was affected by the winter weather, but

1 none worse than our Northeastern and
2 Midwestern regions.

3 The effects were acutely felt in
4 major population and commercial areas
5 including New York City that was inundated
6 with snow, the second most in history, and
7 temperatures that fell to lows not seen since
8 1871.

9 Chicago had approximately seven
10 feet of snow, a near record, and laid claim to
11 one of the coldest winters on record.

12 The effects of the challenging
13 weather even extended well into the South and
14 across our network as resources were consumed
15 with slower velocity and increasing
16 congestion.

17 The winter storms were
18 unrelenting, coming one after the other,
19 leaving little time for recovery.

20 Locomotive reliability was
21 impacted, signal systems failed as commercial
22 power went down and even with all of the

1 advances in rail technology steel rail was
2 still subject to failure under extreme
3 temperatures.

4 As I testified recently, rail
5 operations hinge on carefully planned
6 movements and interchanges with other carriers
7 and nowhere does more of that take place than
8 in Chicago.

9 So just as highways were made
10 impassable and airlines fell behind on
11 scheduled arrivals and departures, the
12 nation's railroads struggled. Train movements
13 slowed, interchanges became less predictable
14 and our resources became stressed.

15 These are not excuses but, rather,
16 facts and we regret that our customers were
17 not always served reliably and consistently.

18 Unfortunately some production
19 lines were stopped temporarily as a result of
20 these challenges. Despite that, our customers
21 were patient and understood the weather
22 impacts because they too were often

1 struggling.

2 Together we were facing extreme
3 challenges and our customers knew we were
4 making every effort to serve them where we
5 could and to communicate where we couldn't.

6 Let me provide some specifics in
7 how CSX dealt with the weather across our
8 network and in Chicago where traffic volume is
9 greater than anywhere else in North America.

10 The Board is well aware of the
11 industry's multi-year CREATE initiative,
12 you've just heard about that as well, a
13 public/private partnership to improve the flow
14 of freight and passenger trains through the
15 metropolitan area and to reduce the impact on
16 rail traffic and on its citizens.

17 CSX and other carriers are
18 constantly working to ensure that
19 infrastructure and operations in Chicago and
20 elsewhere support fluid train movements.

21 Turning to Chicago on Slide 3, as
22 Jeff Harris very well explained, the Chicago

1 Terminal Coordination Office stepped up its
2 daily operations.

3 Coordination among the carriers
4 were enhanced at the local level, terminal
5 level, division level, network level and at
6 the executive level.

7 CSX, as did every other rail
8 carrier, took additional actions, some of
9 which are illustrated on the next couple of
10 slides.

11 So if you look on Slide 4, we
12 repositioned locomotives from the South to the
13 North. We also took units out of storage. We
14 purchased additional locomotives and we leased
15 all available locomotives to supplement our
16 fleet.

17 On Slide 5, we deployed employees
18 as well, including our Vice President of the
19 Northern Region to Chicago. Employees were
20 also dispatched to Willard, Ohio and
21 Indianapolis, among many other locations.

22 On Slide 6, we shifted trains for

1 interchange with Western carriers from Chicago
2 to St. Louis and Memphis and increased
3 blocking at other terminals across our network
4 to reduce the workload in Chicago.

5 On Slide 7, 24 by 7 engineering
6 desks were established on the divisions to
7 quickly address issues and we pre-positioned
8 signal and engineering crews and equipment
9 ranging from 600 generators to proper safety
10 protective equipment so that we could promptly
11 address problems.

12 Throughout this winter we have
13 maintained a constant focus at all levels to
14 service our customers to the best of our
15 ability.

16 We also heightened communication
17 with our customers and some examples can be
18 seen on Slide 8.

19 We leveraged established lines of
20 communication that have been enhanced over the
21 past few years as a result of suggestions from
22 our Customer Advisory Councils.

1 With the onset of the winter
2 storms, we increased the frequency of those
3 communications and took every opportunity to
4 make them useful to our customers with respect
5 to their planning.

6 As I testified recently, our
7 customers tell us that they appreciate a
8 commitment to serving them in established
9 windows, but they also need to know when we
10 won't be able to meet those commitments.

11 We communicated regularly with our
12 customers on the winter service issues
13 including frequent advisories that updated
14 them on the state of the Chicago terminal and
15 our recovery tactics of putting additional
16 resources and personnel up against the most
17 impacted areas.

18 Turning to Slide 9, our sales and
19 marketing team, along with personnel from our
20 24/7 Customer Service Center, supplemented
21 those advisories with telephone calls, emails
22 and some of the tools that you see here to

1 keep individual customers current with their
2 shipment schedules and expectations.

3 At the same time, we are already
4 planning how we can better cope with the next
5 storm of the century.

6 As the Board is aware, CSX
7 acquired a new route through Chicago called
8 the Elsdon Subdivision. As you know, and very
9 well know, due to a number of engineering and
10 operational considerations, the Elsdon
11 Subdivision was not yet ready to handle the
12 higher volumes we expect to direct over it.

13 But I can tell you today that we
14 are on schedule to invest extensively in
15 upgrading the Elsdon Subdivision in 2014 which
16 will create a higher volume alternate route
17 through Chicago that will greatly help with
18 fluidity going forward, minimizing the public
19 inconveniences of the increased train traffic
20 as well.

21 In summary, on Slide 10, CSX's
22 operation is recovering, thanks primarily to

1 the extraordinary efforts of our 30,000
2 employees.

3 Our front-line union and
4 management employees responded heroically,
5 putting aside their personal challenges and
6 reporting to work and working safely most
7 importantly.

8 They labored in extreme conditions
9 to keep locomotives moving, to repair signals
10 and track and to serve customers to the best
11 of their ability.

12 They found ways to get to their
13 work locations to ensure we sustained rail
14 operations and we are very grateful for their
15 dedication.

16 Operations are beginning to
17 normalize, traffic is picking up and our
18 customers' car orders have been increasing
19 steadily for several weeks.

20 CSX has deployed every resource
21 available at significant cost to safely
22 restore service because, as our core value

1 states, it starts with the customer.

2 Preserving high customer service
3 levels, satisfaction levels that we have
4 earned over the past few years is critical to
5 our business.

6 We are committed to a full and
7 sustained recovery and continue to see
8 improvements across our system, but a
9 sustained recovery takes time.

10 Residual effects of the winter are
11 also likely, growing demand and some flooding
12 from snow melt's possible and this could have
13 a temporary but most likely isolated effect on
14 some aspects of our recovery.

15 And since the issue was raised
16 this morning by various shippers and interest
17 groups, I'd like to conclude by referencing my
18 prior testimony, testimony about the
19 devastating effects of NITL's proposal for
20 forced switching.

21 And the winter storms demonstrate
22 the consequences that occur when normal

1 traffic flows are interrupted and when planned
2 operations are upset. Resource planning
3 becomes difficult, if not impossible, and
4 customer service suffers.

5 I would be remiss also if I didn't
6 ask you to keep in mind the parallel between
7 the NITL proposal and what we just experienced
8 as a result of the winter storms, our concern
9 that the proposal could create a kind of
10 perpetual winter storm on the rail network.

11 Thank you again for this
12 opportunity and let me reiterate that recovery
13 is well underway and we are committed to
14 continuing our recovery in a sustained manner.
15 Thank you.

16 CHAIRMAN ELLIOTT: Thank you. Mr.
17 Bailey.

18 MR. BAILEY: As they load my
19 slides, Chairman Elliott and Vice Chairman
20 Begeman, as you may recall just a couple weeks
21 ago, my name is Rush Bailey and I'm Assistant
22 Vice President of Service Management for

1 Norfolk Southern.

2 After two years of very strong
3 service performance at Norfolk Southern, the
4 recent shocks from the severe winter weather
5 and the resulting reduction in network
6 velocity have had a significant impact on
7 service in the first quarter.

8 However, Norfolk Southern is now
9 improving and expects further improvement, but
10 before we get into those details and reasons,
11 I'd like to just take a few minutes to recap
12 the winter weather, at least one more time,
13 right?

14 The record-setting winter has been
15 well-covered by the media, a seemingly
16 relentless series of storms that tracked
17 across the country and hit our service area
18 particularly hard.

19 We saw an unprecedented number of
20 storms moving across our service areas,
21 setting temperature records and dumping snow
22 and ice over nearly all of our service region.

1 It's not just a Norfolk Southern
2 story, not just a railroad story. Nearly
3 every mode of transportation has been affected
4 with disruptions.

5 On the next slide, the operational
6 impacts of this type of weather are also
7 pretty well-known and others have covered them
8 so I won't go into the level of detail that's
9 shown in this slide.

10 But, first, it almost goes without
11 saying that it's hard to get crews to trains
12 when states have placed a state of emergency
13 condition on their roads and when taxi
14 services have been banned from highways.

15 And employees who do make it to
16 work have to work in very extreme conditions,
17 cognizant of increased risk of exposure and
18 other safety hazards so productivity is
19 reduced.

20 Second, much of the equipment we
21 use, from locomotives to signal system and
22 switches, is also impacted by weather,

1 particularly extreme temperatures.

2 Locomotives were hit particularly hard this
3 winter with all the snow and extreme cold.

4 Third, cold temperatures also
5 affect air brake systems on trains, requiring
6 us to reduce train length. Yard operations
7 are also effected due to the impact on
8 air-lines operating retarders at our comp
9 terminals.

10 And, fourth, because we operate in
11 a broader network, the impacts on other
12 railroads also affect us.

13 At major interchanges we saw
14 congestion because other carriers were not
15 accepting trains and, as a result, much of our
16 sliding capacity was consumed with trains held
17 out on line of road making dispatch operations
18 very difficult.

19 Today I'm representing the tens of
20 thousands of NS employees who've been working
21 hard to improve service. They cannot be here
22 in person but a few of them can describe what

1 they've faced and why we are now so focused.

2 (Video begin)

3 MALE PARTICIPANT: 2013 was a
4 banner year for Norfolk Southern and most of
5 the railroads in North America. We had
6 improved velocities, we had increased car
7 counts and we had great customer service.

8 The winter months, though, coming
9 into 2014 have thrown us some challenges. The
10 severe cold temperatures that we have had have
11 affected train lengths. We've had to run much
12 shorter trains with many fewer cars.

13 And any time you have severely
14 cold temperatures, that affects equipment.
15 That affects our infrastructure. Our
16 employees have had a hard time getting to
17 work. We're digging out of that.

18 Moving forward into 2014, our
19 employees are working just as hard as ever.
20 They're focused on customer service, they're
21 focused on increasing velocity and they're
22 focused on making Norfolk Southern a better

1 railroad.

2 So here are some of my coworkers
3 from other areas within our company to talk
4 about why service matters.

5 MALE PARTICIPANT: Pass another
6 yard to the 56.

7 MALE PARTICIPANT: 56.

8 MALE PARTICIPANT: Moving to the
9 307.

10 MALE PARTICIPANT: This has been a
11 rough February along with January, but the
12 weather with the coordination between the MOW
13 department to get the tracks and the switches
14 cleared up and get the products in the yard,
15 humped and back out of the yard has been a
16 challenge.

17 When you get snow, you can't throw
18 the switches. Trains can't move through the
19 switches so it's been a struggle. This has
20 been years of experience and years of working
21 together hand-in-hand that have made us come
22 through the hard times.

1 We got good people working here.
2 We got it figured out. We've been handled
3 through this before. We can do it again.

4 This is what we do. We don't want
5 the work to go away. We want the business to
6 keep coming so we'll do what we have to do to
7 get the product in and product out.

8 MALE PARTICIPANT: Been real cold,
9 a lot of broken rails, frozen switches in the
10 yard.

11 Two months ago when we had the
12 subzero weather, I have 35 years out here and
13 I haven't never been so cold in my life as far
14 as trying to get this rail back here. That's
15 the whole outlook of coming to work, is making
16 it safe for trains and keeping them moving.

17 MALE PARTICIPANT: We in
18 engineering, we're working hard. We're coming
19 back strong. The weather's going to change
20 and get the trains back to their scheduled
21 speeds and keep Norfolk Southern at the top
22 where they belong.

1 MALE PARTICIPANT: I believe our
2 service in 2013 was second to none. Winter
3 came along and it altered the way we had to go
4 about our work and do it safely.

5 Customer service is at the top of
6 our list for one reason, it's our mere
7 existence on the property to do a job and do
8 it right and make sure it's in a timely, safe
9 manner.

10 (Video end)

11 MR. BAILEY: Thank you. To give
12 you a better picture of the effects of this
13 winter, as my colleagues just described here,
14 here's a graph of line haul miles per day
15 since 2009.

16 You might recall from my recent
17 testimony in E.P. 711 that the line haul miles
18 per day is a broader measure that we use to
19 gauge network velocity.

20 It basically is the average number
21 of miles that a shipment would be expected to
22 travel in a 24-hour period. It combines

1 over-the-road time, terminal time, time in
2 sidings, crew changes, basically all the time
3 associated with movement of a shipment.

4 You see the decline in velocity
5 through 2010 and 2011 following the impact of
6 the Great Recession and then the very high and
7 very sustained performance of 2012 and 2013.

8 Finally you see the impact of
9 severe weather and the toll on operations at
10 the far right of the chart.

11 So why does it matter? The faster
12 NS can turn its assets, its locomotives,
13 railcars, crews, terminals, the more efficient
14 our operations.

15 In short, velocity drives service
16 and drives service for our customers and
17 that's why we are so focused on getting
18 service back to higher sustained levels as
19 we've seen over the last couple years or
20 better.

21 On the next slide the impact of
22 weather on our locomotive fleet has been

1 particularly difficult. Freeze damage,
2 grounding of traction motors and other
3 weather-related issues pushed the bad order
4 ratio to unprecedented levels, which is shown
5 here by the green line.

6 Our expected bad order ratio, and
7 basically that's the number of locomotives
8 that are out of service due to mechanical
9 issues or failures, normally runs a little
10 higher in the winter months, historically
11 about seven percent. In February it averaged
12 over ten percent and at times ran over 11
13 percent.

14 Combined with the impact of
15 reduced network velocity, which in itself
16 requires more locomotives to move the same
17 amount of freight, locomotive availability has
18 been the most critical factor impacting
19 operations this winter.

20 With similar issues on other
21 carriers, suppliers of locomotive parts have
22 been unable to fully meet demand. We've seen

1 shortages of air compressors, turbo charges,
2 water pumps and HVAC systems. And with truck
3 deliveries also affected, deliveries of
4 materials have been hindered at times.

5 So this has been our first
6 priority in restoration of network velocity.
7 In mid-December we pulled out our storage
8 fleet from storage and into service.

9 The storage fleet, however, is
10 designed for short-term events and therefore
11 was not sufficient to address the series of
12 events of this magnitude.

13 We took an all hands on deck
14 approach, employing our management personnel
15 to shops across the system including those
16 normally used for training our new mechanical
17 employees at our Training Center in McDonough,
18 Georgia.

19 The process has been very
20 difficult but we started seeing improvements
21 in mid-March with the bad order locomotive
22 counts declining.

1 In the most recent period, we're
2 now seeing bad order ratio in the normal range
3 for winter and expect it to continue to drop
4 over the coming weeks.

5 On the next slide, this chart
6 shows the number of trains held at origin
7 terminal awaiting power assignment. That's
8 shown in red. It also shows the number of
9 hours held. That's shown in blue.

10 You can see the increase over the
11 winter and then the rapid improvements in the
12 last couple weeks as the bad order rate
13 improves and more locomotives are in service.

14 As velocity and power availability
15 improve and trains get more back to schedule,
16 we're starting to see a decline in the number
17 of trains held for power as well as a decline
18 in the number of hours held and this should
19 drive continued reductions in terminal dwell.

20 With improving locomotive
21 availability, road trains are getting back to
22 schedule, a critical component of efficient

1 scheduled operations.

2 And as they do, we're seeing
3 corresponding improvements in train speed.
4 Train speed has been improving since
5 mid-February, up about six percent.

6 Even with conditions over this
7 past winter, train speed was better than 2010
8 and 2011 but still well below the record
9 performance levels we saw in 2012 and 2013.

10 But recent trends are encouraging
11 and improvement should continue with more
12 locomotives now in service.

13 This chart depicts the number of
14 road train recreds. A recrew occurs when a
15 train does not reach its scheduled crew change
16 point or train destination before the crew
17 runs out of service hours and the train then
18 has to be recrewed.

19 With improving train speeds,
20 trains are getting over the road more to
21 schedule and so the number of trains that have
22 to be recrewed has come down substantially in

1 the last few weeks.

2 Terminal dwell is the average
3 number of hours a shipment -- may I continue?
4 Yes. Terminal dwell is the average hours a
5 shipment spends in a terminal awaiting
6 connections to an outbound movement on its
7 next scheduled train.

8 We also see that it's beginning to
9 come down, down nearly 14 percent since
10 mid-February. Again, it's not where we saw it
11 last year but it's clearly tracking in the
12 right direction.

13 On the next slide, improving
14 velocity and train performance is also driving
15 reductions in loaded shipment delays, down
16 over 50 percent since mid-February.

17 This and all the improvements
18 we're seeing are the result of a lot of hard
19 work and commitment to providing optimal
20 service levels by our transportation and
21 mechanical forces.

22 These are leading indicators of

1 improving velocity and network fluidity and we
2 are very encouraged to see these improvements,
3 and the next slide.

4 These improvements are coming
5 concurrently with increasing volume, which is
6 noted in black on this graph and shown
7 relative to prior year's volume.

8 No doubt that some of this is
9 likely to be the result of pent-up demand due
10 to earlier winter storms but we are seeing
11 volume increases across almost all sectors of
12 our business.

13 The key point here is that we're
14 seeing these improvements in velocity and
15 service concurrent with higher volumes, which
16 is just further evidence of improving
17 velocity, fluidity and service.

18 Predictions on a timeline for a
19 return to the high service levels we've seen
20 over the last two years would be difficult.

21 The nature of network operations
22 and the fact that much of our traffic

1 interchanges with other carriers means that
2 there may be factors that are simply outside
3 our control and could hinder improvements.

4 But as you heard from our
5 employees, we're committed and fully
6 understand that our success depends on
7 restoring full confidence in our service.
8 Thank you.

9 MR. HALEY: I have some slides
10 here as well, please. Great.

11 Good afternoon. Thank you for the
12 opportunity to speak before you on behalf of
13 Union Pacific. My name's Tom Haley. I'm
14 Assistant Vice President of UPs Network and
15 Capital Planning Group.

16 You've heard plenty today about
17 this winter's weather challenges. We believe
18 it's been the worst winter in more than 30
19 years.

20 As you well know, our production
21 line is outdoors and fully exposed. The
22 effects on our employees working in conditions

1 like those shown here slowed mobility and
2 production for Union Pacific as well.

3 Severe cold also reduces train
4 sizes because of the inability to maintain air
5 pressure, causing the need to run more trains
6 to move a given amount of freight.

7 UP was most impacted in the
8 eastern third of its network. Because we're
9 a network, ripples have been felt across our
10 territory and we've been affected by issues on
11 the other railroads, just as our challenges
12 have had some impact on them.

13 We've also been blessed with
14 strong demand, which we love. You can see
15 some healthy increases here in the traffic
16 we're moving.

17 Especially strong for us are
18 grain, ethanol and frac sand, all exceeding
19 forecasts of just a few weeks ago. Coal also
20 continues to exceed forecast, driven at least
21 in part by the severely cold weather.

22 Our objective is to grow with our

1 customers and to provide the very best service
2 product.

3 I'd like to brief you on UP's
4 actions to minimize and contain the impact in
5 our network and to restore normal service
6 levels.

7 I'll start with actions we've
8 taken to coordinate with our customers. We've
9 redoubled our efforts to communicate with our
10 customers.

11 We've done regular customer
12 updates on our website and developed
13 communication materials to conduct
14 face-to-face reviews with our customers.

15 We reinforced our discipline
16 process through our National Customer Service
17 Center to resolve service issues. We've added
18 staffing to support this and developed
19 stronger internal processes to better
20 coordinate between customers, our NCSC, the
21 command centers we established in the field
22 and our operating team.

1 We want to hear from our
2 customers. We want to know what their service
3 issues are. That enables us to better focus
4 our efforts to improve.

5 We know we've had issues and have
6 issues. We greatly appreciate the support and
7 cooperation our customers have shown us.

8 Operationally, UP has applied
9 tremendous resources to overcome severe
10 weather and the challenges in the broader
11 industry.

12 In the upper left on this chart is
13 the increase in freight car inventory on UP
14 since the first polar vortex in early January.

15 Local delivery is traffic moving
16 to online customers, while interchange
17 pipeline is traffic on UP moving to other
18 railroads through interchange.

19 About half the increase is volume
20 driven but the other half is from slower
21 velocity in our network plus the backlog
22 moving through gateways. We've stabilized

1 inventory and made some progress bringing it
2 down.

3 Our focus has been on running our
4 service plan, which will help make our
5 inventory current. It begins and ends with
6 spotting and pulling the customer and we're
7 making every effort to improve that
8 performance.

9 One of UP's key strategies shown
10 in the lower left is to provide surge
11 capacity. Our resource additions have been
12 quite significant as shown on the right side
13 of this chart.

14 We've had an increase of 550
15 active TE&Y crews in just two months. Aiding
16 this flexibility is our alternate work or AWTIS
17 program which keeps some furloughed employees
18 trained and ready by continuing their benefits
19 and providing part-time pay.

20 As you can see here, we've also
21 increased our active locomotive fleet by 600
22 units since fall to almost 7,500. We've added

1 57 managers and we've brought 11,800 more
2 freight cars into the UP fleet to serve our
3 customers.

4 Moving on to Chicago and the upper
5 Midwest, the gray box on the left outlines our
6 key actions. UP's Chicago area resource
7 additions are shown on the right. Time won't
8 allow a detailed discussion, but our resource
9 actions cover management, crews and
10 locomotives.

11 On the crew side, I'd like to call
12 out the dedication of our employees, like the
13 person in the picture equipped to do battle
14 with subzero weather, and the crafts, all of
15 whom have done awesome work and stayed safe
16 throughout these challenges.

17 We have, of course, fully
18 participated in CTCO initiatives. We've used
19 our network and worked with the other
20 railroads to ease demand on the Chicago area
21 by blocking traffic upstream to avoid
22 switching in Chicago and by shifting traffic

1 to other gateways.

2 Union Pacific's actions in the
3 upper Midwest, hard hit by the severe winter,
4 are similarly structured as shown in the gray
5 box.

6 We've added major surge resources
7 and management crews and locomotives and,
8 again, our employees have made tremendous
9 efforts to keep the railroad moving under very
10 tough conditions like the picture on the left.

11 We're using the full capability of
12 the UP network to support and improve the
13 upper Midwest. We've supplemented switching
14 support in other yards in the area and as far
15 away as Kansas, Texas and Arkansas.

16 Which brings us to capital
17 investment. Briefly, UP is continuing its
18 robust infrastructure capacity program. We
19 will invest \$680 million in 2014 just on
20 facility expansion projects like those shown
21 on the map.

22 To support accelerated growth in

1 north/south traffic, \$290 million of that will
2 be on our Southern region. Our program for
3 the North is more than \$140 million, including
4 pulling ahead \$40 million of 2015 projects
5 into 2014 with a number of great projects in
6 the upper Midwest.

7 To wrap up, as I've outlined, UP
8 has solid actions and substantial resources
9 underway in all these areas. We certainly
10 know we have opportunity for improvement.

11 We are applying these actions and
12 are learning to be more effective for our
13 customers. Our outlook is for steady
14 improvement. Thank you again for this
15 opportunity to speak with you.

16 CHAIRMAN ELLIOTT: Thank you.

17 VICE CHAIRMAN BEGEMAN: Thank you
18 all very much. Mr. Harris, Mr. Creel gave a
19 guesstimate that for the Chicago area, that
20 things on his railroad would be back to normal
21 in, I believe he said approximately six weeks.

22 Could you start with your estimate

1 on where things are for Chicago getting back
2 to normal? And then maybe each of you could
3 talk about how that will ripple through your
4 own system.

5 Your customers have not been
6 contacting us to the degree the other
7 carriers' have. I realize there probably are
8 pockets of pain as you have already
9 acknowledged but, thank you for what you've
10 been able to do. Keep it up, but give us an
11 understanding of what to expect for at least
12 the short-term future.

13 MR. HARRIS: I can take a shot
14 here. Understand that Chicago is a unique
15 segment of a lot of railroads in one place,
16 none of which are controlled by the other.

17 The resumption of normalcy is
18 going to happen at different stages at
19 different railroads based on their traffic
20 flows and how they handle things into Chicago.

21 Our goal in Chicago is to keep the
22 fluidity there to allow the railroads to

1 recover. Even though some of the railroads
2 have recovered to a large degree better than
3 others, until we're all recovered we're not
4 recovered.

5 So we'll be doing what we're doing
6 in greater depth to help our partners get
7 through the recovery process. When is that
8 going to happen and how long it's going to
9 take us? I don't know I could speak to that.
10 I see it coming.

11 VICE CHAIRMAN BEGEMAN: Okay.

12 MR. LIEPELT: I guess on the CN
13 side, our dependency in Chicago is less than
14 probably other Class Is. We have our own
15 major switching yard. We rely very little on
16 the BRC or the IHB to do any work for us.

17 So currently we're where we need
18 to be in Chicago. We're not behind in
19 Chicago. We're still behind in getting cars
20 to Chicago.

21 The flow that some people
22 mentioned earlier, the backlog of traffic is

1 still coming and it'll continue to come and
2 we're working our way through that.

3 But really our dependency is on
4 ourselves and that would be Kirk Yard which is
5 in Gary, Indiana. That's our major hump yard
6 and there we are current and switching cars on
7 a regular basis like we should be, so.

8 MS. BROWN: We're no different
9 than the other carriers and we do have our
10 investments in the Elsdon Sub and as soon as
11 we can get that open, and up and running, I
12 think that will probably help all of us.

13 We are still working with carriers
14 to divert traffic away from Chicago as
15 necessary so that we have a better chance of
16 recovery there.

17 So wherever we can make
18 accommodations but we do feel very good that,
19 you know, we are all making progress. I think
20 many of our charts look like the ones that
21 Rush put up and, you know, we're all seeing
22 good trends and good continuous improvement.

1 You know, we kind of hit a bottom
2 in February-ish time frame and it's been a
3 continuous improvement trend since then.

4 So, you know, we are all focused
5 on the recovery and expect that that trend
6 will continue and that we will week over week,
7 you know, continue to make improvements in our
8 sustained, you know, trajectory and sustained
9 recovery.

10 MR. BAILEY: Similarly we are very
11 much encouraged by some of the sort of leading
12 indicators that we're seeing in our network
13 and we think that the speed of the network is
14 improving and will continue to improve.

15 Chicago may continue to be an
16 issue for us. I think at Norfolk Southern
17 we've done a good job pulling traffic away
18 from Chicago but we have had to hold trains
19 going into Chicago.

20 So, you know, as someone said
21 earlier, the recovery of the entire industry
22 is important to make that interchange work

1 effectively and it could potentially hinder
2 the recovery of traffic that moves through
3 that area if it's slow to recover.

4 MR. HALEY: Yes, I would echo what
5 my fellow panelists have said here. The
6 actions I outlined will drive improvement. We
7 are seeing our metrics, our leading indicators
8 improving.

9 There is dependency in the rail
10 network so we're all in this together to some
11 degree, but in a backlog to work off, but we
12 see a path for steady improvement here.

13 VICE CHAIRMAN BEGEMAN: I don't
14 know that at the moment I have any more
15 questions.

16 You know, one of the themes that
17 the previous shipper panels have asked of the
18 Board is to continue monitoring. They've said
19 a lot more than that, but that is one of the
20 things they have said, and I hope that you
21 will consider that a directive for yourselves
22 as well.

1 I would like to avoid issuing
2 emergency service order. I hope it doesn't
3 get to that point. I realize some folks may
4 think we're already at that point. But I
5 think you said it, everyone's sort of in this
6 together.

7 CHAIRMAN ELLIOTT: Yes, just to
8 follow up on the Chicago conversation because
9 it seems to be a large part of the focus here,
10 Mr. Creel earlier mentioned that he was going
11 to escalate this and work with the other
12 railroads, possibly to run trains around
13 Chicago. I think Mr. Bailey just referred to
14 that.

15 Do you see that as a possibility
16 or is everything that could be done to run
17 stuff outside of Chicago, is that already
18 being done?

19 MR. LIEPELT: I don't know if, and
20 Mr. Creel can speak for it. I don't think he
21 meant trains as much as the traffic, single
22 boxcars, routing protocol, which would mean a

1 car can be delivered somewhere outside of
2 Chicago to another carrier. Connecting
3 carrier could be done somewhere else. They'll
4 keep it out of Chicago. That wouldn't be so
5 much solid, full trains as much as individual
6 boxcars, customer specific.

7 MS. BROWN: Sorry. I'm sorry. I
8 would just add that, yes, I think we have all
9 taken a hard look because Chicago is critical
10 for the fluidity of all of us.

11 And Tom made a great point. We're
12 in this together so we all continuously talk
13 about things we can do in our own networks,
14 deeper in our networks or at alternate
15 gateways.

16 But it does go back to the
17 discussion we had at the last hearing, which
18 is those have limited capacity, resources and
19 ability to handle flexing those types of
20 volumes to other locations, right? They're
21 not staffed. We don't have the capacity so
22 it's a challenge.

1 While we are all looking at
2 everything that we can possibly do, I think to
3 look at alternatives you're somewhat limited
4 in those alternatives, right? We are
5 investing in Chicago because that is a great
6 interchange location for the railroads.

7 We, you know, are trying to
8 advance the CREATE projects which will help
9 tremendously, right? What a great industry
10 initiative and good planning and good
11 foresight on the people that set that up.

12 You know, so we're trying to
13 execute on those plans and I don't know that
14 you can ever prepare for this kind of
15 exceptional winter, you know, and fully handle
16 it when it happens.

17 MR. BAILEY: Actually for us I
18 think some of those conversations have already
19 started.

20 You know, I think all of us are
21 interested in finding alternatives. I mean,
22 any time you go through something like this

1 you kind of look back and think, okay, how
2 could we have done it differently?

3 And you can probably tell from
4 some of the information I presented here and
5 when I also presented in E.P. 711, I'm kind of
6 a geeky, analytical guy among us.

7 But when we study costs, many of
8 our costs are time based. They're not mileage
9 based, or at least they're not predominantly
10 mileage based. And so if you can take time
11 out of that cycle, it's a big benefit to the
12 railroad.

13 So obviously if we've got a choke
14 point anywhere on the system, if you can avoid
15 the choke point and reduce the time in the
16 cycle, there are big benefits to the carriers
17 in that.

18 CHAIRMAN ELLIOTT: One other
19 question. Earlier, much earlier, Amtrak was
20 testifying and they did show some numbers that
21 seemed somewhat alarming.

22 First, they showed the increasing

1 freight interference since the metrics and
2 standards case appeared to go up
3 significantly.

4 And then also I don't know if the
5 on-time performance numbers that he showed
6 went downward immediately after that case. It
7 seemed that they went downward afterwards.

8 Do you think there is any veracity
9 to correlating between the decision in the
10 on-time performance and the freight
11 interference numbers?

12 Or do you see it more as an issue
13 of the weather that has been going on for the
14 past several months and that we may see it, or
15 hopefully see it go up as we go forward?

16 MR. BAILEY: In Norfolk Southern
17 we see it as weather related. I mean, most of
18 the Amtrak trains where we're having issues
19 are those that are touching Chicago.

20 A lot of it's congestion related
21 and just trying to get through there and so I
22 think, you know, as conditions improve, you'll

1 see improvement there.

2 You know, he made the comment
3 about, you know, he thought that, you know,
4 maybe carriers weren't giving preferential
5 treatment to Amtrak.

6 I would disagree with him strongly
7 there. You know, the data he acknowledged is
8 coming from the conductors and it's their
9 assessment of what the cause is.

10 The problem with that system, and
11 it's similar to a system that we had in place
12 years ago, you're depending on input from
13 people. All they see is what they see.

14 What they don't understand is,
15 yes, there may be a train ahead but that train
16 may be delayed because it's being held out of
17 Chicago or some other issue so it doesn't get
18 to root cause.

19 I think if there were more
20 in-depth analysis of it, you'd find that the
21 root cause really is weather related.

22 MR. HALEY: I agree with that

1 position.

2 MS. BROWN: There are so many
3 dimensions to that question that it is
4 probably not feasible to get through it here.
5 You know, we would be more than willing to
6 come and discuss it in more depth.

7 But I do, while being very
8 respectful to our obligations to Amtrak and
9 we're very clear about what those are, our
10 belief is the right measurement is our
11 contract on time performance.

12 We have an agreement with Amtrak
13 that governs how we measure performance and
14 it's based on things and holding us
15 accountable for things that we, as the host
16 railroad, control.

17 When Amtrak uses the delays per
18 10,000 train mile measure, which is the one
19 that all of us together challenged and was
20 ruled unconstitutional, they are measuring
21 totally irrelevant and not in connection to
22 the schedule that the public sees so it's pure

1 delays.

2 You can be on time and maybe you
3 have seen, you know, some other website and
4 some other measures. You can be on time and
5 you will be on time and have freight train
6 interference because you do need to meet and
7 pass trains. That is built into the schedule
8 and that's part of the schedule.

9 So while Amtrak will post delays
10 and show freight train interference and
11 significantly high numbers that exceeded the
12 threshold that was established in PRIIA, your
13 train to your customers can be on time.

14 So, to us, the appropriate measure
15 is you're trying to set an expectation with
16 the ridership for Amtrak to get them to their
17 destination on time and that should be the
18 benchmark of the measurement, right?

19 I mean, it's irrelevant to me
20 whatever delays the conductor categorized if
21 the customer got there on time. I don't think
22 they are concerned at that point.

1 It's important for root cause
2 analysis and for continuously us working
3 together to try and improve Amtrak
4 performance.

5 But I think it's a little bit of
6 a, like I said, trying to be very respectful
7 to Amtrak, it's a little bit misleading about
8 the freight railroad performance.

9 You know, we look at contract
10 performance, CSX's. You may have received
11 that chart. Contract performance has been
12 steady for a number of years, very consistent.
13 And the anomaly and the exception is this
14 winter and we have degraded, absolutely.

15 We are performing very
16 consistently to how Amtrak is performing in
17 their own northeast corridor. Our performance
18 numbers are almost equivalent, the freight
19 railroad's performance of Amtrak versus their
20 own performance.

21 CHAIRMAN ELLIOTT: Thank you.

22 MS. BROWN: But it's measured

1 differently and I think that's a significant
2 issue for consideration.

3 CHAIRMAN ELLIOTT: Mr. Harris, do
4 you have something to add? I'm sorry.

5 MR. LIEPELT: I don't believe I
6 could say it any better than that. I'll leave
7 it at that.

8 CHAIRMAN ELLIOTT: All right.

9 MR. HARRIS: Just a couple quick
10 numbers. As I mentioned earlier, within
11 Chicago they run 760 passenger trains a day.
12 Now, many of those are Metra but the rest of
13 them are Amtrak's and they operate on what we
14 call shared corridors with the freights.

15 And the percentage of on-time
16 performance during the worst part of the
17 winter for Metra this year was 85.5 percent in
18 January, 89.3 percent in February and 94.7
19 percent in March. Now, granted, in 2013 they
20 were in the 96 to 97 to 98 percent range, but
21 that's the effect of the winter.

22 And compounding that is all of the

1 freight folks are rushing to get their trains
2 to where they're supposed to go and they get
3 to a certain point and the clock strikes 6:00
4 a.m. We stop for rush hour for two hours or
5 the same thing going out.

6 So we ran passenger trains on a
7 priority to the detriment many times of the
8 freight operation in Chicago and that's a good
9 example. I mean, granted, their performance
10 is not what they'd like, but it's pretty darn
11 good.

12 CHAIRMAN ELLIOTT: Thank you.
13 Also before the panel's excused, I do want to
14 thank those of you who have been participating
15 in the Rail Customer and Public Assistance
16 Program.

17 I know Union Pacific has done some
18 exceptional work in helping out the Board and
19 we do appreciate everything that you do when
20 there are some communication issues and then
21 they come to us and then we go to you and then
22 you help us work through it.

1 We do appreciate greatly that and
2 I know you will continue to do what you've
3 been doing in the past and that is greatly
4 appreciated so thank you very much for that.

5 So you are excused. Thank you
6 very much for your testimony. It's very
7 helpful.

8 CHAIRMAN ELLIOTT: All right, why
9 don't we get going here with Panel Number VI
10 and we'll begin with Mr. Berthold.

11 MR. BERTHOLD: Thank you for the
12 opportunity to speak on behalf of the North
13 Central Bean Dealers Association and the
14 Northarvest Bean Growers Association.

15 The North Central Bean Dealers is
16 a trade organization representing 51 dry bean
17 processing facilities in North Dakota,
18 Minnesota, South Dakota and Wisconsin.

19 Our primary function is to collect
20 the production from area growers and process
21 that product for domestic and international
22 markets.

1 We essentially take field run
2 product, convert it to a food grade product
3 and are our raw material supplier to canners,
4 packagers and consumers worldwide.

5 The Northarvest Bean Growers
6 Association is a farm producer organization
7 that represents over 2,400 growers from the
8 same geographical region.

9 Dry edible beans are a true
10 specialty crop that are grown in concentrated
11 areas throughout the country.

12 Of the 1.4 million acres grown
13 annually in the United States, approximately
14 45 percent are produced in North Dakota,
15 Minnesota, South Dakota and Wisconsin.

16 These numbers are even further
17 concentrated when broken down by class of
18 bean.

19 Our region produces 65 percent of
20 the country's pinto beans, 70 percent of the
21 navy beans and 45 percent of black beans, the
22 top three most widely consumed beans in the

1 United States. We also account for 85 percent
2 of the dark red kidney bean production.

3 Our production is harvested in the
4 fall and nearly 100 percent of the crop is
5 delivered to our processing facilities
6 directly from the field.

7 There is very little farm storage
8 and this is due primarily to limit the amount
9 of handling which can cause damage to the
10 bean.

11 Once the crop is delivered to the
12 processing plant, it is segregated by quality
13 parameters specific to what use the beans will
14 be ultimately used for.

15 The quality specifications of a
16 bean used for a canning process are different
17 than one used for a packaging application.

18 Dry beans are perishable and have
19 a limited shelf life and that clock starts
20 ticking once the crop reaches maturity. A
21 bean that is suitable for packaging at harvest
22 may not be nine months later due to color

1 degradation.

2 We ship to our customers
3 continuously throughout the year to meet their
4 production demands and capacity.

5 Approximately 60 percent of our annual
6 production is shipped by rail in one form or
7 another.

8 Given our geographic location and
9 very little bulk storage capacity at the
10 destinations that we ship to, consistent,
11 reliable, single-car transportation is vital
12 to our industry.

13 Reliable service is equally
14 important to domestic and international food
15 programs, school lunch programs, WIC, Food for
16 Peace, World Food Program and the many other
17 markets that we serve.

18 Car deliveries 90 days late are
19 common at this point in time and are having an
20 immediate and devastating effect on our
21 industry.

22 Annual dry bean production tends

1 to follow yearly supply and stocks on hand
2 factors, much like any other commodity that's
3 grown here.

4 However, our market very rarely
5 holds a greater than 15 percent stocks-to-use
6 ratio due to our limited shelf life. When
7 stocks-to-use get greater than this,
8 production drops to bring supply and demand
9 back into balance. Our demand is fairly
10 stable year in and year out.

11 As mentioned earlier, dry beans
12 are a specialty crop and fall outside of the
13 Farm Bill for that reason. There is no such
14 thing as loan value for dry edible beans.

15 We are seeing an influence of the
16 current rail transportation issues on planting
17 decisions for the 2014 crop here.

18 Dry edible beans provide a
19 low-cost, nutritional protein source for
20 consumers worldwide. Our products are shelf
21 stable for up to a year and are a staple in
22 many ethnic and regional dishes.

1 We understand that we are a small
2 fish in a very, very big pond but dry beans
3 are very important to our local farm and
4 regional economies.

5 A reliable and efficient single
6 car rail system is crucial to maintaining and
7 growing this important industry.

8 I would also like to make note
9 that we've had discussions with BNSF. I
10 visited headquarters. BNSF has been very
11 forthright, open and acknowledge the issue.
12 They have also communicated well their plan to
13 fix it.

14 We sincerely hope they are
15 successful in their efforts. However, our
16 greatest concern is what if they are not?
17 Thank you for the opportunity to address the
18 Board.

19 MR. SCHANILEC: Chairman, Vice
20 Chairman, my name is Brian Schanilec. I'm
21 from Forest River, North Dakota. I'm a
22 fifth-generation farmer and a representative

1 of the North Central Bean Dealers Association
2 and the Northharvest Bean Growers Association.

3 My great-great-grandfather turned
4 sod in North Dakota in the late 1800s. Being
5 a fifth-generation farmer, the railroad crisis
6 in North Dakota is the most threatening event
7 our five generations of farming has ever
8 experienced.

9 We have crops we cannot sell. We
10 have discounts that are historical. With the
11 current trends, we don't need to plant half of
12 our acres in 2014 for we cannot get our crop
13 to market.

14 We are threatened with food
15 safety, food security and national security.
16 Our nation's bread basket, primarily in the
17 Midwest, are at the biggest crossroads in
18 history.

19 We cannot secure enough fertilizer
20 to plant our crops this year. What does that
21 mean to our farmer group?

22 The basis for our commodities,

1 which is the difference between the futures
2 price and the cash price, the margins are at
3 all-time highs.

4 Usually the basis -- I'll pick a
5 crop as corn to be more explicit. The basis
6 for corn is usually a 30/40 cents difference
7 between the futures market and the cash
8 market.

9 Today in Buxton, North Dakota, the
10 basis is at \$1.24 a bushel, leaving the
11 growers to lose anywhere from 70 to 90 cents
12 a bushel. That is costing us millions of
13 dollars.

14 Today three of us farmers rode in
15 a cab ride to this hearing. We asked each
16 other what is the basis costing our
17 organization? Just between three of us
18 growers, we are losing in today's market on
19 basis \$1.1 million.

20 One of our colleagues tried
21 selling wheat yesterday in North Dakota to a
22 local elevator. The local elevator told him

1 we can't offer you a price. You can maybe
2 haul it in in July but we cannot offer you a
3 price.

4 We, as farmers, bean dealers,
5 growers, we're asking for some resolution for
6 the ag industry. If three of us farmers are
7 losing \$1.1 million in basis in today's
8 market, what is that doing to our economy?

9 I'm a bib-overall grass-roots
10 farmer from rural North Dakota. I am pleading
11 for help in getting our ag products to market
12 and to save our farms from insolvency. Thank
13 you very much for your time and this
14 opportunity.

15 CHAIRMAN ELLIOTT: Thank you. Mr.
16 Brandt.

17 MR. BRANDT: Good afternoon,
18 Chairman Elliott and Vice Chairman Begeman.
19 Thank you for holding this important meeting
20 and also thanks for sending Tom Brugman to
21 North Dakota on March 26 to hear from
22 shippers.

1 My name is Keith Brandt. I'm
2 General Manager of Plains Grain & Agronomy at
3 Enderlin, North Dakota.

4 I'm also here on behalf,
5 representing the North Dakota Grain Dealers
6 Association, a 100-year-old association
7 representing the interests of hundreds of
8 grain elevators of all sizes across our state.

9 I am a past president of the North
10 Dakota's Grain Dealers Association and
11 currently serve on this Transportation
12 Committee.

13 North Dakota Grain Dealers
14 Association has appeared before this Board on
15 numerous occasions regarding rail service,
16 mergers, fuel charges and the common carrier
17 obligation to cite a few.

18 Past STB Chairwoman Morgan and
19 past Chairmen Mulvey, Nottingham, Buttrey and
20 Nober who came to Enderlin when he was in
21 North Dakota and we gave him a ride on a
22 combine have been guests of our state. In

1 other words, our state association has been
2 heavily involved.

3 PGA is located in southeastern
4 North Dakota on the main line of the Canadian
5 Pacific Railroad with the shuttle loading
6 capacity there.

7 We have a branch location which
8 can load up to 27 cars on the Red River Valley
9 and Western Railroad also. Within 30 to 50
10 miles, there are six BNSF shuttle-loading
11 elevators that surround us.

12 PGA was formed to accommodate the
13 request of North Dakota's two Class I
14 railroads, Canadian Pacific and Burlington
15 Northern, for fast shuttle loading to receive
16 priority service.

17 Comments today will center around
18 the serious service issues. Cycle times on
19 shuttles have fallen from two to two and a
20 half times per month to half of that at best.

21 For the record, PGA is waiting for
22 a February 17th shuttle to be filled and a

1 February 4th singles order to be filled.

2 There are orders on either railroad for
3 various shipment sizes that are far older than
4 these. The smaller ones lag the most.

5 Lack of service by the CP for PGA
6 goes back a few years. This is not an
7 immediate thing. We first started loading out
8 at our new shuttle loading facility in 2003.

9 We peaked at loading just over
10 6,100 cars during the 2008-2009 crop year. We
11 have never gotten back to that number. The CP
12 is limiting our growth and expansion.

13 To receive grain from our
14 customers in spite of poor service by the CP,
15 we take accommodations to service our
16 customers by trucking grain to competing
17 railroads or take excessive risk to pile grain
18 in outside locations. This increases expense
19 and reduces profit.

20 This past harvest to accommodate
21 our customers again we loaded over 300 cars of
22 corn on the Red River Valley and Western that

1 went to an ethanol plant, ironically located
2 on the Canadian Pacific Railroad.

3 This plant prefers the Red River
4 Valley and Western to deliver corn to them
5 because of their timely and consistent
6 service.

7 Because of untimely and
8 inconsistent movement on the CP, we are
9 constantly faced with discounted bids from
10 buyers because of their inconsistent service.

11 Oftentimes trains and other
12 shipment sizes on the CP sit for two to three
13 weeks after billing before being pulled away.
14 While the CP doesn't have sufficient power to
15 move its own equipment, it leases power to
16 other railroads.

17 This inconsistent service by the
18 CP is evident across the state over the last
19 ten years with expansion of shuttle loading
20 elevators, fertilizer storage hubs, ethanol
21 plants, propane storage hubs not locating on
22 their railroad.

1 We continually hear how cold
2 weather affects the movement of rail traffic.
3 In North Dakota there are a few months of
4 every year of cold weather and snow, just a
5 little colder some winters and a little more
6 snow some winters. This has always been the
7 case and railroads should have learned to
8 operate in these conditions.

9 Much has been said about the
10 development of oil drilling in North Dakota.
11 Many grain elevators believe the increased
12 attention to oil by railroads is at the
13 expense of grain.

14 Tanker cars clog sidings and yards
15 and move before anything else. This consumes
16 power and crews.

17 North Dakota Grain Dealers
18 recently sent information to the Office of
19 Compliance and Government Assistant indicating
20 oil on rail had increased sixfold from 2011 to
21 2013.

22 While oil has proved to be a good

1 revenue to both railroads, some balance of
2 railcar movement needs to be maintained. Oil
3 wells don't quit pumping but grain elevators
4 quit dumping.

5 Many elevators go to extremes to
6 load cars in cold weather and snowstorms.
7 They do this to reduce penalties for shipments
8 already late and to reduce lost revenue from
9 grain that might have gone somewhere else.

10 But railroads can miss their
11 commitments by weeks and suffer no
12 consequences to their customers.

13 PGA has a great opportunity to
14 exceed those car loadings of 2008-2009, but we
15 don't believe the plan and we lack confidence
16 that the CP can make it happen.

17 Communication is lacking greatly
18 with the grain industry. We encourage this
19 Board to hold more events like this in areas
20 of the nation where grain is grown and loaded
21 on rail.

22 Give the benefit to the rail

1 customers to speak and place the burden on
2 railroad lobbyists to travel to where their
3 bread is grown and buttered. Thank you.

4 CHAIRMAN ELLIOTT: Thank you.

5 MR. BOSSE: Good afternoon,
6 Chairman Elliott, Vice Chairman Begeman.
7 Thank you for the opportunity to testify today
8 on service problems in the United States rail
9 network.

10 My name is DuWayne Bosse. I'm a
11 fourth-generation South Dakota farmer from
12 Britton, South Dakota. My family farming
13 operation consists of 4,000 acres of crop in
14 Minnesota, North Dakota and South Dakota.

15 In addition to farming, I also own
16 and operate a commodities brokerage firm that
17 trades commodity futures and options for
18 farmers in the area.

19 Presently I serve as the Marshall
20 County Farmers Union President and today I am
21 here testifying on behalf of the South Dakota
22 Farmers Union.

1 The work of South Dakota Farmers
2 Union began in 1914 when farmers united to
3 work together for the good of agricultural
4 producers across our state. Together we
5 continue our work as a nonpartisan, grassroots
6 organization comprised of over 10,000 family
7 farmers and ranchers.

8 Over the course of our
9 organization's history, we have continually
10 advocated for equitable rail service for
11 agricultural commodities, cooperation between
12 the railway companies, healthy competition
13 among railroads, protecting the shippers from
14 excessive rates and the continued improvement
15 of rail services for our producers.

16 We appreciate the Surface
17 Transportation Board's recent efforts to
18 closely monitor the rail industry's
19 performance metrics and the service problems
20 occurring in the rail network.

21 South Dakota Farmers Union was
22 fortunate to meet with officials from your

1 Office of Public Assistance, Government
2 Affairs and Compliance on Thursday, March 27
3 in Fargo, North Dakota.

4 Six South Dakota farmers,
5 including myself, informally met with the
6 representatives from the STB and collectively
7 shared our concerns over the rail service
8 problems in South Dakota.

9 While we understand the challenges
10 the rail industry faced due to the extreme
11 cold, there is a legitimate concern about how
12 the delays and the lack of services are
13 affecting the agricultural industry.

14 These rail service problems have
15 already begun to negatively impact our
16 producers and I want to draw your attention to
17 three things that our agriculture producers
18 are most concerned about.

19 For South Dakota Farmers Union,
20 our first major concern is the fluctuation in
21 the grain commodity markets and how that has
22 impacted and will continue to impact the

1 farmers.

2 In South Dakota and across our
3 region, the basis has dramatically widened and
4 can be directly attributed to the delay of
5 rail services, lack of availability of
6 railcars and grain not being shipped out of
7 the Midwest.

8 Basis is the term used to describe
9 the futures price subtracted by the local cash
10 price. It is calculated using a variety of
11 components including storage cost, profit
12 margin for sellers, quality variations from
13 the listed in the futures contract
14 specifications, local market conditions and
15 most importantly transportation costs.

16 As a farmer, basis is critical in
17 the marketing of crops. It helps to determine
18 when the best time to sell. We use it as a
19 way to hedge, evaluate cash contracts and cash
20 prices at a specific point in time. Basis can
21 determine whether or not we make a profit on
22 our grain.

1 Typically during the spring the
2 basis narrows and is strengthened, but this
3 year it continues to dramatically widen
4 because of the increased demand for trains to
5 move commodities out of the Midwest.

6 For an example, in Oakes, North
7 Dakota, where I market most of my grain, the
8 basis at this time last year for corn was
9 minus 35 cents. This year it's minus \$1.10.
10 For soybeans last year the basis was minus 65
11 cents. Today it is minus \$1.50. For wheat
12 last year the basis was minus 40 cents. This
13 year it is minus 70 cents.

14 Taking it one step further and
15 using the basis numbers previously mentioned,
16 I estimated the potential loss in farm income
17 from last year to this year.

18 Last year North Dakota produced
19 396 million bushels of corn. Comparing the
20 widening of basis from last year to this year,
21 the resulting corn production would be a \$297
22 million loss in farmer income.

1 For soybean production the loss in
2 farmer income from last year to this year
3 would be \$62 million and in wheat would be \$82
4 million.

5 For the three major grain
6 commodities that are a combined estimated loss
7 of \$441 million in lost farmer income simply
8 from the change in the basis from last year to
9 this year.

10 The current inability to move
11 agriculture commodities is causing a loss of
12 profit margins from our farmers and has the
13 potential to increase if the problem is not
14 corrected. This is taking money directly out
15 of our farmer's pocket and is of great concern
16 to our members.

17 Secondly Farmers Union continues
18 to be concerned for the grain facilities in
19 our states.

20 With the decrease in rail
21 shipments, grain storage facilities, both
22 commercial and private, are currently maxed

1 out of storage options.

2 Many producers have signed
3 contracts for grain facilities to need to
4 deliver their grain by a set date. Because of
5 the delay in rails, some grain facilities have
6 been forced to dump more grain outside on the
7 ground to make room for the incoming bushels.

8 With grain continuing to pile up,
9 many facilities are unsure if they will be
10 able to empty their stored grain prior to the
11 upcoming harvest.

12 If we are fortunate enough to have
13 a large crop this year, the lack of rail
14 service will only further exaggerate the
15 problem.

16 If a farmer cannot deliver his or
17 her grain to a facility, their most likely
18 options are to store it themselves, pile it on
19 the ground or leave it in the field. Each of
20 these options comes with additional cost and
21 potential for unnecessary monetary losses.

22 The most precarious situation

1 would be a farmer having to leave his grain
2 unharvested in the field. Crops that have not
3 been harvested after December 10th of the
4 current calendar year will not receive federal
5 crop insurance. A farmer would no longer be
6 protected for any unforeseeable losses in his
7 unharvested crop.

8 If the grain facilities are not
9 able to empty their storage capacity before
10 the harvest, the consequences will be
11 devastating to the agriculture industry and
12 our producers.

13 South Dakota Farmers Union third
14 concern is the impact that the rail services
15 issues are having on value-added agriculture
16 products, including the renewable fuels
17 industry.

18 At this moment in time, rail
19 services cannot handle value-added agriculture
20 commodities, including ethanol and dried
21 distiller's grains known as DDGS.

22 The South Dakota ethanol industry

1 is an integral part of the agriculture
2 economy, having an estimated \$3.8 billion
3 economic impact in giving new market
4 opportunities for farmers.

5 Not only has the renewable fuel
6 industry contributed to South Dakota farmers,
7 it has become an integral component of our
8 livestock industry.

9 Livestock is raised on an
10 estimated 56 percent of the farms in South
11 Dakota. DDGS is an ethanol byproduct or a
12 low-cost and efficient feed option for these
13 livestock producers. South Dakota's 15
14 ethanol plants produce more than 3.2 million
15 tons of DDGS for livestock feed each year.

16 The continued inconsistency of
17 rail service for the ethanol industry is
18 negatively impacting the production of DDGS
19 and may result in livestock industry having to
20 seek alternate and more expensive feed
21 sources.

22 Unlike grain commodities, the

1 renewable fuel industry in South Dakota is a
2 constant market. The industry needs to
3 continue to produce, and if it cannot ship
4 ethanol, it has to lower its production
5 capacity.

6 Even today South Dakota ethanol
7 facilities continue to cut back on production.
8 Some facilities have been trucking more
9 ethanol because it is taking longer to receive
10 empty cars. Additional cars are costing five
11 to six times as much as the regular car rates.

12 Nationwide the ethanol industry
13 was producing at an average rate of 949,000
14 barrels per day this past December. By the
15 first week in March of this year, ethanol
16 output had fallen to 869,000 barrels per day
17 due to the lack of rail service, not due to
18 lack of profitability.

19 The negative impact the rail
20 delays are having on the renewable fuels
21 industry has added to challenges and burdens
22 facing our producers.

1 These challenges have also
2 increased the price of ethanol to the point
3 where it is no longer competitive in some
4 parts of the country. Consumers who want to
5 purchase ethanol are finding it harder to do
6 so and paying more at the pump.

7 The impact that the rail services
8 issues are having on value-added agricultural
9 products is very real and of the utmost
10 concern to our members.

11 While the challenges created by
12 the rail service issues are complex, the
13 solution is fairly clear. We need to
14 collectively find a way to improve rail
15 transportation so that it is consistent and
16 reliable for grain commodities in South Dakota
17 and the Midwest.

18 In the short term, a concentrated
19 effort must be made to expedite shipping
20 services to our grain facilities and reliable
21 and consistent service is necessary for
22 sustainable renewable energy fuels.

1 Without resolving these two
2 issues, our farmers will continue to lose
3 profit and be significantly burdened with the
4 brunt of cost associated with the
5 transportation cost.

6 While a solution is real and
7 possible, the advantage in the production of
8 our grain commodities in the Midwest will
9 place continued stress on our rail network's
10 capacity. A long-term solution is needed to
11 address the growing demand on our rail
12 network.

13 We are hopeful that STB's efforts
14 will lead to a positive solution and we
15 strongly encourage STB to consider another
16 informal meeting in South Dakota in coming
17 weeks to learn more about the serious problems
18 we are facing in our home state.

19 South Dakota Farmers Union greatly
20 appreciates and supports the continued
21 investigation and monitoring of this issue.
22 As you can see by those of us who have made

1 the trip from South Dakota, this issue is
2 utmost important to us and we hope a
3 short-term fix is obtained as soon as
4 possible.

5 On behalf of South Dakota Farmers
6 Union, thank you for the opportunity to speak
7 to you today. I would be happy to answer any
8 questions. Thank you.

9 CHAIRMAN ELLIOTT: Thank you. Mr.
10 Clemensen.

11 MR. CLEMENSEN: Good afternoon,
12 Chairman Elliott and Vice Chairman Begeman.
13 My name is Hal Clemensen. I'm a
14 third-generation family farmer from Conde,
15 South Dakota.

16 I'm also the President of the
17 South Dakota Wheat Growers Board of Directors
18 and I'm speaking today on behalf of myself and
19 Wheat Growers, the largest local, farmer-owned
20 grain and agronomy cooperative in the nation
21 with more than 17,000 owners in North and
22 South Dakota.

1 Thank you for this opportunity to
2 discuss the growing crisis agriculture is
3 facing over the lack of timely rail service to
4 ship our grain to domestic and foreign markets
5 and bring in needed inputs for spring
6 planting.

7 I have given the recorder copies
8 of the full version of the prepared statement
9 for the record. In the interest of time I
10 will only read the highlights of that
11 statement.

12 Wheat Growers annually handles
13 over 160 million bushels of grain and 400,000
14 tons of fertilizer through our network of
15 grain elevators and agronomy centers.

16 But our system is now being
17 strangled by a lack of dependable, timely rail
18 service that is creating economic hardship and
19 frustration on the grain side and uncertainty
20 and anxiety on the agronomy side.

21 This past fall we saw shuttle
22 train cycle times dramatically slow down.

1 Shuttles we load at harvest generally ship to
2 the Pacific Northwest export market via the
3 BNSF.

4 A typical cycle time for loading
5 in South Dakota, shipping to the PNW,
6 unloading and then returning to South Dakota
7 for the next loading generally takes 12 to 13
8 days.

9 Normally a grain shuttle will load
10 an average of two and a half times per month
11 and cycle back, but this fall the shuttle
12 cycled in an average of 18 to 20 days or 1.5
13 trips per month.

14 This increased cycle time
15 effectively reduced the amount of grain
16 shipped by a given shuttle by 40 percent, and
17 our cycle times continue to deteriorate with
18 current cycle times pushed out to 24 days or
19 only 1.3 trips per month.

20 The amount of time a shuttle sits
21 at one of our facilities waiting on the
22 railroad after being loaded, in 15 hours or

1 less, accounted for most of this delay.

2 Prior to this year, origin dwell
3 times generally were less than one day.
4 However, we have seen individual shuttles sit
5 at origin for up to ten days. Overall, dwell
6 times have averaged over five days.

7 Because of the railroads' slow
8 performance, the grain handling industry, such
9 as our cooperative, has suffered economic
10 losses. We have provided you with an outline
11 of those costs and losses in our prepared
12 statement.

13 Now farmers like me are seeing
14 lower prices paid at elevators as the market
15 adjusts the price due to higher shuttle train
16 costs.

17 The basis price for corn in our
18 North and South Dakota trade territory is now
19 approximately 50 cents per bushel less than
20 the average of the prior two years.

21 An even more dramatic effect to my
22 farming operation would be if my fertilizer

1 supply does not arrive in time to effectively
2 fertilize my crops this spring.

3 There's additional detail about
4 the overall economic effect in our prepared
5 statement.

6 The Canadian Pacific situation is
7 also dramatically poor. The CP railroad has
8 recently sold the portion of the line that
9 crosses the state to a short-line operator and
10 expects to close on that transaction in the
11 next couple of months.

12 However, as of early April, we
13 still have not received all of our January car
14 orders, nor any of our February, March, nor
15 April orders. The CP is behind by 1,900 cars
16 to South Dakota Wheat Growers.

17 It is soon planting time in the
18 Dakotas and fertilizer needs to reach my farm
19 and many others this spring. I have prepaid
20 for my fertilizer needs for the year but now
21 I'm wondering if the railroad will be able to
22 deliver.

1 It's yet another economic crunch
2 that is hitting us all. We have documented
3 the effect that can have in our prepared
4 statement.

5 The BNSF has been the premier U.S.
6 rail operator over the past decade. We truly
7 hope that the recent congestion and slowing
8 rail service issues can be resolved quickly
9 and they can meet or exceed prior performance
10 standards.

11 Wheat Growers implores the Surface
12 Transportation Board to protect agriculture's
13 access to and utilization of the constrained
14 rail capacity that this crisis brings. We do
15 not want to see agricultural traffic
16 deprioritized or, worse yet, demarketed.

17 We would also ask the Board to
18 stay vigilant in monitoring the Canadian
19 Pacific as the line in South Dakota is
20 transitioned to a new owner.

21 Until the ownership changes and
22 the operating system rolls to the new owner,

1 the CP still has an obligation to service the
2 line and should not be simply allowed to walk
3 away from the backload of cars that they have
4 created this winter.

5 We also urge you to continue to
6 make sure agriculture's needs are heard and
7 addressed. Dependable, timely railroad
8 service is critical to our economic survival.

9 Thank you for this opportunity to
10 express my views and concerns. I am available
11 to respond to questions the Board may have.

12 CHAIRMAN ELLIOTT: Thank you. Mr.
13 Doxsie.

14 MR. DOXSIE: Good afternoon. I
15 have a few slides that I'd like to use.

16 My name is John Doxsie and I'm
17 President of United Sugars. We sell sugar.
18 In fact, in a typical year, we sell 25 or more
19 percent of the sugar consumed in the U.S.

20 The majority of our sugar we sell
21 in covered hopper cars to large and small food
22 and beverage companies across the country.

1 You may recognize many of their names.

2 These customers expect to receive
3 their sugar on time every time, not part of
4 the time, every time.

5 The past few months due to slow
6 service on the BNSF we have repeatedly
7 disappointed our customers, costing them money
8 and costing us money and lost sales.

9 United Sugars is owned by three
10 large U.S. sugar processors including two
11 sugar cooperatives in the Red River Valley
12 area along the North Dakota and Minnesota
13 border.

14 These two sugar cooperatives,
15 American Crystal Sugar Company which owns the
16 plants in red and Minn-Dak Farmers Cooperative
17 who owns the plant in blue, are owned by
18 several thousand farmers in Minnesota and
19 North Dakota and the cooperatives operate six
20 sugar processing plants shown on the map.

21 Our farmer owners grow sugar
22 beets. These are sugar beets. They harvest

1 those beets each fall and deliver their beets
2 to the cooperative for processing.

3 Once harvested, sugar beets are
4 stored outside in large piles until they're
5 processed. The beets freeze while in these
6 piles which preserves them for processing. If
7 the beets thaw before they can be processed,
8 they spoil and must be destroyed.

9 Beginning with the first harvest
10 in September, the sugar beet refineries
11 operate at full speed 24 hours a day, seven
12 days a week in a race to process all the beets
13 before April or May when they thaw.

14 Any delay in processing, for
15 example, a delay caused by an inadequate
16 supply of railcars, means we are likely to
17 lose sugar beets which means higher costs and
18 lost revenue.

19 Eighty percent of the sugar
20 produced by those six sugar refineries that I
21 showed you on the map is shipped by rail and
22 each of those factories is served exclusively

1 by the BNSF and the sugar is shipped in
2 railcars supplied by the railroad.

3 Just as our customers rely on us
4 to provide excellent service, we rely on the
5 BNSF to reliably supply railcars to us so we
6 can load them and deliver them to our
7 customers in a timely fashion. This has not
8 happened in recent months.

9 BNSF's inability to supply a
10 sufficient number of railcars and to move
11 those cars to customers in a reasonable period
12 of time has caused us numerous problems.

13 We simply are not reliably
14 supplying our customers. This has caused them
15 to slow their production, incur extra costs
16 and buy sugar from our competitors. We're
17 losing business.

18 We've incurred significant
19 additional cost to store sugar and to ship
20 sugar by truck in the absence of reliable BNSF
21 service.

22 And we've had the slow production

1 at three of our plants because the BNSF has
2 not supplied sufficient railcars to move the
3 sugar. This is likely production that is lost
4 forever, meaning lost revenue.

5 I estimate that the final bill
6 incurred by United Sugars as a direct result
7 of this poor BN service will be in the tens of
8 millions of dollars, and that's assuming
9 service improves quickly.

10 We've heard of the BNSF's plans to
11 purchase more locomotives, hire more people,
12 add rail cars and add track, but as we've
13 heard today, it's not at all clear when we can
14 expect cycle times to return to normal and
15 stay at normal levels.

16 Until that occurs, the current
17 fleet of BNSF cars, hopper cars assigned to
18 transport sugar, will be inadequate for normal
19 operations.

20 Given our dependence on the BNSF,
21 not knowing when cycle times will return to
22 normal and stay at normal levels makes it very

1 difficult for us to effectively operate our
2 business.

3 Therefore, if it's going to take
4 months or years to return cycle times to and
5 stay at normal levels, we need to know that
6 the BN is taking steps now to significantly
7 increase the size of its sugar car fleet.

8 Historically the BNSF has been a
9 great partner. However, performance over the
10 past year has shaken our confidence in the
11 railroad's ability to address its service
12 issues quickly.

13 We appreciate the Board's efforts
14 to help gain the assurance that service on the
15 BNSF will quickly be restored to historically
16 good levels. Thank you.

17 CHAIRMAN ELLIOTT: Thank you very
18 much. Just a few questions. With respect to
19 the sugar cars, I did notice in BNSF's, the
20 information that they gave us regarding sugar
21 cars, they made a special point of referring
22 to sugar cars.

1 And there was a spike on March
2 21st that showed that they placed a lot of
3 sugar cars on that date or during that week.

4 And I take it from your testimony
5 that either those were past due orders and
6 they're not really anywhere close to coming up
7 to speed.

8 And then has that also, this is a
9 two-part question, continued? Have they
10 continued to spot cars at that rate?

11 MR. DOXSIE: We clearly have seen
12 some improvement the last couple of weeks but
13 we still have a backlog of late orders, a big
14 backlog of late orders and it's going to take
15 us a long time to catch up.

16 In fact, we're worried that we
17 won't get the sugar moved out of our bins that
18 we need to get moved out of our bins this year
19 because we need those bins available for next
20 year's crop.

21 So we haven't shipped as much
22 sugar in January and February and March as

1 we'd like. We've got to ship more the next
2 few months and we're not getting railcars as
3 fast as we'd like to get them.

4 CHAIRMAN ELLIOTT: Okay. That's
5 helpful, because I did see the spike and it
6 did strike me, so your testimony kind of
7 explains that.

8 MR. DOXSIE: So it's progress but
9 it needs to be even more progress and continue
10 to improve at a rapid rate.

11 CHAIRMAN ELLIOTT: Sure. Thank
12 you. Just to the panel generally and it's a
13 similar question that I've asked other shipper
14 panels.

15 With respect to communication,
16 have you been satisfied with the level of
17 communication you've been receiving or do you
18 feel like there's a role that the Board can
19 play to improve that?

20 I know we've gone up and tried to
21 talk to several of you, but at the same time,
22 we can play a pretty significant role in

1 improving communication.

2 I was wondering how you feel your
3 communications have gone between yourself and
4 BNSF and CP.

5 MR. BRANDT: With regard to CP, in
6 the last couple weeks it went to no
7 communication.

8 And the comments have been made
9 today about, you know, moving grain over
10 Canadian Pacific, over Chicago particularly.
11 You know, we're told time and time again, no,
12 you can't load anything over Chicago.

13 We have movements into northern
14 Iowa that works excellent. We still can't get
15 anything that'll bill east. Even our buyers,
16 a couple of small trains a week lately, I
17 mean, they went to extra efforts to unload
18 them in Minneapolis and we struggle to get
19 those cars. Barley cars, that only go
20 Minneapolis or Wisconsin. We can't get those
21 either.

22 But we're trying to work with them

1 to come up with a plan that, you know, we can
2 go east. We can go west with some stuff. We
3 can make it work. We want to go, but
4 communication has really broken down.

5 CHAIRMAN ELLIOTT: Thank you.
6 That's very helpful. Anyone else?

7 MR. CLEMENSEN: I think from Wheat
8 Growers' point of view, the communication with
9 the BNSF has been pretty good. They're
10 frustrated. We're frustrated.

11 This is going to take a lot of
12 time and a lot of money, reinvestment into
13 this rail system. From what I've heard on the
14 railroads, they're reinvesting up to the level
15 of their increase in business.

16 On my farm, if I take on a bunch
17 of new business or new land, I've got to put
18 a lot of money into equipment and not just
19 maintain.

20 We feel that there needs to be a
21 lot more reinvestment into the rail system
22 than what is being planned at this point.

1 CHAIRMAN ELLIOTT: Thank you.

2 MR. DOXSIE: If I could add, I
3 concur with Mr. Clemensen's comments. The
4 communication with the BN has been very good,
5 both at the local operating level, all the way
6 up to senior management.

7 I think the frustration that we
8 have is shared by the BN. We want to see
9 results.

10 CHAIRMAN ELLIOTT: Thank you. And
11 we did have a commitment by both railroads
12 that they would work on their communications.
13 It sounds like BN, with respect to this panel,
14 has been doing a good job, but we will hold
15 people to that commitment as we go forward.

16 VICE CHAIRMAN BEGEMAN: Thank you.
17 Thank you all for traveling as far as you did
18 and as quickly as you did to come and talk to
19 us.

20 Thank you also for going to North
21 Dakota to meet with staff about two weeks ago
22 or so. We're proud of their effort on our

1 behalf as well.

2 They have shared with us some of
3 the things that were not too confidential.
4 They let us know of the conversations and the
5 great meetings that they had with you. I'm
6 sure you have Tom's phone number. Keep
7 calling him.

8 Mr. Clemensen, I'm curious. You
9 touched on the fact that it's going to take
10 time and investment.

11 What are you guys going to do for
12 -- I'm really alarmed about the next crop year
13 and the need for fertilizer.

14 Is there a Plan B, a Plan C? What
15 can be done if, despite their genuine efforts
16 to get you what you need, it just doesn't
17 arrive?

18 MR. CLEMENSEN: Well, on my
19 personal farm I have prepaid fertilizer. I
20 have prepaid seed. I have crop rotations in
21 place.

22 It's hard to, at this point in

1 time, the middle of April, to switch cropping
2 plans because I can't get fertilizer for my
3 corn. I don't know what I'm going to do.
4 We're going to have to make a decision the
5 next couple weeks.

6 Our co-op is sitting full of
7 fertilizer right now, but we turn those sheds
8 three times. The investment in a fertilizer
9 shed is huge so you can't just have it one and
10 done. You have to turn that three times. So
11 we need the rail to resupply.

12 One of the critical parts of this
13 spring is it's getting compressed. There's
14 not a lot of fertilizer going on right now, so
15 the fertilizer spreading season is getting
16 narrower and narrower so it becomes even more
17 critical to be resupplied in a timely manner.

18 I don't see how the railroads are
19 going to get that done. It's scary. Our
20 co-op's doing everything we can, but we have
21 paid for the fertilizer. You know, we are
22 making all the contingency plans we can, but

1 I don't know.

2 MR. BOSSE: I can probably answer
3 a little bit to that question too as far as
4 our farm, especially from a commodity broker
5 standpoint.

6 Learned from Mr. Dave Andresen
7 today where I buy all my fertilizer, that,
8 like he said, only 66 percent of it is going
9 to be allocated to him.

10 So I instantly started thinking
11 about, okay, what's Plan B for us? Where do
12 we go? And I think I know what's going to
13 happen for most farmers. You're not going to
14 plant corn without fertilizer. You just
15 won't.

16 What happens if it gets too late,
17 then we're going to switch to soybeans.
18 That's fine, but as a supply and demand
19 standpoint, what's that going to mean next
20 year? We're going to produce too many
21 soybeans. The prices will be low by fall.

22 Brazil and South America, that's

1 what they do right now, is produce a ton of
2 soybeans because they don't have the
3 transportation to ship out corn.

4 It's just going to be a problem
5 down the road that is going to have to be
6 dealt with anyway but, yes, this fertilizer is
7 a huge concern for me.

8 Second I walk out the door, I'm
9 going to make phone calls to make sure we got
10 a little bit extra, or try to anyway. Thank
11 you.

12 MR. SCHANILEC: Vice Chairman, I
13 would like to add to that. I think an
14 alternative to the edible bean industry is not
15 to grow the crop. There is no Plan B, no Plan
16 C, no Plan D.

17 If we don't have logistics and
18 storage and an edible product that's very
19 specialized, our Plan B is black acres, not
20 planting the crop.

21 VICE CHAIRMAN BEGEMAN: It wasn't
22 clear to me, what carrier is serving you, or

1 is it a system-wide issue for your area?

2 MR. SCHANILEC: Oh, I think it's
3 industry-wide.

4 MR. BERTHOLD: To add to that,
5 like I had mentioned with it being a
6 perishable product, it's simply not possible
7 for us to say, well, we'll build bins or do
8 things like that and store it.

9 We don't have the option of
10 running our product through livestock to get
11 it to a human, right? If it becomes dark, if
12 it's not cannable, things like that. Really
13 our only option is to sell it for a feed, and
14 we're done. It's game over at that point, so.

15 In our own operation, my
16 operation, we're building additional storage
17 to handle this, some of this issue, but
18 without an increase of capacity in service I
19 can't build enough storage this summer to get
20 ahead of it.

21 VICE CHAIRMAN BEGEMAN: Thank you.
22 Your testimony was very informative. We

1 certainly understand how serious the situation
2 is for you personally and, frankly, nationally
3 what the impact could be and we'll keep
4 working.

5 MR. BERTHOLD: Thank you.

6 CHAIRMAN ELLIOTT: Yes, thank you
7 very much. We greatly appreciate you coming.

8 (Pause)

9 CHAIRMAN ELLIOTT: All right, why
10 don't we begin with our next panel, Panel
11 Number VII, and I believe we'll start with Mr.
12 Canter.

13 MR. CANTER: Thank you, Mr.
14 Chairman and Madame Vice Chairman. And,
15 indeed, my name is Tom Canter. I'm the
16 Executive Director of the National Coal
17 Transportation Association which has
18 approximately 140 corporate members and we're
19 associated with the production and the
20 consumption of coal as well as companies that
21 provide services to the transportation of
22 coal, such as car builders, railcar builders,

1 bearing manufacturers, and folks that are the
2 casting the wheels, et cetera.

3 Our primary mission is to educate
4 the membership and the general public and
5 inform our members of various data that they
6 need to have for their operations.

7 We were formed in 1973 because
8 there was something brand new, this is
9 pre-Staggers, of course, called unit trains.
10 What in the world? No, it's going into the
11 Powder River Basin and people had not seen
12 those in any great volume and they were going
13 to have to purchase railcars because the
14 railroads, as we all know, were really hurting
15 for capital money and there was a lot of
16 bankruptcies.

17 Today it seems to be reversed. We
18 just had a coal company file Chapter 11 this
19 week and we've had in the last couple of
20 months a merchant generator filed Chapter 11
21 Bankruptcy.

22 But our members now, as this has

1 grown, control about 80,000 coal cars. The
2 coal producers all throughout the Country and
3 particularly in the Powder River Basin have
4 capitalized and put into place load outs,
5 batch waste systems, at about \$20 million
6 apiece and put in loop tracks to help the
7 railroads with surge volume, that's about a
8 little over a mile, a mile and half long.

9 And these are necessary capital
10 investments and our members are happy to do
11 that as long as it continues to improve the
12 system.

13 I would say the primary
14 transportation companies, such as the
15 railroads, barge companies, trucking
16 companies, are not members, but they're
17 important participants in all of our working
18 committees.

19 As a matter of fact we have two
20 working committees meeting later this month at
21 our Spring conference in a breakout session
22 and the railroads will be there as well to

1 inform us and we will discuss very many of the
2 items that you see right here.

3 It's almost like you wrote my note
4 here on communications, and we do have good
5 communications I believe with the railroad,
6 but there are certain things we'd like to talk
7 about specifically with the railroads that we
8 don't get information on and I'll mention that
9 at the very end of my little presentation.

10 There is stress in the coal
11 delivery system. I don't think there is any
12 surprise there, we don't want to beat it death
13 it's been hit all morning, but we did a survey
14 of our own members by email and phone here
15 within the last week and a half.

16 The data will be held in
17 confidence and it's going to be aggregated for
18 trending so it's very difficult to give you
19 any specific data, but I'll say this, rail
20 performance varies greatly by the railroad and
21 the location.

22 There has been a severe

1 deterioration on the BNSF in terms of cycle
2 time and on-time performance, delivery when
3 they say they're going to deliver from the
4 local terminals. Now this is all information
5 from my membership, I don't have any separate
6 data information to analyze.

7 The CSX has been challenged also
8 by locomotive performance. I heard Cressie a
9 little earlier talk about leasing and about
10 purchasing new locomotives, but we've had a
11 lot of online failures with those locomotives.

12 I think that'll be fixed and be
13 repaired fairly shortly, but as they brought
14 those out of some inventory and storage it
15 didn't work out quite as well as they thought
16 it would and they have missed some tonnage for
17 some of our Eastern utilities.

18 The Union Pacific is showing some
19 effects of weather and temporary crew
20 dislocations, a lot of that's because Chicago,
21 which we've heard considerable comment on here
22 in our prior two panels.

1 More stress on the system, we're
2 seeing cycle time increases to the ports.
3 There are some Western export coal, but
4 there's also Eastern coal, we've seen a little
5 increase in cycle time there but the truth is
6 I have talked to the coal producers and I do
7 not know of major vessel demurrage problems.

8 We're seeing some of that I think
9 in grain that people have talked about, but I
10 have not seen that so far in coal, and that's
11 not to say there's none, I just don't think
12 that's our major problem immediately.

13 Coal producers are seeing major,
14 or not major, they're seeing reductions in
15 their delivery domestically as well. Again,
16 it's a little bit like real estate, it's
17 location, location, where is your mine, what's
18 happening.

19 Some mines are down almost 30 to
20 40 percent, which means laying off some
21 employees and certainly taking a look at a
22 mine potential shutdown. That's one extreme

1 case.

2 Utilities, we talked about ground
3 storage, and interesting to me, when we had
4 our feedback, it's almost a binomial
5 distribution of ground storage.

6 So it's not a situation where you
7 say everybody over here is five days, ten
8 days, everybody over here is 40 days, it does
9 vary. It does vary on location and it also
10 depends on where you started into the Winter
11 season.

12 I mentioned that we have about
13 80,000 cars either controlled or owned by our
14 utility members. Equipment utilization is
15 another area that we're concerned about.
16 Train sets have been laid down in some cases,
17 and I think it's been corrected through
18 communications, but earlier on in January and
19 February trains were laid down and the
20 utilities did not even know it for about six
21 days, seven days, et cetera.

22 They weren't informed officially

1 that they were laid down. There is a protocol
2 and a priority was developed by NCTA several
3 years ago along with the railroads for laying
4 down trains and we may want to revisit that,
5 but we certainly respect the right of the
6 railroad to do what they have to do online and
7 during operation.

8 And in the lack of crew and power,
9 are making train sets or car sets owned by the
10 railroads who put them in, normally twice a
11 year into repair shops, but getting them out
12 is something else in terms of getting the
13 locomotive power.

14 I do have one utility that
15 actually had 11, I know it's hard to believe,
16 11 sets in a repair shop that had already
17 awaited, already had ordered a crew and
18 locomotives to remove them from the repair
19 shop. And, by the way, that was not on the
20 BNSF.

21 We think CSX and UP will return to
22 normal delivery much quicker if there's no

1 major weather, this location, you've heard
2 about the Chicago things and this is, again,
3 feedback from our utilities and the way they
4 are looking at the systems.

5 However, because of communications
6 with the BNSF and the feelings on what will
7 happen, we're not expecting full recovery
8 until the first quarter of 2015.

9 Utilities will continue to manage
10 the coal pile, not every utility does that,
11 but most are de-rating their units somewhat so
12 that they can make sure they have coal in this
13 Summer, for the Summer peak.

14 This could be expensive to the
15 rate payer as natural gas prices have
16 increased and the demand for storage of
17 injection natural gas is quite high.

18 And believe me almost every coal
19 producing area at \$4.50 for natural gas per
20 MCF is in the money for coal when you hear a
21 lot about natural gas prices.

22 Okay, so the concerns will be that

1 we're going to be in low inventory during the
2 hot Summer demand, the railroads are going to
3 manage your coal piles for you instead of you
4 managing it yourself, electricity prices will
5 be higher than necessary, purchase power, of
6 course, will be expensive.

7 What's the NCT elect do? We have
8 formed two working task forces and we've
9 talked to both the railroad, the coal or
10 energy departments, that is the BN and the UP,
11 they have agreed to work with us.

12 We wanted to take a look at the
13 forecasting process, which we can do on the
14 joint line, and that forecasting process we'd
15 just like to clarify.

16 I think it's good for the
17 railroads, it's good for us, we got a lot a
18 new folks in the utility business and
19 sometimes they're told to move their forecast
20 up a month from coal that was missed last
21 month.

22 That may not be what's good for

1 the railroads, it may not be good for slotting
2 in the joint line, and then equipment
3 utilization. What should we be doing here in
4 terms of laying down sets and having
5 maintenance on a regular schedule? And I
6 think we can talk and that can work out real
7 easily.

8 That is all I have. Thank you
9 very much.

10 CHAIRMAN ELLIOTT: Thank you, Mr.
11 Canter. Mr. Adkins?

12 MR. ADKINS: As you've already
13 said, my name is Mark Adkins and I'm the Vice
14 President of NexGen Coal Services.

15 CHAIRMAN ELLIOTT: Well I don't
16 think your mike's on. Thank you.

17 MR. ADKINS: You were probably
18 better off before. Again, my name is Mark
19 Adkins. I'm Vice President of NexGen Coal
20 Services and TUCO, Inc., and I'm here to talk
21 a little bit about the TUCO part.

22 TUCO is a single purpose entity.

1 Our purpose is to procure coal, transportation
2 services, and coal handling services for two
3 large coal burning power plants in the
4 panhandle of Texas.

5 And those two plants combined
6 consume about eight million tons a year. It
7 may be obvious, but I want to say it anyway,
8 that to be valuable, of value to the
9 powerplants that fuel supply has to be
10 reliable.

11 Reliable generation is dependant
12 upon reliable fuel which is in turn dependant
13 upon reliable transportation services. To
14 secure reliable transportation services TUCO
15 entered into two agreements with the
16 Burlington Northern Santa Fe under their
17 Common Carrier Pricing Authority, BNSF 90068,
18 particularly Attachment A which is entitled "A
19 Coal Unit Train Commitment Certificate."

20 These certificates provide for,
21 and I quote, "Common carrier service for
22 movement of loaded and empty coal unit trains

1 as ordinarily and customarily provided by BNSF
2 for such services."

3 Further, it states that "Cycle
4 times and schedules may vary from time to
5 time." And as important as any of that is
6 that the minimum volume under these agreements
7 is 100 percent of the coal shipped to these
8 plants each year.

9 I'm going to talk about the common
10 care, it brings me to the question for the
11 Board and that's what's required of the BNSF
12 to meet this common carrier obligation?

13 It seems that as we move farther
14 and farther from Stagers that obligation and
15 how it's defined has become more fuzzy and
16 less clear, but surely their obligation lies
17 somewhere along this line of guaranteed cycle
18 times to well, we'll move it when we decide we
19 want to move it, so it has to be there
20 someplace.

21 Anyway, so that's, I'd just like
22 clarification on that. But going back, TUCO

1 and BNSF have combined their efforts over the
2 years to move between eight and nine million
3 tons of coal a year to these powerplants using
4 ten sets or fewer sets of cars.

5 Each one of these sets is 120
6 cars, so it's about somewhere between 14,000,
7 14,500 tons per train. Over the past 12
8 months we've seen a steady month-to-month
9 erosion of cycle times.

10 The cycle times have increased
11 from the start of the period when they were in
12 their 130's to over 170 hours per cycle now.
13 Why do cycle times matter? Well, each 10-hour
14 increase in cycle times we see costs us the
15 ability to deliver a half a million tons of
16 coal.

17 So if we're at 20 hours over the
18 prior times, that's a million tons that aren't
19 going to get delivered at those higher cycle
20 times and the system is so loaded up with sets
21 there's not room right now for additional
22 trains or cars to be added.

1 But I'm not here, I didn't come
2 here to vilify the BN, I enjoy my relationship
3 with the BN, but I just did come to make my
4 situation known to the Board and maybe make a
5 couple of suggestions.

6 And, like everybody else has said
7 here, better communication. And I think the
8 communication has been improving. We still
9 lack some things as Mr. Canter kind of
10 mentioned that we're still getting some sets
11 set down without any notification.

12 We have to kind of find that out
13 when we're tracing them. If we see them
14 sitting in the same place for a couple of
15 days, well even an old coal miner like me
16 begins to figure out that's probably, had the
17 power pulled off of it. So we need to improve
18 on that.

19 Also, it was discussed earlier,
20 the BN providing more detailed information, we
21 get service advisories and those are good, and
22 the last one on April 4th said that, you know,

1 there were 80 fewer trains holding than there
2 had been in the prior period.

3 What I would like to understand is
4 what is that relative to? Is it 180 or is it
5 1080? Because it helps me kind of understand
6 is my set one of 40 or is it one of 4000
7 that's out there, that might be parked.

8 But, you know, that's pretty much,
9 you know, there's several other examples of
10 improving --

11 CHAIRMAN ELLIOTT: And feel free
12 to continue if you'd like.

13 MR. ADKINS: Okay. Well I'm just
14 wrapping it up. Everybody has kind of
15 mentioned that, as they were going through
16 their presentations, hey that's one of my
17 bullet points.

18 I would suggest that the railroads
19 meet with the industry groups as well as
20 individuals, I know that's not their
21 preference, but some individuals, some
22 companies, are a little reluctant.

1 My perspective was hey, I got
2 nothing to lose. I'm losing inventory every
3 day. And on March 5th Steve Bobb took time
4 out of his busy schedule and several of his
5 associates to sit down and meet with us.

6 We both presented our information
7 and I think both of us came away better
8 informed and we really appreciate not only
9 that effort but the communication that we get
10 from the marketing director that takes care of
11 our account.

12 So, anyway, I want to thank the
13 Board. I commend you for having this hearing.
14 You've got a difficult task ahead of you,
15 because it's going to have to be as we see it
16 a delicate balance, it has to be met,
17 obtained, that's the balance between what the
18 BN and the CSX and everybody else can do and
19 try to balance that service among the coal
20 crew to agriculture intermodal customer base.

21 So, anyway, that's, thank you for
22 --

1 CHAIRMAN ELLIOTT: Thank you, Mr.
2 Adkins. Ann?

3 VICE CHAIRMAN BEGEMAN: I don't
4 have specific questions for you, but thank you
5 for the effort that you made to come here and
6 talk with us and inform us, particularly your
7 personal efforts with the railroads, both
8 frustrations and hopes.

9 Thank you, Mr. Canter, for giving
10 sort of the broad perspective of the 80
11 companies that you represent.

12 CHAIRMAN ELLIOTT: Just a quick
13 question, I mean it's more broad than, but,
14 it sounds like the communication with respect
15 to you, Mr. Adkins, has gotten better and it
16 sounds like it's been pretty good based on
17 your take.

18 Mr. Canter, do you see that there
19 are any other opportunities out there as far
20 as running on other Class I lines if there's
21 a congestion problem that are available to
22 some of the coal shippers? I know that it's,

1 and I'm asking --

2 MR. CANTER: There are some units
3 -- I'm sorry. There are some units that have
4 a dual service and that would give them an
5 opportunity if they're both taken from the
6 same mining area.

7 CHAIRMAN ELLIOTT: Yes.

8 MR. CANTER: It varies
9 considerably differently in the East, but in
10 the Powder River Basin I guess it would be
11 possible.

12 I wouldn't want to get into the
13 whole, not that many units are that close to
14 terminals, so that may not be an option there
15 in switching, but there may be some
16 possibilities.

17 CHAIRMAN ELLIOTT: Okay.

18 MR. CANTER: But the idea that Mr.
19 Bobb talked about in terms of diverting to
20 mines is also not a bad idea, it just depends
21 on the utility and if they can do that.

22 CHAIRMAN ELLIOTT: Okay, thank

1 you. That's very helpful. As the Vice
2 Chairman said I really do appreciate you
3 coming here and look forward to seeing you
4 soon, Mr. Canter.

5 MR. CANTER: All right.

6 CHAIRMAN ELLIOTT: Thank you very
7 much.

8 (Pause)

9 CHAIRMAN ELLIOTT: Okay, why don't
10 we begin with Panel VIII and I think we're
11 going to begin with CURE and Mr. Gutierrez.

12 MR. GUTIERREZ: Thank you. A
13 little competitive switching there going on I
14 guess with chairs. Thank you, Chairman
15 Elliott and Vice Chairman Begeman, for
16 scheduling this hearing on rail service
17 issues.

18 I appreciate the expedited hearing
19 to listen to the concerns of shippers and hear
20 directly from the railroads about service
21 issues. I also commend the STB for sending
22 staff to North Dakota to meet with affected

1 parties on the ground in the States and
2 outside of Washington D.C.

3 As you mentioned, my name is Paul
4 Gutierrez. I work for the Rural Electric
5 Co-Ops, but I appear here today on behalf of
6 Consumers United for Rail Equity, or CURE, of
7 which NRECA is a member.

8 CURE represents over two dozen
9 major individual rail shippers and various
10 commodity groups and other large trade
11 associations that represent more than 3500
12 electric, utility, chemical, manufacturing,
13 agricultural, and forest and paper companies
14 and their consumers.

15 You have heard numerous entities
16 today that have had similar issues as our CURE
17 members that prompted the meeting. I'll give
18 you an example, Dairyland Power Cooperative
19 has been unable to get rail delivery of coal
20 needed for their generation of electricity.

21 The increased cost of trucking in
22 coal or supplementing their generation with

1 natural gas will ultimately be borne by their
2 consumers.

3 Our utility members are required
4 to keep the lights on, to keep the power
5 flowing, and don't have the luxury of not
6 delivering power. They are required to make
7 contingency plans to keep power flowing.

8 Many other commodity groups, such
9 as agricultural products, chemical products,
10 and paper and forest products, are being
11 similarly affected as you've heard today.

12 CURE submits that the service
13 problems we're discussing today reflect the
14 impacts of rail market power because of the
15 lack of market competition.

16 It is not a secret that firms
17 holding a lot of market power may not invest
18 in capacity and not respond as they would
19 under normal market conditions.

20 To respond effectively to the
21 harms, CURE believes that the Board needs to
22 take into account the broader context in which

1 these harms have arisen.

2 Just a couple of weeks ago at the
3 Public Hearing of EP 711, the Board heard from
4 railroads and the repeated longstanding claim
5 that they basically don't keep excess capacity
6 to absorb the new traffic that they might
7 obtain from the NIT League's proposal.

8 At that same hearing you heard
9 from the ACC and escalation consultants the
10 new study that shows by commodity group the
11 revenue over 180 of RBC thresholds the
12 railroads are now collecting.

13 The evidence clearly shows that
14 railroads are now beyond revenue adequate and
15 exercise too much market power over
16 rail-dependant shippers.

17 With the achievement of the
18 revenue adequacy by major railroads the Board
19 now faces a new paradox of how revenue
20 adequate carriers, or a group of carries with
21 access to all the capital they need elect to
22 operate their systems in a way that produces

1 inadequate service in the absence of any type
2 of market competition.

3 We hope that by initiating this
4 hearing and with the pending competitive
5 switching hearing decision that the Board
6 carefully consider competitive access
7 provisions that have not been available in the
8 past.

9 Across the Country CURE members in
10 many different industry sectors experience
11 daily rigors of competition and effective
12 regulations where needed to prevent excessive
13 market control or profits.

14 CURE and its members urge the
15 Board to view the current service issues as
16 another symptom of excessive rail market power
17 and to apply competitive access remedies
18 Congress long ago provided for inadequate
19 service.

20 Service problems stemming from
21 market power can't be solved solely by
22 competitive switching, but that's a good place

1 to start. The current state of rail
2 consolidation and lack of competition is only
3 upping the ante for poor rail performance.

4 The Board can guide the rail
5 industry to make decisions to operate their
6 systems in ways that are less myopic and more
7 consistent with sound rail transportation and
8 effective competition.

9 We would ask that you seek ways to
10 increase competition, look favorably on the
11 competitive switching, EP at 711, require
12 emergency orders for rail delivery of coal and
13 commodities as necessary, require carriers to
14 make available data service disruptions and
15 plans to address those delays, require plans
16 to address long-term growth and reliable rail
17 service, and then to require emergency and
18 contingency plans to plan for the next worst
19 winter on record.

20 Thank you for the opportunity to
21 present here today.

22 CHAIRMAN ELLIOTT: Thank you.

1 MR. BLILEY: There we go. I think
2 that's on. Chairman Elliott, Vice Chairman
3 Begeman, thank you for the opportunity to
4 speak today. My name is Chris Bliley. I'm
5 here on behalf of Growth Energy.

6 Growth Energy is an association of
7 83 ethanol producers, 82 associate members,
8 and thousands of ethanol supporters across the
9 Country.

10 We promote expanding the use of
11 ethanol in gasoline, decreasing our dependance
12 on foreign oil, improving our environment, and
13 creating American jobs.

14 Ethanol is a home-grown renewable
15 fuel that provides significant benefits to our
16 Nation's transportation system. Today we
17 represent nearly 10 percent of our Nation's
18 transportation fuel supply and are poised to
19 grow even more.

20 In 2013 the ethanol industry
21 produced over 13 billion gallons of renewable
22 fuel and over 60 percent of that was

1 transported by rail.

2 As you may have seen in the last
3 few weeks there's been a great deal of
4 attention on the recent tightening supply and
5 related price spikes for ethanol in certain
6 markets.

7 Make no mistakes these price
8 spikes have not been caused by a lack of
9 ethanol production or supply, but purely
10 because of an inability to get timely rail
11 transportation.

12 There have been numerous examples
13 of our producers having to wait and wait on
14 trains to deliver their product. In fact,
15 many plants have reduced or even halted
16 production because their storage capacity is
17 fully utilized.

18 In examining the situation just
19 last week the EIA stated that logistical
20 constraints in and around ethanol production
21 centers in the Midwest, mainly involving
22 railroads on which approximately 70 percent of

1 ethanol is shipped, appear to be a key factor
2 driving the recent prices.

3 Ethanol stocks were drawn down
4 Nationwide by nearly two million barrels from
5 mid-February to mid-March. This is more than
6 four million barrels below typical March
7 levels.

8 East Coast inventories were
9 especially hard hit and on March 14th reached
10 their lowest level since the EIA began
11 recording data nearly four years ago.

12 In a related story on ethanol
13 exports the Oil Price Information Service
14 reported U.S. ethanol exports in February were
15 down 21.9 percent versus January and rail
16 congestion that delayed delivery of ethanol
17 volumes to U.S. ports most likely played a
18 part in the drop.

19 On top of the poor and declining
20 rail service our industry has seen increased
21 tariff rates on certain routes, some taking
22 effect as recently as April 1st.

1 Not only did one railroad give our
2 producers very little notice of the increases,
3 but I dare say few, if any, industries would
4 have the ability to increase shipping rates
5 while their service has been so poor.

6 The bottom line is that the
7 railroad industry is not meeting its
8 obligation to transport goods in a timely and
9 effective manner.

10 This failure in service has had a
11 ripple effect on American consumers by
12 increasing the cost of goods and services and
13 has directly impacted our industry by causing
14 a de facto shutdown in production as there's
15 simply no more space to store product.

16 For our industry and many others
17 that are captive to the nation's railroads to
18 efficiently transport their products, we hope
19 the rail industry will take steps to
20 immediately improve its service record and
21 take this situation as a wake-up call that
22 they need to make the necessary infrastructure

1 investments to fulfill their obligations of
2 the common carrier.

3 Recent ethanol price spikes and
4 reduced production are a direct result of this
5 lack of service. The lack of service is
6 unacceptable and the rail industry must do
7 better.

8 I appreciate the opportunity to be
9 here today and happy to provide additional
10 information as necessary.

11 CHAIRMAN ELLIOTT: Thank you very
12 much. Mr. Hubbard?

13 MR. HUBBARD: Chairman Elliott,
14 Vice Chairman Begeman, good afternoon. My
15 name is Ed Hubbard. I am the General Counsel
16 for the Renewable Fuels Association. We're
17 the oldest and largest ethanol trade
18 association in the United States and represent
19 the U.S. ethanol industry from issues from
20 seed to tailpipe.

21 On behalf of our membership I want
22 to first thank the members of the Surface

1 Transportation Board for holding this
2 important and timely hearing.

3 The recent crisis of congestion
4 that is seemingly overtaking the rail industry
5 has become a huge and costly problem for
6 shippers of all commodities, including the
7 U.S. ethanol industry.

8 This crisis is one that is causing
9 significant harm to the economic health and
10 well-being of our Nation's economy as well as
11 driving up costs for a wide array of
12 commodities that rely on rail for
13 transportation.

14 As many of you are aware, ethanol
15 has become a critically important component of
16 the U.S. Motor Fuel Market. Today, 96 percent
17 of all gasoline sold in the United States is
18 blended with at 10 percent ethanol.

19 This ethanol was blended with our
20 motor fuel supply as an octane enhancer to
21 improve vehicle performance, as well as an
22 oxygenate to reduce carbon emissions and other

1 dangerous particulates.

2 Given the consistent price
3 competitiveness of U.S. ethanol over
4 petroleum-based gasoline, the blending of
5 ethanol in gasoline has also become a valuable
6 economic benefit for American motorists.

7 With crude oil prices hovering
8 around \$90 per barrel, the blending of ethanol
9 as an additive in gasoline has resulted in
10 savings to the American consumer of between 50
11 cents to \$1.50 per gallon.

12 However, over the past few months
13 mass congestion on the rails has denied
14 consumers this cost-effective option. Due to
15 an uncharacteristic Winter rail shipments of
16 all commodities have been significantly
17 delayed across the Country.

18 For ethanol this congestion has
19 led to a dramatic delay in ethanol shipments
20 to fuel terminals and caused shutdowns of
21 operations at ethanol plants because they
22 can't continue to store product while awaiting

1 rail carriers to move their product.

2 I have one slide that I'd like to
3 show here. This slide indicates --

4 (Off the record comments)

5 MR. HUBBARD: Yes, yes. Thank
6 you. This graph essentially shows train
7 speeds as well as dwell times, but on an
8 average basis showing that, you know, in
9 comparison with last year, it's a 12 percent,
10 roughly a 12 percent slower rate at speed in
11 late February.

12 And then while dwell times have
13 been improving somewhat and they're still 25
14 percent above normal on the average, but I
15 think it's important to note that this is just
16 an average when you look at rail lines such as
17 BNSF and other ones like CSX, we are seeing
18 double and triple the time, dwell times, at
19 terminals.

20 While we understand and appreciate
21 that this was an unusually powerful Winter
22 season, it seems unreasonable to conclude that

1 Winter weather alone was the cause of such a
2 significant congestion crisis on the rails.

3 Winter comes every year and rail
4 operators, especially those in Northern parts
5 of the Country have had a long history of and
6 experience in adequately preparing themselves
7 for extreme cold, snow, and icy conditions.

8 In fact, in many Northern regions
9 of the Country the extreme snow and icy
10 conditions experienced this year are the norm
11 rather than the exception. This begs the
12 question, why is the rail industry having so
13 much difficulty in responding to this year's
14 Winter season?

15 What the data tells us that is
16 different about this is year as opposed to the
17 countless other Winter seasons is the recent
18 dramatic and explosive growth in railcar
19 shipments of Bakken and Canadian crude oil.

20 As reflected, if we could -- Oh,
21 I'm sorry, thank you. I could do that myself.
22 As reflected in this graph showing the growth

1 of crude oil, you've had a significant growth
2 in the last two years.

3 While rail shipments of ethanol
4 have stabilized over the last four years,
5 crude oil shipments have grown dramatically.
6 Growing from less than 70,000 carloads in 2011
7 to more than 420,000 carloads in 2013.

8 The growth in crude oil shipments
9 has reshuffled the existing fleet of railcars
10 and locomotives, pressured lease rates,
11 changed normal rail traffic patterns, and
12 generally exerted significant stress on the
13 rail system.

14 And with this congestion crisis it
15 is becoming more and more apparent that
16 surging crude oil shipments are coming at the
17 expense of other goods and commodities like
18 ethanol.

19 The U.S. ethanol industry has long
20 relied on the railroads for delivering its
21 product to market as well as receiving
22 necessary inputs for processing its fuel and

1 other co-products.

2 In fact, trains have historically
3 served as an economical and efficient virtual
4 pipeline for ethanol, safely moving our
5 product from plants concentrated in the
6 Midwest to population centers on both Coasts.

7 Therefore, we believe it's
8 critical for our Nation's rail operators to
9 work quickly to resolve this situation.
10 Moreover, in addressing this situation, the
11 rail operators must respond in a way that
12 treats the vast array of other goods and
13 commodities competing with crude oil on the
14 rails fairly and equitably.

15 As a supplement to my testimony
16 today, I'd also like to submit a copy of a
17 recent letter on this very subject from RFA
18 President Bob Dinneen to Ed Hamberger, the
19 President and CEO of the Association of
20 American Railroads.

21 Once again I thank you for the
22 opportunity to voice our industry's concern on

1 this important issue and I'd be happy to
2 answer any questions you may have.

3 CHAIRMAN ELLIOTT: Thank you, Mr.
4 Hubbard.

5 MS. RIETZ: Good afternoon,
6 Chairman Elliott, Vice Chair Begeman. I am
7 Kei Rietz, Commercial Manager at Northern Tier
8 Energy, an independent downstream energy
9 company with refining retail and pipeline
10 operations, but primarily consists of an oil
11 refinery in St. Paul Park, Minnesota, referred
12 to here as SPPR.

13 I'm joined here today by Jason
14 Akey, who has served as Commercial Operations
15 Manager the last three years. I'm also joined
16 by Charles H. Banks, President of R L Banks
17 and Associates, an independent railroad
18 consulting firm.

19 To begin, some brief background.
20 We are one of only two refineries in Minnesota
21 and one of four refineries in the upper Great
22 Plains.

1 In addition to various physical,
2 logistic assets, Northern Tier Energy also
3 operates and supplies fuels to 163 convenient
4 stores and 73 franchised stores.

5 So let me move directly into how
6 CP has historical served the St. Paul Park
7 refinery. There is a slide of a map. Yes.

8 MR. BANKS: We'd like to bring you
9 some, since it's very detailed, we'd like to
10 just to bring you some --

11 CHAIRMAN ELLIOTT: Okay.

12 MS. RIETZ: CP is supposed to
13 provide switching services once a day, seven
14 days a week, from its St. Paul yard facility,
15 depicted as Number 1 on the map, to the
16 refinery, depicted as Number 2.

17 The distance between the CP yard
18 and the refinery is only eight miles down an
19 industrial lead which directly accesses CP's
20 yard without crossing any other rail line, so
21 rail access has been convenient and efficient
22 for both parties.

1 The refinery's ability to maintain
2 stable production levels is dependant on
3 steady, predictable deliveries from CP. Now
4 I'll discuss what service looks like today,
5 but I do want to just mention that our issues
6 are not with long haul service or routing, but
7 focuses on local operations or the last mile
8 of service.

9 But I do believe what we're
10 hearing here today has accounted for some of
11 the challenges we face. Beginning in late
12 2013 CP's switching steadily declined from
13 seven days a week to a sporadic and irregular
14 event to an average of almost six failures a
15 week over a 10-week span, and I do have some
16 accompanying calendars.

17 MR. BANKS: I have them.

18 MS. RIETZ: The accompanying
19 calendars provide a graphic demonstration of
20 the extent of CP's service failures in the
21 last three months, a failure being defined as
22 a missed switch or a failure to pickup and

1 deliver specifically ordered cars. In March

2 --

3 MR. BANKS: Next slide, please.

4 Next one up?

5 MS. RIETZ: March, please. Thank
6 you, thank you. In March, only nine days
7 transpired without service failure. The most
8 frustrating aspect of the recent degradation
9 of CP's switching is breakdown in
10 communications.

11 Of the 57 service failures
12 recorded by SPPR and reported to CP via email,
13 27 elicited no response whatsoever. What
14 limited responses SPPR did receive were often
15 vague and occasionally not factual in nature.

16 The simple fact is we can no
17 longer trust CP to deliver carloads on time or
18 to produce realistic solutions to past service
19 failures. It goes without saying that these
20 have had a severe adverse affect on the
21 refinery.

22 There are several byproducts of

1 the refining process which require rateable
2 and regular rail service. In recent months
3 service failures have resulted in a total
4 approximate loss in revenues of \$1.3 million,
5 approximately 110,000 barrels of lost fuel
6 production, or approximately 225,500 full
7 tanks of gas to the Minnesota area.

8 Since some of the products we
9 produce may not be familiar to everyone, I
10 would like to just take a moment to highlight
11 some of the ways in which our refinery is tied
12 to the local community.

13 SPPR's primary focus is taking
14 crude oil and refining it into gasoline used
15 in our cars and diesel fuel, which is used to
16 fuel trucks, busses, locomotive engines,
17 including CP's in the Twin Cities, and farming
18 equipment.

19 SPPR also produces jet fuel, which
20 supplies all the major carries at the
21 Minneapolis/St. Paul Airport. Some others are
22 asphalt, used in road repairs, propane, used

1 in heating your home, your outdoor grill, and
2 also its main use in the Fall, drying the
3 crops, and sulphur, used mainly in the
4 fertilizer market.

5 So not only -- I am almost done.

6 CHAIRMAN ELLIOTT: Yes, take your
7 time.

8 MS. RIETZ: So not only does the
9 refinery provide fuels to the local market and
10 support hundreds of retail gas stations, we
11 are also closely tied to a number of other
12 industries.

13 Northern Tier is not asking the
14 STB to force on an unwilling industry a
15 revolutionary shift in the way CP operates nor
16 are we asking the Board to introduce
17 competition where there is none today.

18 What I am seeking specifically at
19 a minimum is increased communication from CP.
20 An increase in both the quality and quantity
21 of communication, both from the local and
22 corporate level which hopefully will resolve

1 our fears that the complete absence of
2 communication in recent past has not been
3 indicative of the fact that CP had no plans or
4 intentions to make operational changes which
5 might restore service.

6 We need transparency into what
7 operational changes are being evaluated and
8 implemented in the coming weeks and months so
9 that we not only can interpret what we are
10 experiencing, but also give us a timeline and
11 foundation on which to make our own future
12 operational decisions.

13 I did hear you ask the BNNCP to
14 increase communication on all levels and I was
15 pleased to hear that affirmation and it is my
16 sincere hope this comes to fruition.

17 But I would add, most importantly,
18 we also expect a system of accountability.
19 This is the most important aspect and
20 something which we hope this Board will do.

21 We are demanding this in the
22 interest of our employees, our customers, our

1 suppliers, our business associates, our equity
2 partners and shareholders, the Minnesota area
3 consumers, and in the vernacular of a
4 railroad, our operating ratio.

5 Chairman Elliott, Vice Chair
6 Begeman, thank you.

7 CHAIRMAN ELLIOTT: Thank you very
8 much.

9 VICE CHAIRMAN BEGEMAN: Could you
10 just repeat for me the number of times you
11 tried to reach CP to which they did not
12 respond to you?

13 MS. RIETZ: Fifty-seven, and 27 --

14 MR. BANKS: In the first quarter
15 alone.

16 MS. RIETZ: In the first quarter.
17 We only began keeping a failure log as of
18 January 28th. Typically we do see peaks and
19 valleys in service, but they often regulate
20 after a time and that is what we remained
21 hopeful and patient for.

22 It did not happen, so in late

1 January we started a detailed record and then
2 kept an email trail of our notifications. And
3 as I mentioned, 27 of those notifications
4 elicited zero response, no phone call, no
5 email, nothing.

6 MR. BANKS: We'd be happy to share
7 our log with them.

8 MS. RIETZ: And if you'd like we'd
9 be happy to share that log with you.

10 VICE CHAIRMAN BEGEMAN: Thank you.
11 I commend you for that communication. And,
12 although Mr. Creel, is not present here, I
13 know that members of his organization are here
14 and I am sure that they will work to meet your
15 request.

16 And I just want to thank the rest
17 of the panel, we certainly have gotten your
18 messages and we appreciate your effort to be
19 here.

20 CHAIRMAN ELLIOTT: As well, I'd
21 like to thank everyone here. CP did make a
22 commitment to communicate well with its

1 shippers, so we will hold them to that and I
2 assume you'll hear from them soon.

3 Thank you, the rest of you also,
4 for appearing before us today. Your
5 information was very helpful and you're free
6 to go. Thank you.

7 We're going to hold off on
8 bringing the other panel up at this moment.
9 I believe Senator Thune is within a minute or
10 two away and appears to be, has a vote he has
11 to run off to right after this.

12 (Pause)

13 CHAIRMAN ELLIOTT: There we go.
14 That's good timing.

15 VICE CHAIRMAN BEGEMAN: Yes.

16 CHAIRMAN ELLIOTT: Feel free to
17 start, Senator Thune.

18 SENATOR THUNE: Thank you Mr.
19 Chairman, and I do appreciate you Mr. Chairman
20 and Vice Chairman Begeman, holding today's
21 hearing, and also the importance of focusing
22 a light on this issue. It's very important to

1 my State and to a lot of other folks who are
2 here.

3 So we appreciate your taking a
4 look at the options that might be available to
5 improve service to South Dakota and other
6 areas that are experiencing similar type
7 difficulties.

8 Today's hearing, I think as you've
9 seen in an overall number of speakers
10 underscores the degree to which rail service
11 and supply problems can have an impact on
12 small businesses, both large and small.

13 And I appreciate the opportunity
14 that you've extended me to allow, me to speak
15 with you about this issue as well as that
16 you've extended to the South Dakota Secretary
17 of Agricultural, Lucas Lentsch, Midwest
18 Cooperative General Manager, Mil Handcock,
19 South Dakota Farmer and Producer, Dennis
20 Jones, South Dakota Farmer, DuWayne Bosse, who
21 is here today on behalf of the South Dakota
22 Farmer's Union, and South Dakota Wheat

1 Grower's Board President, Al Clemensen.

2 Given your roles at the STB you
3 both hear frequently about how important
4 reliable rail service is to so many in our
5 Nation.

6 When the U.S. Rail System is
7 operating without impediments, there's no
8 question that it is the preferred option to
9 move large amounts of goods in a safe and a
10 timely manner.

11 As Vice Chairman Begeman knows, as
12 a native South Dakotan, our home State is no
13 different when it comes to the critical
14 importance that railroads have, especially for
15 our State's agricultural sector.

16 As the former South Dakota Rail
17 Director I understand that our farmers,
18 ethanol producers, and other small businesses
19 rely on rail service from Burlington Northern
20 Santa Fe Railroad and from Canadian Pacific
21 Railway, not only to get their products to
22 domestic and International markets, but also

1 for inputs that are critical to their
2 businesses.

3 Unfortunately, the disruptions in
4 rail service that they've experienced this
5 winter have had a very real impact, not only
6 on short-term operations, but also on their
7 planning for the remainder of the year when it
8 comes to making business decisions.

9 For example, Redfield Energy,
10 located in Redfield, South Dakota, is a five
11 million, I should say 55 million gallon per
12 year ethanol producer served by BNSF.

13 It's ethanol plant processes
14 approximately 20 million bushels of corn a
15 year, which, in addition to producing ethanol,
16 also produced 233,000 tons of distillers grain
17 that Redfield sells mostly to feed, to local
18 cattle producers.

19 To move its ethanol to market it
20 leases 200 rail tanker cars and typically
21 expects rail turns on these tankers to take
22 approximately four weeks. At normal

1 production levels it would fill 40 rail tanker
2 cars per week.

3 Well beginning in mid-December
4 when Redfield Energy originally reached out to
5 me regarding its service issues it had been
6 experiencing rail turns averaging up to six
7 weeks and in one instance it took eight weeks
8 to complete a turn.

9 When the tank cars are not
10 returned on time and the ones on hand are
11 full, Redfield has few other storage options
12 and is forced to slow the plant's production.

13 Now you may ask why shutting down
14 all together is not a viable option. Well not
15 only is a complete shutdown inefficient, but
16 it can also jeopardize the entire plant when
17 temperatures are at or below freezing, a
18 common occurrence this Winter, where pipes can
19 freeze and explode.

20 To prevent this worst case
21 scenario, Redfield has been forced to run its
22 plant at 60 to 90 percent all Winter and has

1 no plans to run at full speed anytime soon due
2 to continued delays and uncertainty with rail
3 service.

4 Redfield has also been forced to
5 purchase distillers grain at spot market
6 prices which are higher than market prices in
7 order to meet obligations.

8 When this happens there's this
9 cascading impact on other parts of the ethanol
10 plant's operation, including the inability to
11 pre-sell ethanol or distillers grain to
12 customers because of the uncertainty of the
13 plant's speed or its ability to transport the
14 product to the market.

15 Rail service has become so
16 uncertain that Redfield Energy has decided to
17 more than double its onsite ethanol storage
18 capacity before next Winter which will provide
19 it an additional ten or 11 days of operating
20 ability to protect against plant shutdowns due
21 to delays with railcar delivery in the future.

22 Redfield Energy has also relayed

1 how poor rail service has led to other
2 problems for those with whom it does business.
3 For example, Redfield has not been able to
4 provide all of its cattle producers with the
5 amount of distillers grain the producers
6 typically rely upon.

7 It's also led to a wider corn
8 basis. While this may be good for Redfield in
9 the short-term because the company receives an
10 essential input for its business at a lower
11 cost, it is seriously impacting agricultural
12 producers who themselves have been faced with
13 rail service issues.

14 For example, North Central Farmers
15 Elevator located in Ipswich, South Dakota, is
16 a farmer-owned cooperative that serves over
17 2500 producer members in North and Central
18 South Dakota.

19 Its Ipswich grain elevator placed
20 a railcar order with Canadian Pacific on
21 January 24, 2014, for a hopeful delivery to
22 its facility on January 27th. The cars

1 arrived on March 17th, seven weeks late.

2 This late delivery was made even
3 more frustrating by poor communication from
4 Canadian Pacific which failed to respond to
5 inquiries about when the cars would arrive.

6 The elevator in Ipswich faced
7 significant economic hardships by these rail
8 delays. When the January 27th cars did not
9 arrive the grain inventory at the facility
10 reached capacity.

11 In order to meet other outstanding
12 contracts it had to move that grain by truck
13 to another railroad loading facility. So
14 between January 27th and March 17th it moved
15 over 300,000 bushels of grain at a cost of 18
16 cents a bushel, or \$54,000 in additional
17 unplanned transportation expenses.

18 Once at this new facility it found
19 the cost of rail service had also increased
20 due to scarcity with a typical grain shuttle
21 running \$6000 over tariff.

22 These two unexpected costs equate

1 to an additional \$1.78 per bushel in
2 unexpected expenses being paid not by the
3 eventual purchaser but by the farmers and the
4 elevator owners.

5 Another grain elevator, Dakota
6 Mill and Grain, headquartered in Rapid City
7 with a total of seven rail facilities serving
8 500 customers, calculated the cost of poor
9 rail service another way.

10 If the poor rail service lasts for
11 six months and during that time producers see
12 grain prices drop by 10 percent and
13 agricultural inputs like feed and fertilizer
14 increase by 10 percent, something that they're
15 expecting, it will cost its customers
16 approximately \$3.5 million.

17 To make matters worse this loss
18 will be hitting agricultural producers in the
19 Spring, the exact time they're usually
20 dependant on grain sales to finance their
21 work.

22 The elevators located off the rail

1 lines owned by BNSF and CP, such as the rail
2 lines owned by Twin Cities and Western
3 Railroad Company, a short line operating the
4 Sisseton Milebank rail lines, might be in the
5 worst shape of all.

6 Instead of having to wait long
7 periods of time for car orders, they've been
8 told that they cannot even place any new car
9 orders until August due to congestion on the
10 main rail lines.

11 Between now and then they can just
12 be added to a wait list and cars will be
13 delivered as available. While a concern for
14 many on the rail line it will become critical
15 for Border States Co-op in Wilmot, South
16 Dakota, if this is not resolved before the end
17 of Summer.

18 In August it starts to receive
19 wheat from local producers, with soybeans
20 arriving in September. At its facility,
21 however, both grains are kept in the same
22 storage bin.

1 This means if Border States is
2 unable to move all of the wheat it has
3 purchased by railcar before the soybean
4 harvest begins the soybean producers will have
5 no place to sell or store their product.

6 Border States has asked to be
7 added to the railcar wait list for August, but
8 at this point there's no guarantee it'll
9 receive a single railcar in time to move wheat
10 before soybeans.

11 So as you can tell by these few
12 examples and the other testimony that you've
13 heard today, the rail service constraints
14 being faced by South Dakota shippers are
15 having a huge impact on a wide cross-section
16 of producers and shippers in our State and
17 region.

18 They also have an impact on the
19 future economic health of South Dakota and our
20 number one industry which is agriculture. As
21 transportation costs increase the basis for
22 farmers selling grain is growing larger and

1 larger, which is taking money directly out of
2 farmers' pockets.

3 What this means for South Dakota
4 is a direct transfer of wealth away from the
5 State, which not only negatively impacts
6 agricultural producers, grain handlers and the
7 ethanol industry, but it also impacts other
8 Main Street businesses that rely on equitable
9 prices for South Dakota agricultural products.

10 It is imperative that we find a
11 solution to these very real service problems.
12 I've appreciated the meetings and the calls
13 that BNSF and CP have had with me and my staff
14 about this issue over the past few months and
15 particular the steps that BNSF has taken to
16 hire new employees, acquire additional
17 equipment, and invest in necessary maintenance
18 and improvements.

19 I encourage both railroads to
20 double down on these efforts. Additionally,
21 when rail service begins to improve I would
22 also encourage both railroads to plan for the

1 future needs of rail shippers in our region,
2 especially in light of the projected growth of
3 crude oil transport in the Bakken and
4 increased demand for coal to ensure that all
5 rail shippers receive adequate and efficient
6 rail service.

7 Finally, I would ask that the
8 Surface Transportation Board approve the
9 pending sale of Canadian Pacific's rail line
10 in South Dakota to Genesee & Wyoming as soon
11 as possible.

12 While this will not solve South
13 Dakota's rail service issue it will bring
14 certainty to the shippers located on the 660
15 miles of DM&E line and allow the new owner to
16 begin service as soon as possible.

17 So I want to thank you again,
18 Chairman Elliott and Vice Chairman Begeman for
19 holding this hearing today and for allowing me
20 to testify and I appreciate the attention that
21 you are providing to this matter and I look
22 forward to working with you as it relates to

1 other items that the Senate Commerce, Science
2 and Transportation Committee is working on.

3 But I would just close by saying
4 that we have a problem, a serious problem,
5 that's affecting the economy all across South
6 Dakota and it needs to be fixed and I hope
7 that you will work with us to make that
8 possible. Thank you.

9 CHAIRMAN ELLIOTT: Thank you very
10 much for your testimony. Anything, Ann?
11 Okay.

12 (Pause)

13 CHAIRMAN ELLIOTT: Okay. We'll
14 now bring up the final panel, and thank you
15 very much to this panel for its patience.

16 VICE CHAIRMAN BEGEMAN: We know
17 you've been here since 8:30, too, so thank
18 you.

19 (Pause)

20 CHAIRMAN ELLIOTT: Okay. Why
21 don't we begin Panel IX, and we will begin
22 with Ms. Burns, thank you.

1 MS. BURNS: Thank you. Occidental
2 Chemical Corporation, or Oxy, is a leading
3 manufacture of chemicals which are the
4 building blocks for a range of products
5 essential to public health and modern life.

6 Oxy employees approximately 4000
7 employees and contractors at 22 locations.
8 Our products, which are used in water
9 purification, medical supplies,
10 pharmaceuticals, agricultural chemicals, and
11 deicing applications are vital to the United
12 States economy.

13 Before I begin, Oxy fully
14 recognizes that this has been a brutal Winter.
15 Regardless of the challenges we have been
16 given by Mother Nature, service levels have
17 been unacceptable.

18 Although our total network has
19 seen disruptions in service due to the severe
20 Winter conditions the plant that has been the
21 most impacted has been our facility located in
22 Taft, Louisiana.

1 This plant produces potassium
2 hydroxide, otherwise known as KOH, which is
3 used in deicing materials, pharmaceuticals,
4 food applications, and fertilizers. Our
5 operations require a constant, consistent flow
6 of raw materials and service variability makes
7 it nearly impossible to run our operation
8 efficiently.

9 Our major raw material is
10 potassium chloride, otherwise known as KCL.
11 Oxy buys 100 percent of our supply from
12 Mosaic's Mine located in Belle Plaine,
13 Saskatchewan.

14 Mosaic is served by the Canadian
15 National and the Canadian Pacific, however,
16 freight is limited on the CN due to weight
17 limitations and the CN track would need to be
18 upgraded before it could be considered an
19 alternative.

20 Therefore, all of our KCL is
21 transported by CP. The cars interchange in
22 Chicago with the UP for delivery into our

1 Taft, Louisiana, facility.

2 Since December 1st we have
3 officially opened 29 shutdown logs for our KCL
4 movements. We have reduced operating rates
5 six times in an attempt to prevent shutdowns.
6 These reduced rates have cost Oxy close to \$7
7 million.

8 Normal transit times from Belle
9 Plaine, Saskatchewan, to Proviso, Illinois,
10 are typically six to seven days. Average
11 transit time since December have been 11 to 13
12 days.

13 We have had instances where our
14 loaded cars have sat idle for up to eight days
15 apparently waiting for power or crews. Over
16 the past several months CP has added
17 approximately 150 cars into Oxy service.

18 Even with the addition of cars we
19 are hand to mouth with little to no safety
20 stock. At the same time that the number of
21 cars and service increased, we started
22 experiencing a higher number of bad ordered

1 cars or railcars undergoing repairs.

2 We have also seen significant
3 delays in bad ordered cars returning to
4 service. Most of these cars should turn
5 around within 48 hours. Our current average
6 is closer to eight days.

7 To address our rates and transit
8 times to our recent problems with transit
9 times, the UP and CP agreed to test the Kansas
10 City Interchange. The trip planned from Belle
11 Plaine to Kansas City is estimated to be nine
12 days.

13 Our cars were loaded at the mine
14 on April 2nd. As of yesterday our cars were
15 still in Brandon, Manitoba. Seven days after
16 our cars were loaded the cars had only
17 transited 250 miles.

18 This gives us little confidence in
19 this interchange point and leads us to believe
20 that the issues we are seeing are due to CP
21 operations plans and not the interchange point
22 of Chicago.

1 The CP's inability to execute
2 agreed to corrective actions is adding to our
3 frustration. Even when new plans to address
4 prior service issues have been agreed to the
5 CP often doesn't execute to the plan.

6 This impacts all of the other
7 parties in the supply chain. For example, on
8 February 21st the CP committed to expedite a
9 38-car block to avoid a shutdown situation.
10 Specific departure and arrival times were
11 projected and Oxy and UP aligned operations
12 accordingly.

13 However, the UP didn't move the
14 cars until two days later which made our plans
15 obsolete and further added to our
16 inefficiencies.

17 On the brighter side, UP has
18 performed admirably. Time and time again they
19 have stood ready to receive cars from the CP
20 only to receive no cars or fewer cars than
21 expected.

22 They have done an outstanding job

1 communicating, reworking plans, expediting
2 movements, putting together special trains,
3 creating extra switches, and building unit
4 trains.

5 They have helped us avoid a
6 shutdown at our Taft plant on numerous
7 occasions, our thanks to the entire UP team.
8 As mentioned earlier we have experienced
9 problems with other railroads during this
10 period.

11 Shutdown tickets were opened at
12 two of our Northern plants and we have
13 experienced interruptions in service which
14 affected our plant and customer operations.

15 Both of these instances were
16 short-lived, the railroads were responsive and
17 we have seen improvements at these facilities.
18 Since today's hearing is also focused on BNSF
19 I would like to mention that we have had
20 increases in transit times at our Wichita,
21 Kansas, location, however, they have been
22 manageable.

1 In addition, BNSF has done a very
2 good job communicating their recovery plans.
3 Instead of complaining to the Board we would
4 like to make suggestions for improvement and
5 be a part of those solutions.

6 Possible actions include,
7 continuing to explore the use of unit trains
8 to rebuild our inventory to minimum levels.
9 Unit trains could allow us to quickly rebuild
10 our safety stock.

11 On one occasion CP has allowed UP
12 to come into the Bensenville Yard and pull Oxy
13 cars. We'd like to know if this practice can
14 continue or can the UP go further North to
15 pick up the cars until we see some improvement
16 in CP transit times.

17 Things we need from the CP, CP
18 operations personnel appear to be focused on
19 specific geographic areas. We request one
20 senior level operations person at the CP to
21 work with us across the entire pipeline as we
22 work through these issues.

1 We need proactive planning. We
2 need an overall plan and when things are
3 missed we want to hear the recovery plan
4 rather than discovering the miss on our own.

5 CP needs to execute the plan. On
6 multiple occasions they have communicated a
7 plan and the plan is not executed. CP needs
8 to better communicate their recovery plans.
9 Other railroads are sending out updates, but
10 we are not seeing this from the CP.

11 As we unwind from these service
12 issues we need to determine how and why we got
13 here. What can be done differently? What are
14 the contingency plans for emergency
15 situations? What interchanges can be tested
16 and agreed upon before they are needed on a
17 large scale basis?

18 We're grateful for the opportunity
19 to comment during today's hearing. We are
20 very appreciative of all the assistance that
21 we have received from the Rail Customer and
22 Public Assistant Groups, Lucy and her group

1 have been fantastic.

2 We're anxious for an immediate
3 solution to our problems, but equally
4 interested in ensuring that plans are in place
5 to prevent such as this in the future.

6 CHAIRMAN ELLIOTT: Thank you. Ms.
7 Clark?

8 MS. CLARK: Hi. I'm Gretchen
9 Clark, I'm with NewPage Corporation. Thank
10 you very much for the opportunity for us to
11 come and state our case today.

12 I'm the Director of Procurement
13 for transportation and warehousing at NewPage
14 Corporation. NewPage is the largest coated
15 paper manufacturer in North America. I have
16 responsibility for all railroad activities and
17 service throughout our organization in our
18 multiple locations.

19 We have eight mills and two
20 distribution centers. Five of our mills are
21 on CN as well as one distribution center, and
22 I've provided a deck for you to reference.

1 On Slide 3 it shows NewPage
2 footprint and we have three mills on CN in
3 Wisconsin, one mill in Michigan, and one mill
4 in Kentucky, and our DC is in Chicago,
5 previously they were on the EJ&E, which is now
6 owned by CN. We also have one mill on the
7 BNSF that's in Duluth, Minnesota.

8 If you move to Slide 4, we
9 currently have shutdown notice with CN for our
10 Wisconsin mills, that's three mills that we
11 rely on them to move loggers, as they
12 reference them, through the Lake States, and
13 we need a minimum of 210 cars.

14 We did give notice to our shutdown
15 on February 25th and, unfortunately, when we
16 gave notice actually our service diminished
17 greatly, if you see the red line on the graph
18 there, went below even the average of 155 cars
19 a week.

20 We have seen significant
21 improvement though I would like to say within
22 just the last two weeks, which happen to be

1 when we gave notice that we were talking to
2 the STB.

3 So we do have some cars that have
4 been pulled out of storage and we are awaiting
5 another 90 cars to come out of storage.

6 However, tomorrow we will be hitting one of
7 our lowest days on-hand inventory of hardwood,
8 which will be 2-1/2 days, that supports all
9 three mills.

10 On the next page you'll see what a
11 requirement is versus, you know, how many we
12 order versus what is spotted. We are ordering
13 around 275 cars on average a week. We are
14 allocated around 150.

15 And, as I said, we gave official
16 notice to CN on February 25th for all of our
17 Wisconsin mills to shutdown by April 27th if
18 the continued service remained at that level,
19 and, as mentioned, unfortunately, it got worse
20 and now we're looking at an April 17th
21 shutdown date for all three mills.

22 I'd like to go ahead and move onto

1 the next slide, 6, which actually discusses
2 our Chicago Heights Distribution Center. We
3 are supposed to be getting six switches a week
4 and what we have been experiencing is six
5 switches for January, we had three switches in
6 February, and in March we received six
7 switches.

8 So I was able to speak with Mr.
9 Liepelt when he was here and he's going to be
10 looking into that situation for us. So we
11 have been suffering service on the last mile
12 greatly with CN, previously on the J.

13 Next is our Duluth mill in
14 Minnesota. We have greatly been impacted by
15 our car supply, we use the 50-foot boxcars,
16 lack of car supply and also an issue with high
17 percentage of rejects in that fleet.

18 We are running at around 20
19 percent of rejected placed empties that they
20 give us. They have gone the extra mile and
21 put in a reinspection track where they are
22 actually rejecting approximately 50 percent of

1 their own fleet prior to it getting to us.

2 So our mill is actually a 90
3 percent rail mill and because of the lack of
4 car supply as well as the bad order issue we
5 are now down to 50 percent on our rail out of
6 that mill, and so we're very dependant on rail
7 at all of our locations, we are captive
8 shippers.

9 So due to the lack of the car
10 supply, transit times, doubling or even
11 tripling, if you have to go through BNSF's
12 Northtown or Chicago, or we needed hardwood in
13 the Lake States.

14 And if we happen to fall into the
15 black abyss of a bad ordered railcar, NewPage
16 has had to remake paper and ship paper on
17 truck to the open spot market, purchased
18 additional pulp on the open market, and called
19 for emergency and bound material via truck.

20 It has cost NewPage millions and
21 millions of dollars, upwards of \$20 million.
22 Our communication has been good with the

1 railroads. We just need them to act on what
2 they say they're going to do really, but the
3 communication with BNSF and CN has been good.

4 CHAIRMAN ELLIOTT: Thank you very
5 much.

6 MS. CLARK: Thank you for the
7 opportunity for us to speak.

8 CHAIRMAN ELLIOTT: Thank you very
9 much, Ms. Clark.

10 MR. MANNA: Good afternoon,
11 Chairman and Vice Chairman. I want to start
12 off by thanking you for holding this hearing
13 today. Please note all of my comments today
14 are respectfully submitted.

15 My name is Adam Manna and I am the
16 General Counsel at Northdown Industries, Inc.,
17 which operates through its sister corporation,
18 Normerica, Inc., for all businesses occurring
19 in Canada, our head office being in Toronto,
20 Canada.

21 We are the leading manufacturers
22 and suppliers of various pet products,

1 including our primary product, cat litter. We
2 are the largest private-labeled cat litter
3 manufacturer in all of North America.

4 We have four manufacturing
5 facilities in North America which are located
6 in Brantford, Ontario, Lethbridge, Alberta,
7 Dyersburg, Tennessee, and Glendale, Arizona.

8 Today I'm here to discuss our
9 struggles with the shipment of sodium
10 bentonite. The primary raw material in
11 clumping cat litter is sodium bentonite, which
12 is mined and processed by our vendors in
13 Wyoming.

14 Sodium bentonite is then shipped
15 by railcar through BNSF, CP, and CN to all of
16 our facilities. In particular, BNSF services
17 all of our facilities while CP also services
18 our Brantford and Lethbridge facilities.

19 Both CP and BNSF hold captive
20 locations on the routes from our vendors
21 location in Benton in Wyoming, to all of our
22 facilities.

1 The services we have received from
2 CP and BNSF have been highly unsatisfactory.
3 I'll start with CP. My Company spends
4 approximately \$7 million annually on CP
5 freight and rail services, and I'll address
6 some of the major issues and problems we've
7 been experiencing.

8 First is delaying or failing to
9 provide sufficient railcars to our vendor
10 causing shortages of clay. For instance, in
11 December 2013 to February 2014 CP provided us
12 with only 171 railcars out of 404 railcars
13 orders. This is less than a 50 percent fail
14 rate.

15 Continuously departing markedly
16 from its own estimated timelines. For
17 instance, deliveries to our Brantford facility
18 range anywhere from nine days to 35 days.
19 Delivery shipped to our Lethbridge facility
20 range anywhere from seven days to 32 days.

21 Even though CP attributes these
22 delays to BNSF, the fact remains that even

1 when the cars arrive in Lethbridge they're
2 regularly held for an extra two to four days
3 for what is construed as processing times.

4 Third is failing to provide timely
5 and accurate updates to estimated times of
6 arrivals. Fourth is bunching. When rail cars
7 do finally arrive, they all arrive bunched.
8 We do not have the labor capacity to handle
9 these arrivals at once.

10 We place our orders with plenty of
11 lead times and space them out, nonetheless, all
12 the cars when they do arrive, arrive at once.
13 Some of the consequences that we have to incur
14 for these problems are as follows.

15 It's been talked about today, but
16 one of the primary issues for us is demurrage.
17 In the past year we have incurred demurrage
18 charges amounting to approximately \$83,000
19 owing to CP's failure to meet its estimated
20 timelines.

21 In fact, Normerica has received
22 demurrage fees from CP, BNSF, and CN totaling

1 over \$500,000 in the year 2013 alone.
2 Additional labor costs, it's virtually
3 impossible to plan logistics resulting in
4 inefficient use and utilization of our
5 resources, most notably idle labor and plant
6 shutdowns.

7 The trickle down effect
8 unfortunately goes to our employees who often
9 get told that they don't need to show up for
10 work and are unable to bring a paycheck home
11 to their families.

12 Third is the additional freight
13 cost. We are forced to redirect our orders
14 from our other facilities, which over the past
15 year alone out of our Lethbridge plant has
16 cost us over \$300,000.

17 And last but not least, and a very
18 important point to us, is contractual
19 penalties from our own customers. Due to
20 shortages of clay in our facilities we've had
21 to pay sales contract penalties to customer
22 for our delays or failures to meet our

1 contractual production commitments.

2 In 2013 alone these penalties
3 amounted to over \$1.5 million, none of which
4 we're able to recoup from the rail companies.
5 These costs are solely attributed to
6 Normerica's inability or failures to meet our
7 contractual production commitments.

8 Now I'll move quickly over to the
9 issues we were experiencing with BNSF, many of
10 which are the same which I just discussed with
11 CP.

12 With BNSF we spend approximately
13 \$10.2 million annually on freight rail
14 services. Problems that we are experiencing
15 are failure or delay providing sufficient
16 railcars to our vendor causing shortages,
17 continuously departing markedly from their
18 estimated timelines, deliveries shipped to our
19 Dyersburg facility range anywhere from nine to
20 29 days, and for our Arizona, Glendale
21 facility, which BNSF is the sole rail service
22 provider, 90 percent of all railcars shipped

1 arrive outside of their own trip plan, and, of
2 course, third is bunching. Again, when the
3 railcars do arrive they are all bunched.

4 As previously mentioned today, it
5 doesn't matter how much notice we provide or
6 how much time and effort we put in, or
7 resources in trying to figure a proper
8 ordering plan or pattern, when the cars
9 arrive, they arrive bunched. I just have a
10 couple more minutes if that's okay?

11 And the consequences to the issues
12 are the same as before, demurrage, additional
13 labor costs, contractual penalties from our
14 customers, being forced to ship products from
15 our other facilities, shutting down our plants
16 in its entirety, all of which is adding up to
17 millions of dollars.

18 A common theme for us at our
19 office is devoting numerous amounts of time
20 and resources to the rails. It's not good
21 enough that we have full-time support staff
22 specifically devoted to dealing with the

1 railways.

2 Now our entire management team,
3 from our CEO down to myself as General
4 Counsel, must deal with the rail issues on a
5 daily basis.

6 Moving to our recent
7 correspondence, as I know an issue today has
8 been communication. We have repeatedly
9 vocalized these service issues with both BNSF
10 and CP, but their responses are always the
11 same.

12 It's either the fault of the other
13 railway carrier and if no other railway
14 carrier is involved then it's the weather's
15 fault. Specifically in February 2014 we sent
16 a letter to CP summarizing all of these
17 service issues and their impact on our
18 business.

19 The response we received from CP
20 was less than satisfactory as it placed blame
21 on the weather and, of course, sometimes BNSF,
22 not to mention congestion issues, which they

1 bring up the Chicago terminal.

2 In closing, the problem is that
3 neither CP or BNSF is willing to take any
4 concrete steps to truly help us out. For
5 instance, even though both CP and BNSF agree
6 that service levels have suffered in the past
7 quarter, neither company is willing to hold
8 themselves fiscally accountable.

9 For instance, this is the third
10 year in a row that Normerica has received a
11 price increase from CP of 5 percent to our
12 Brantford facility and 6 percent to our
13 Lethbridge facility.

14 In short, price increases are
15 imposed on us regardless of the service levels
16 that we've been provided with. In what other
17 industry is this possible?

18 We cannot realistically impose
19 these fees on our customers despite
20 unsatisfactory service levels. The railway
21 companies shouldn't be allowed to do this to
22 us either.

1 Based on the points that we've
2 addressed today it's just really unreasonable.
3 On top of all this as a Canadian corporation
4 we're forced to pay all of our fees in U.S.
5 dollars, coupled with the new exchange rate,
6 all of these charges are really hitting us
7 financially.

8 The poor service levels we receive
9 have been so detrimental to our business that
10 valuable customers repeatedly threatened to
11 take their business away from us and has
12 caused a huge strain on our business
13 relationships.

14 Again, I appreciate that we don't
15 ship coal, or oil, or grain, but our customers
16 are some of the biggest retailers in North
17 America and the United States.

18 We ship to the Costcos, the
19 Sam's', the Wal-Mart's, and the Wawas of the
20 world. They don't accept our excuses and they
21 still impose heavy fines on us when we can't
22 ship them their product.

1 We're here today because our
2 corporate existence is at stake and we
3 appreciate the opportunity to speak in front
4 of you today. Again, we appreciate where BNSF
5 and CP are coming from, but in today's world
6 actions do speak louder than words. Thank you
7 for your time.

8 CHAIRMAN ELLIOTT: Thank you, Mr.
9 Manna. Mr. Burket?

10 MR. BURKET: Excuse me. Good
11 afternoon, Chairman Elliott, Vice Chairman
12 Begeman. My name is Jeff Burket. I'm the
13 Global Supply Chain Manager for AMCOL
14 International Corporation.

15 We're a publicly traded Company
16 with an annual revenue of approximately \$1
17 billion. AMCOL is a major producer of
18 bentonite, which is an ore composed of a clay
19 mineral formed from volcanic ash.

20 Bentonite is used in hundreds of
21 ways from waterproofing to the production of
22 brake rotors. Much of the bentonite that we

1 produce ultimately winds up being used in
2 rotors for a substantial percentage of the
3 automobile manufacturing in the United States.

4 Accordingly, rail service delays
5 in the movement of our product can have
6 downstream impacts on a broader segment of the
7 Unites States economy.

8 Our two major bentonite production
9 facilities are located in Wyoming. We produce
10 a total of two million tons of bentonite each
11 year at those two facilities alone. Given the
12 large volumes and distance involved we depend
13 upon the availability of rail service to move
14 our product.

15 Canadian Pacific is the only rail
16 carrier capable of servicing our Colony,
17 Wyoming, facility. BNSF is the only rail
18 carrier capable of serving our Lovell,
19 Wyoming, facility.

20 We spend in excess of \$40 million
21 annually on CP rail service for our bentonite
22 traffic. Notably, the CP line that we use is

1 the same line that the CP recently agreed to
2 sell to the Genesee & Wyoming.

3 Since the January to February time
4 period this year the quality of the CP and
5 BNSF rail transportation from our two Wyoming
6 plants has suffered tremendously.

7 This service has impacted AMCOL
8 directly and severely. We have incurred
9 substantial costs for truck service where rail
10 service was unavailable.

11 We have incurred significant
12 overtime costs for employees dealing with the
13 repercussions of poor railroad service. We
14 have incurred meaningful and potential lasting
15 harm to our reputation as a business and we
16 have lost large volumes of sales because of
17 the inability to move our product to market.

18 In addition, our customers,
19 including the Tier 1 suppliers to the U.S.
20 automotive industry have experienced many
21 significant problems and even some plant
22 shutdowns because of the inability to receive

1 supplies of our products.

2 We're hearing from those customers
3 on a regular basis and unfortunately we have
4 been unable to give them any assurance that
5 railroads will be able to restore service to
6 the historical levels.

7 CP's service quality to our plant
8 began to decline around the time of its
9 announced sale to the G&W. CP's service has
10 remained poor since that time. We are seeing
11 transient times on the CP that are doubling or
12 tripling their historic averages.

13 In addition, there have been a
14 significant shortfall in available equipment
15 on the CP system. We have no direct
16 information on the cause of the shortfalls or
17 regarding whatever resource allocation
18 decisions CP may be making with respect to the
19 locomotives, the crews, and the railcars.

20 But CP has routinely shorted AMCOL
21 over the past two months on the number of
22 system cars available for our use. In that

1 regard we historically have received
2 approximately 90 to 120 system cars per week
3 from the CP for service, but during the past
4 two months CP has provided on average only 46
5 cars.

6 As a result of the CP's deficient
7 service at Colony we have been required to
8 secure the transportation of bentonite in
9 trucks on an emergency basis.

10 The cost associated with this
11 truck service for February and March alone has
12 been \$1.5 million more than we would've paid
13 to move the product on rail.

14 That emergency service involved
15 approximately 350 truck trips. In addition we
16 estimate that we have lost another \$1.5
17 million in sales during these two months
18 because of CP's service delays.

19 BNSF's service also has been
20 problematic for us. BNSF's service difficulty
21 started in January of this year. As with
22 other CP sur-plants our BNSF sur-plant is

1 Lovell, Wyoming, is running well short of the
2 number of system cars that is needed to meet
3 demand.

4 We estimate that we have lost
5 \$1.75 million in sales because of the BNSF
6 service. Again, AMCOL wishes to stress that
7 the current railroad service levels are
8 impacting not only AMCOL, but also our
9 customers and also the broader economy.

10 In conclusion, we thank the Board
11 for the opportunity to appear here today and
12 we respectfully request that the Board take
13 all steps in its powers to restore fluidity to
14 the CP and BNSF rail systems. Thank you.

15 CHAIRMAN ELLIOTT: Thank you very
16 much. Mr. Powell?

17 MR. POWELL: Chairman Elliott and
18 Vice Chairman Begeman, thank you for your time
19 this afternoon, I know it's been a long day
20 for everybody.

21 I'm going to move a little bit to
22 passenger railroad. I'm the President of the

1 Leading Rail Vacation and Tour Company in the
2 United States. We have a subsidiary in the
3 United Kingdom.

4 Rail service and passenger rail is
5 a vital importance to our business customers
6 and local economies that rely on the impact of
7 tourism in their community.

8 The continued delays and
9 congestion impact directly the passengers,
10 people, not just oil, coal, agriculture, and
11 other freight. Although over the years Amtrak
12 has had, it's been commonplace to have some
13 delays.

14 Recently, significant longer
15 delays have negatively impacted our business,
16 our customer's experience, and at times the
17 health and safety of our travelers.

18 In fact delays in as much as eight
19 to ten hours have plagued Amtrak's Empire
20 Builder, Amtrak's daily train operating
21 between Chicago and Seattle.

22 And, as a result, literally

1 thousands of Amtrak passengers and their
2 families have suffered an extreme
3 inconvenience and often considerable personal
4 expense, and many of these travelers are
5 vacations by rail customers.

6 Delays have resulted in the
7 following, passengers, including families,
8 children, senior citizens, being stranded at
9 times at unstaffed stations as they wait for
10 their train for hours at times.

11 Trains running out of food and
12 water as a result of considerable delays,
13 problems with lavatories and overall
14 sanitation onboard the trains, and passengers,
15 at times, arriving eight, ten, or sometimes 12
16 hours late into unfamiliar cities and towns
17 resulting in no connecting transportation,
18 lack of staff, and security.

19 The inability to rely on published
20 schedules of long distance trains negatively
21 impact our business and other people who plan
22 their vacation and holiday travel, because

1 they cannot plan events on the days a train is
2 due to arrive for fear of late arrival.

3 They cannot recommend connecting
4 transportation within eight hours of a train
5 arrival. And, additionally, there's unplanned
6 expenses for companies such as Vacations By
7 Rail and other tour companies when a train
8 arrives considerably late, later than it's
9 scheduled arrival time.

10 These delays are really blemishes
11 on United States Government as the owner of a
12 National railroad passenger corporation and it
13 negatively impacts the equity of Amtrak's
14 brand which is known throughout the World.

15 These types of delays would not be
16 tolerated in other industries, and certainly
17 not the airline industry, which now has its
18 own Bill of Rights.

19 What we're asking is that this
20 Board establish an oversight committee for
21 passenger rail and assistance for passenger
22 rail and compel the freight lines and Amtrak

1 to adhere to on-time performance standards and
2 live up to their statutory obligations that
3 they have and also provide consumers with some
4 type of recourse against the railroads for
5 failure to meet their performance standards.

6 As part of that we would like to
7 see a published railroad Bill of Rights that
8 allows people compensation in real dollars if
9 trains are delayed, hotel accommodations and
10 meals if trains are delayed for a certain
11 amount of hours, ultimate transportation, even
12 by air if missed connections are the result of
13 the trains being late and connections not
14 being made, and a possible full refund of
15 tickets are the some of the ideas that we've
16 come up for with a Bill of Rights.

17 But not only does this impact our
18 business, but it does impact the local
19 economies, using Glacier Park as an example.
20 In 2013 Amtrak served over 87,000 passengers
21 to four train stations in Glacier National
22 Park.

1 One-third of those travelers are
2 typically vacation travelers and the impact
3 alone on an aggregate level is about \$4.6
4 million per day to the local economy for those
5 passengers staying that area.

6 This is real money to the local
7 economy resulting in jobs and opportunity and
8 when the train's do not on time it deters
9 travelers from continuing to chose those
10 destinations that are served by long distance
11 trains and impedes the ability to spend money
12 in a local economy.

13 In fact I know that this year
14 alone some other rail tour operators have
15 changed their itineraries so not to include
16 some of Amtrak's long-distance trains,
17 particularly the Empire Builder because of the
18 risk that is involved in the trains arriving
19 late.

20 Now the last 12 months Amtrak has
21 been, particularly the Empire Builder, has
22 been 20 percent, had an on-time performance of

1 20 percent and in February it was only 11.6
2 percent.

3 It seems like the answer that
4 Amtrak and BNSF has come up with was to add
5 three hours to the schedule of the Empire
6 Builder. The Board should ensure that this is
7 only temporary because what this is really
8 doing is changing the grading scale so that a
9 D is now an A.

10 So we respectfully request that
11 the Board look at passenger rail and how it
12 can be involved and provide and oversight made
13 up off passengers and consumers so that they
14 can be involved in such decisions as to change
15 schedules and fares and provide recourse for
16 our passengers. Thank you for your time.

17 CHAIRMAN ELLIOTT: Thank you, Mr.
18 Powell. Questions?

19 VICE CHAIRMAN BEGEMAN: Really, I
20 just want to thank you all, especially given,
21 I saw you all here this morning, at least most
22 of you before 8:30. Even though you're on the

1 last panel your testimony is just as important
2 to us as if you were on the first.

3 Ms. Burns, obviously, we know that
4 you have been pulling your hair out, along
5 with members of our staff, trying to prevent
6 shutdowns. Folks here will continue to try to
7 help you.

8 As I said at some point during the
9 day, we are holding the carriers accountable
10 to do what they say they can do, what they
11 will do.

12 They've been clear, it is not
13 going to change tomorrow or even next week,
14 but within let's say a month, Chicago is
15 supposed to be a lot better, things are
16 supposed to be a lot better.

17 I think maybe six weeks was
18 someone's time frame, but I don't consider
19 this to be over when this hearing adjourns.
20 I know I will certainly be monitoring, we'll
21 be looking at the data, we'll be reading the
22 press, we'll be watching and working.

1 I hope that you will communicate
2 with our customer assistance folks. We can and
3 we also don't want to cause harm, or
4 unintended consequences despite our best
5 intentions.

6 Thank you for your amazing
7 patience. Hang on a little longer.

8 CHAIRMAN ELLIOTT: Yes,
9 similarly, I just want to thank you very much
10 for coming in today and I know it's been a
11 long day and, as the Vice Chairman mentioned,
12 this is not over.

13 We intend to pursue other meetings
14 like we did in North Dakota and try to work
15 with people as much as possible. We heard
16 some commitments, some very strong commitments
17 from BNSF and CP today, and we do intend to
18 hold them to those commitments and we will
19 keep pursuing this and keep watching it until
20 the problem is solved.

21 So, thank you very much. I think
22 that is the end of the hearing. So, thank you

1 everyone for coming and thank you for
2 everybody that's helped out today, we greatly
3 appreciate it.

4 Thank you everyone for your
5 testimony and the hearing is hereby adjourned.

6 (Whereupon, the hearing in the
7 above-entitled matter was concluded at 3:49
8 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: US Rail Service Issues

Before: US Surface Transportation Board

Date: 04-10-14

Place: Washington, DC

was duly recorded and accurately transcribed under
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true and accurate record of the proceedings.



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April 10, 2014

Ms. Cynthia Brown
Chief, Section of Administration, Officer of Proceedings
Surface Transportation Board
Attn: Docket No. EP 724
395 E Street SW
Washington, DC 20423-0111

RE: Docket No. EP 724

On behalf of National Farmers Union's (NFU) members, I appreciate the opportunity to express my concerns regarding recent service problems in the U.S. rail network, specifically in Montana, North Dakota, South Dakota and Minnesota. Please note that I am providing copies of North Dakota Farmers Union's testimony at their request. In addition, Montana Farmers Union submitted written testimony and South Dakota Farmers Union is also represented in a later panel. I also commend the Surface Transportation Board (STB) for holding a stakeholder meeting in North Dakota to address some of the issues.

NFU is a grassroots-driven family farm organization that represents roughly 200,000 family farmers and ranchers in all 50 states. A large portion of our membership is located in Montana, North Dakota, South Dakota, and Minnesota. These are the states most affected by the recent Canadian Pacific Railway Company (CP) and BNSF Railway Company (BNSF) rail transportation delays.

NFU has long advocated for the protection of captive shippers. In fact, this is one of the issues at the core of our organization's creation more than 100 years ago. Access to rail transportation continues to be one of the most important factors in the prosperity of rural America. Farmers need an affordable, readily accessible and reliable transportation system. This is crucial as they continue to meet the growing and changing demands of American and global consumers.

NFU is very concerned about the service problems on the CP and BNSF systems. Our members report that there is a significant lack of railcars at their elevators, which leads to delays and additional costs that the elevators then pass down to farmers. The delays are caused by two factors: unusually cold weather and a low priority for agricultural goods in the face of significantly increased rail traffic specifically related to coal and oil.

The former reason is understandable but is transitory. Under extremely cold conditions, trains need increased horsepower and cannot haul as many cars as under normal conditions. BNSF's trains are usually between 7,000 to 8,000 ft. long. But, under the cold weather conditions (negative 20 or 30 degrees) trains can only handle 5,000 ft. This past winter was unusually cold. In North Dakota, for

instance, average temperatures in December, January and February were about 7 degrees colder than the average temperatures in those months over the past 20 years.¹



As is stated in Montana and North Dakota Farmers Union's testimonies, unfortunately, agriculture does not seem to be a priority for CP and BNSF. It seems that oil, coal and container shipments are ahead of grain in the list of shipping priorities. Oil production in the Bakken shale formation of Montana and North Dakota has led to a tremendous boom in production. Compared to this time last year, the Bakken is producing around 1.1 million barrels of oil per day, up from 800,000 barrels per day in April 2013² which is up from 200,000 barrels per day in 2009, which is the last year I served as North Dakota Agriculture Commissioner and regulated the oil industry. This increase in production has put pressure on companies such as BNSF.

Similarly, there has been an increase in coal exports from the Powder River Basin to the Pacific Northwest. The Western Organization of Resource Councils (WORC) recently released a study, "Heavy Traffic Still Ahead" (which I wish to submit for the record) showing that coal exports to the Pacific Northwest have more than doubled since 2012. These increased volumes of coal and oil shipments have displaced grain shippers, leading to long, expensive delays.

Because there are fewer cars and agricultural commodities are not prioritized, there are long delays in grain shipments. Our members in North Dakota and South Dakota report delays of around 17 to 40 days. Montana Farmers Union reports delays of around 28 days.

Delays are very costly because end-users impose stiff penalties for late shipments. As is referenced in North Dakota Farmers Union's testimony, when delays exceed five days, penalties are \$.05 to \$.10/bushel per day. Grain elevators contract with these end-users and ultimately have to widen the basis in order to cover the cost of the penalties, thus decreasing the cash price and passing these

¹ North Dakota State University <http://www.ndsu.edu/ndsco/publication/current.pdf>

² Energy Information Agency <http://www.eia.gov/petroleum/drilling/#tabs-summary-2>



increased costs on to the farmer in the form of lower prices for the commodity being shipped. The cost of shipping delays amounts to approximately \$0.40 to \$1.00 per bushel of wheat, which translates to a loss of \$9,600 per average farm, at minimum. This situation is unacceptable.

Commodity groups such as wheat have spent a lot of time and money building relationships with customers. Because U.S. wheat is seen as being delivered reliably, it is often paid a premium for the timeliness of delivery. With the ongoing delays, these relationships with customers are at risk.

I encourage the STB to address the problems of captive shippers. In particular, I urge the Board to hold railroads responsible for losses due to delayed delivery of rail cars. BNSF and CP need to guarantee that a certain portion of shipments will be dedicated to agricultural products. BNSF and CP need to ensure that there is increased investment going forward to account for the increased demand.

Finally, as I know you are well aware, this area of the country has for many years faced non-competitive rail rates due to consolidation in the rail industry and the resulting lack of effective transportation competition. The recent oil and coal production increases have now placed further obstacles to fair, competitive rate treatment on agriculture and is a long term problem that needs to be addressed.

I appreciate the opportunity to express NFU's concerns to the STB. I hope that the STB will take this issue seriously so that family farmers and ranchers can benefit from immediate and long-term solutions to current rail problems. Thank you for your consideration.

Sincerely,

Roger Johnson
President

235855



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Plains Grain & Agronomy, LLC • PO Box 6 • Enderlin, ND 58027 • 701-437-2400

Good morning Chairman Elliott and Vice Chairman Begeman. Thank you for holding this important hearing. Thanks for sending Tom Brugman to North Dakota on March 26th to hear from shippers.

My name is Keith Brandt, Gen Mgr of Plains Grain & Agronomy (PGA) at Enderlin, ND. I'm also here on behalf of the North Dakota Grain Dealers Ass'n, a 103 year old association representing the interest of hundreds of grain elevators of all sizes across our state. I am a past president of NDGDA and currently serve on its Transportation Committee.

NDGDA has appeared before this Board on numerous occasions regarding rail service, mergers, fuel surcharges, and the common carrier obligation, to cite a few. Past STB Chairwoman Morgan and past Chairman Mulvey, Nottingham, Buttery, and Nober have been guests in our state. In other words our state association has been heavily involved.

PGA is located in southeastern North Dakota on the mainline of the Canadian Pacific railroad with shuttle loading capacity there. We have a branch location, which can load up to 27 cars, on the Red River Valley & Western railroad. Within 30-50 miles there are six BNSF shuttle loading stations that surround us.

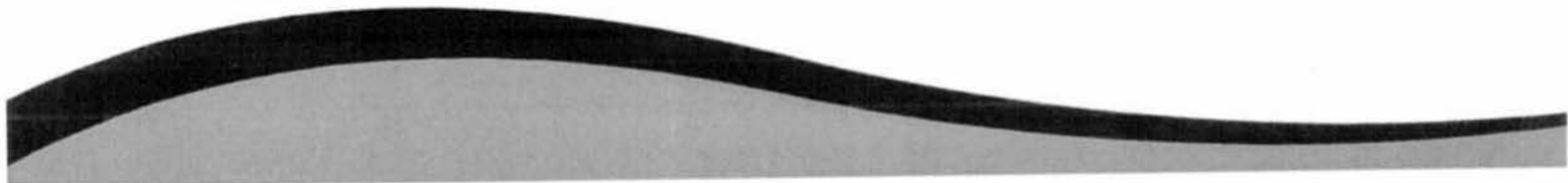
PGA was formed to accommodate the requests of North Dakota's two Class I railroads, Canadian Pacific and BNSF, for fast shuttle loading to receive priority service. Comments today center around the serious service issues. Cycle times on shuttles have fallen from 2 – 2.5 turns per month to half of that at best. For the record,

PGA is waiting for a February 17th shuttle order to be filled and a February 4th singles order to be filled. There are orders on either railroad for various shipment sizes that are far older than these. The smaller orders lag the most.

The lack of service by the CP for PGA goes back a few years. We first started loading out of our new shuttle loading station in 2003. We peaked at loading 6158 cars during the 2008-2009 crop year. We have never gotten back to that number. To receive grain from our customers in spite of poor service by the CP, we truck grain to competing railroads or take excessive risk to pile grain in outside locations. This increases expense and reduces profit.

This past harvest we loaded over 300 cars of corn on the RRVW that went to an ethanol plant located on the main line of the Canadian Pacific. This plant prefers the RRVW to deliver corn to them because of their timely and consistent service.

Because of untimely and inconsistent movement on the CP, we are constantly faced with discounted bids from buyers of 5-10 cents per bushel. Oftentimes trains and other shipment sizes on the CP sit for two-three weeks after billing before being pulled away. While the CP doesn't have sufficient power to move its own equipment, it leases power to other railroads.



This inconsistent service by the CP is evident across the state over the last 10 years with the expansion of shuttle loading elevators, fertilizer storage hubs, ethanol plants, and propane storage hubs not locating on their railroad.

We continually hear how cold weather effects the movement of rail traffic. In North Dakota there are a few months every year of cold weather and snow. Just a little colder some winters and a little more snow some winters. This has always been the case and railroads should have learned to operate in these conditions.

Much has been said about the development of oil drilling in North Dakota. Many grain elevators believe the increased attention to oil by railroads is at the expense of grain. Tanker cars clog sidings and yards and move before anything else. This consumes power and crews.

NDGDA recently sent information to the office of Compliance and Government Assistance indicating oil on rail had increased six-fold from 2011 to 2013. While oil has proved to be good revenue to both railroads, some balance of car movement needs to be maintained. Oil wells don't quit pumping but grain elevators quit dumping.

Many elevators go to extremes to load cars in cold weather and snow storms. They do this to reduce penalties for shipments already late and to reduce lost revenue from grain that might have gone somewhere else. But railroads can miss their commitments by weeks and suffer no consequences to their customers.



PGA has a great opportunity to exceed those car loadings of 2008-2009. But we don't see plans and we lack confidence that the CP can make it happen.

We encourage this Board to hold more events like this in areas of the nation where grain is grown and loaded on rail. Give the benefit to the rail customers to speak and place the burden on the railroad lobbyist to travel to where their bread is grown and buttered.



TESTIMONY
OF
D.J. STADTLER, VICE PRESIDENT OF OPERATIONS
AMTRAK
BEFORE THE
SURFACE TRANSPORTATION BOARD
THURSDAY, APRIL 10, 2014
10:00 a.m.
395 E. Street SW, WASHINGTON, DC 20423-0001

Good morning, and thanks very much for the invitation to testify today. It's an honor to appear here on behalf of Amtrak, and I appreciate the opportunity to discuss the issues pertaining to on-time performance (OTP). As you know, Amtrak is America's intercity passenger rail provider, and we operate the vast majority of the trains classified as "intercity passenger service" in America. Our services range from trips of 62 miles in duration on our New Haven to Springfield, Massachusetts service, all the way up to 2,438 miles on our *California Zephyr*, a long distance train that connects Chicago with the San Francisco Bay Area. About 70% of our train-miles are run on a host railroad, and there are very few Amtrak services that do not depend on effective host railroad handling for at least a portion of their trip. Even our New York to Boston Northeast Corridor services run over a 56 mile segment of Metro-North Commuter Railroad. Consequently, all of us who are here today have an interest in a fluid and well-run railroad system.

This matters because in addition to Amtrak's statutory right to preference established by Congress, the 2008 Passenger Rail Investment and Improvement Act, or "PRIIA", was intended to give Amtrak an effective set of tools to ensure a high level of host railroad performance, and it addressed the OTP issue specifically. Section 213 of PRIIA empowers the Surface Transportation Board to initiate an investigation any time the on-time performance of an intercity passenger train falls below 80 percent for any two consecutive calendar quarters; failure to meet the service quality standards set by Section 207 of the same Act is likewise a reason for the STB to take action. Other entities, including Amtrak, are also empowered to request an investigation.

While the process of determining the metrics and standards consumed quite a bit of time, we believe that the freight railroads took this act seriously, and immediately after PRIIA passed, there was a gratifying upturn in the way in which virtually all of our long distance trains were handled. This first slide will show you how performance has risen and fallen since 2006, when our long distance trains turned in the worst average endpoint on-time performance since 1973, an appalling 30%. Long distance on-time performance rose to 54% in FY 2008, and again to 75% in 2009. Although it dipped to 63% in FY 2011, it was generally at or above 70%, on an average annual basis, through the end of FY 2013.

This trend of performance was very high by historic standards, and it has contributed to the general pattern of revenue growth that has helped Amtrak improve its financial performance in recent years. There was, however, a legal question about the metrics and standards that were established by PRIIA Section 207. After judicial review, the US Court of Appeals for the District of Columbia held in July, 2013 that the statutory process used to determine those metrics and standards was unconstitutional. While I won't venture an opinion about that decision, I have a very definite opinion about the operational impact this decision has had on our services: we saw an immediate drop in on-time performance across the board that was directly attributable to train handling by the host carriers. This next slide, which shows minutes of delay due to freight train interference on a monthly basis for the entire Amtrak system, chronicles the increase that followed the Appeals Court decision; these are typically delays that are attributable not to weather or infrastructure condition, but simply to conflicting freight movements, although there

are obviously some circumstances in which those other conditions could contribute to this kind of interference.

This is not a problem that's confined to a single carrier. The next slide, which I will show you, compares the minutes of host-responsible delay per ten thousand train miles for each of the six Class I carriers; delay on each has grown substantially over the same period in the preceding year, and we have seen a corresponding fall in long distance train on-time performance. By the end of the first quarter of FY 2014, long distance train performance at all stations had fallen a total of 11.4 percentage points over the previous year, and by the end of March the decline had grown to a total of 16.2 percentage points, with a long distance system average of just 43.1% for the year to date. Individual service averages were for the most part banded by the high of 77.0% (*Auto Train*) to 30.7% (*Lake Shore Limited*), with an outlier on the low end of the bracket – the *Empire Builder*, which arrived on time at its stations a mere 19.6% of the time in FY 2014, through the end of March. This next slide will show you the different causes of delays to the *Empire Builder*; as you can see, on all of its hosts, freight train interference is the single largest cause by a very wide margin.

The *Empire Builder* is a particularly important service for the region it serves, since it reaches an area that does not have a paralleling interstate highway system or intercity bus service, and very limited essential air service. Passengers depend heavily on the service, but we are not providing them with the kind of service they deserve: in the first quarter of FY 2014, nearly 100,000 *Empire Builder* passengers arrived late at their destinations. The rates of delay,

measured in terms of minutes of delay per 10,000 train-miles, have risen dramatically in FY 2014. Freight train interference rates have nearly tripled, and this indicates not only that there are more delays, but that those delays are of longer duration. In response, ridership and ticket revenues have fallen by 15%, year over year to date. The chronic nature of these delays, as well as their growth in duration, has forced us to add an extra set of equipment to the pool used to provide the *Empire Builder* service and temporarily added up to three hours to the schedule, in coordination with BNSF to support its recovery efforts.

While I am cautiously optimistic about our ability to jointly address the issues that the *Empire Builder* confronts with our host railroads, BNSF Railway and Canadian Pacific, I want to close by returning to the larger issue of systemic delay growth. I think the data shown in this last slide are consistent with what we've seen elsewhere, and even when weather is taken into account, paint a picture of a larger trend. Amtrak services nationwide, and particularly the long distance trains shown on this slide, are experiencing growing levels of delay on host railroads. If this is not addressed, it will translate into significant impacts to our service, our passengers, and our bottom line. We want to avoid that, and we prefer to address and fix this system-wide problem by working cooperatively with our host railroad partners. We do, however, have an obligation to provide the traveling public with the level of service mandated by the statute, and we therefore believe that the STB could significantly assist us by monitoring the statistics Amtrak publishes and asking the freight carriers to report periodically to the STB on their handling of Amtrak trains. We believe this would help us to ensure that the public interest in a safe, efficient and reliable intercity passenger rail service is safeguarded in the years to come.

TESTIMONY OF
DJ Stadtler
VICE PRESIDENT OF OPERATIONS
AMTRAK

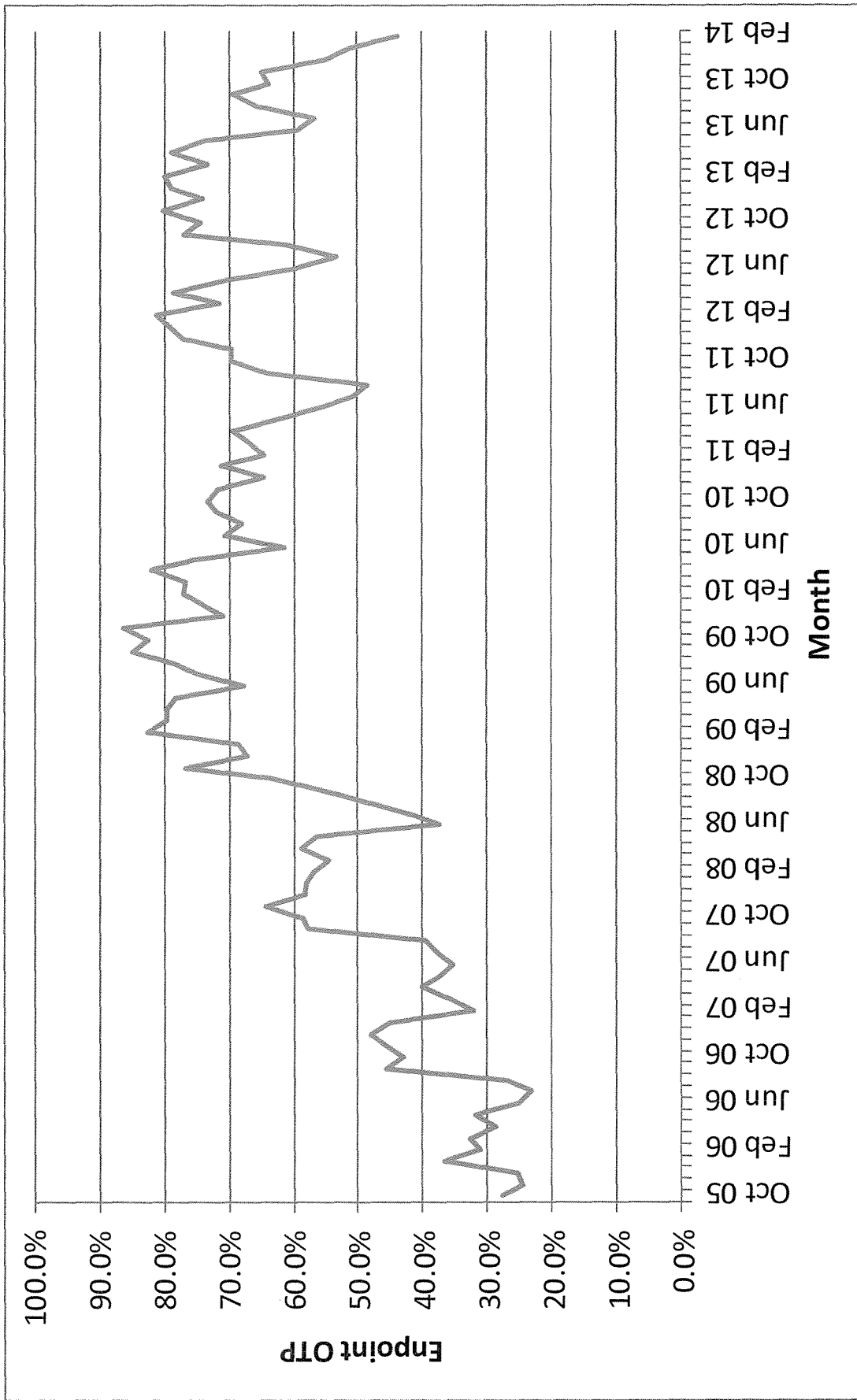
BEFORE THE

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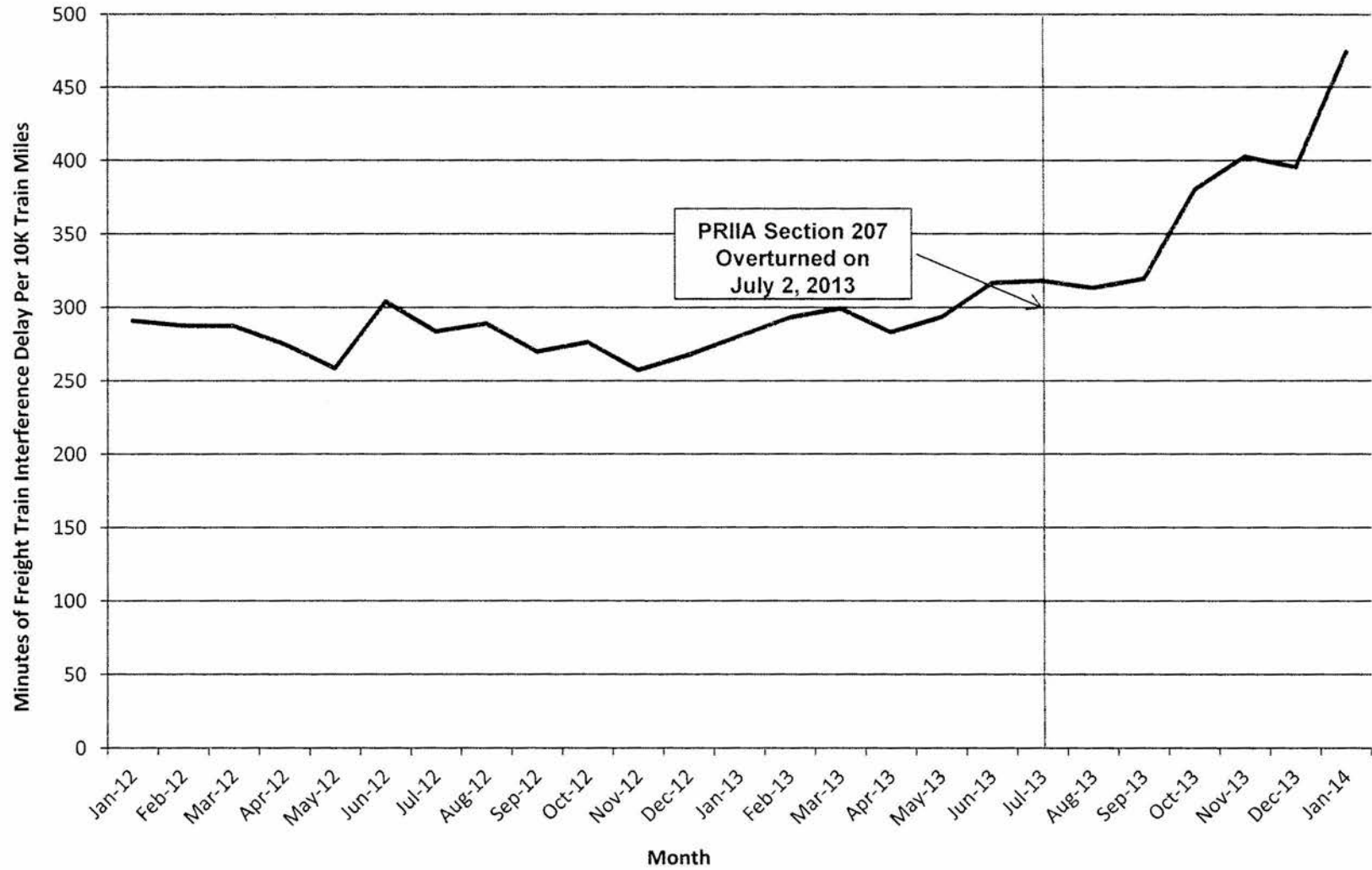
THURSDAY, APRIL 10, 2014
10:00 A.M.
395 E STREET SW, WASHINGTON, DC 20423-0001



Long Distance on-time performance, 2006-present



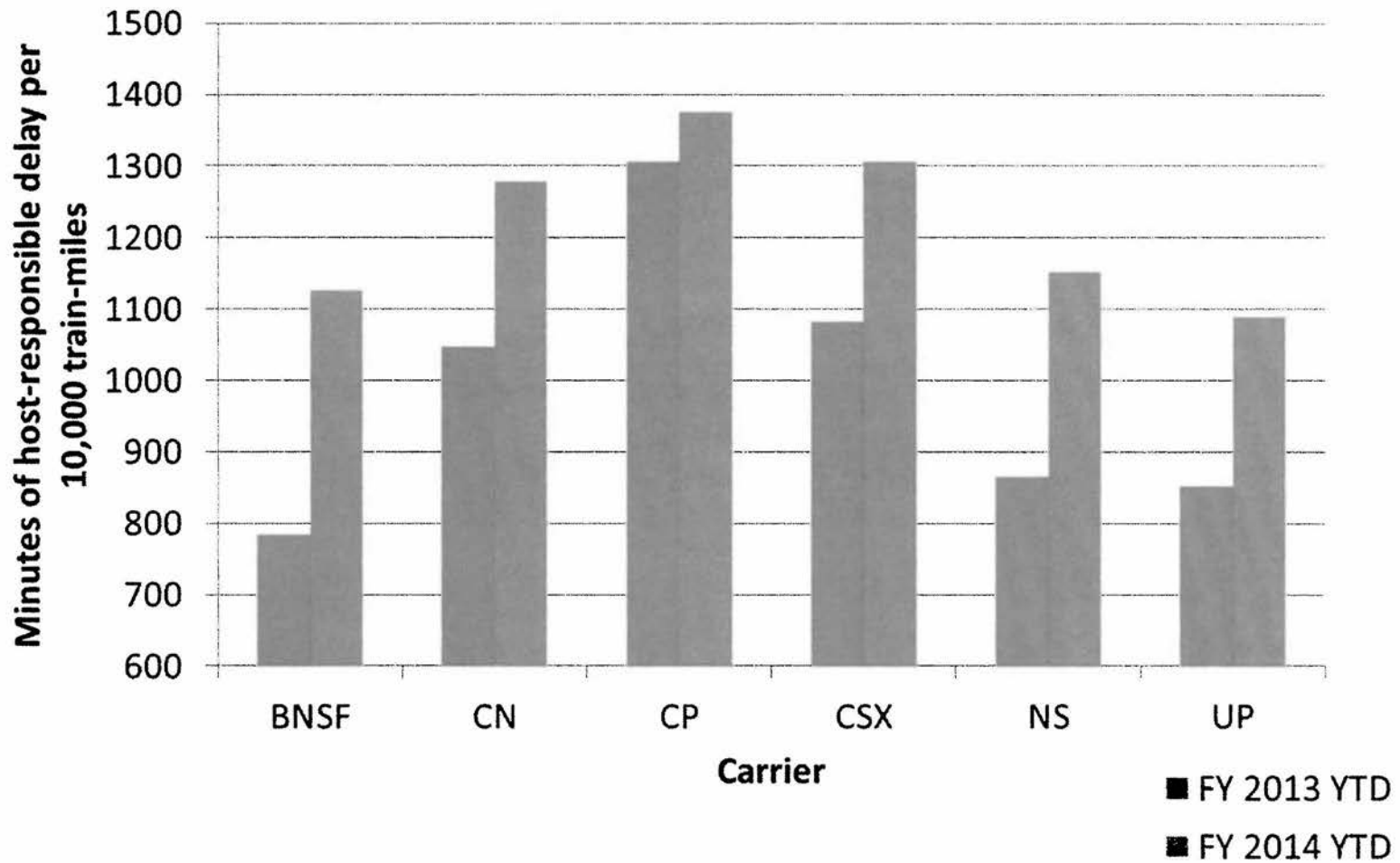
Freight Train Interference Delays on the Major Freight Host Railroads



Major Freight Hosts are BNSF, CN, CP, CSX, NS, and UP.



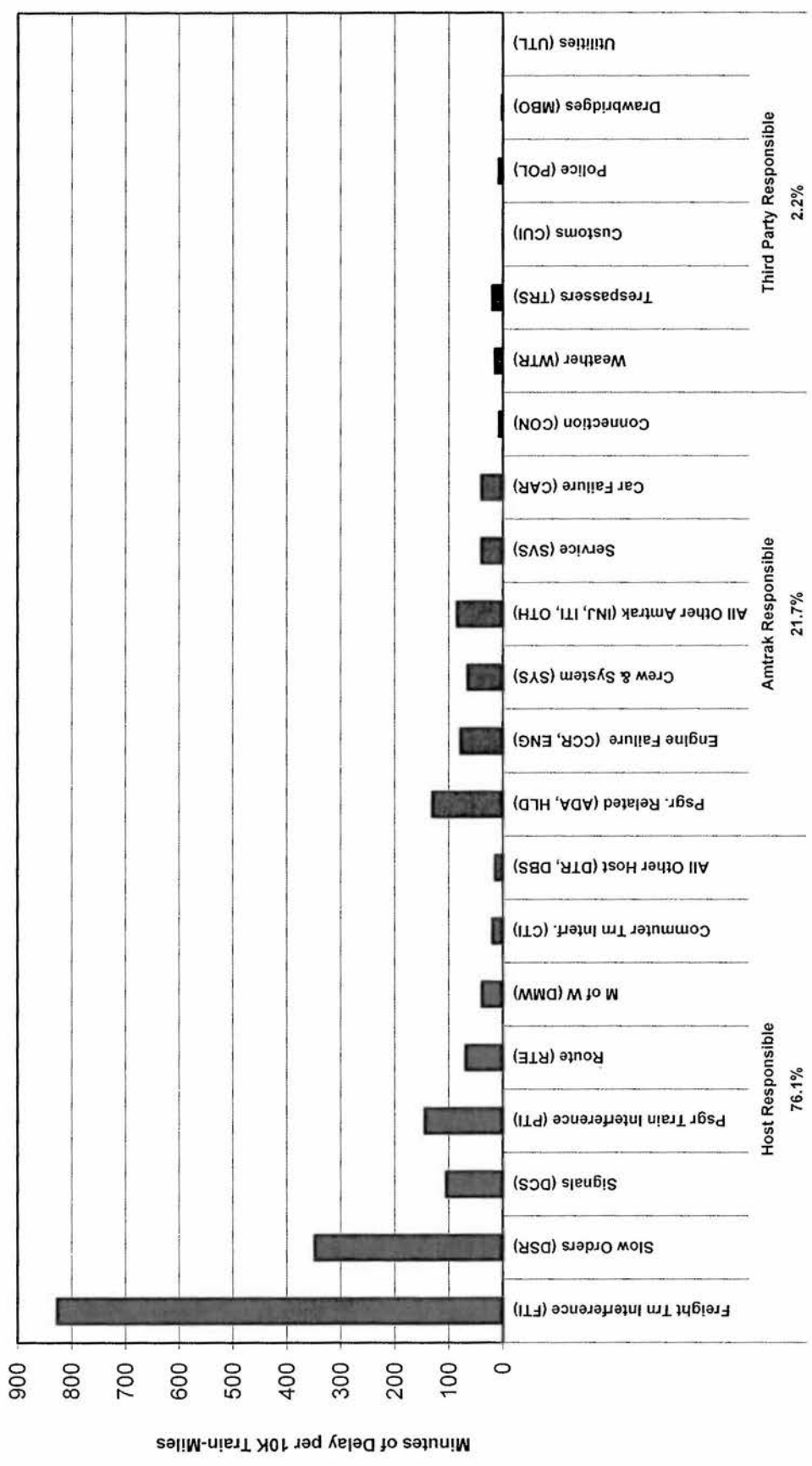
Minutes of Host-Responsible Delay per 10,000 train-miles



Freight train interference is the single largest cause of delay

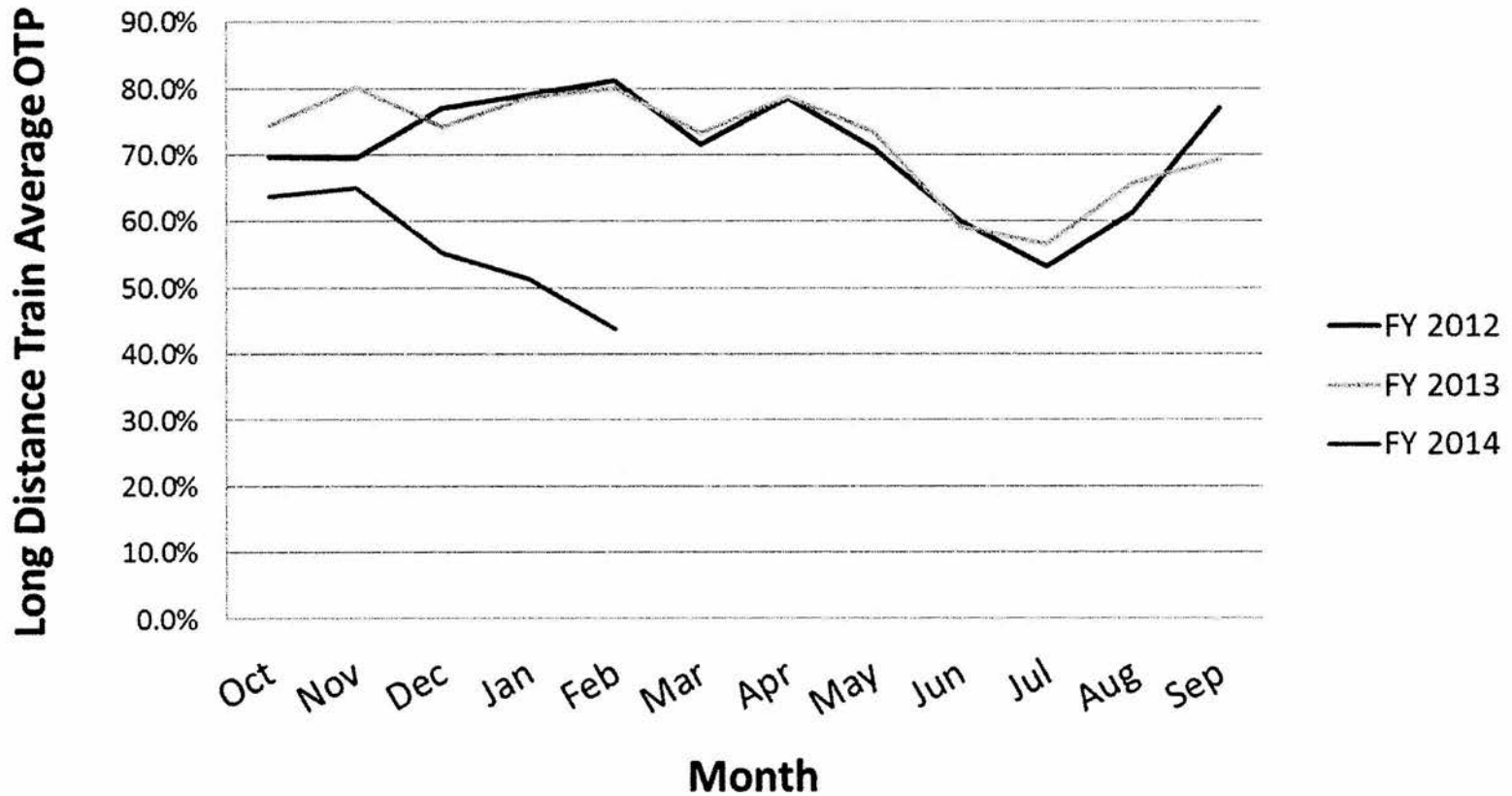
Delay to the Empire Builder by Type and Responsible Party

Most Recent Quarter - October through December 2013

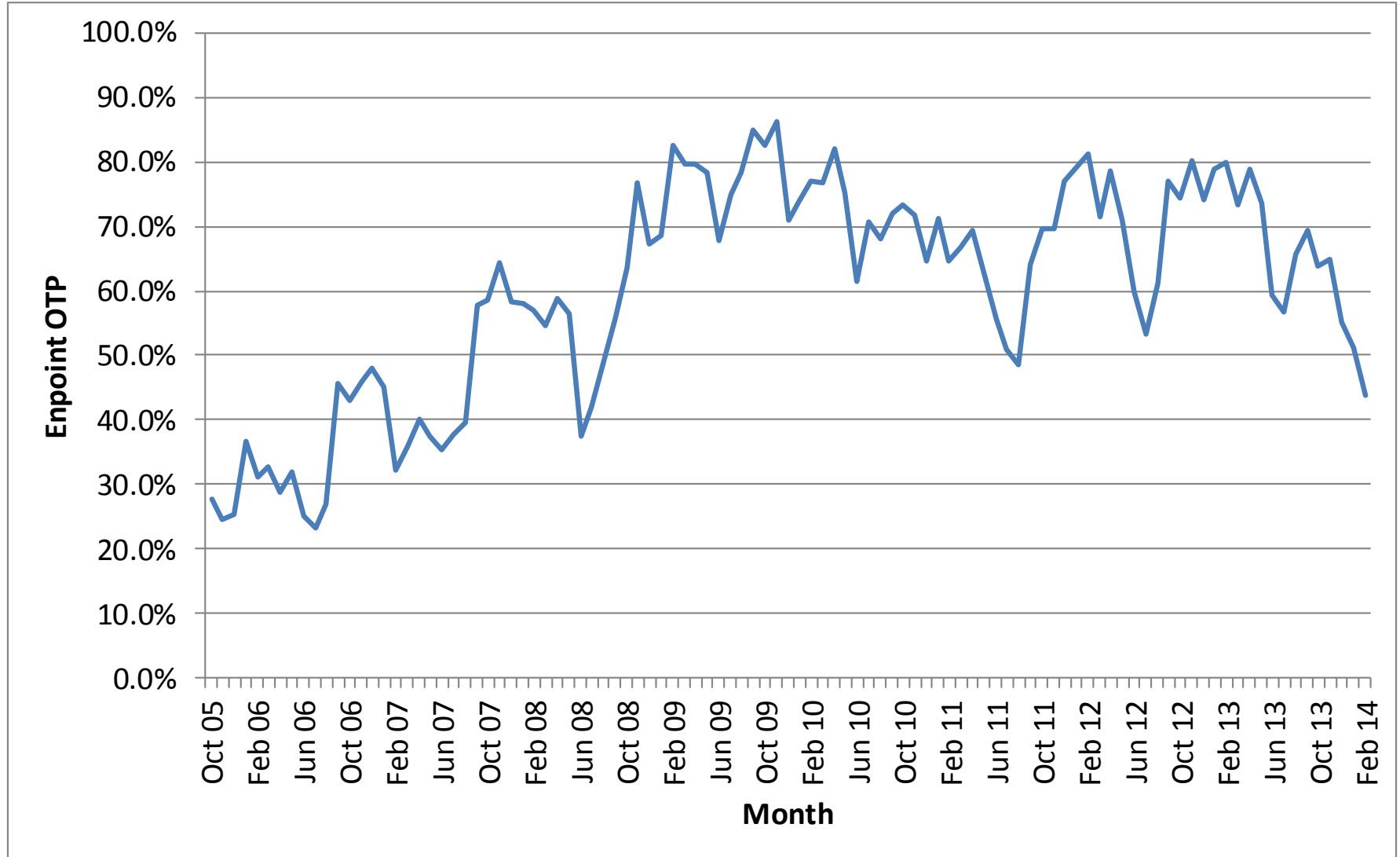


Long Distance on-time performance, 2006-present

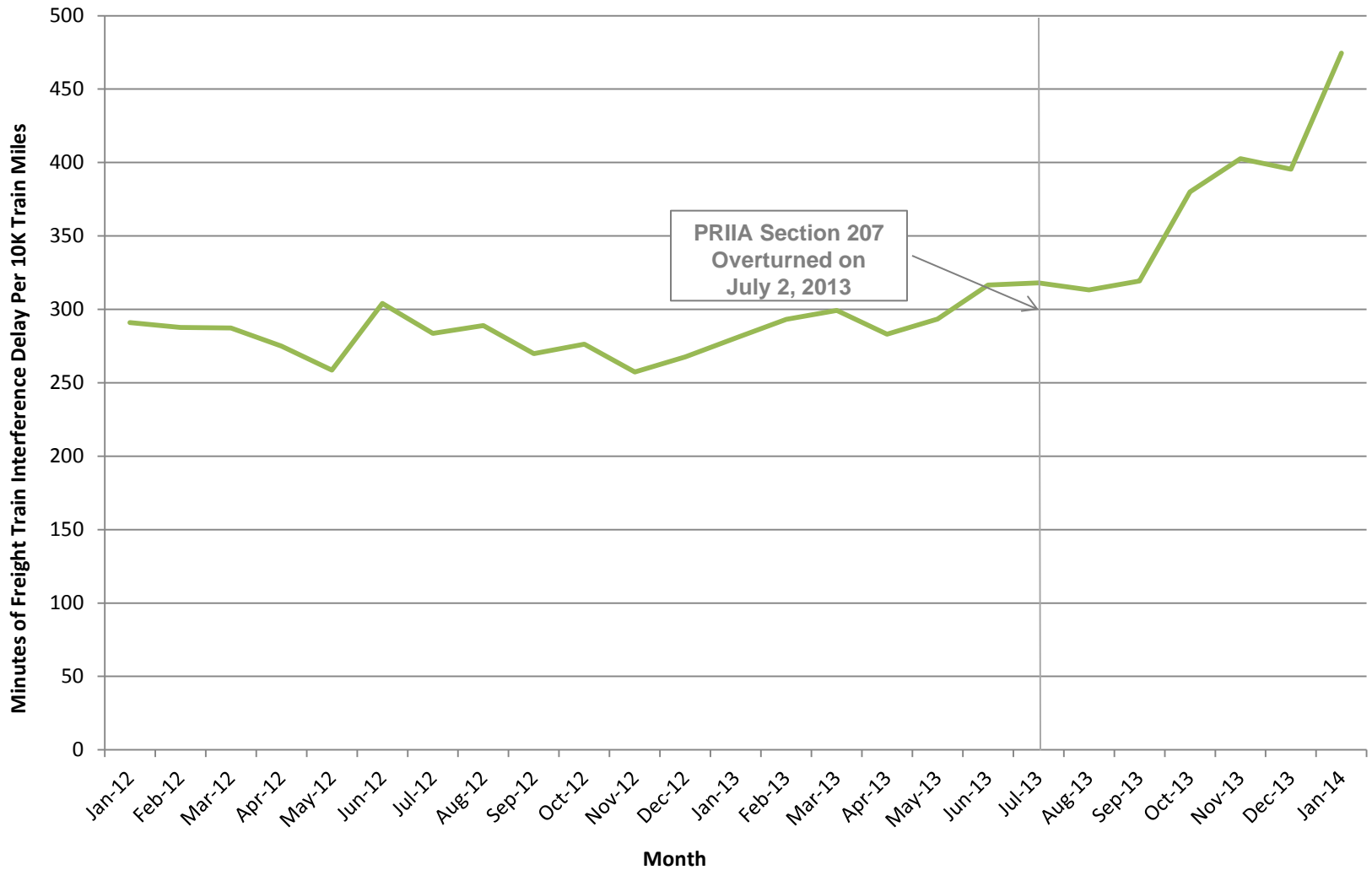
Long Distance On-Time Performance by month, FY12-14



TESTIMONY OF
DJ Stadtler
VICE PRESIDENT OF OPERATIONS
AMTRAK
BEFORE THE
SURFACE TRANSPORTATION BOARD
THURSDAY, APRIL 10, 2014
10:00 A.M.
395 E STREET SW, WASHINGTON, DC 20423-0001

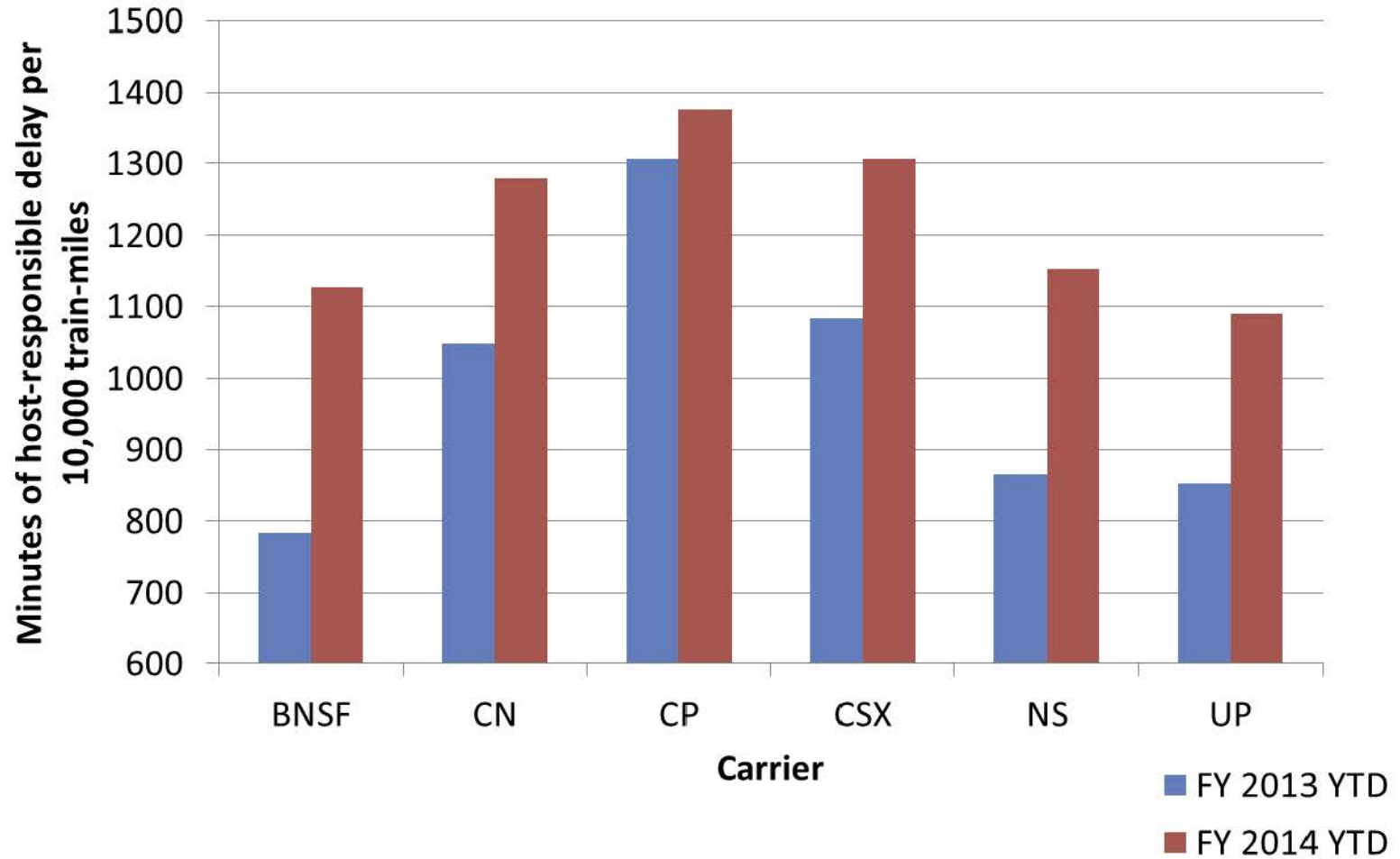


Freight Train Interference Delays on the Major Freight Host Railroads⁵⁶⁴



Major Freight Hosts are BNSF, CN, CP, CSX, NS, and UP.

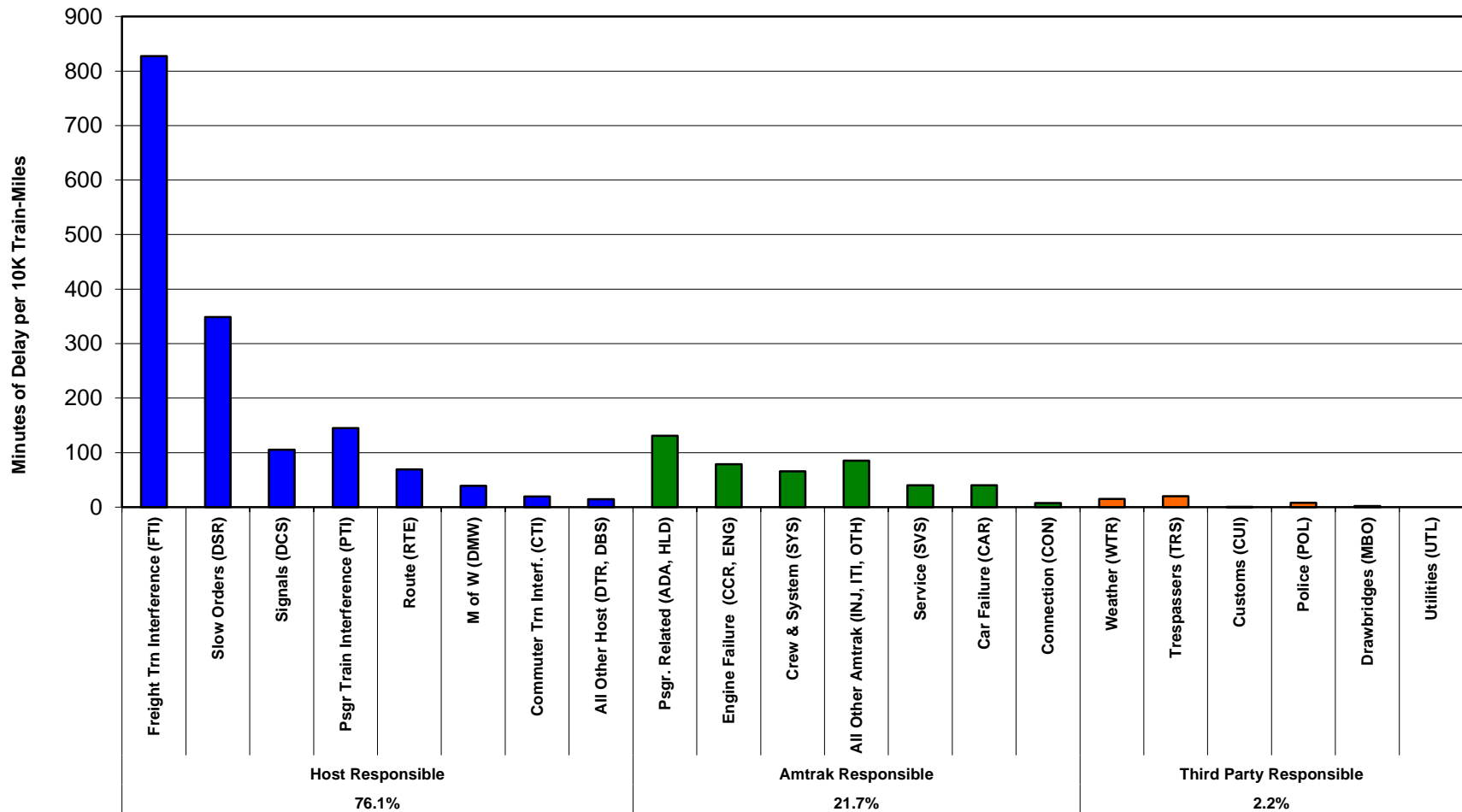
Minutes of Host-Responsible Delay per 10,000 train-miles ⁵⁶⁵



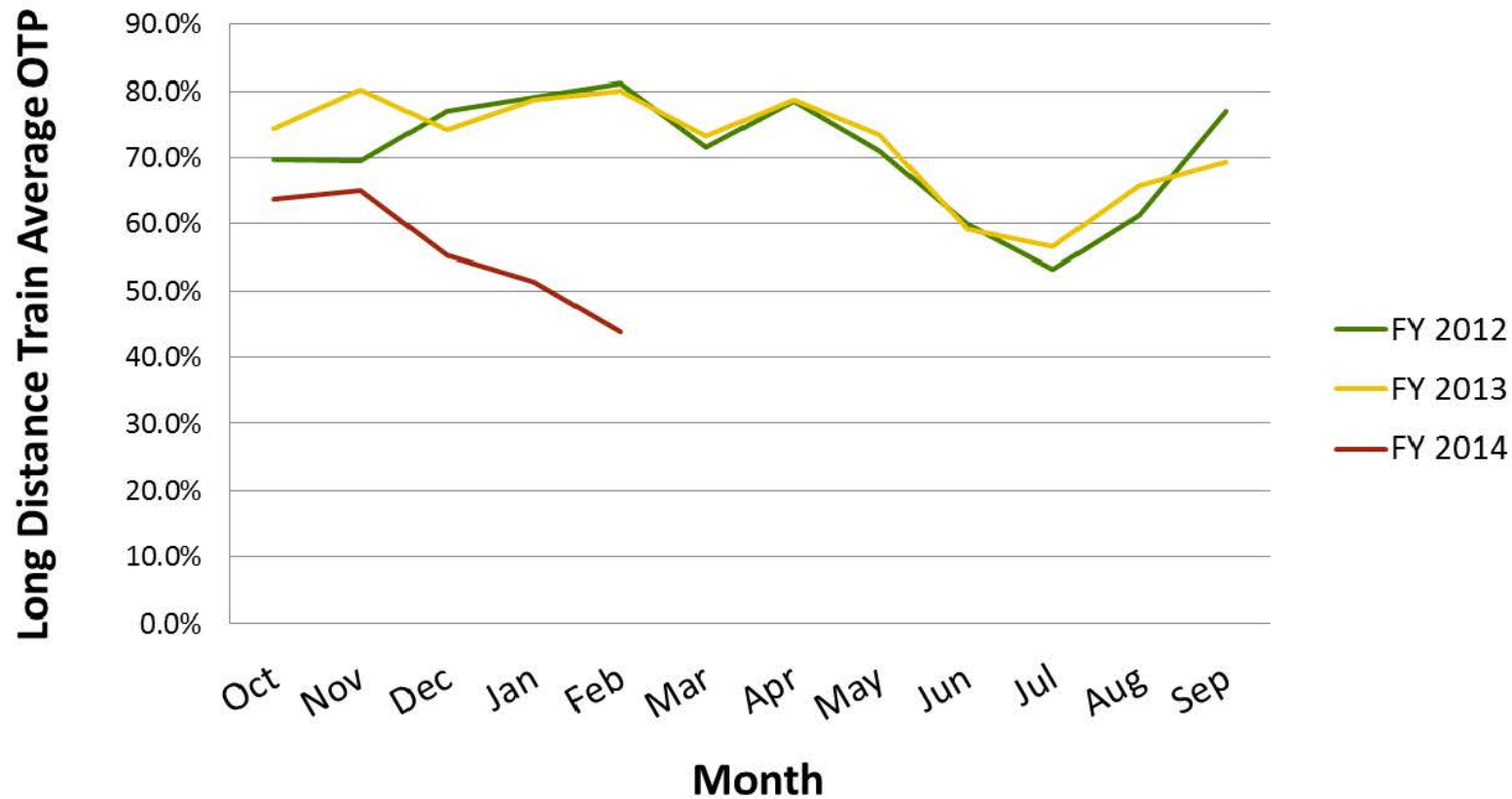
Freight train interference is the single largest cause of delay⁵⁶⁶

Delay to the *Empire Builder* by Type and Responsible Party

Most Recent Quarter - October through December 2013



Long Distance On-Time Performance by month, FY12-14



235857

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Statement of Hal Clemensen
Farmer and President of the Board of Directors
of South Dakota Wheat Growers
at Surface Transportation Board Public Meeting
on United States Rail Service Issues
STB Docket No. EP 724, April 10, 2014

Good afternoon, Chairman Elliott and Vice Chairman Begeman. My name is Hal Clemensen. I am a third-generation family farmer from Conde, in northeast South Dakota, where we raise corn, soybeans and wheat on 3,200 acres. I am also the President of the South Dakota Wheat Growers Board of Directors. I am speaking today on behalf of myself and Wheat Growers, the largest local, farmer-owned grain and agronomy cooperatives in the nation, with more than 17,000 owners in North and South Dakota. Thank you for this opportunity to discuss the growing crisis agriculture is facing over the lack of timely rail service to ship our grain to domestic and foreign markets and bring in needed inputs for spring planting. Today I will share with you the impact this situation has had on me, my fellow farmers and our cooperative.

Wheat Growers annually handles over 160-million bushels of grain and 400,000 tons of fertilizer through our network of grain elevators and agronomy centers. But our system is now being strangled by a lack of dependable, timely rail service that is creating economic hardship and frustration on the grain side and uncertainty and anxiety on the agronomy side.

Continued poor performance by the Burlington Northern Santa Fe (BNSF) and Canadian Pacific (CP) railroads in meeting grain handling and agronomy input demands have a direct effect on the prices Wheat Growers member-owners and I receive for grain and the price we pay for fertilizer this spring.

Agriculture in the Dakotas and the upper Midwest is critically dependent on reliable rail service. Our distance to markets makes trucks not viable, and without navigable rivers in the Dakotas, barges are not an alternative. Grain must ship a great distance, and inputs such as fertilizer must come from equally great distances. Rail is the only viable mode of transportation for these bulk commodities.

North and South Dakota are served primarily by the BNSF and, the CP railroads. We have seen a deterioration of service with both carriers.

This past fall, we saw shuttle train cycle times dramatically slow down. Shuttles we load at harvest generally ship to the Pacific Northwest (PNW) export market via the BNSF. A typical cycle time for loading at origin in South Dakota, shipping to the PNW, unloading at a destination elevator, and then returning to South Dakota for the next loading generally takes about 12 to 13 days. Normally, a grain shuttle will load an average of 2.5 times per month and "cycle" back. However, this fall, the shuttles cycled in an average of 18 to 20 days or 1.5 trips per month. This increased cycle time, effectively reduced the amount of grain shipped by a given shuttle by 40 percent! In fact today, our cycle times still continue to deteriorate. Our current cycle times have pushed out to 24 days or only 1.3 trips per month here in early April.

The amount of time a shuttle sits at one of our facilities, waiting on the railroad after being loaded, (in 15 hours or less), accounted for most of the delay. Prior to this year, origin dwell times generally were less than one day. However, we have seen individual shuttles sit at origin for up to 10 days. Overall, dwell times have averaged over 5 days. I don't know how these averages compare to other industries.

Because of the railroads' slow performance, the grain handling industry, such as our cooperative, suffered economic losses. Wheat Growers purchased expensive shuttle trips in the secondary market to offset the slow cycle times of the primary shuttles we owned. Going into harvest, our elevators had purchased grain from farmers for harvest time delivery. Sales were made to grain buyers and shuttles positioned to ship that grain. Those shuttles did not cycle timely on the railroad lines and elevators like ours were forced to buy additional shuttle trips, increasing costs that could not be passed on to the market retroactively. The costs of purchasing additional shuttle trips since harvest have ranged from \$1,000 per car to \$6,000 per car and have averaged nearly \$3,500 per car in the secondary market. This is an additional cost of approximately 88 cents per bushel that is paid above and beyond the tariff freight rate for the haulage.

The slow cycle times continue, and now farmers like me are seeing lower prices paid at elevators as the market adjusts the price due to higher shuttle costs. The basis price for corn in our North and South Dakota trade area is now approximately 50 cents per bushel less than the average of the prior two years. To put this into perspective, if this rail crisis reduces the prices we as farmers receive for our grain by 50 cents per bushel and with annual production

1.8 Billion bushels of corn, soybeans, and wheat in the Dakotas the cost to us as farmers is \$900 Million annually. An even more dramatic impact to my farming operation would be if my fertilizer supply does not arrive in time to effectively fertilize my crops this spring.

The Canadian Pacific (CP) situation is also dramatically poor. In the North Dakota portion of our trade area, the CP has experienced similar slowness of cycle times. In South Dakota, (where the CP does not run shuttles) the CP railroad has recently sold the portion of the line that crosses the state to a short-line operator and expects to close on that transaction in the next couple of months. However, as of early April, we still have not received all of our January car orders, nor any of our February, March or April car orders. The CP is behind by 1,900 cars to Wheat Growers alone! Since the first of the year, we have received an average of only 38 cars per week from the CP against an average of 350 cars ordered per week and every week the backlog builds.

It is soon planting time in the Dakotas, and fertilizer needs to reach my farm and others this spring. I have pre-paid for my fertilizer needs for the year, but now I'm wondering if the railroad will be able to deliver. It's yet another economic crunch that is hitting us all. Fertilizer supply is also heavily dependent on rail; for example: North and South Dakota need the equivalent of 2.5 million tons of urea nitrogen fertilizer for spring planting this year. If this moves by rail, that's equivalent to 26,000 railcars. But if we had to rely on trucks to deliver that same amount, it would require over 100,000 truckloads of fertilizer shipped from great distances in a very tight delivery window. Without dependable rail service, crop production this spring will be in jeopardy.

The BNSF has been the premier U.S. rail operator over the past decade. We truly hope that the recent congestion and slowing rail service issues can be solved quickly, and they can meet or exceed prior performance standards. Wheat Growers applauds the BNSF's recent willingness to meet with the industry, communicate with their customers and make their operating metrics more transparent. We also appreciate their announced capital improvements – although we believe much more is needed in the northern corridor.

Wheat Growers implores the Surface Transportation Board to protect agriculture's access to, and utilization of, the constrained rail capacity that this crisis brings. We do not want to see agricultural traffic de-prioritized or, worse yet, de-marketed. Agriculture has been a significant driver of this country's economic recovery, and any loss of service will set back the economic momentum that this key sector of our economy delivers.

We would also ask the board to stay vigilant in monitoring the Canadian Pacific, as the line in South Dakota is transitioned to a new owner. Until the ownership changes and the operating system rolls over to the new owner, the CP still has an obligation to service the line and should not be able to simply walk away from the backlog of cars they have generated this winter. We do not want to see the CP prematurely transferring assets such as cars and locomotives from South Dakota to other regions they intend to serve in the future.

On behalf of myself and our cooperative, I urge you to continue to make sure agriculture's needs are heard and addressed. Dependable, timely railroad service is critical to our economic survival so we can continue the cycle of producing, harvesting and transporting grain from the upper Midwest to help feed a hungry world.

Thank you for this opportunity to express my views and concerns. I am prepared to respond to any questions the Board may have.



572



NORFOLK SOUTHERN
One line, infinite possibilities.

Operations Update

Rush Bailey

Assistant Vice President Service Management

235858

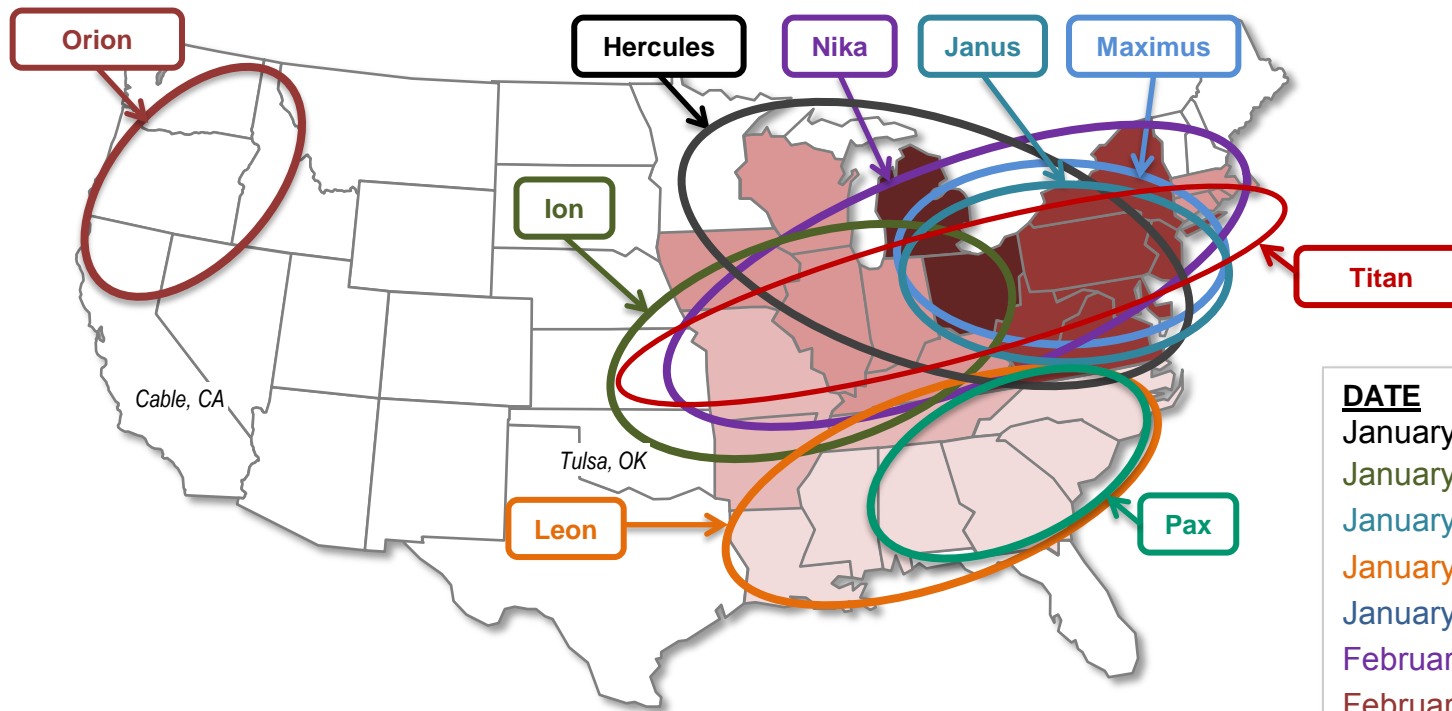
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STB

April 10, 2014



2014 Winter Storm Impact Areas



| <u>DATE</u> | <u>WINTER STORM</u> |
|-------------|---------------------|
| January 13 | Hercules |
| January 15 | Ion |
| January 21 | Janus |
| January 28 | Leon |
| January 30 | Maximus |
| February 4 | Nika |
| February 4 | Orion |
| February 10 | Pax |
| March 3 | Titan |

Operational Impact of Extreme Cold

Crew Availability & Employee Exposure – Taxi and transportation due to road conditions, highway access, and local emergency declarations in some areas, reduced productivity due to impact on employees working outside for extended periods.

Locomotive & Equipment Failures – Increase locomotive bad orders, problems with switch heaters, signals and electronic equipment, fuel trucks, intermodal cranes, automotive buck ramps.

Train Operations - Train length restrictions due to air brake systems, access to crew change locations, limited siding capacity due to train tie downs, limited use of crossovers due to frozen switches, congestion at interchanges and terminals due to limited operations.

Yard Operations – Wind resistance against cars moving over the hump in classification yards; frozen switches; cold air impact on airlines to the hump and retarders.

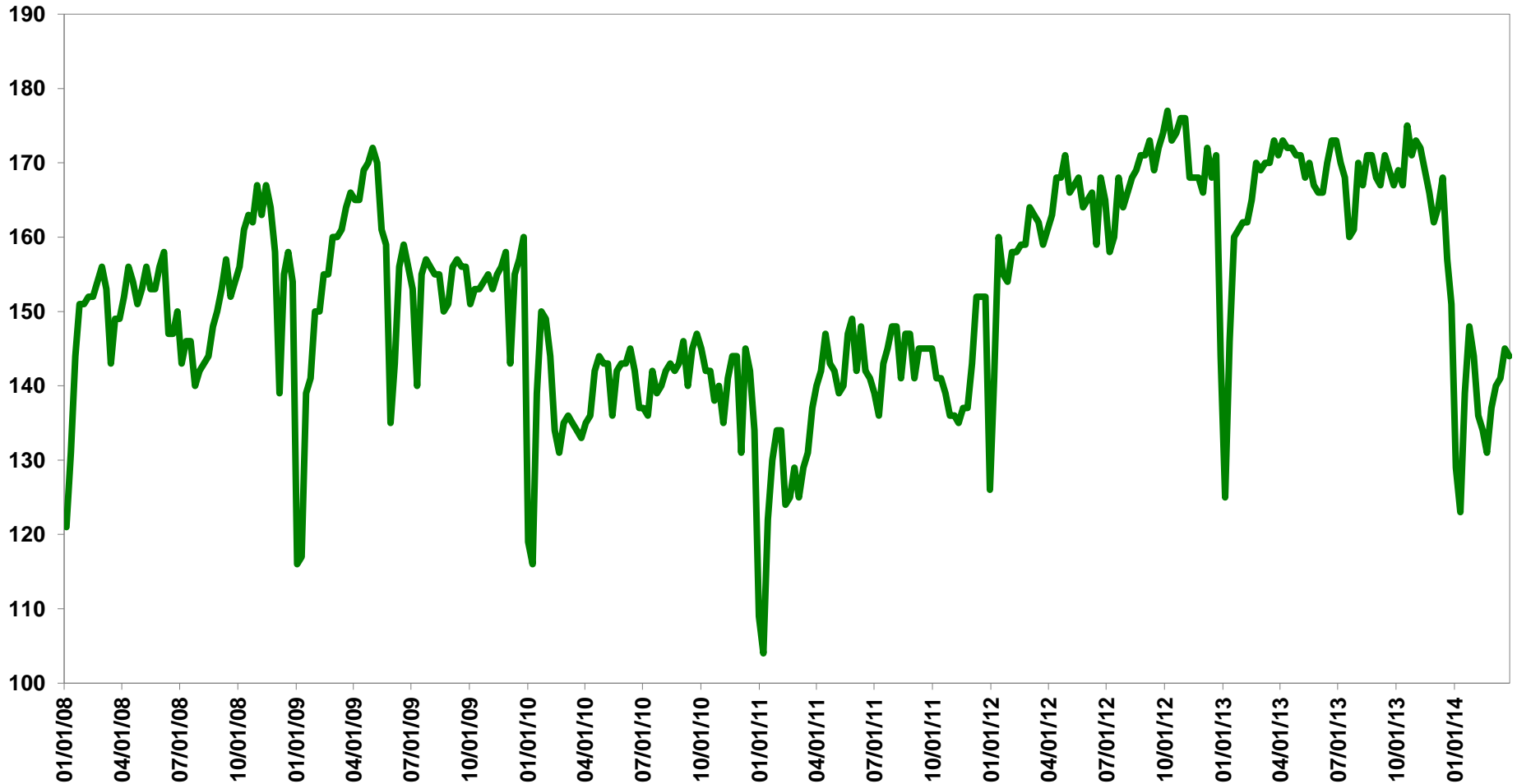
Local Operations (pickup/delivery) – Snow and/or frozen switches require clearing and/or melting to service industries and in sub-zero temperatures can refreeze in a matter of minutes.

Track Conditions – Increased incidents of broken rail.

Signals – Power outages can impact signal operations and crossings.

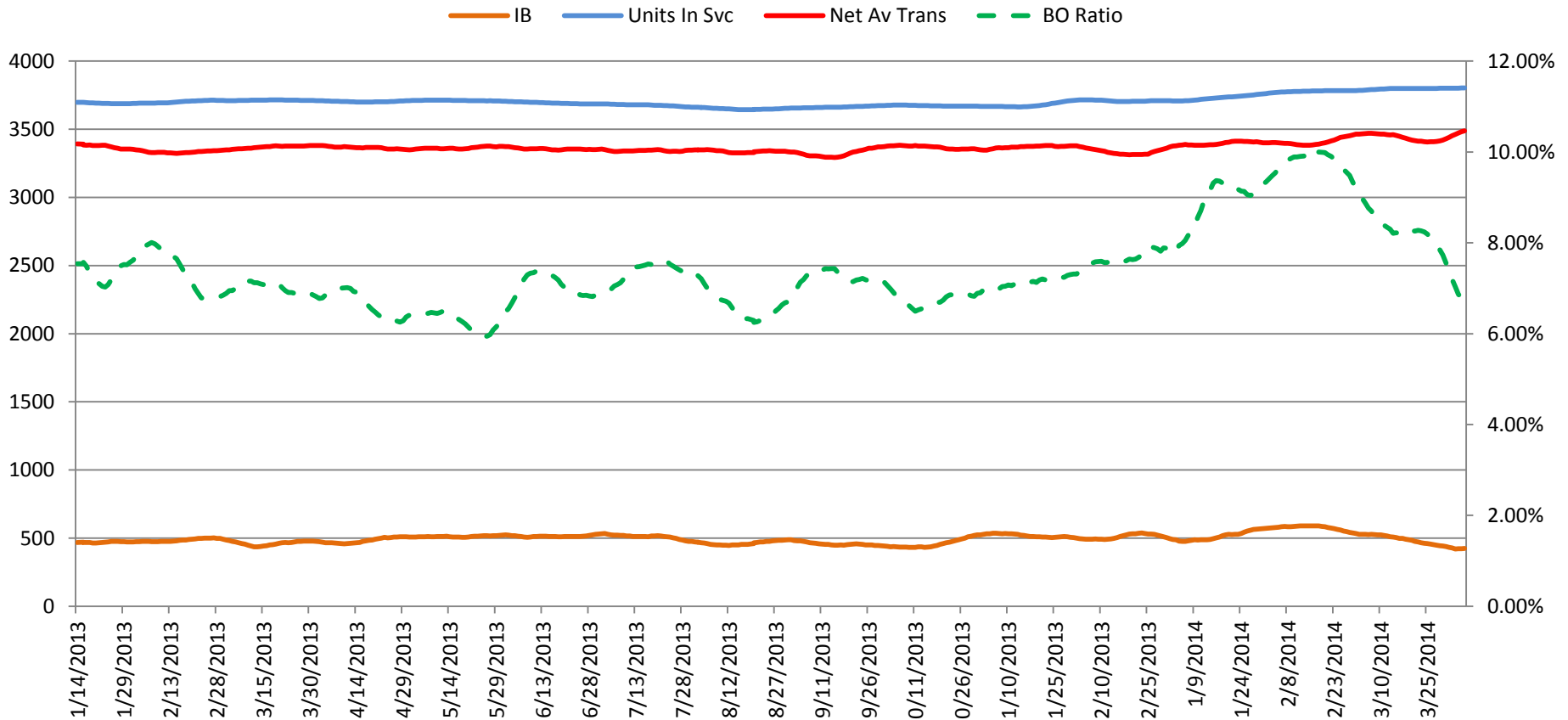
Line Haul Miles Per Day (Network Velocity)

Line Haul Miles Per Day (Network Velocity)
January 2008 - March 28, 2014



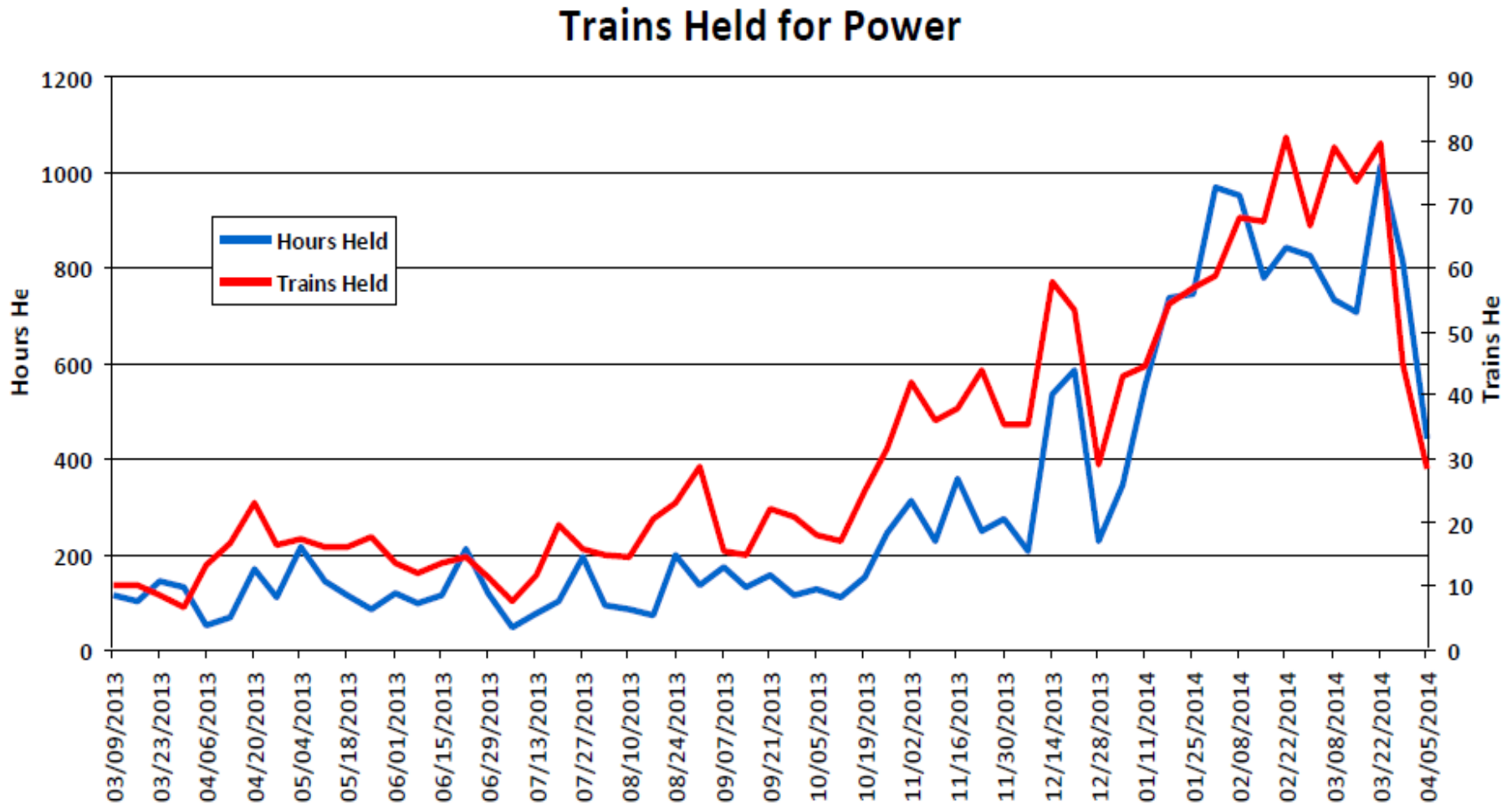
Locomotive Fleet Summary Data

Locomotive Fleet Statistics (14 Day Rolling)



Improving Trends

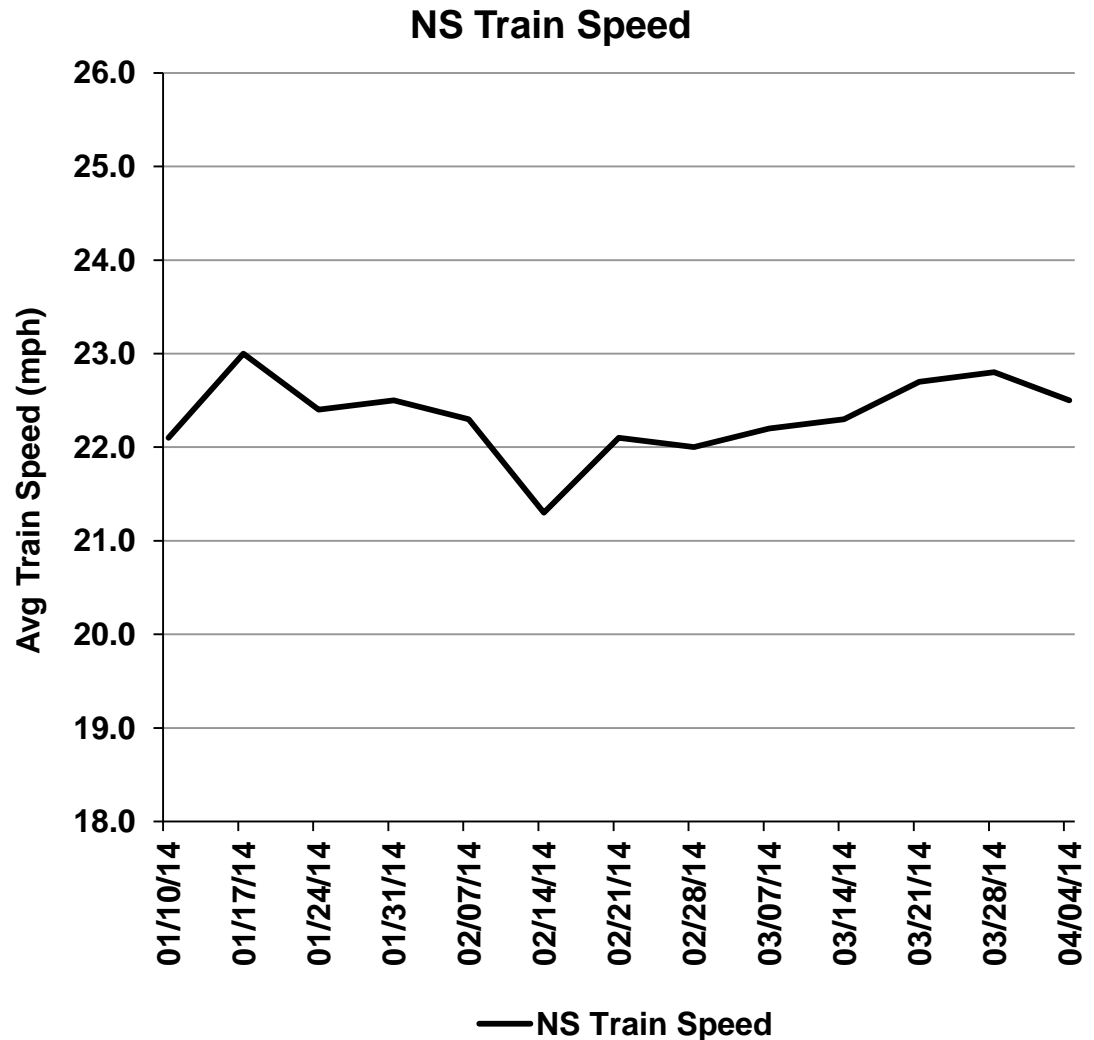
Trains and Hours Held for Power



Improving Trends

Train Speed (miles per hour)

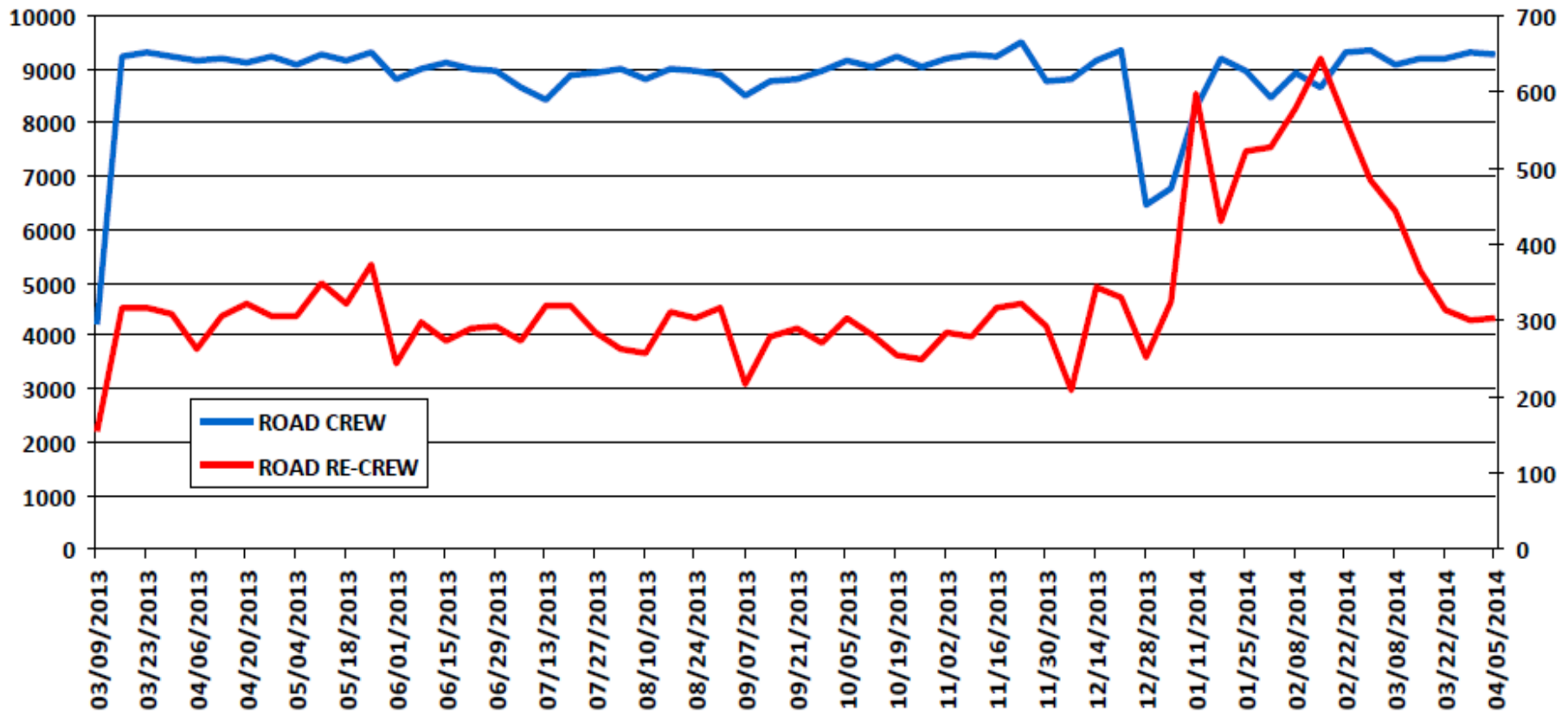
| Quarter of Year | Average NS Train Speed |
|----------------------------|------------------------|
| 2009 – Year | 23.14 |
| 2010 – Year | 21.54 |
| 2011 – Year | 21.23 |
| 2012 – 1 st Qtr | 23.36 |
| 2012 – 2 nd Qtr | 23.67 |
| 2012 – 3 rd Qtr | 24.12 |
| 2012 – 4 th Qtr | 24.59 |
| 2013 – 1 st Qtr | 24.17 |
| 2013 – 2 nd Qtr | 23.80 |
| 2013 – 3 rd Qtr | 23.90 |
| 2013 – 4 th Qtr | 23.80 |
| 2014 – 1 st Qtr | 22.38 |



Improving Trends

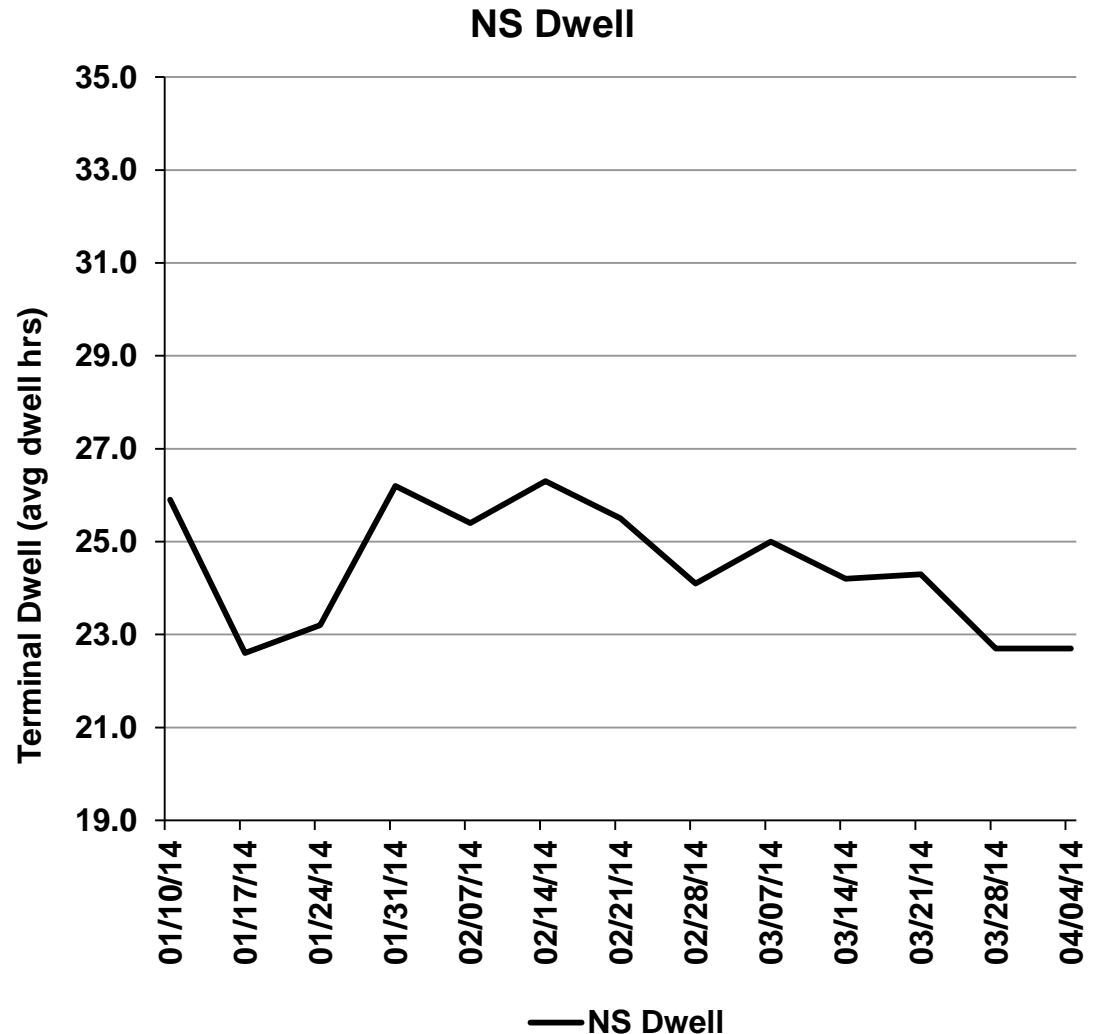
Road Crew Tie-Ups and Re-Crews

Network Road Crews and Re-Crews



Terminal Dwell (hours)

| Quarter of Year | Average NS Dwell |
|----------------------------|------------------|
| 2009 – Year | 22.56 |
| 2010 – Year | 24.46 |
| 2011 – Year | 24.54 |
| 2012 – 1 st Qtr | 21.77 |
| 2012 – 2 nd Qtr | 21.64 |
| 2012 – 3 rd Qtr | 21.34 |
| 2012 – 4 th Qtr | 21.91 |
| 2013 – 1 st Qtr | 22.00 |
| 2013 – 2 nd Qtr | 21.20 |
| 2013 – 3 rd Qtr | 21.20 |
| 2013 – 4 th Qtr | 21.87 |
| 2014 – 1 st Qtr | 25.05 |

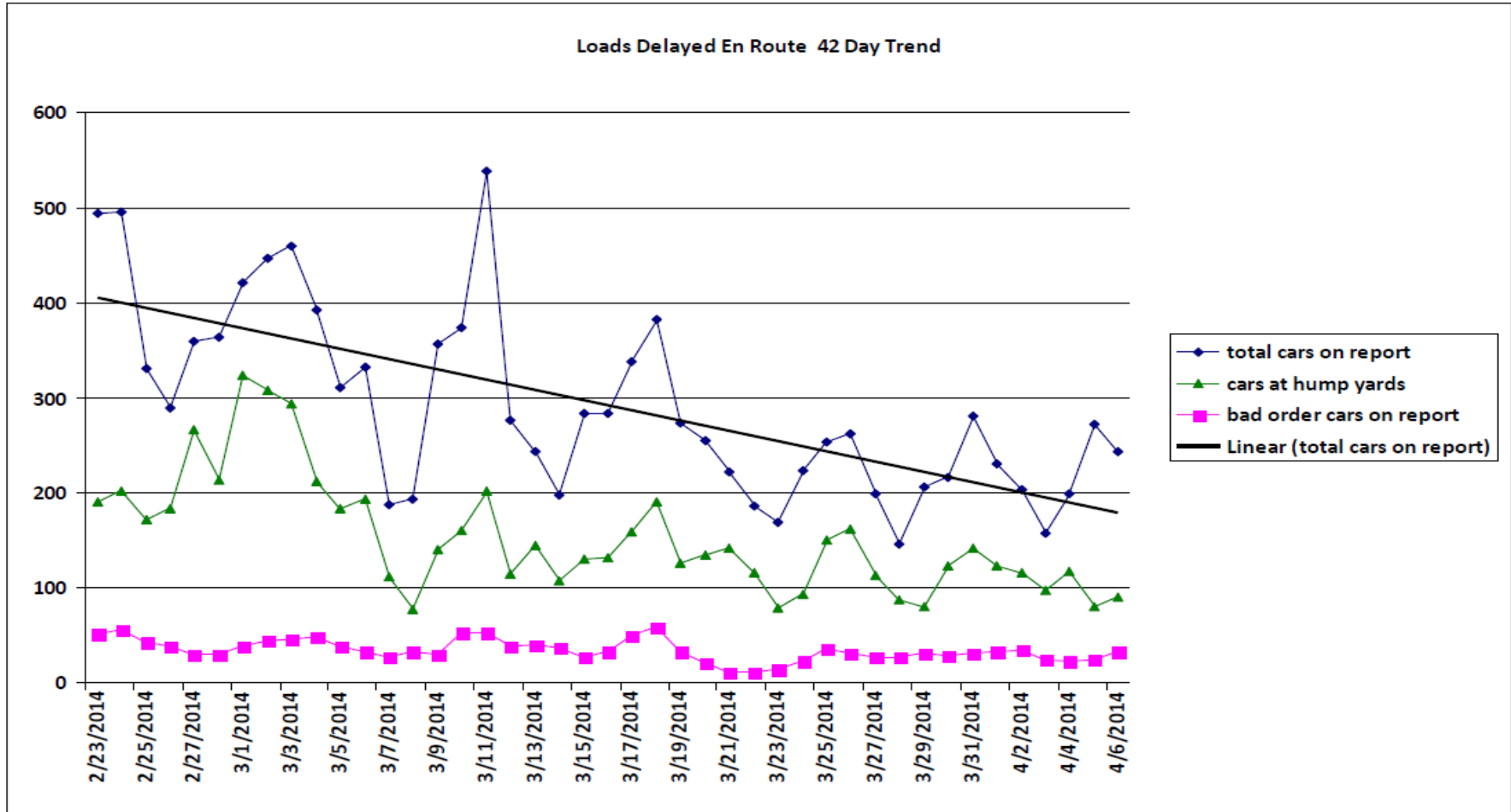


Improving Trends

Loads Delayed

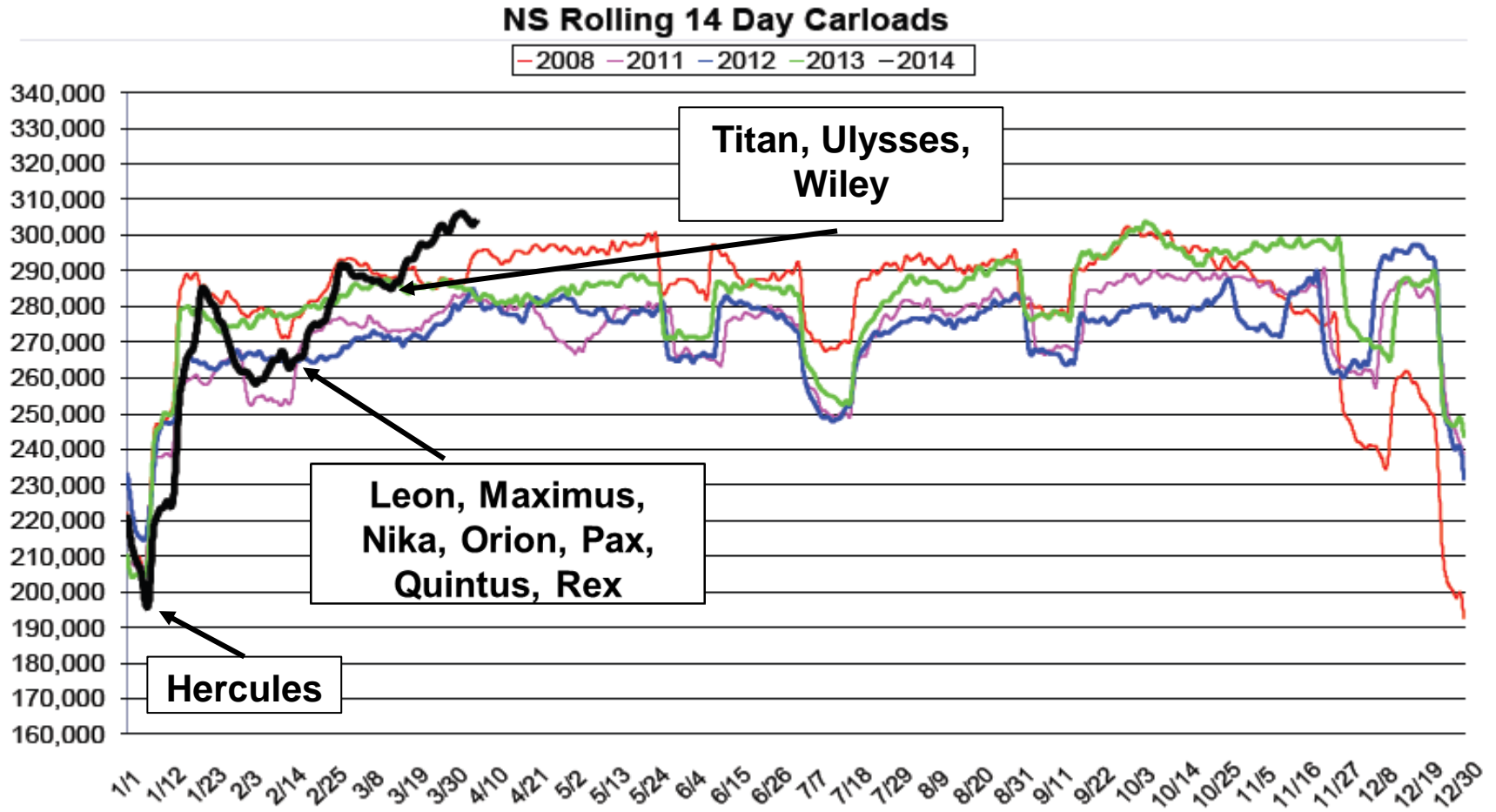


Loads Delayed En Route



Improving Trends

14 Day Running Carloads



STB Hearing: Ex Parte 724

April 10, 2014

235859

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Testimony of BNSF Railway

Steve Bobb, Executive Vice President, Chief Marketing Officer

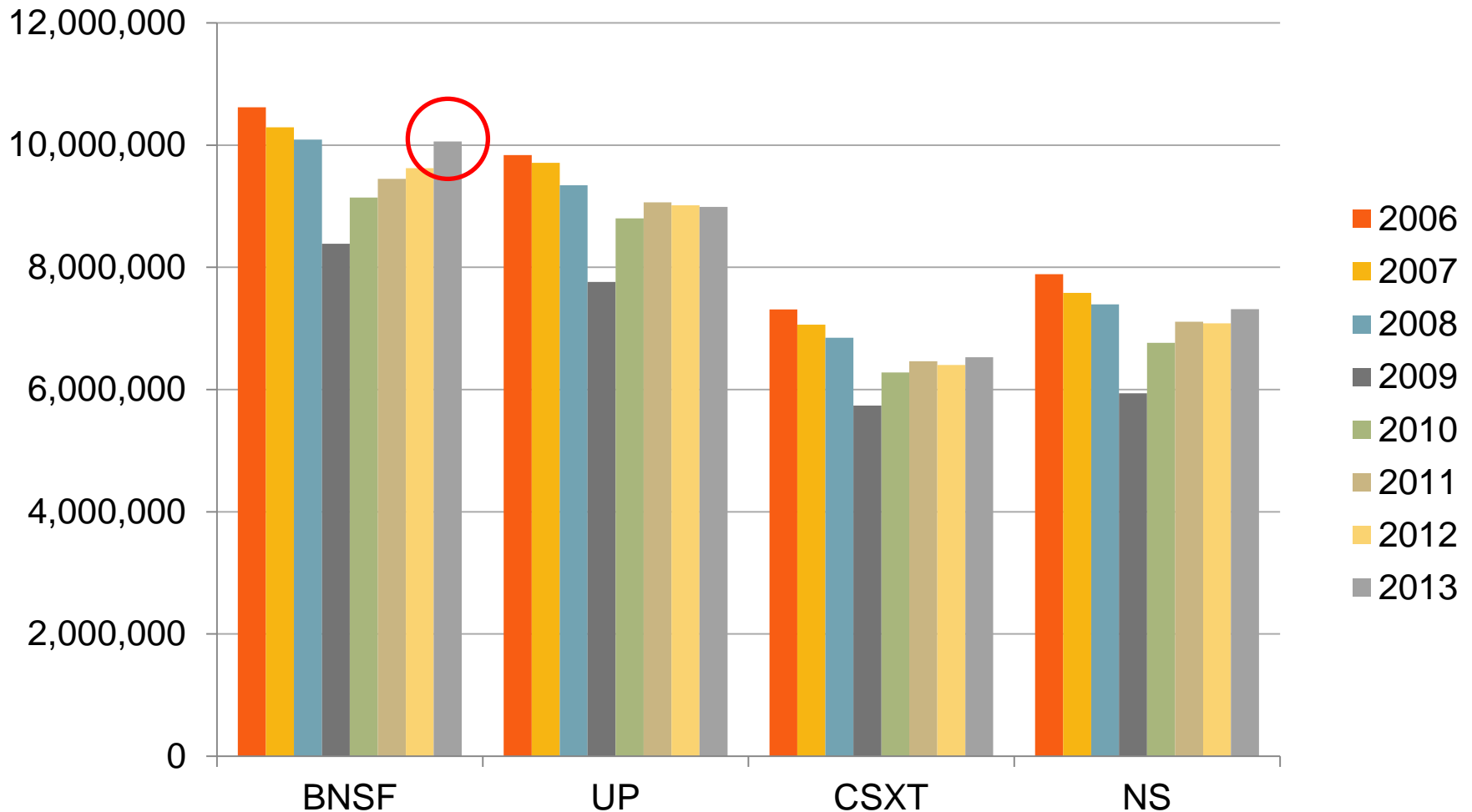
Bob Lease, Vice President, Service Design and Performance

Overview

- **Introduction**
- **Drivers of Congestion**
- **Recovery Efforts**
- **Service Expectation Going Forward**
- **Customer Outreach**
- **Conclusion**

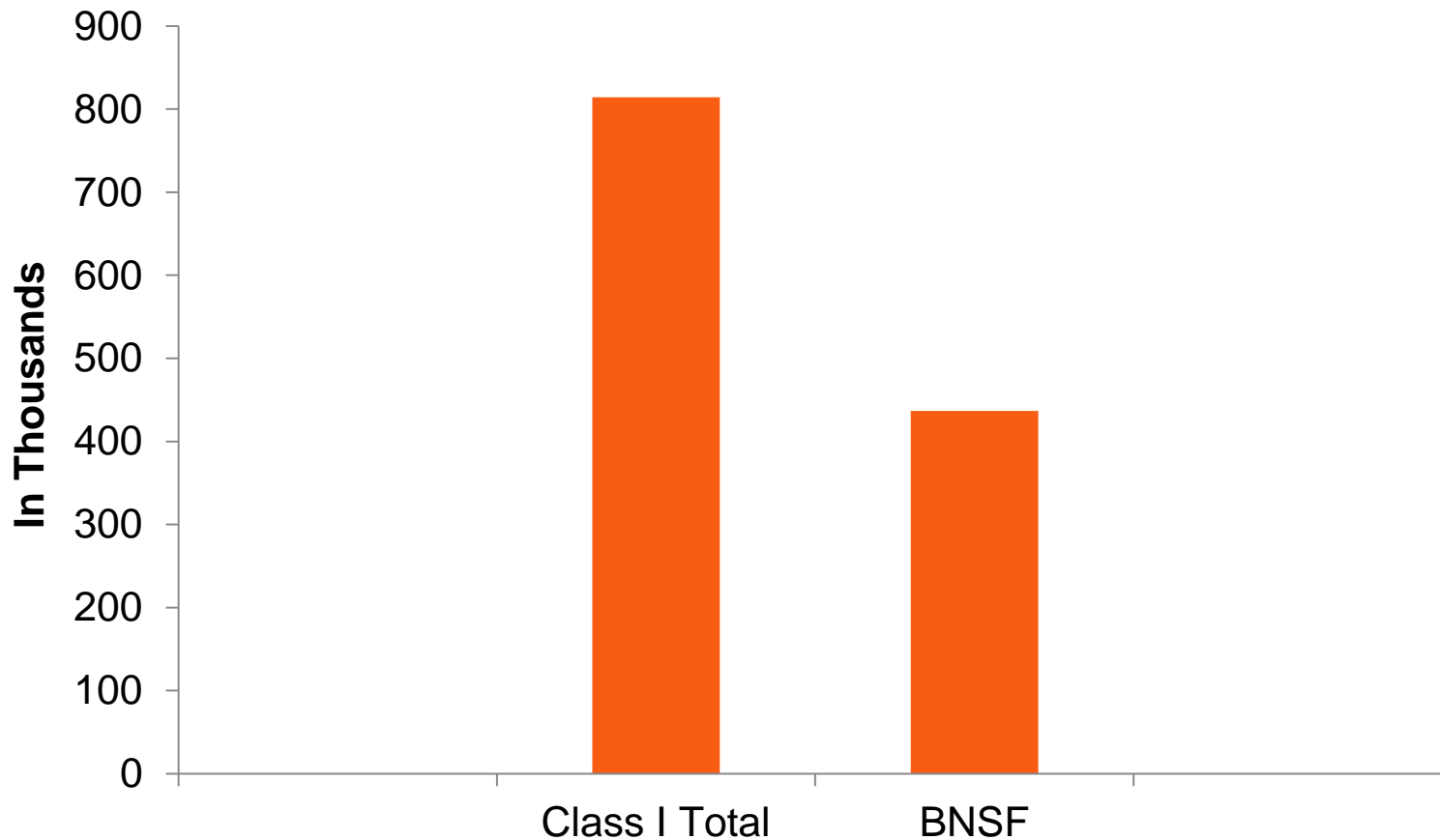
As Economy Improves - Rail Traffic is Rebounding

Units Handled



BNSF Moved Over 50% of 2013 Growth on U.S. Rail

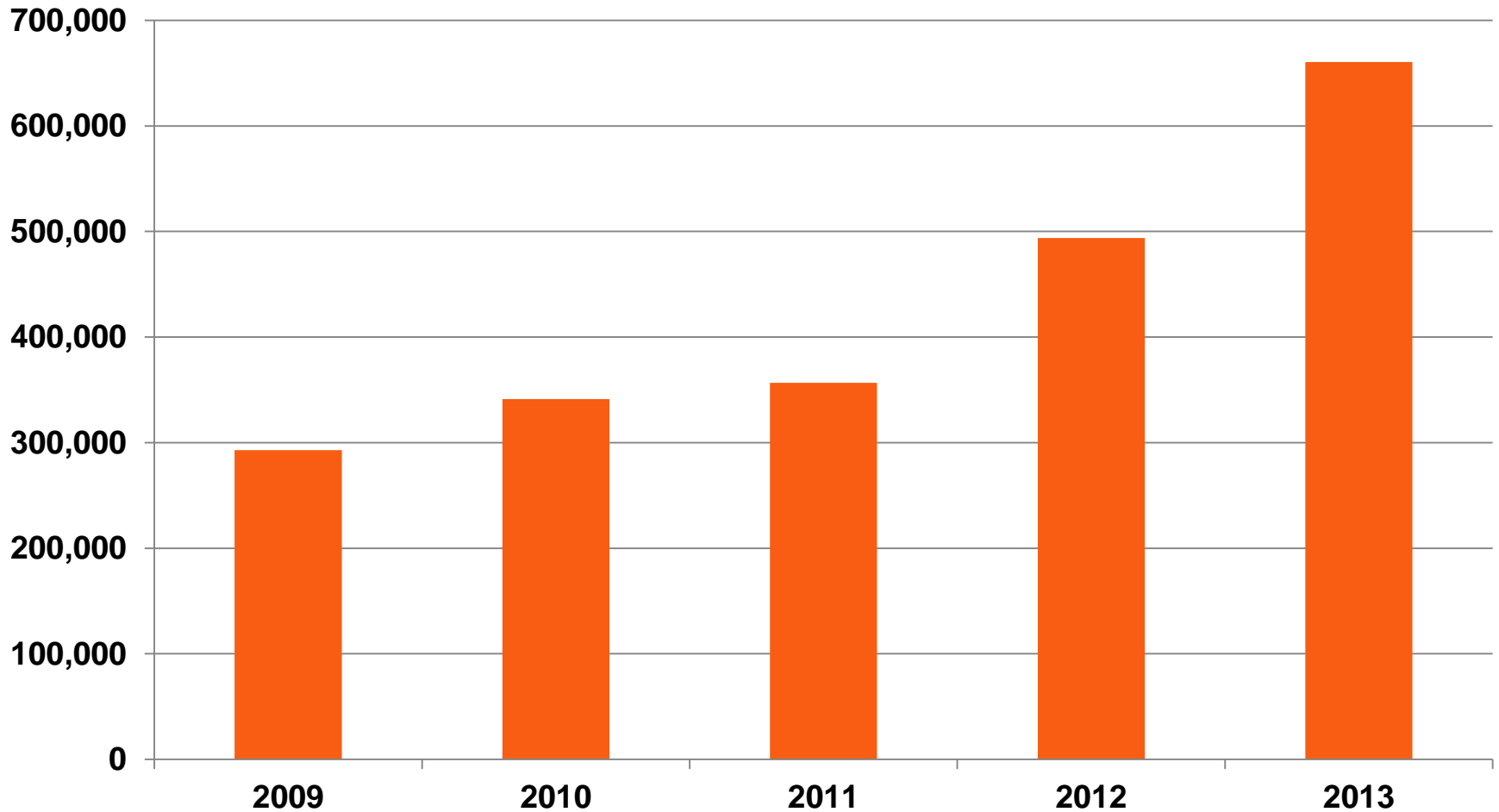
Incremental Unit Growth vs. 2012



North Dakota Almost Half of That Growth ⁵⁸⁸

125% Increase Since 2009

Total Units-Originated & Destined

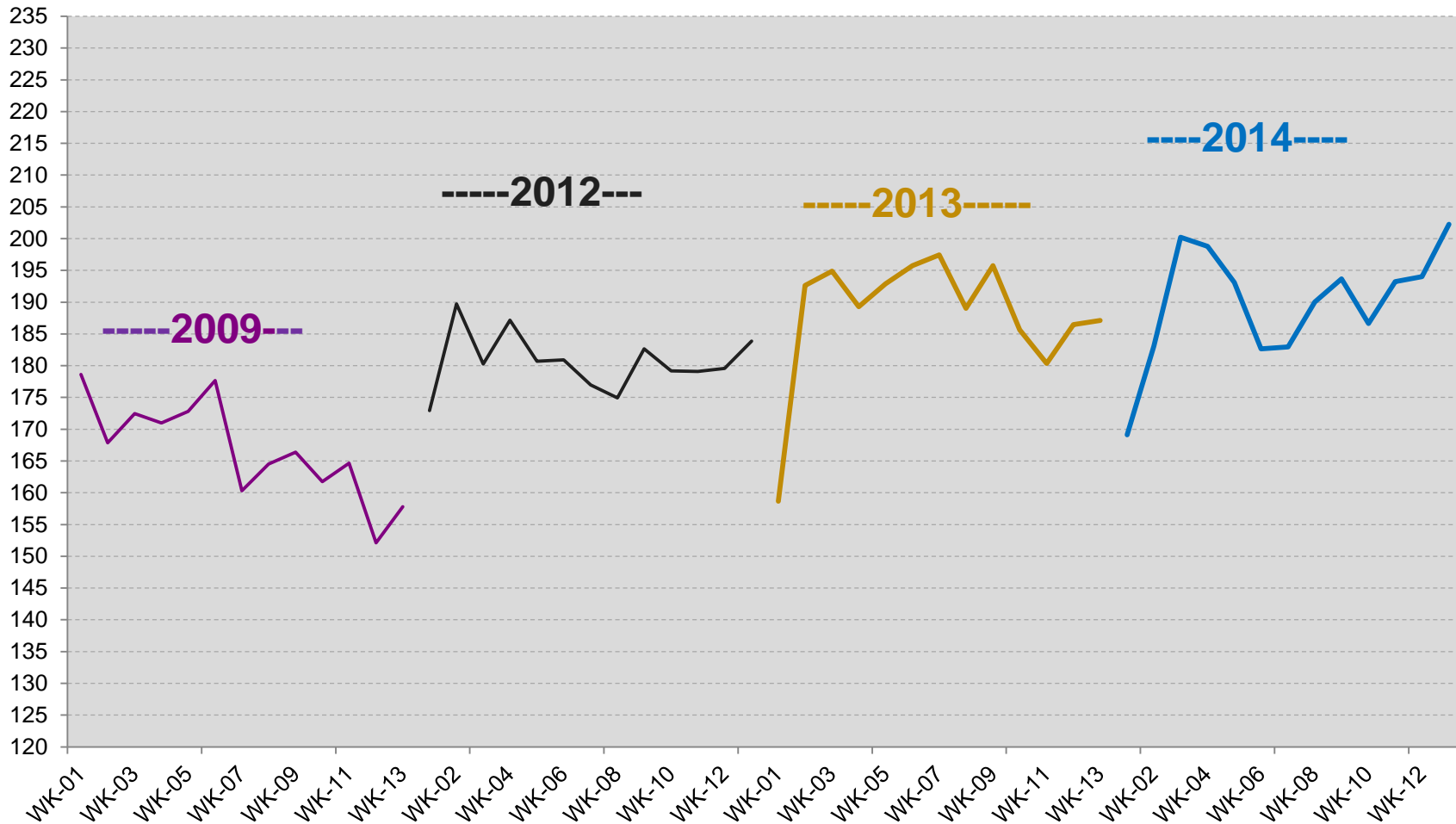


Volume Continues to Grow Today

589

BNSF Weekly Volume: AAR Weeks 1-13

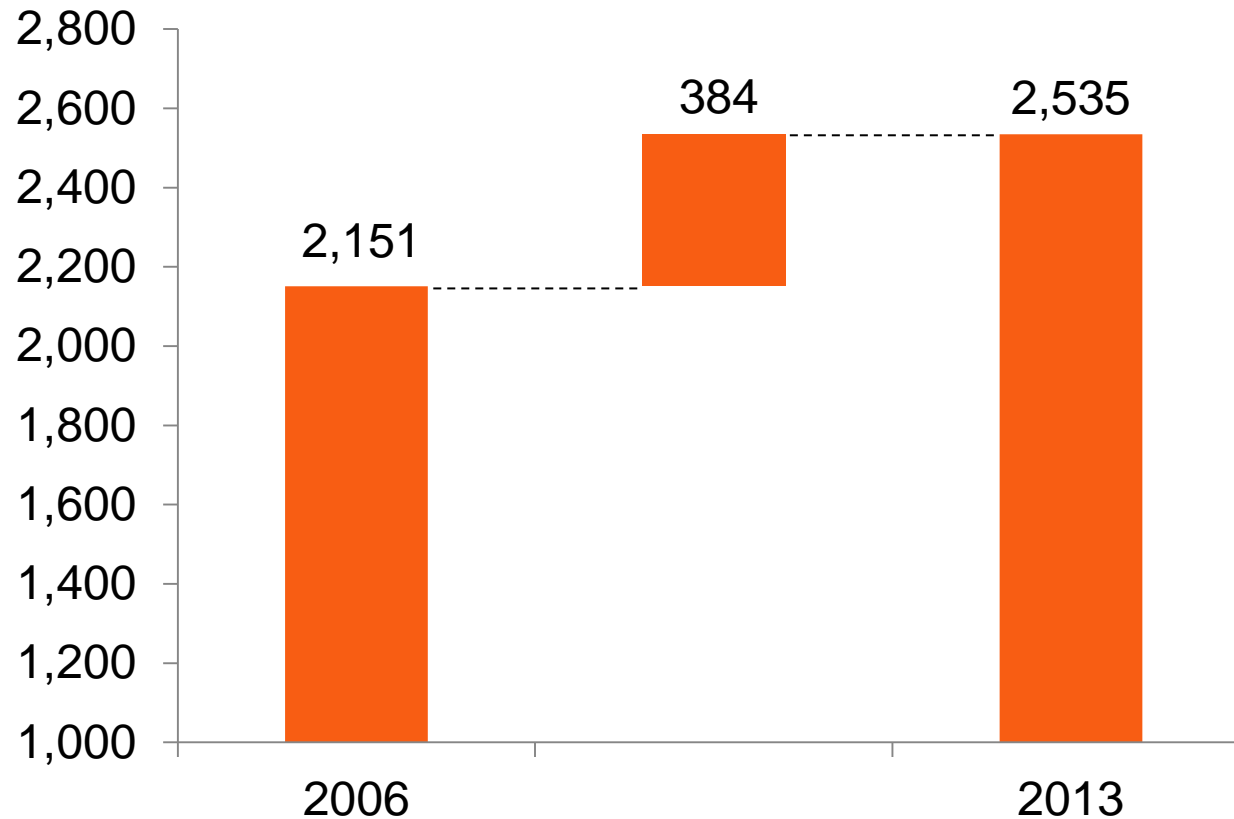
In Thousands



Domestic Intermodal Volumes

Since 2006, Domestic Intermodal has been BNSF's largest unit growth

Units (000's)

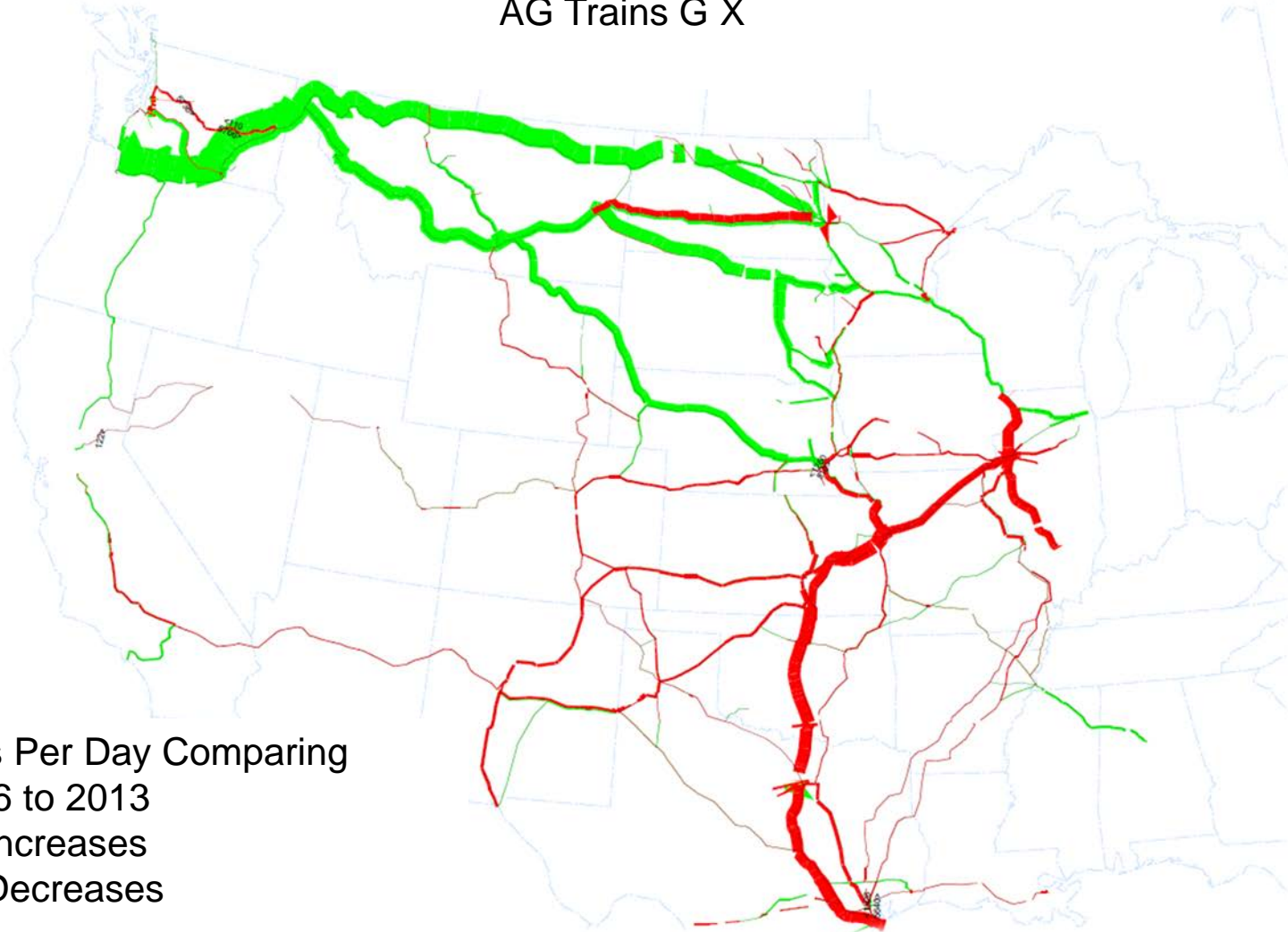


Note: Petroleum grew 324k units during same time period.

BNSF Ag Volumes- 4Q 2006 and 4Q 2013 ⁵⁹¹

Compressed Harvest made Additional Demands on Network

AG Trains G X



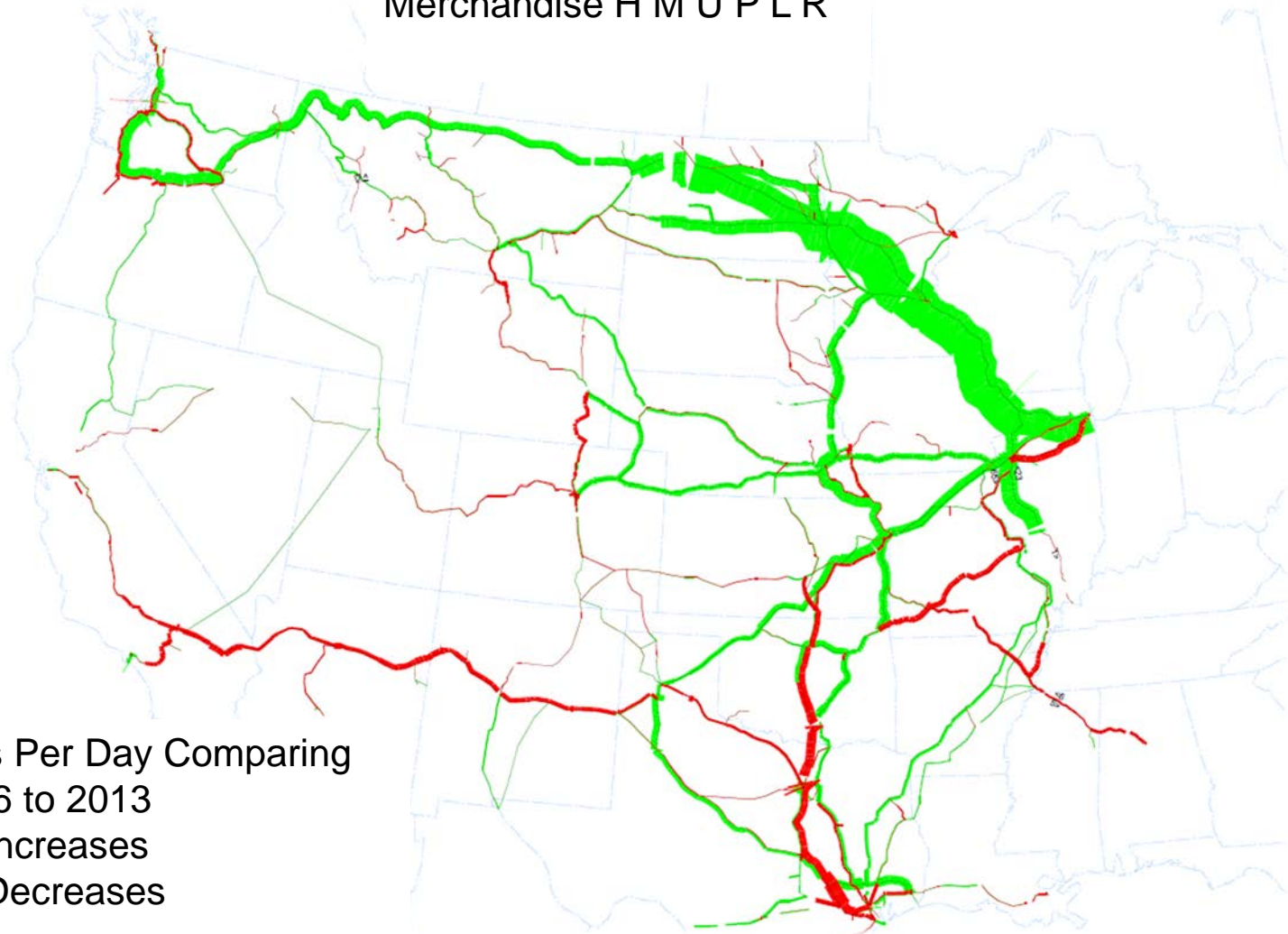
Gross Tons Per Day Comparing
4th Qtr 2006 to 2013

- Increases
- Decreases

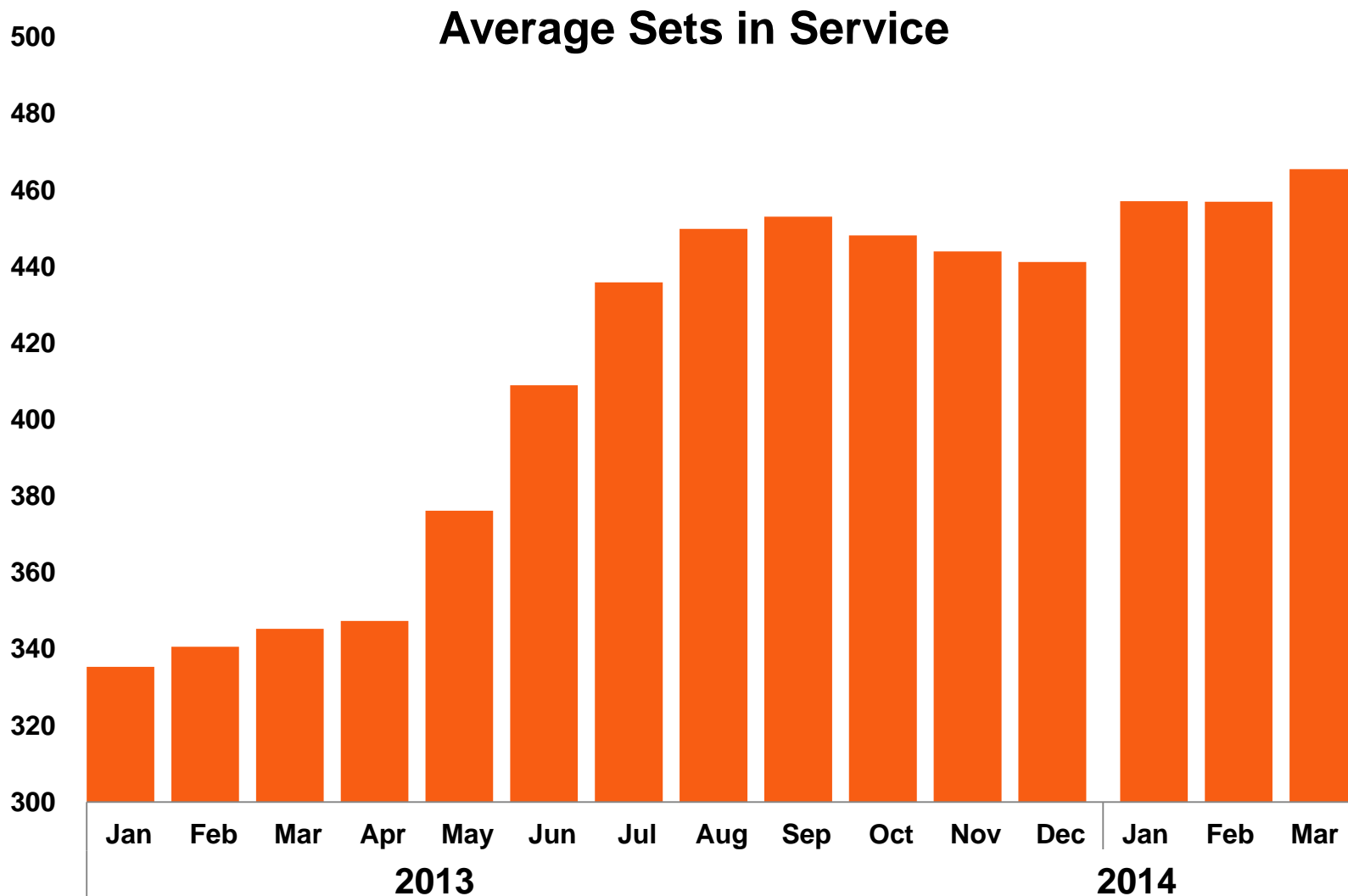
BNSF IP Volumes- 4Q 2006 and 4Q 2013⁵⁹²

Industrial Product Volumes also Increased, then Surged

Merchandise H M U P L R

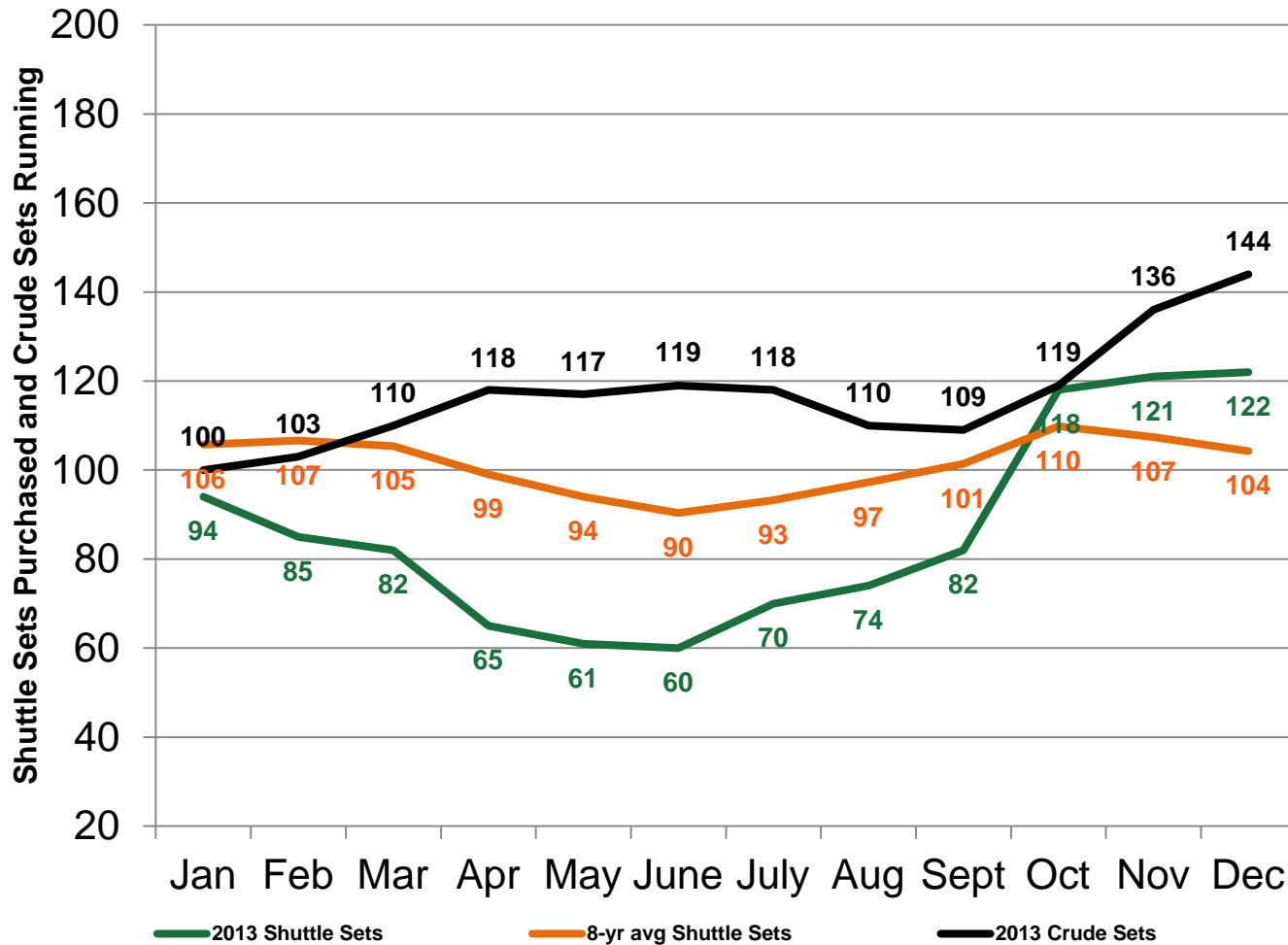


Coal Sets in Service Rise Mid-2013

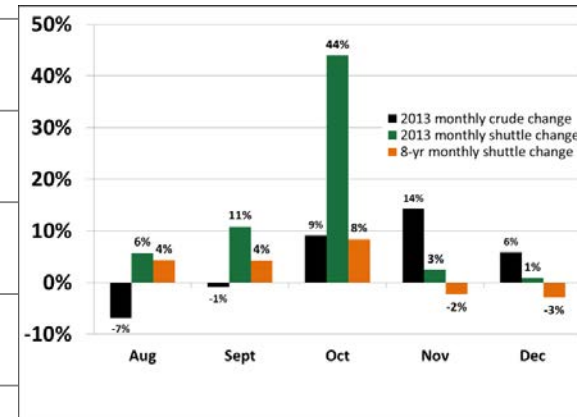


Results Manageable Until Oct. 2013

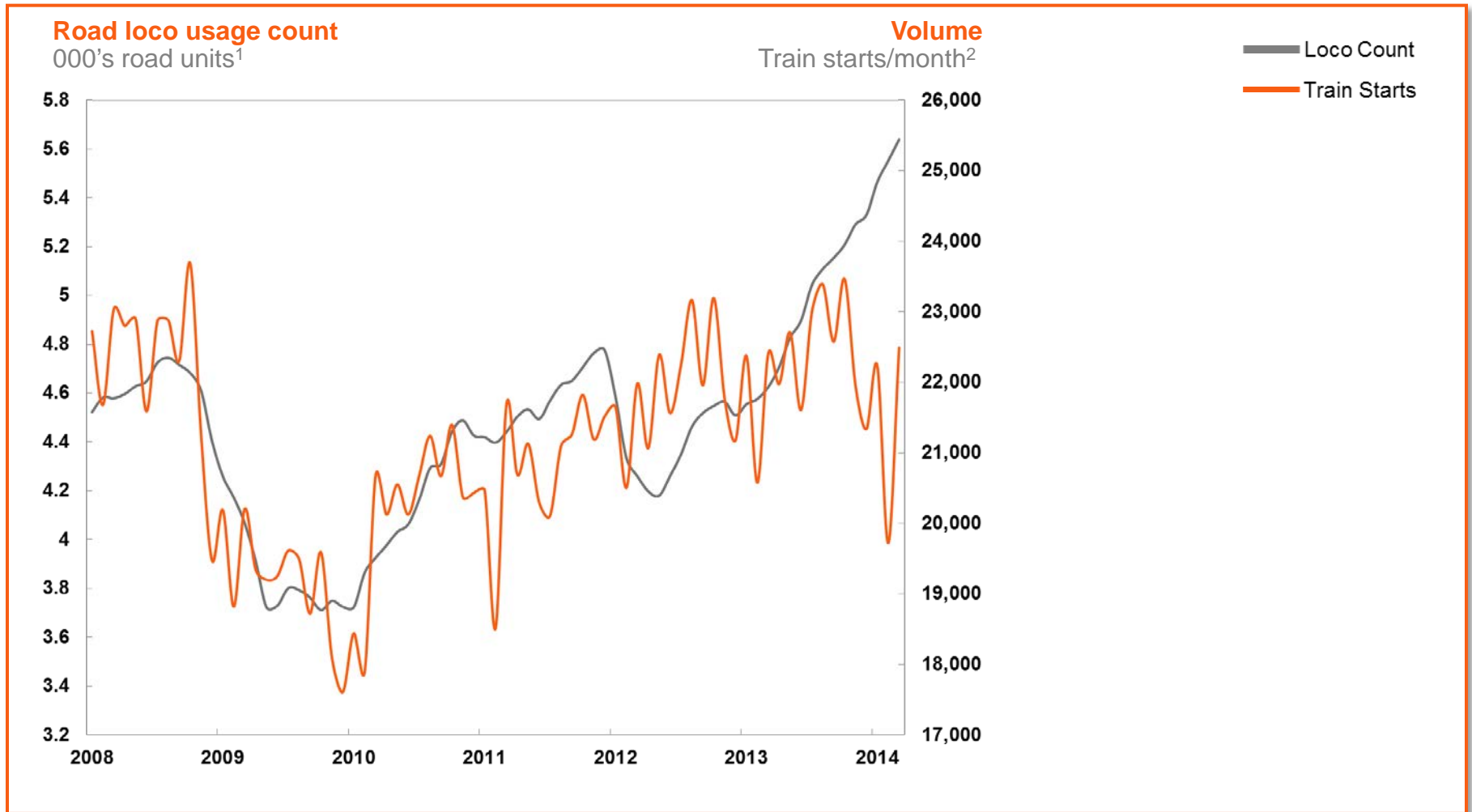
Crude and Ag Traffic Surged in October



31 of the 36 Sept – Oct 2013 activations were in a 10-day period, Oct 1-10 ... at request of shippers, matching harvest timing.



Number of Locomotives Added With Volume Growth



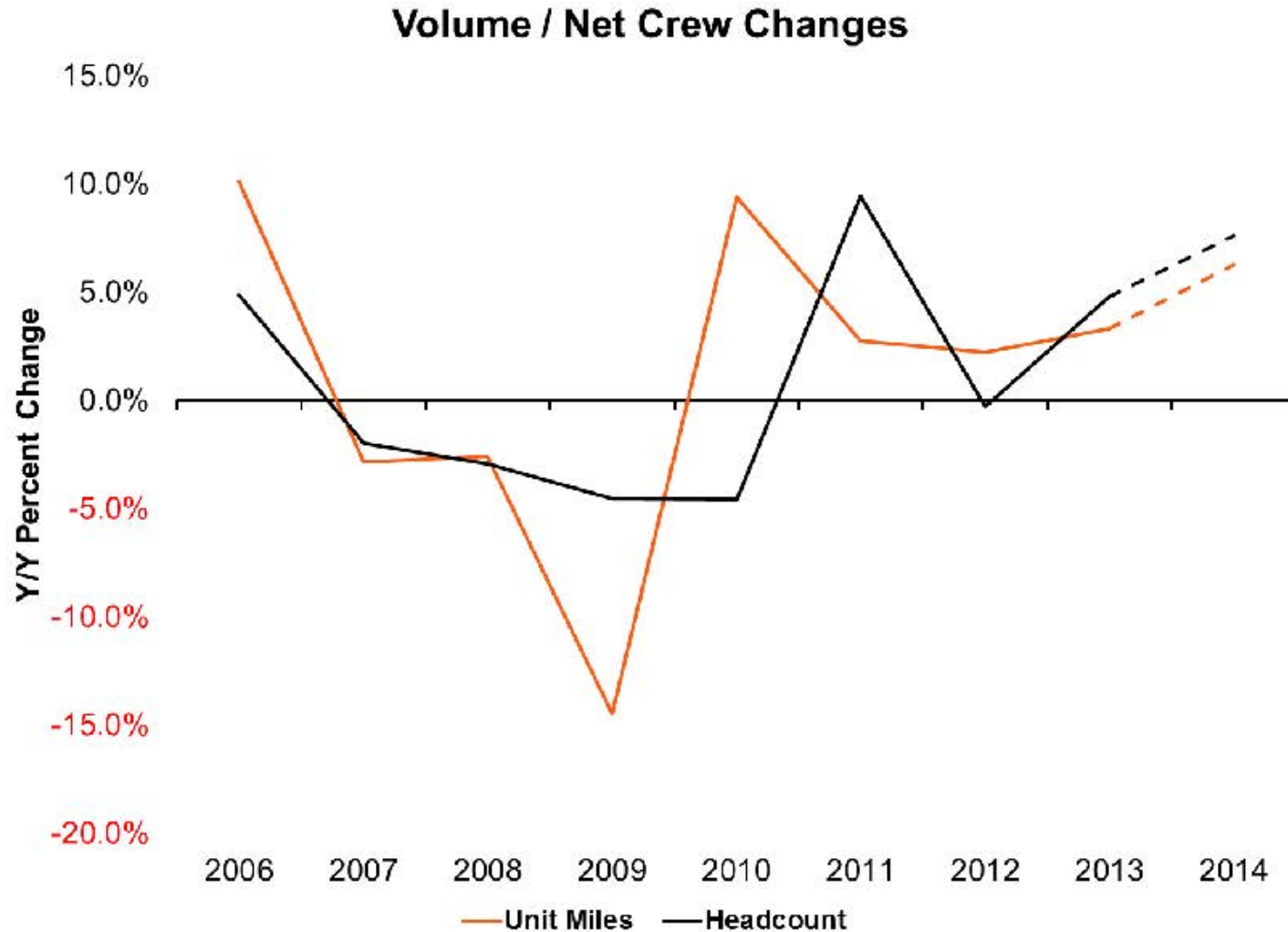
1 "Loco usage" of "road" category by month

2 Originating trains



Train Crews Have Also Kept Pace with Volume Growth

596



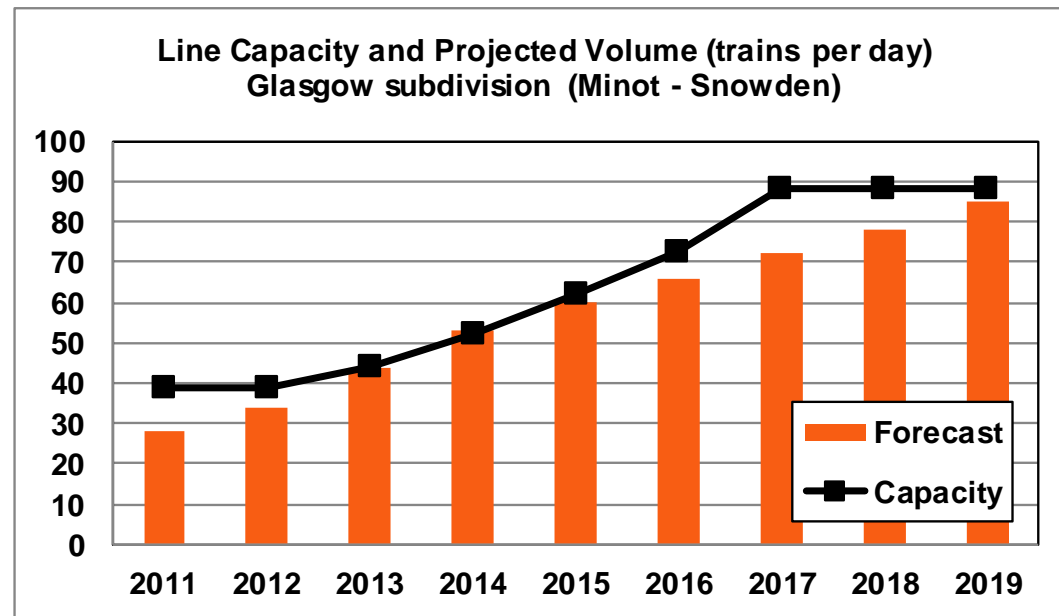
Northern Transcon: Increasing Capacity ⁵⁹⁷

Significant expansion investments made and are planned

New capacity has struggled to keep pace with significant volume increases
Goal: Add capacity to meet, and then exceed, volume

Glasgow subdivision:

- Construct 115 Miles of Double Track between 2013-2016
- 4 New Sidings Constructed since 2012
- 2012-2016 Total Line Expansion Capital for Glasgow Sub: \$396M



Extreme Cold Weather Causes Service Setbacks ⁵⁹⁸



Velocity/Capacity Impacted

- Shorter trains required due to temperature; impacts crew and locomotive availability
- Employees allowed to work no more than 20 minutes outdoors followed by 10 minute warm-up

Significant personnel added to remove snow, clean switches, keep railroad running through winter storms

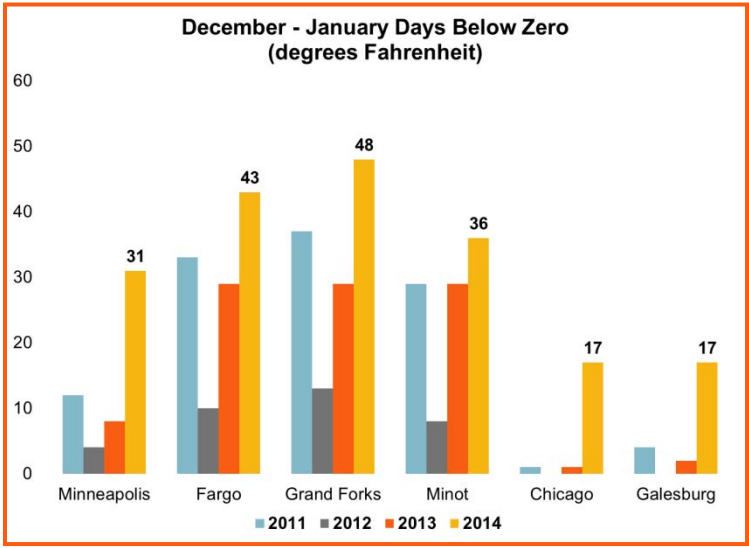
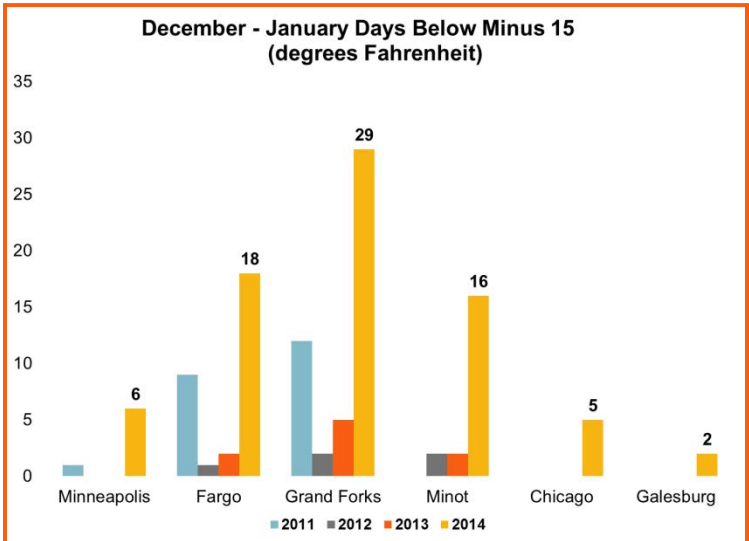
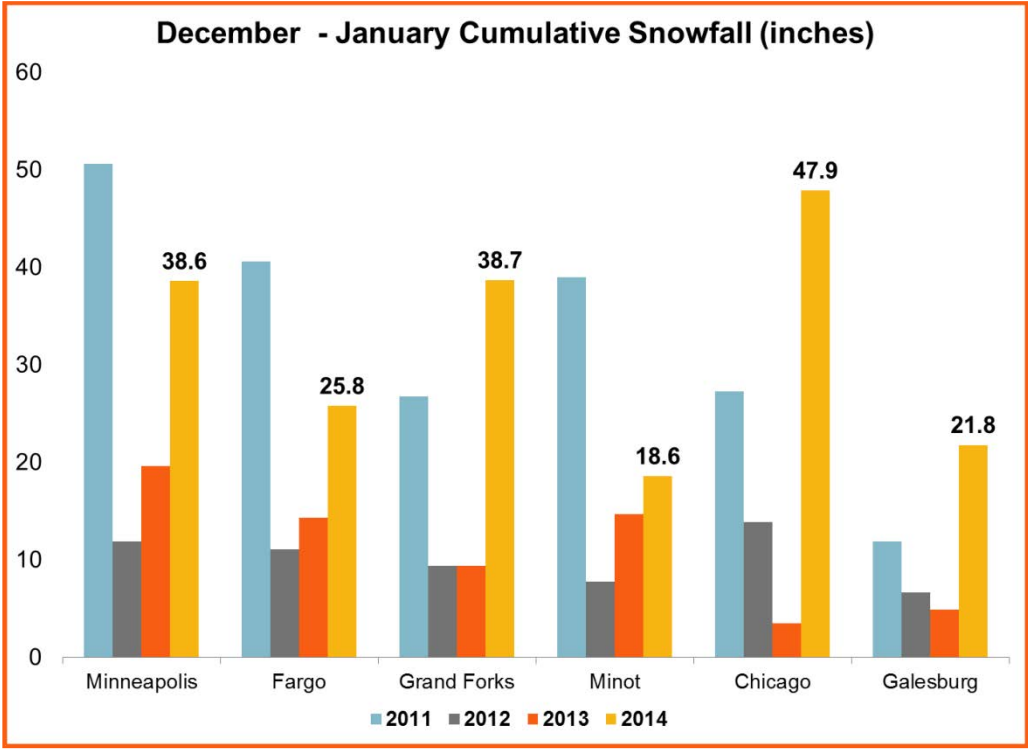
- 24-hour crews positioned to keep rails clear of snow and ice

Chicago complex severely impacted



Northern Transcon Weather Extremes

- Days below zero and below -15 degrees increased significantly during this winter
- Chicago snowfall up substantially versus prior years



BNSF Taking Aggressive Short-term Action⁶⁰⁰ Over-sourcing the Railroad, Focus on Areas of Highest Impact

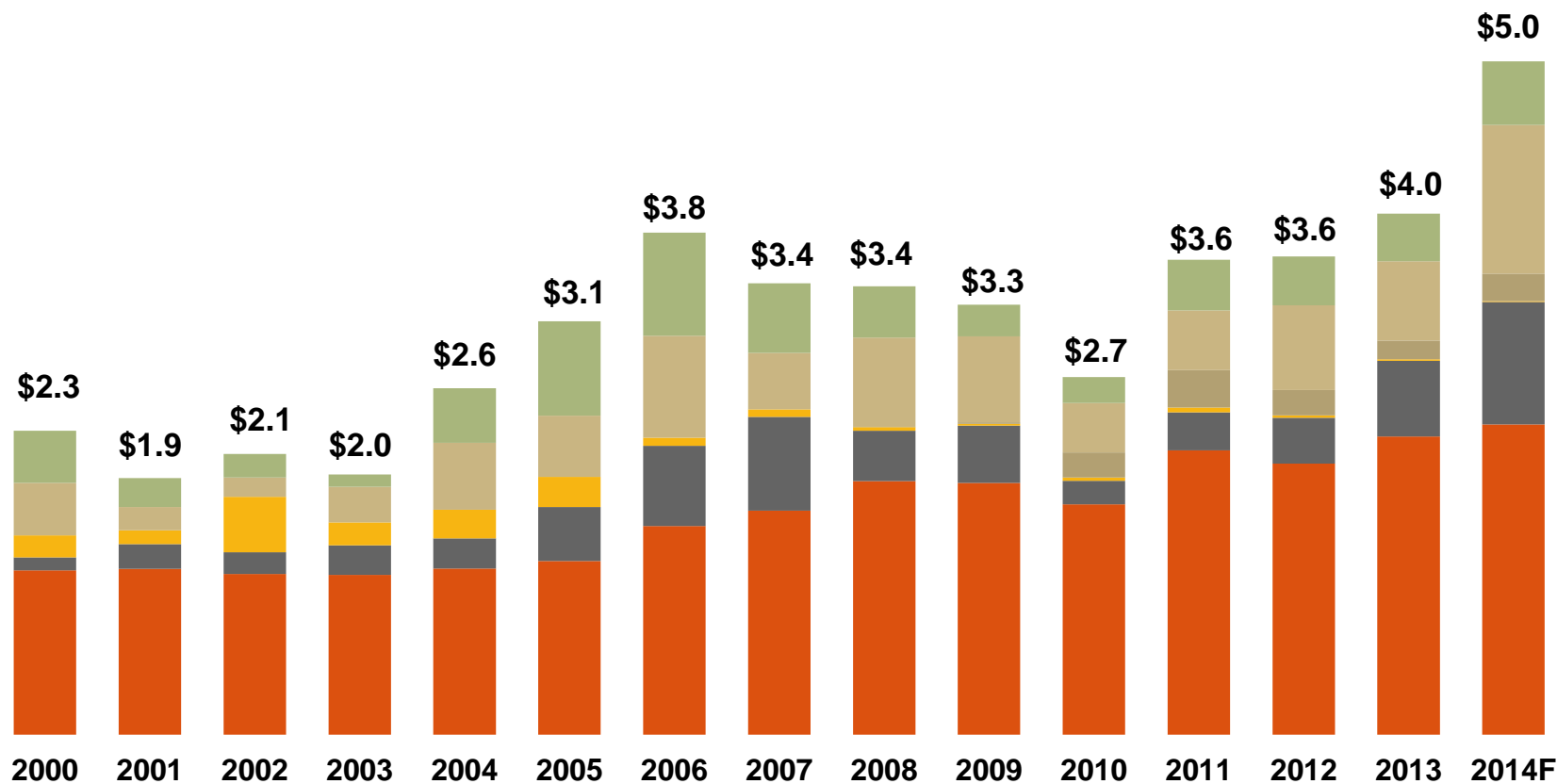


- Adding approximately **300 new TY&E employees** in the North, Jan.-Apr. and about **1,000** for the full year.
- Deploying additional locomotives. Added more than **400 locomotives** since last fall. Will add more than **100 new locomotives** this quarter. Active fleet is up **900 locomotives** year over year with cumulative effect of new, leased and reactivated surge fleet.
- **Temporarily assigned field supervisors** from across the system to key locations to assist in restoring velocity.
- **Improved processes** to decrease response time from point of customer notification to initiating action for severe service issues.

We are Deploying Unprecedented Capital

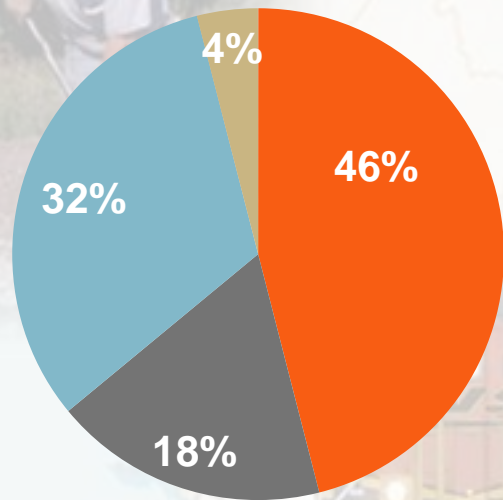
\$ Billions

■ Replacement Capital
 ■ Expansion
 ■ Other
 ■ PTC
 ■ Locomotive
 ■ Equipment



Record Capital Investment Ensures Future Capability and Reliability

BNSF's 2014 Capital Commitment \$5B



- Core Network and Related Assets
- Expansion and Efficiency
- Locomotive, Freight Car, and Other Equip
- PTC



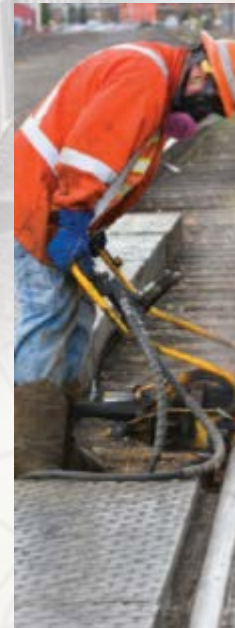
\$2.3 billion

Core Network and Related Assets



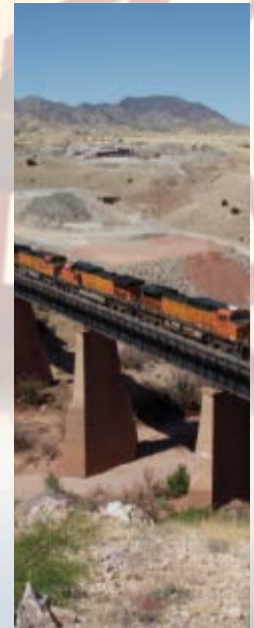
\$1.6 billion

Loco, Freight Car, & Other Equip



\$900 million

Expansion & Efficiency



\$200 million

PTC

BNSF Long-Term Actions to Add Capacity

People

Plan to hire **5,000** additional employees in 2014, a large portion of which will be dedicated to Northern Corridor.

Locomotives

Active fleet is up 900 units with cumulative effect of new, leased and reactivated surge fleet. Purchasing **more than 500 locomotives** in 2014 to increase overall fleet to ensure necessary power where & when needed going forward.

Cars

Adding, replacing, and extending leases on **more than 5,000 cars** to maintain, refresh, and bolster supply. Cars to support new business, covered grain hoppers and various car types support Industrial Products.



BNSF Long-Term Actions to Add Capacity

Track

- Investing **\$600 million** in terminal & line capacity expansion projects, much of which will be spent in Northern Corridor.
- Large investment in replacement and maintenance to ensure we are operating at optimal levels.
- Added siding & terminal track capacity to accommodate rapid growth while also improving our existing infrastructure.
- Will complete **more than 66 miles** of new second main track on busiest segments of corridor in 2014.



BNSF Long-Term Actions to Add Capacity

BNSF 2014 Corridor Investment Outlook



Recovery Outlook by Region

South Region

Seeing improvement as Chicago recovers from weather conditions and normal terminal operations commence.

Central Region

Gradual improvement, more pronounced in spring as weather improves, short-term demand spikes moderate and additional locomotives come online.

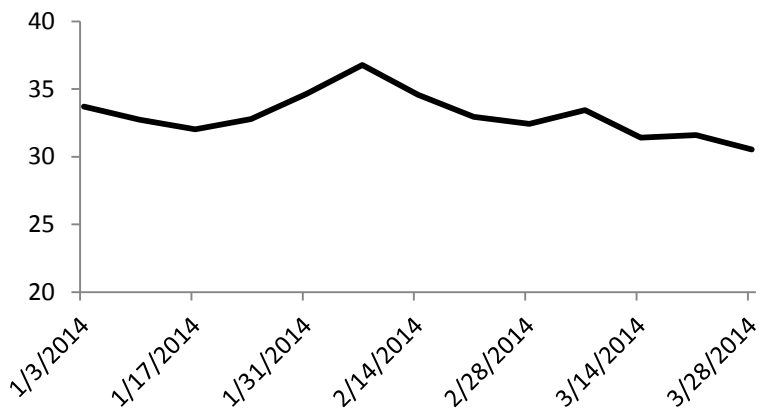
North Region

Will continue to improve as new capacity is added and comes online through 2014. Anticipated carload service improvement as weather continues to ease and Chicago interchange normalizes.



South Region

South Region AAR Dwell



AAR Dwell

Baseline
2/1-2/7

36.8

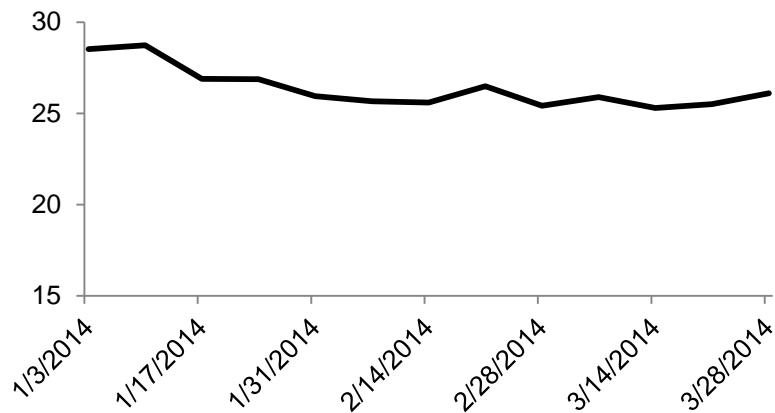
Actuals
1st QTR

32.9

Change
from Baseline

↓ 10.6%

South Region AAR Train Speed



AAR Train Speed

Baseline
2/1-2/7

25.7

Actuals
1st QTR

26.2

Change
from Baseline

↑ 1.9%

Recovery Outlook by Region

South Region

Seeing improvement as Chicago recovers from weather conditions and normal terminal operations commence.

Central Region

Gradual improvement, more pronounced in spring as weather improves, short-term demand spikes moderate and additional locomotives come online.

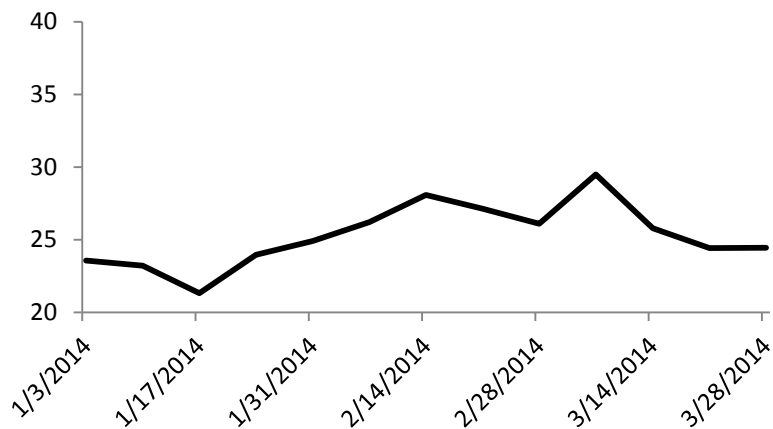
North Region

Will continue to improve as new capacity is added and comes online through 2014. Anticipated carload service improvement as weather continues to ease and Chicago interchange normalizes.



Central Region

Central Region AAR Dwell



AAR Dwell

Baseline
2/1-2/7

26.2

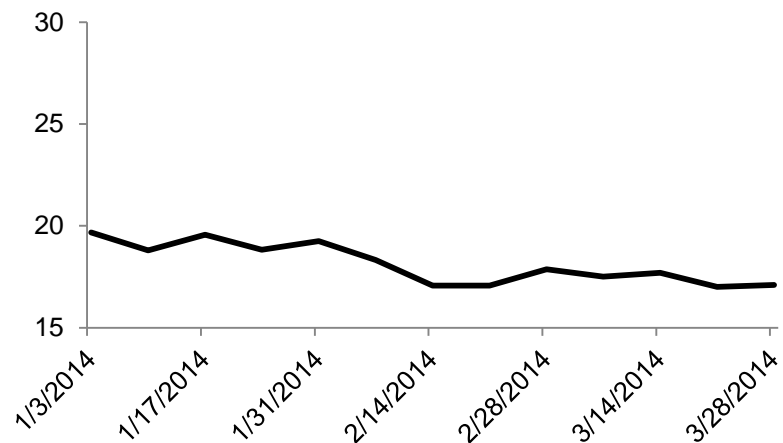
Actuals
1st QTR

25.0

Change
from Baseline

↓ 4.6%

Central Region AAR Train Speed



AAR Train Speed

Baseline
2/1-2/7

18.3

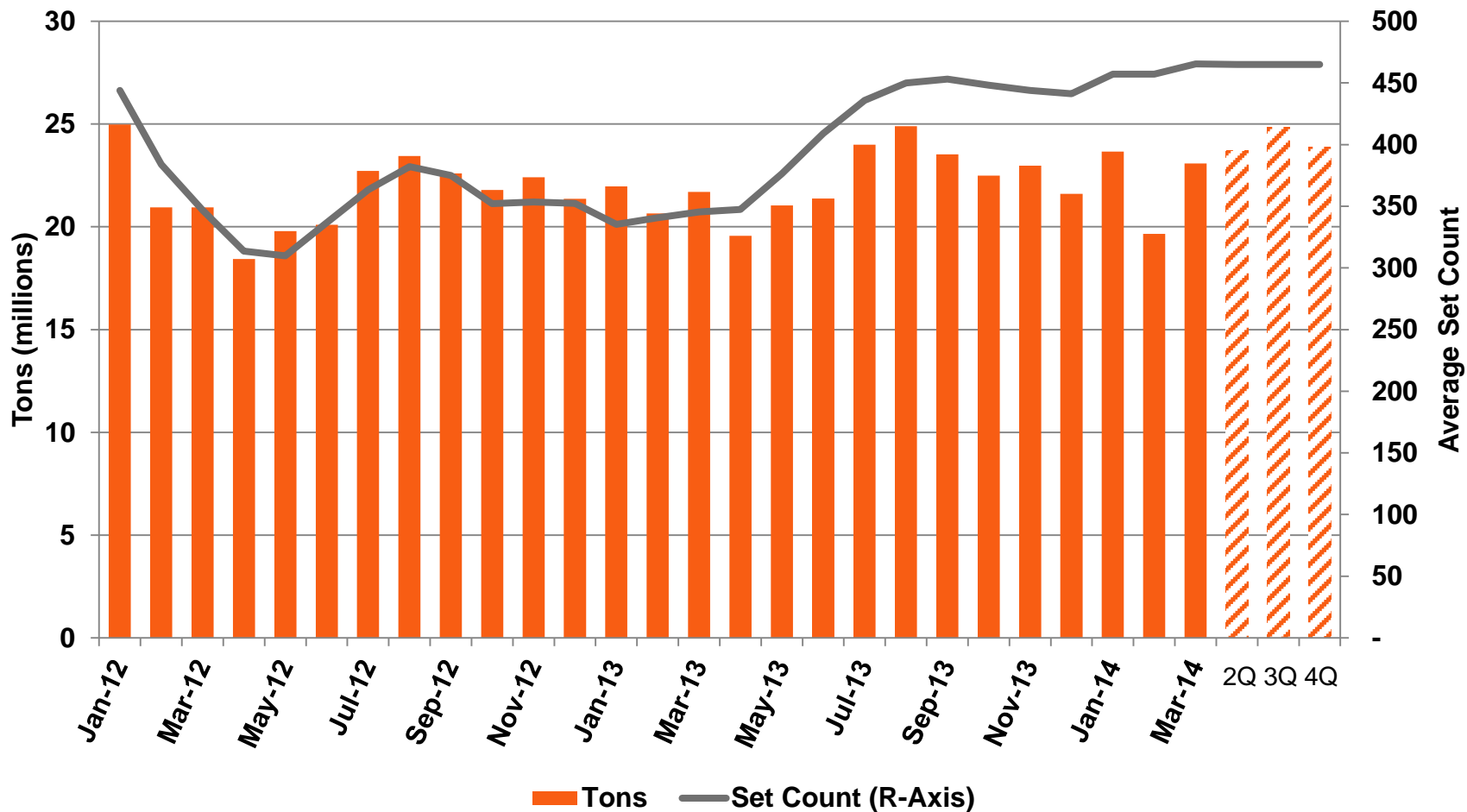
Actuals
1st QTR

18.0

Change
from Baseline

↓ 1.6%

Coal Tons



Recovery Outlook by Region

South Region

Seeing improvement as Chicago recovers from weather conditions and normal terminal operations commence.

Central Region

Gradual improvement, more pronounced in spring as weather improves, short-term demand spikes moderate and additional locomotives come online.

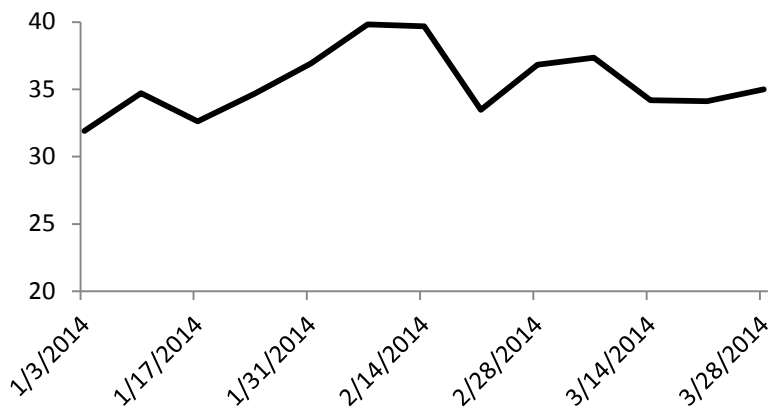
North Region

Will continue to improve as new capacity is added and comes online through 2014. Anticipated carload service improvement as weather continues to ease and Chicago interchange normalizes.



North Region

North Region AAR Dwell



AAR Dwell

Baseline
2/1-2/7

39.8

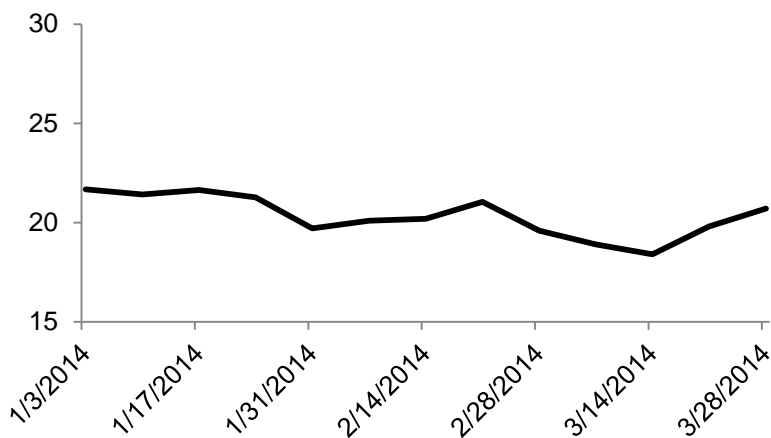
Actuals
1st QTR

35.5

Change
from Baseline

↓ 10.8%

North Region AAR Train Speed



AAR Train Speed

Baseline
2/1-2/7

20.1

Actuals
1st QTR

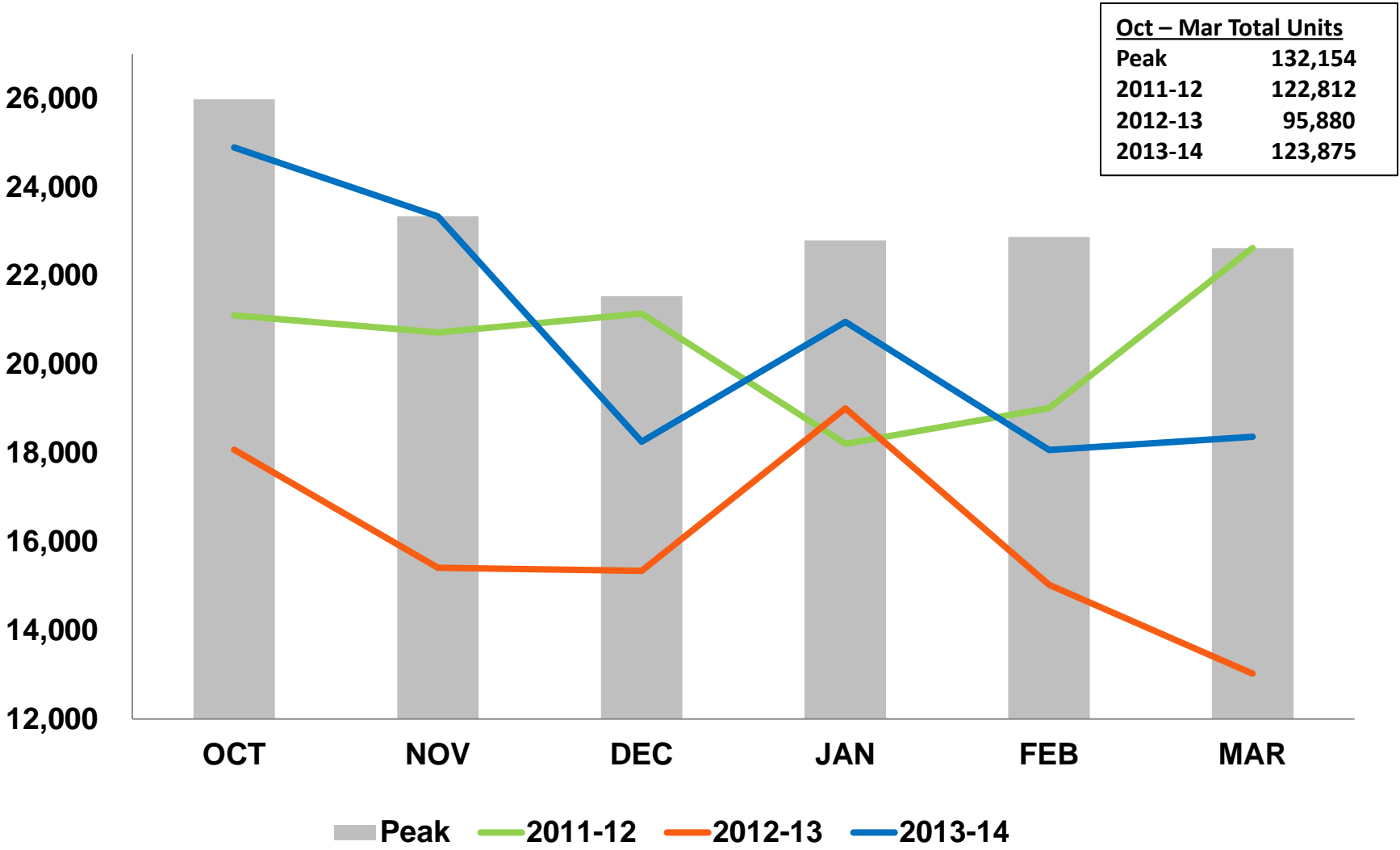
20.3

Change
from Baseline

↑ 1.0%

BNSF PNW Export Grain Units 2013-14

Exceeds 2011-12



Amtrak Performance: Empire Builder

Working Through Challenges

614



- Average Daily Lost Hours in Feb./Mar. on BNSF:

| | Feb. | Mar. |
|------------|------|------|
| Eastbound: | 5.3 | 5.7 |
| Westbound: | 3.5 | 5.3 |

- Average Daily Lost Hours for Apr. 2014 is 2.9 for Westbound and 2.4 for Eastbound*
- Multiple Feb. and Mar. cancellations due to increased mudslides in WA and avalanches in MT


Outlook

- New Amtrak schedule in place Apr. 15
- Investment will reduce slow orders and service variability
- Improvement expected throughout 2014

Frequent Customer Contact

- Customer Communication
- Up-to-Date Metrics and Information
- Personal Meetings and Outreach
- Planned Efforts for the Rest of 2014

Service Advisory



To: BNSF Customers April 4, 2014

Service Update for Friday, April 4

We continue to make progress in our efforts to improve service levels and have seen consistent improvements compared to February, when we experienced our most challenging operational issues.

This week, however, significant winter weather along our Northern Corridor hampered some efforts to improve the fluidity of our network. While we will likely continue to experience weeks where overall progress is not as strong as the previous week, we expect to continue to make steady improvements throughout the year. The following key indicators demonstrate our current performance:

Trains holding:

- Our snapshot of the number of trains holding on the BNSF system showed that we ended March holding 80 fewer trains than the beginning of the month. While we are disappointed at the number of trains that continue to be held short of their destination, we still recognize that the winter of 2013-2014 continues to create operational challenges impacting the Northern Plains and Upper Midwest. Our trains holding measurement is a count of trains not running due to a lack of a critical resource indicates more congestion is occurring on the network.

Coal velocity:

- The velocity for the movement of coal (miles per day) improved seven percentage points from last week*, driven by a six percent improvement in the Central Region. This improvement allows us to increase our loadings per day, helping to continue the stabilization of customer stockpiles.

Intermodal and Automotive performance:

- On-time performance improved nearly seven percentage points from last week, driven by improved car velocity and progress toward more typical network balance and traffic flow.

Industrial Products:

- Terminal dwell improved when compared to last week, with a 14 percent improvement in the time a railcar spends at the terminal. However, velocity declined four percent during the past week.

Agricultural Products:

- Fast dues improved eight percent when compared to last week. Velocity declined five percent during the same time frame.

All of our customers are very important to BNSF and we continue to do all we can to serve you now and in the future. We welcome your feedback or questions about the efforts we are taking to improve service.

Thank you for choosing BNSF as your transportation service provider.

* March 26, 2014 vs. April 2, 2014.









BNSF[®]

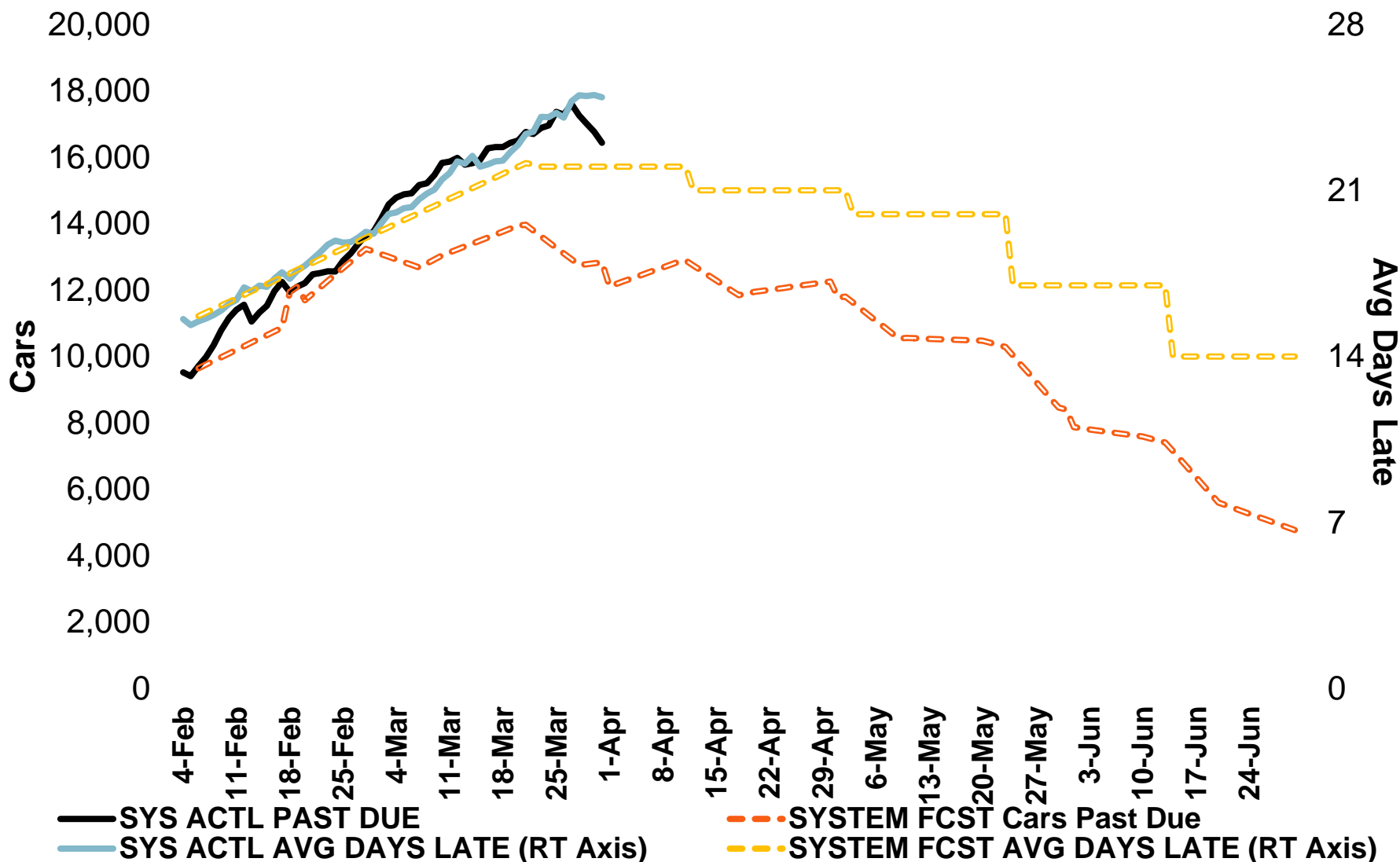
RAILWAY

Appendix

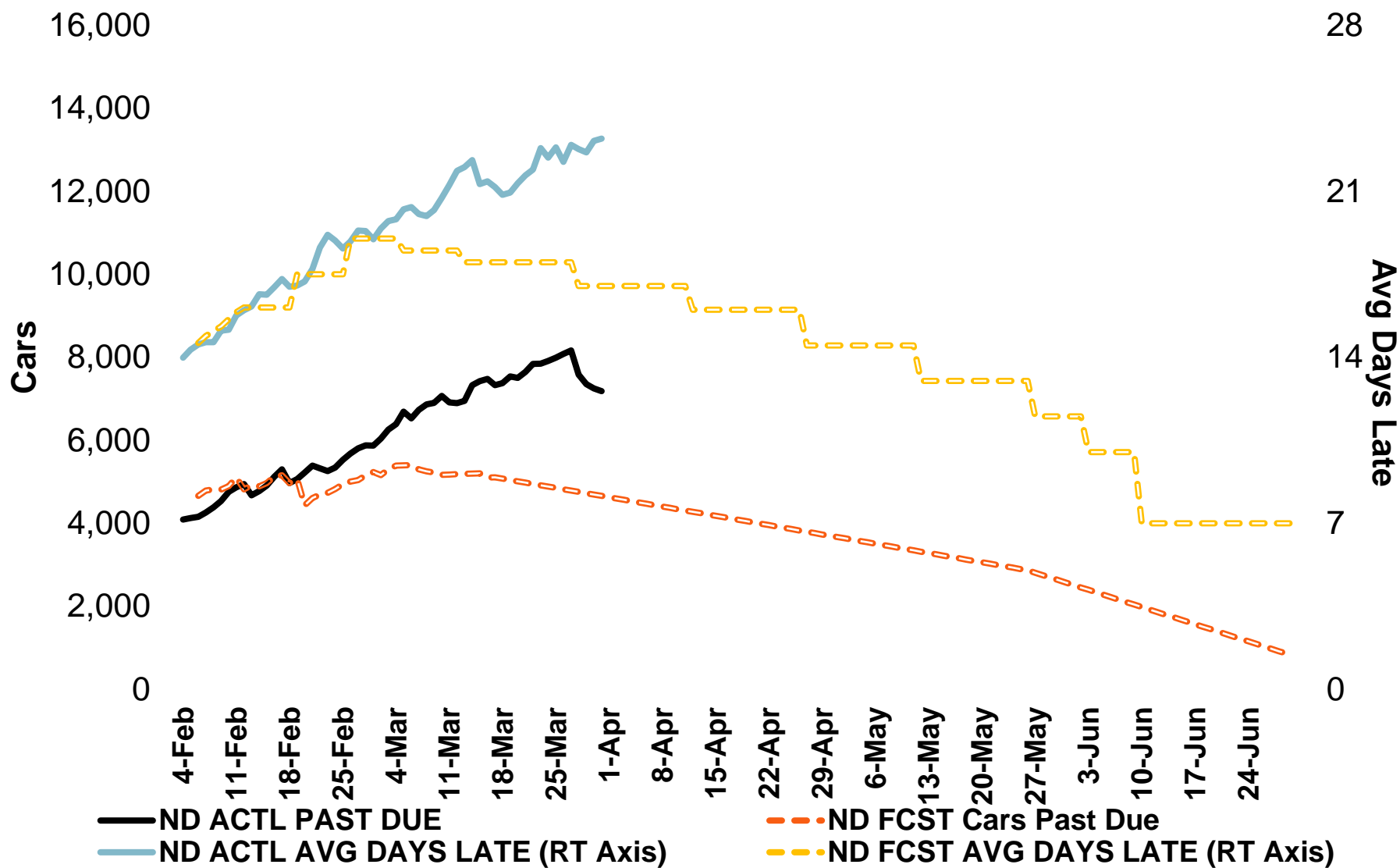
BNSF Dashboard Service Metrics

| | Goal 3/31 | Baseline 2/7 | Actuals 3/31 | Change from Goal |
|--|-----------------|---------------------|--------------------------------|--|
| Past Due Cars | | | | |
| # of Cars | 12,831 | 9,982 | 16,432 |  28.1% |
| Avg Days Late | 22.0 | 15.6 | 24.9 |  13.2% |
| | Goal Q1 2014 | Baseline 2/1-2/7 | Actuals 1 st QTR | Change from Baseline |
| Coal Avg Monthly Tons (in millions) | 23.7 | 19.2 | 22.1 |  15.1% |
| IM System Transit Days | 4.20 | 5.32 | 5.04 |  5.3% |
| AAR Terminal Dwell Hours | 29.3 | 34.6 | 31.4 |  9.2% |
| AAR Train Speed | N/A | 21.8 | 21.9 |  0.5% |

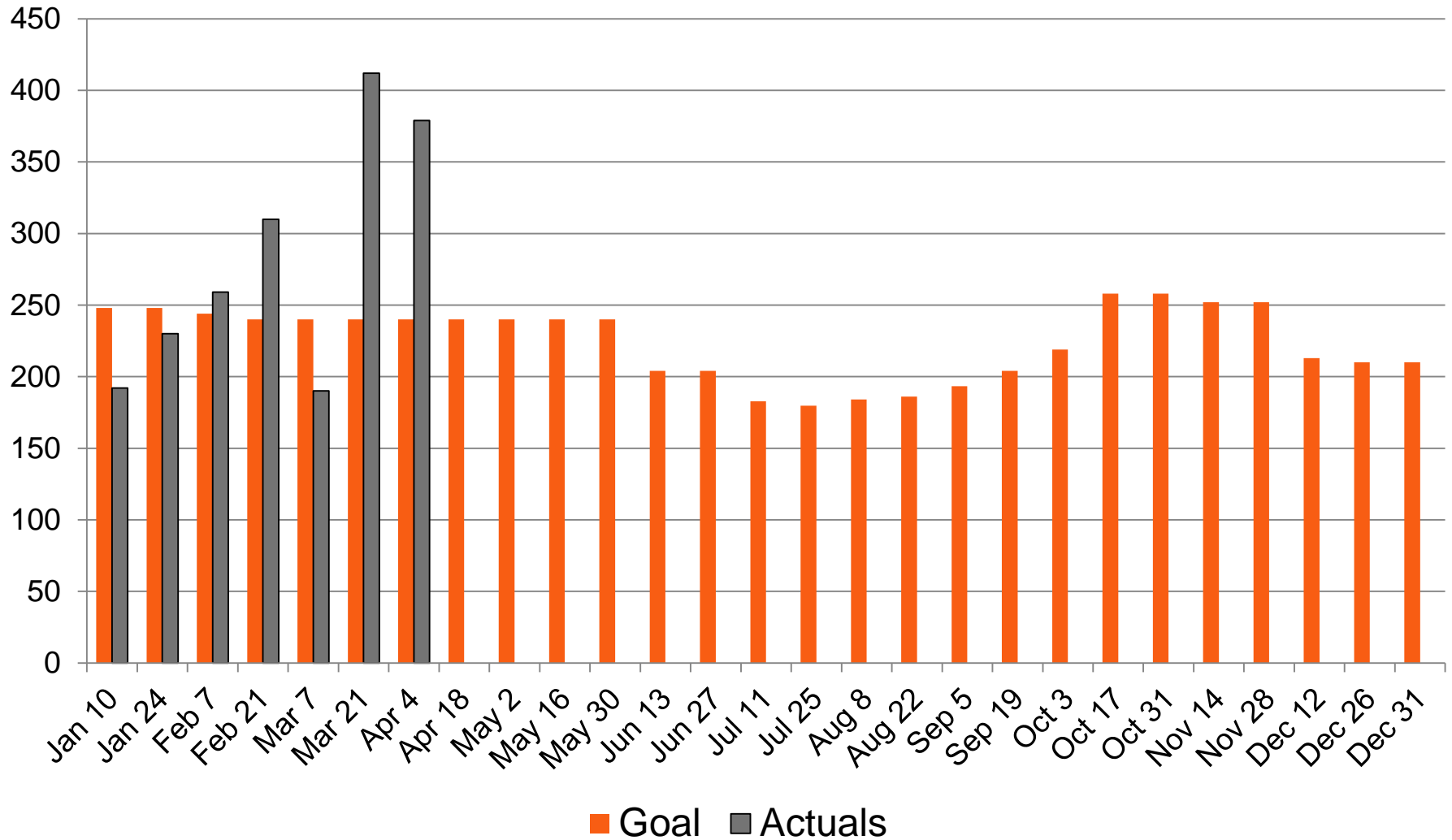
System Ag Past Due Cars



North Dakota Ag Past Due Cars



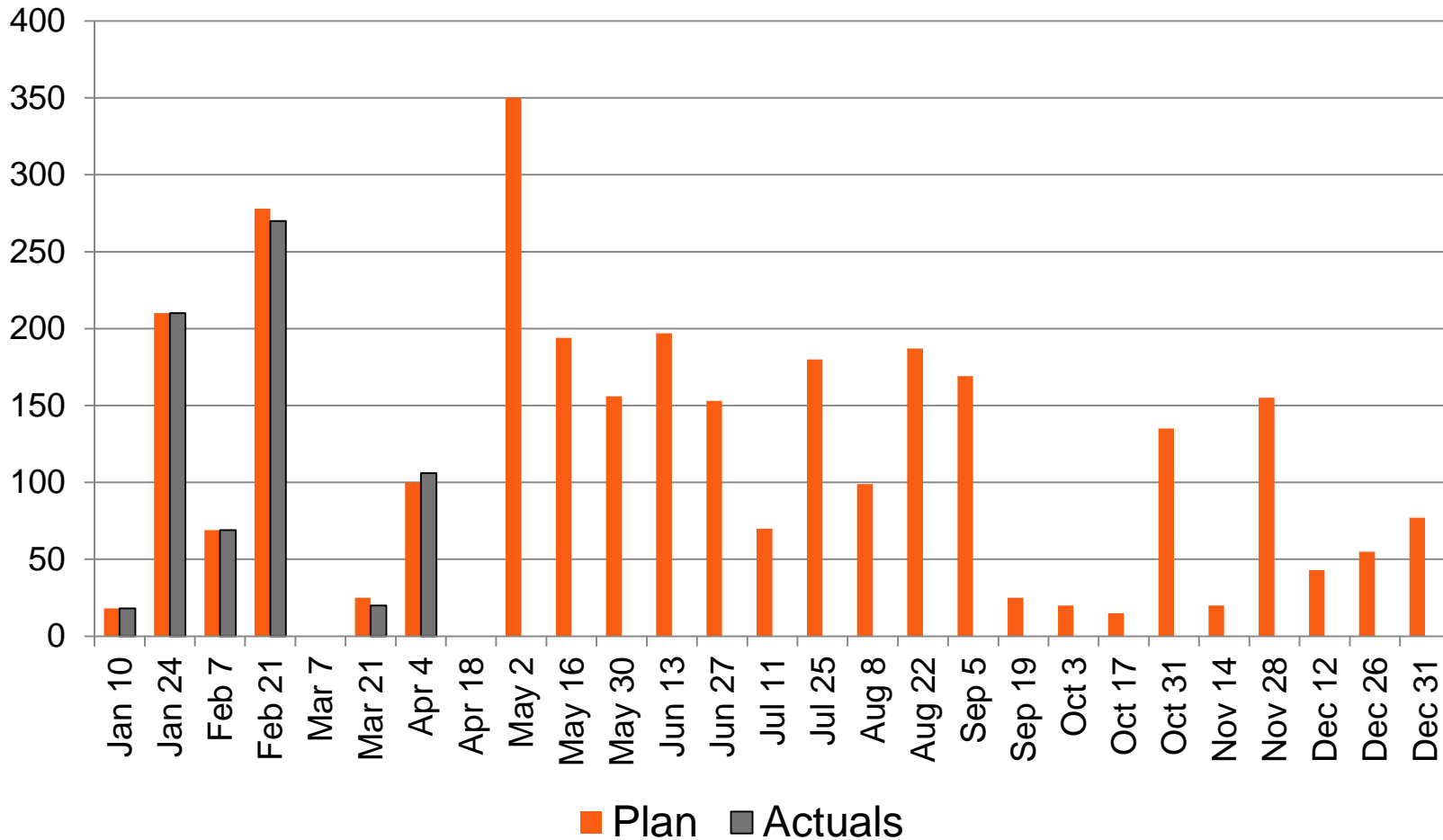
Sugar Cars Spotted – North Dakota ⁶²¹



BNSF Long-Term Actions to Add Capacity

| \$ Millions | Annual Goal | Q1 2014 Goal | Prior Period (QTD 3/21) | Actuals 1st QTR |
|--|--------------------|---------------------|--------------------------------|-----------------------------------|
| People Hiring | 3,000 | 650 | 587 | 692 |
| TY&E | 2,000 | 750 | 523 | 597 |
| Eng & Mech | | | | |
| Locomotive Acquisitions | 500 | 108 | 107 | 112 |
| Car – Acquisitions, Replacements & Extensions | 5,000 | 300 | 179 | 239 |
| Expansion Capital | \$ 900 | \$ 130 | \$65* | \$120 |
| Replacement & Maint Capital | \$ 2,300 | \$ 430 | \$283* | \$477 |

System TYE Employees Hired & Trained



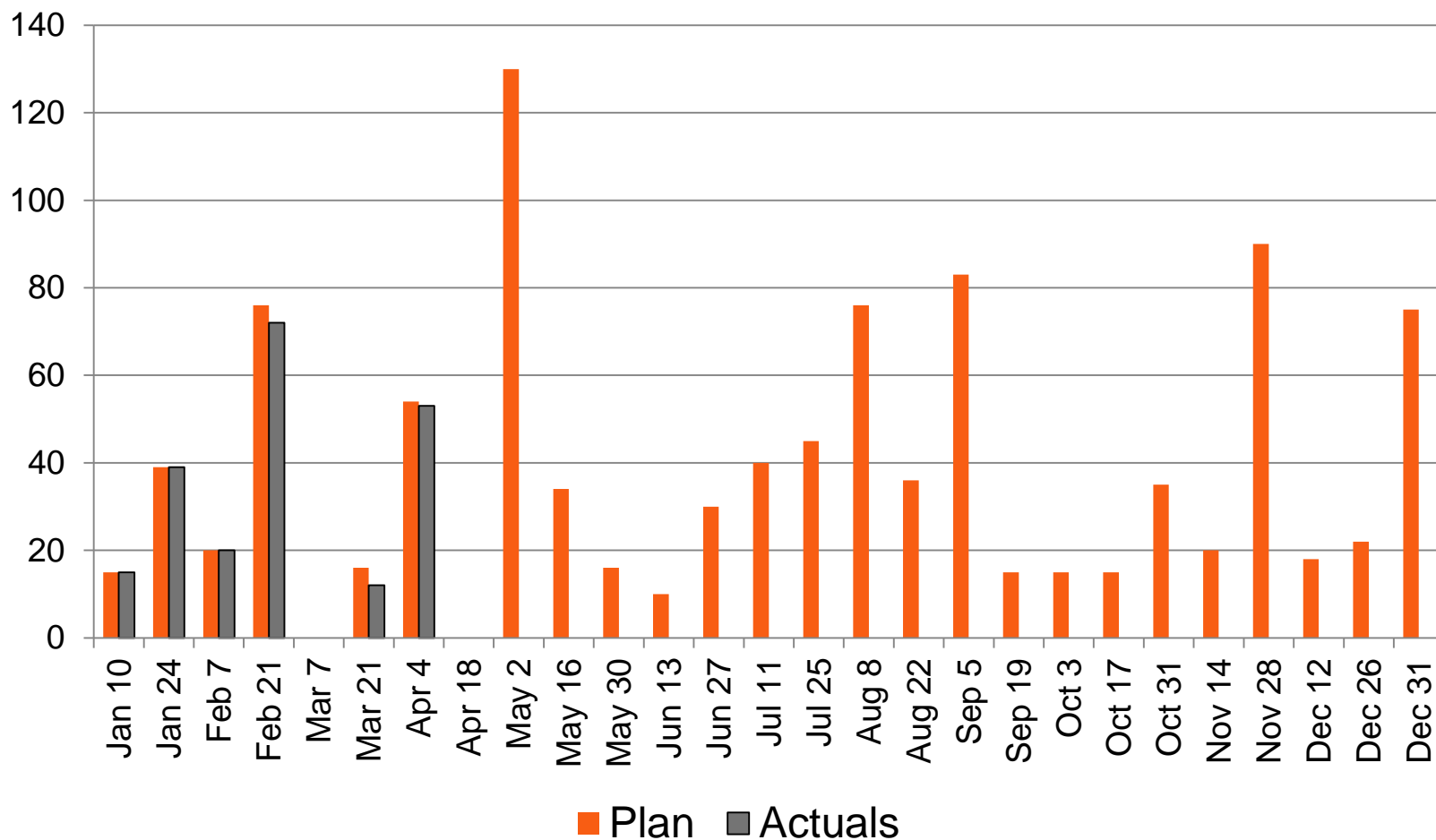
| Cumulative | Jan | Feb | Mar * | Apr ** | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|------------|-----|-----|-------|--------|-------|-------|-------|-------|-------|-------|-------|-------|
| Plan | 297 | 575 | 650 | 1,100 | 1,400 | 1,750 | 2,000 | 2,450 | 2,500 | 2,650 | 2,825 | 3,000 |
| Actual | 297 | 567 | 692 | 693 | | | | | | | | |

* Most of the hiring that happened during the two week period ending April 4th occurred in March.

** Actual is YTD through 4/4/14, plan is YTD through 4/30/14.



North TYE Employees Hired & Trained



| Cumulative | Jan | Feb | Mar * | Apr ** | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|------------|-----|-----|-------|--------|-----|-----|-----|-----|-----|-----|-----|-------|
| Plan | 74 | 150 | 220 | 350 | 400 | 470 | 525 | 720 | 750 | 800 | 910 | 1,025 |
| Actual | 74 | 146 | 211 | 211 | | | | | | | | |

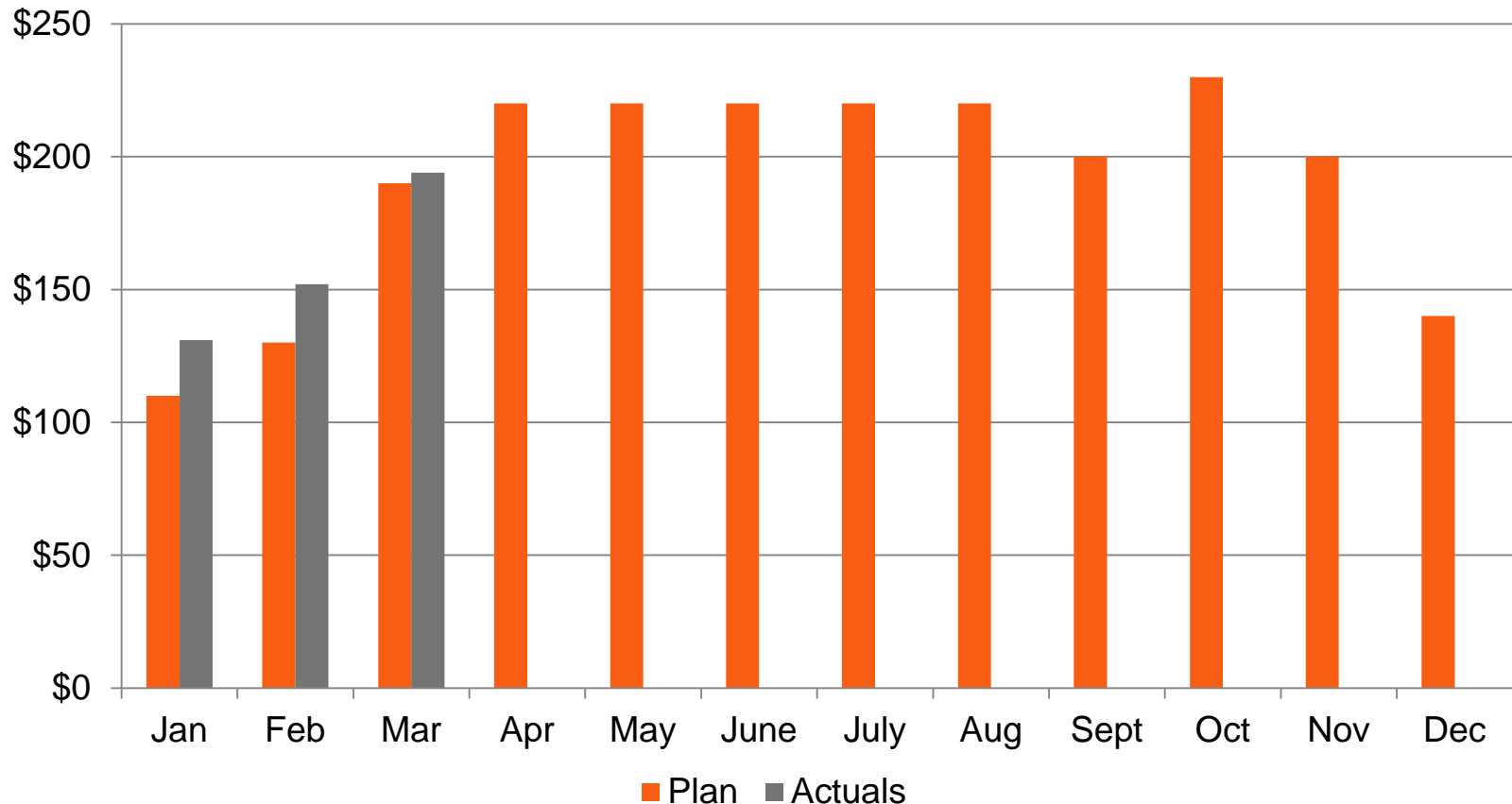
* All of the hiring that happened during the two week period ending April 4th occurred in March.

** Actual is YTD through 4/4/14, plan is YTD through 4/30/14.

System Capacity and Reliability

\$ Millions

Replacement & Maintenance Capital

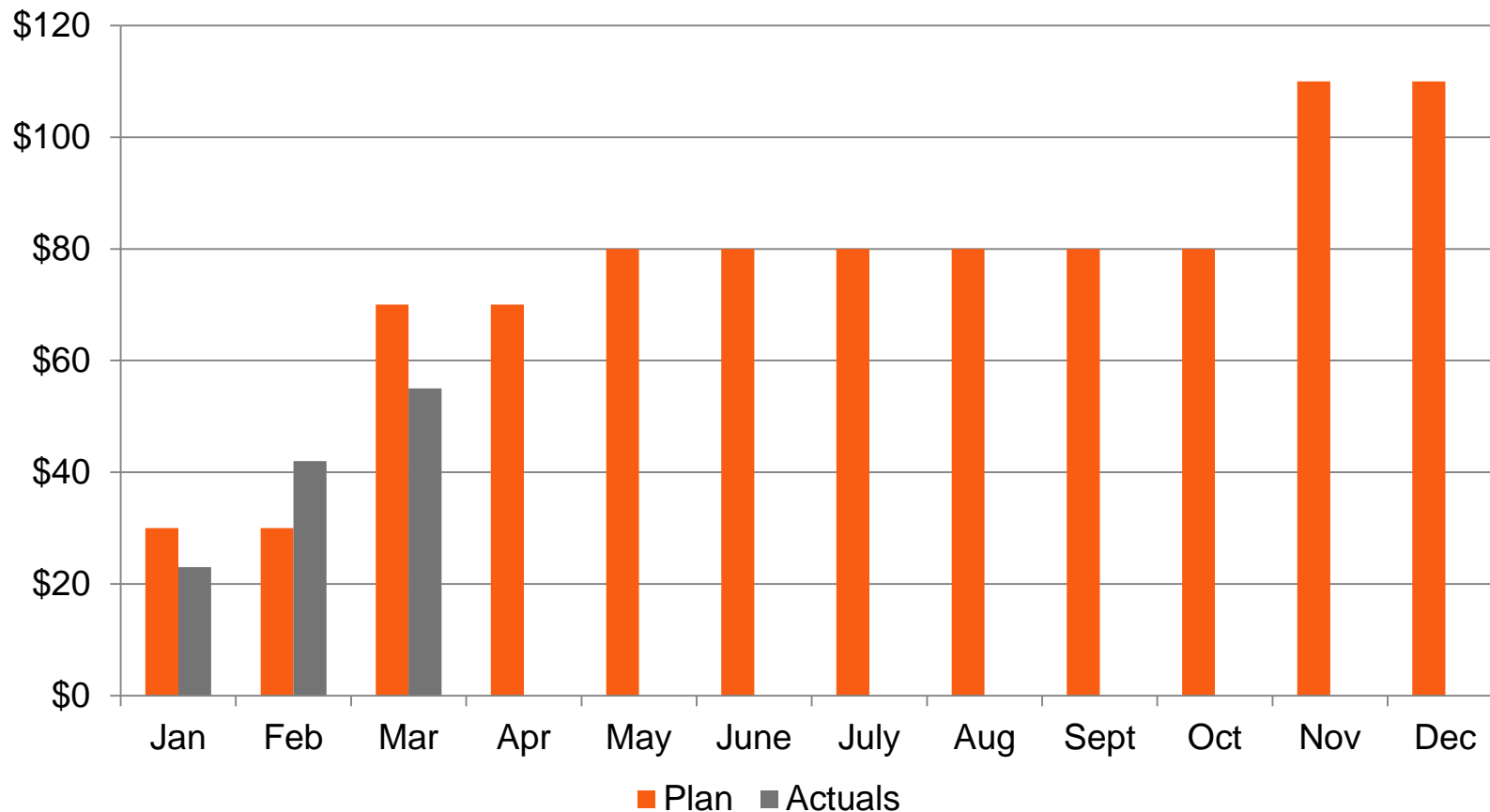


| Cumulative | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|------------|-------|-------|-------|-------|-------|---------|---------|---------|---------|---------|---------|---------|
| Plan | \$110 | \$240 | \$430 | \$650 | \$870 | \$1,090 | \$1,310 | \$1,530 | \$1,730 | \$1,960 | \$2,160 | \$2,300 |
| Actual | \$131 | \$283 | \$477 | | | | | | | | | |

System Capacity and Reliability

\$ Millions

Expansion & Efficiency Capital

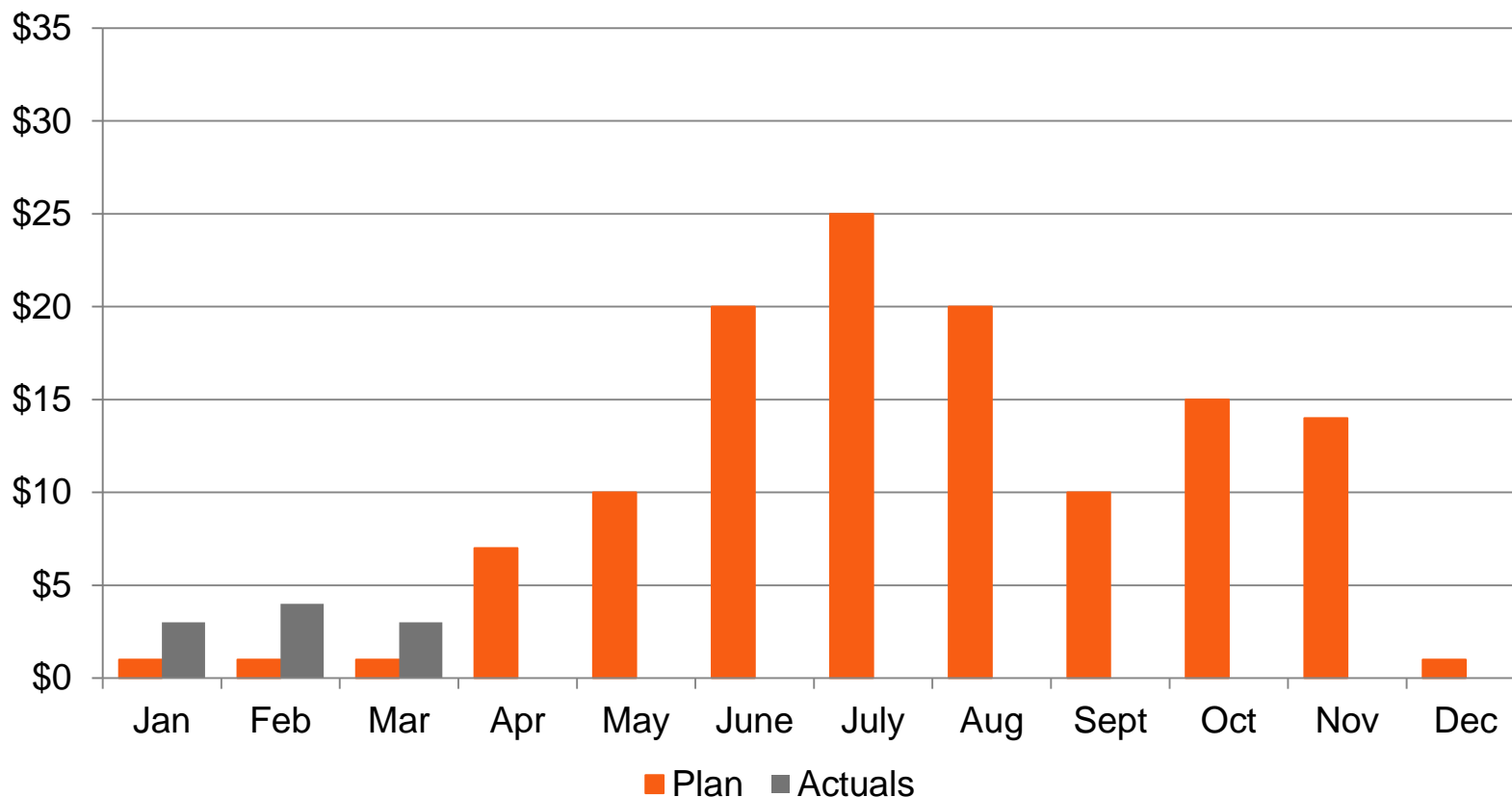


| Cumulative | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|------------|------|------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Plan | \$30 | \$60 | \$130 | \$200 | \$280 | \$360 | \$440 | \$520 | \$600 | \$680 | \$790 | \$900 |
| Actual | \$23 | \$65 | \$120 | | | | | | | | | |

North Dakota Capacity and Reliability

\$ Millions

Replacement & Maintenance Capital

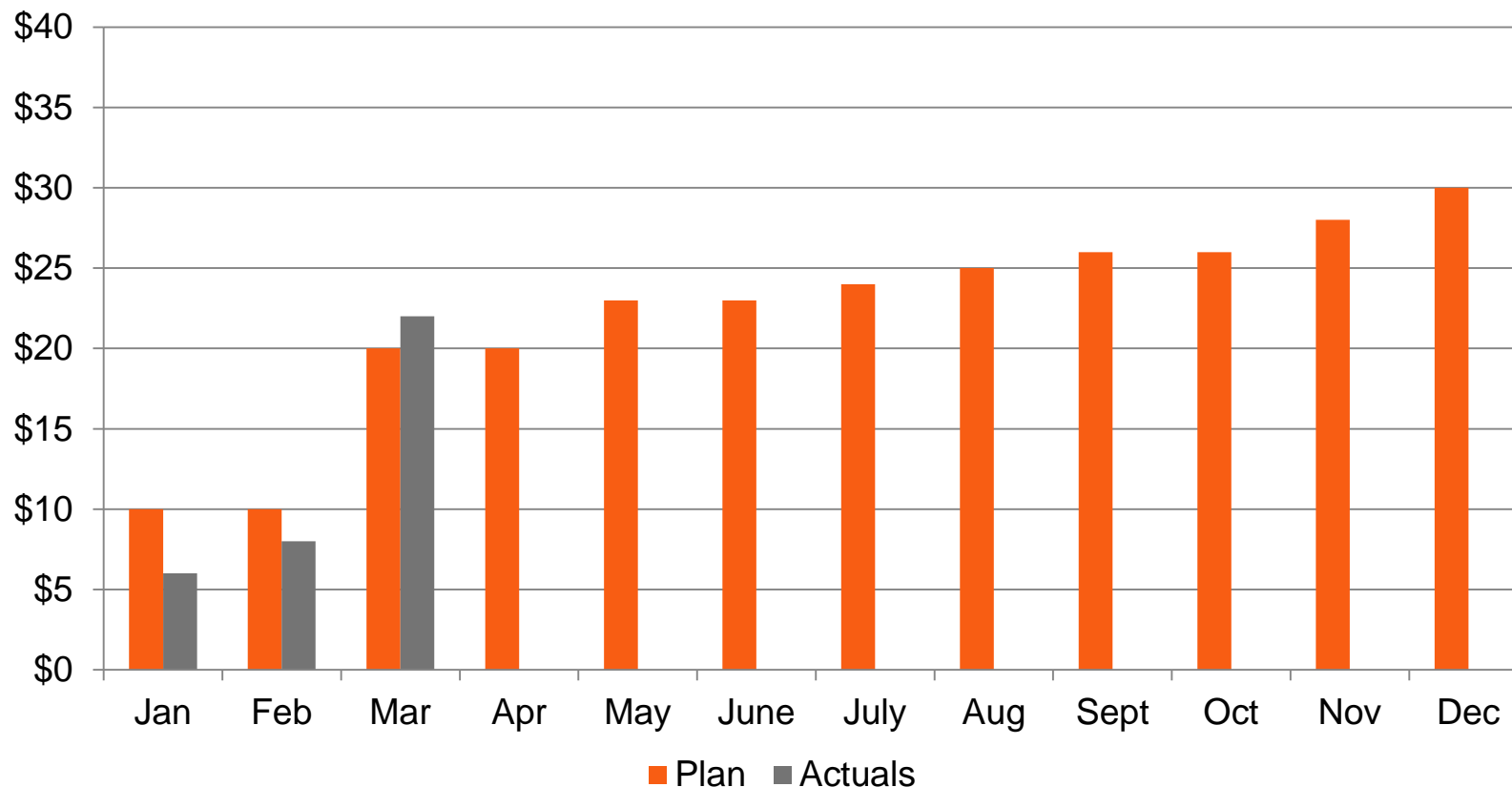


| | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|-----------------|-----|-----|------|------|------|------|------|------|------|-------|-------|-------|
| Cumulative Plan | \$1 | \$2 | \$3 | \$10 | \$20 | \$40 | \$65 | \$85 | \$95 | \$110 | \$124 | \$125 |
| Actual | \$3 | \$7 | \$10 | | | | | | | | | |

North Dakota Capacity and Reliability

\$ Millions

Expansion & Efficiency Capital



| | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|-----------------|------|------|------|------|------|-------|-------|-------|-------|-------|-------|-------|
| Cumulative Plan | \$10 | \$20 | \$40 | \$60 | \$83 | \$106 | \$130 | \$155 | \$181 | \$207 | \$235 | \$265 |
| Actual | \$6 | \$14 | \$36 | | | | | | | | | |

EP 724 – U.S. Rail Service Issues

Tom Haley, Assistant Vice President –
Network and Capital Planning

April 10, 2014



235860

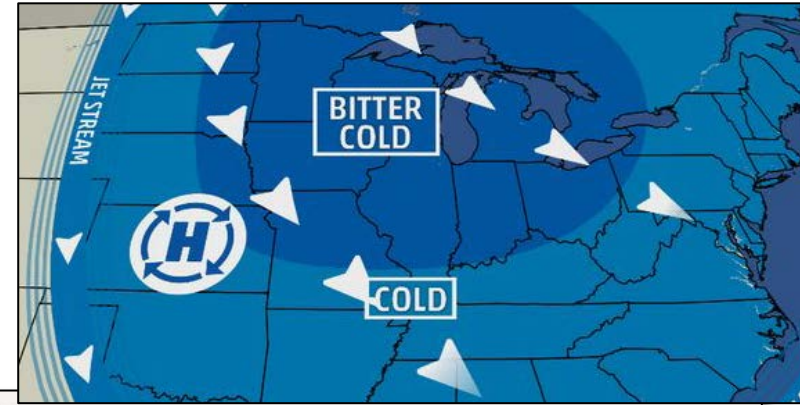
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Severe Weather Impacts Railroads

630



Effects on rail operation

- Reduced ground crew mobility
- Slowed productivity
- Frozen switches
- Reduced train size
- Interchange bottlenecks

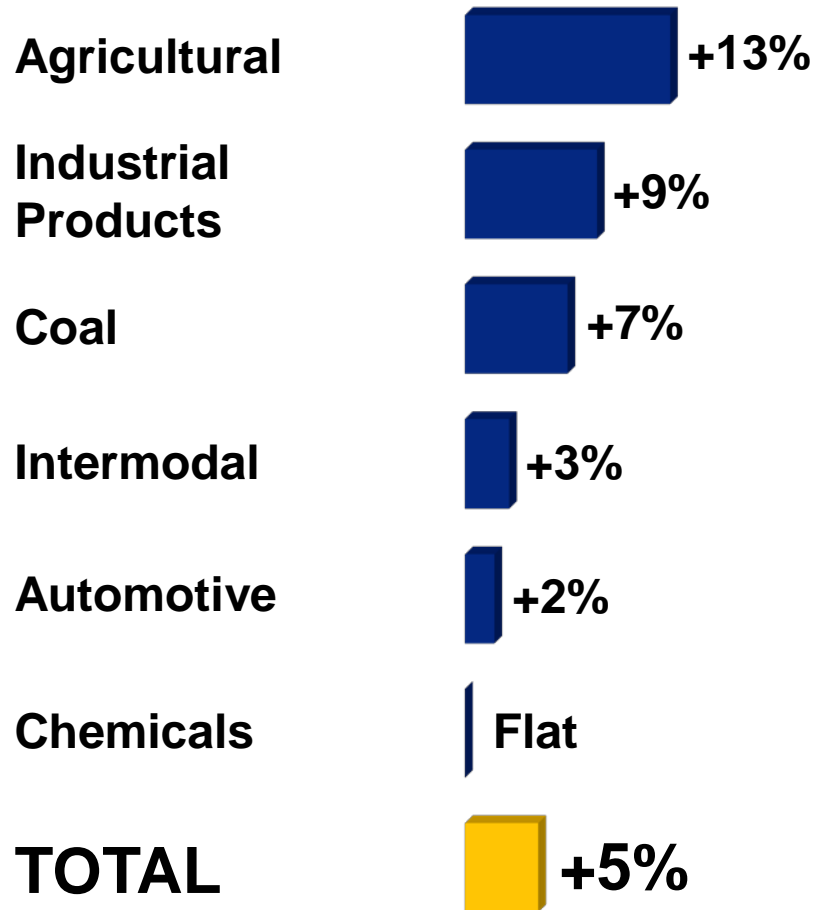


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Strong Demand

631

2014 YTD Volume Growth* (vs 2013)



YTD Drivers

- Strong Grain Shipments
- Strong Ethanol Shipments
- Growth in Frac Sand
- Coal Demand Up with Harsh Winter

*Through April 1, 2014



BUILDING AMERICA®

Recovery Strategy

Success Depends on Multiple Factors

- Key recovery initiatives implemented by Union Pacific
 - Coordinating with all railroads to maximize throughput in the region
 - Utilizing alternative gateways and routes to reduce congestion
 - Increased workforce in affected areas (+8-10% YOY)
 - Mobilized additional locomotives (+12% YOY)
 - Maximizing resource effectiveness
 - Adjusting transportation plans to support recovery efforts
- Weather forecast looks to moderate in the coming weeks
- All railroads play a role in recovery efforts
- Outlook for steady improvement over the next 2-3 weeks

Northern Region Challenges

Unusually Severe Weather

- Severe winter weather has impacted most of the Midwest rail network
- Record weather trends in January challenging recovery in IL, MN and WI

| Location (Airport) | Jan 2014 Avg Low | Var from 30 Yr Normal | Jan 2014 Snowfall | Var from 30 Yr Normal | # of Days 0°F or Colder | # of Days -10°F or Colder | Jan 2014 Coldest Temp. |
|---------------------|------------------|-----------------------|-------------------|-----------------------|-------------------------|---------------------------|------------------------|
| Chicago O'Hare | 8.7°F | -8.8° | 33.7" | +22.8" | 11 | 4 | -16.9°F |
| Minneapolis/St Paul | -2.5°F | -5.8° | 22.7" | +9.8" | 20 | 11 | -23.0°F |

- Effects on rail network due to weather
 - Frozen switches
 - Reduced train size
 - Ground crew mobility
 - Recovery yards challenged
 - Slowed productivity
 - Interchange bottlenecks
- Weather events outside the Midwest region have impaired recovery options

• Communication

- Regular website updates since first Polar Vortex event
- Performance Quality Reviews (PQR) directly with customers

• National Customer Service Center

- Existing disciplined service issue process
- Additional staffing
- Tighter coordination with field operating team, command centers, and dispatch center

• Hands-on cross-functional contact with customers most affected

• Internal communication & coordination

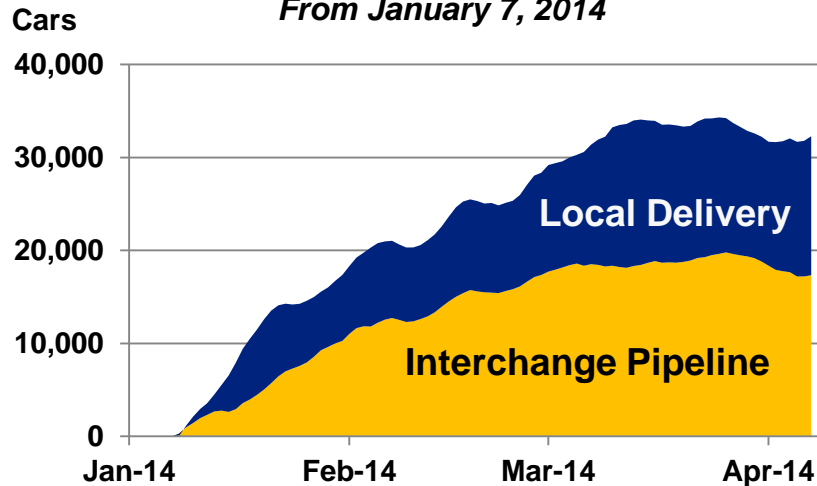
• Tremendous customer support and cooperation, including select blocking

UP Operating Actions

633

Change in Freight Car Inventory

From January 7, 2014



Key Strategies

- Safety
- Variability Reduction
- Agility / Surge Capacity
- Innovation
- Investment

- Reduce inventory
 - Run the service plan
- Run locals – spot & pull the customer
- Maximize resources
 - + 550 active TE&Y Crews since Jan
 - + 600 active Locomotives since Fall to 7,480
 - + 57 Managers
 - + 11,800 Freight Cars (10,500 from storage plus 1,300 new/leased)
- Step-up capital investment
- Chicago gateway actions
- Upper Midwest actions



BUILDING AMERICA®

Employee in Sub-Zero Gear



- Resource Actions (right →)
- Coordination through CTCO
- Flex Chicago demand
 - Upstream blocking to overhead Chicago switching
 - Use of alternate gateways
- Customer communication

Resource Actions

Management

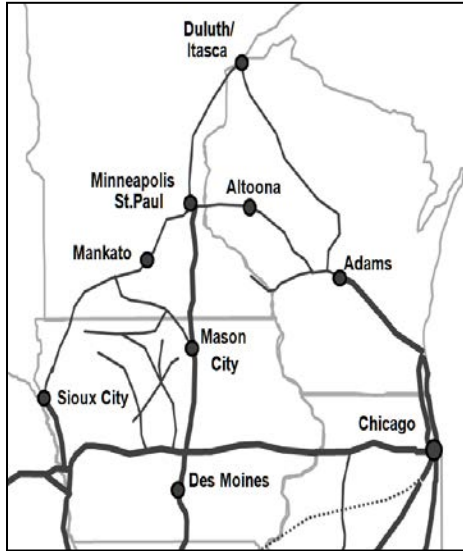
- UP Chicago Command Center
- 6 additional managers at Proviso
- Additional planning calls with interchange partners
- Extra crew drivers in Milwaukee area

Crews

- 51 TE&Y supplements from other areas
- 42 in training pipeline by June
- Outstanding employee dedication and craft support
- Weekly employee updates on UP Online

Locomotives

- Two-thirds of 600-unit fleet increase focused in Northern Region
- Quick locomotive turns from inbound trains



- Resource Actions (right →)
- Flex demand
 - Alternate switching in UP network
 - Use of short-line partners for switching
 - Customer blocking – Great support!
- Emphasis on restoring local service
- Customer communication

Resource Actions

Management

- UP Twin Cities Command Center
- 10 additional managers at key locations
- Customer local service supervision
- Nat'l Customer Service Center coordinator
- 8 managers accelerating crew training

Crews

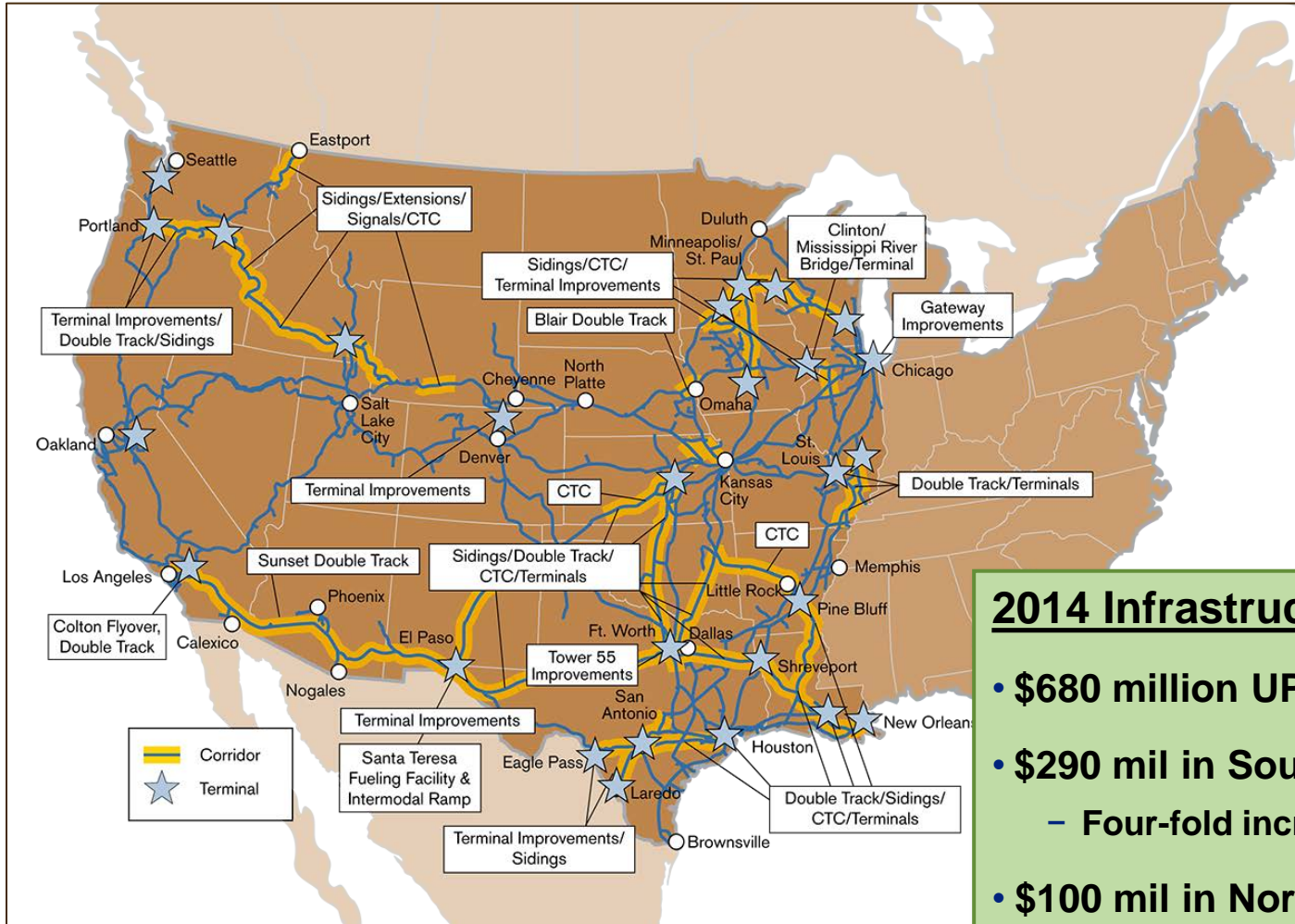
- Initiatives to improve efficient use of crews
- 43 TE&Y supplements from other areas
- 103 in training pipeline
- Outstanding employee dedication and craft support
- Weekly updates on UP Online

Locomotives

- Initiatives to increase locomotive supply
- Dedicated locomotives for local service
- Added maintenance support



Existing and Proposed UP Capacity Projects



2014 Infrastructure Expansion

- \$680 million UP network total
- \$290 mil in South
 - Four-fold increase since 2011
- \$100 mil in North, with approval to accelerate \$40 mil in upper Midwest

Summary

UP Actions

Implemented

- Customer communication & coordination ✓
- Employee dedication & teamwork ✓
- Resource additions ✓
 - Crews ✓
 - Locomotives ✓
 - Freight Cars ✓
 - Management ✓
- Increase production & plan compliance ✓
- Flex the operating plan / manage workload ✓
- Partner railroad coordination *Improving*
- Capital acceleration ✓



Outlook: Steady improvement



235861

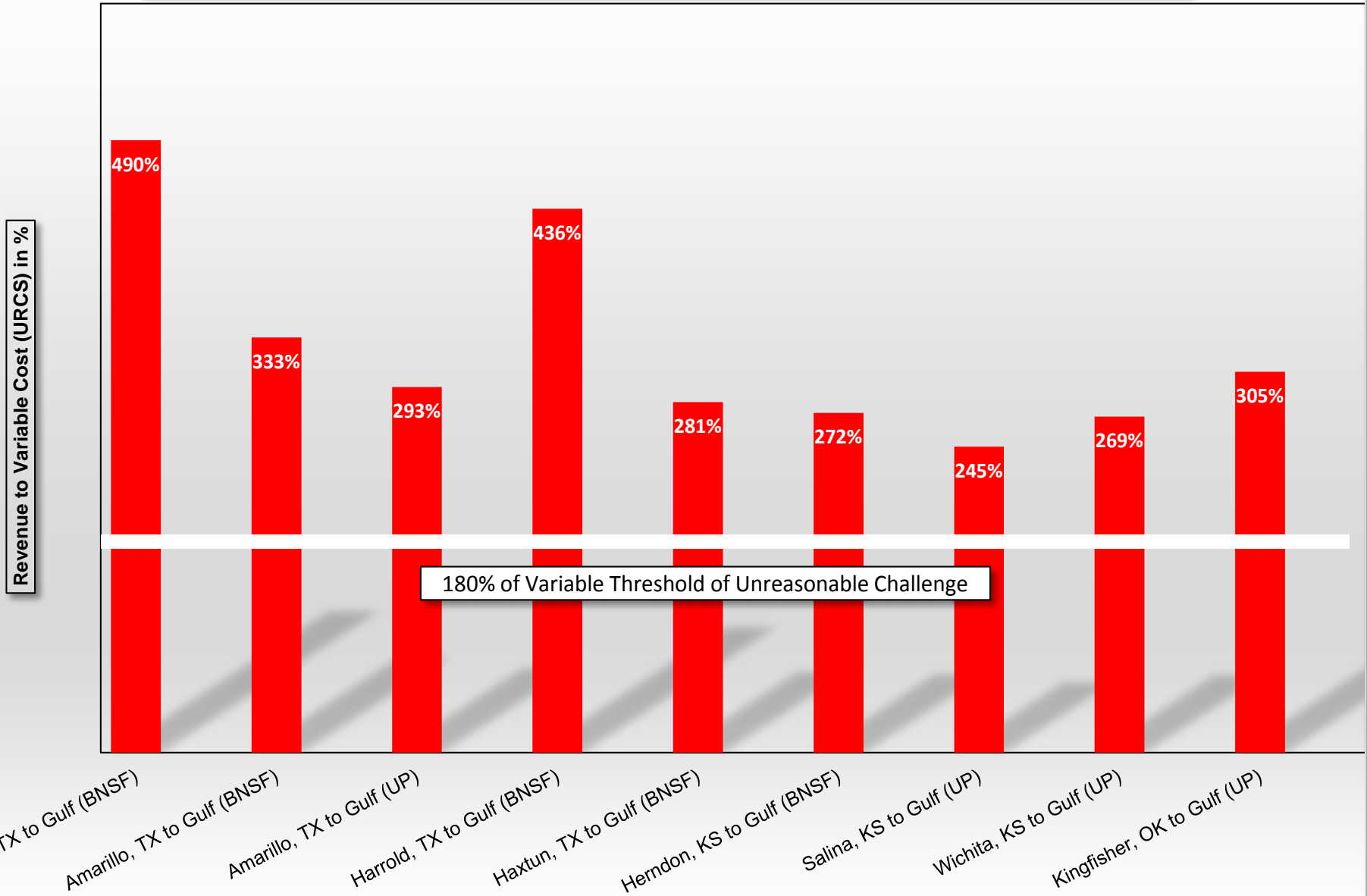
638

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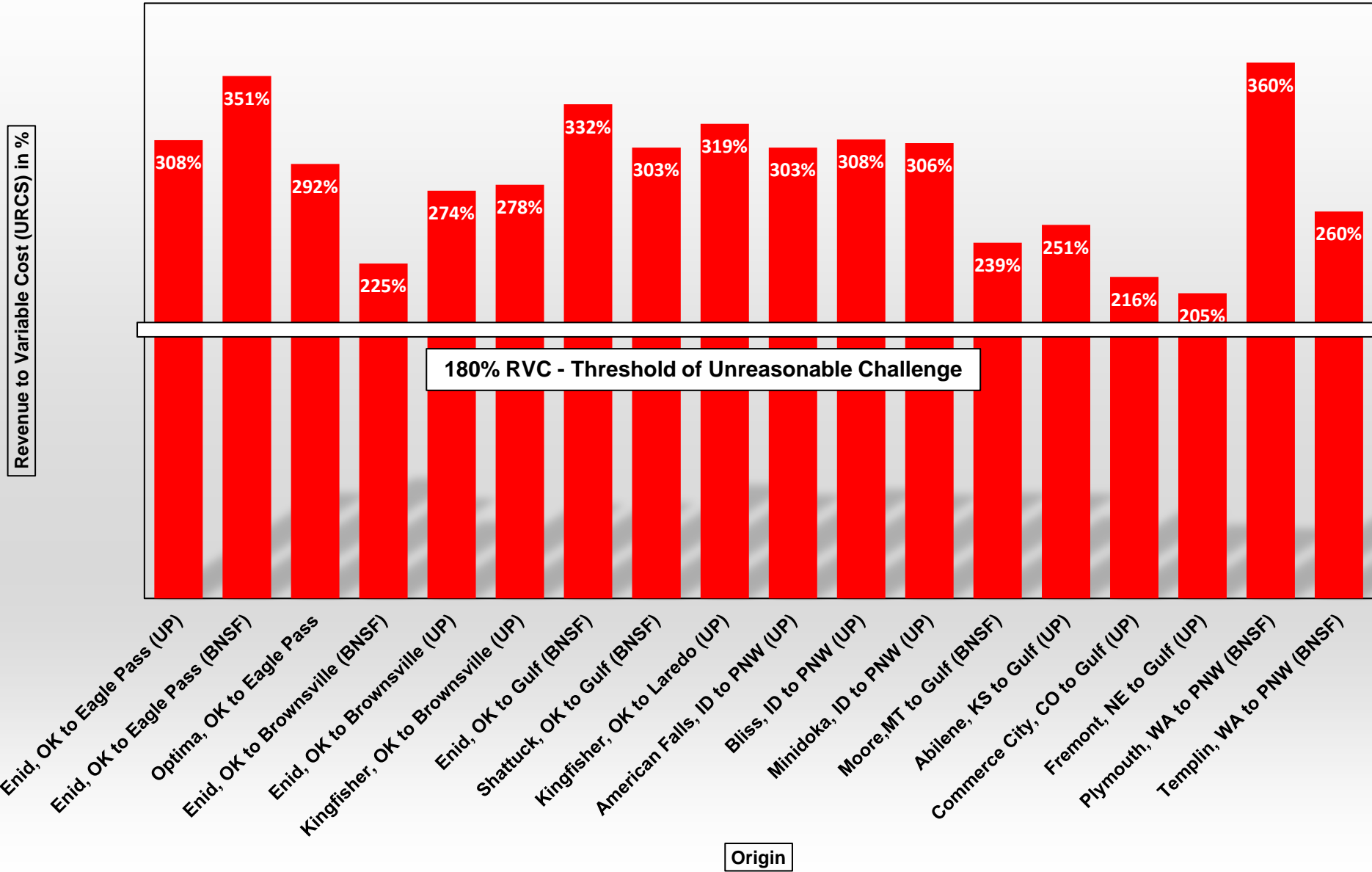
STB DOCKET NO. Ex Parte 724
UNITED STATES RAIL SERVICE ISSUES
Whiteside & Associates/Alliance for Rail Competition – Billings, Montana

Revenue to Variable Cost - Rail Wheat Shipments to Gulf BNSF and UP - March 2014

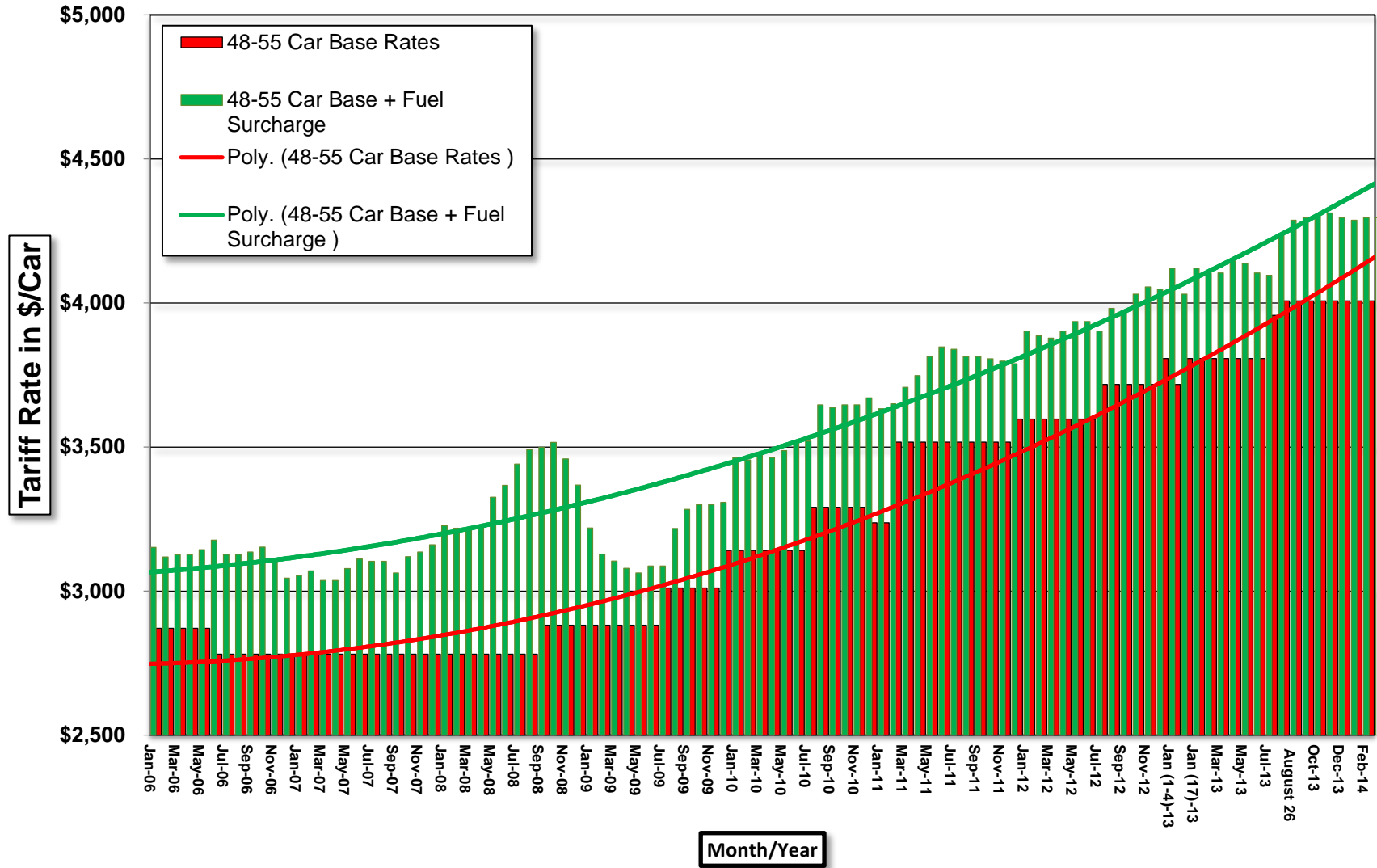


Origin

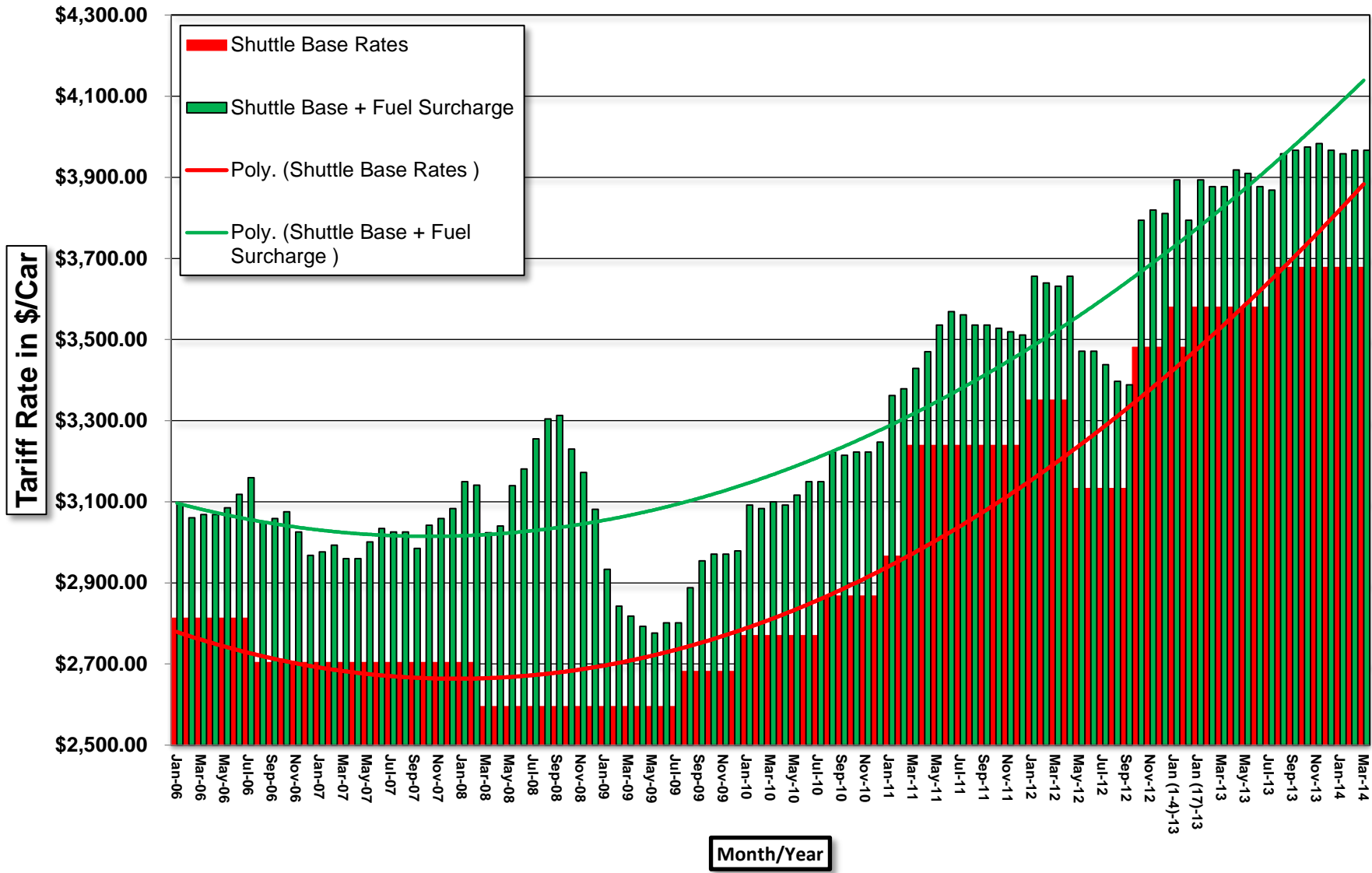
Revenue to Variable Cost - Rail Wheat Shipments BNSF and UP to Mexico Crossovers, Gulf and PNW - January 2014



Great Falls to PNW Export BNSF 48-55 Car Base Rates + Fuel Surcharge 2006-2014 (268,000#)

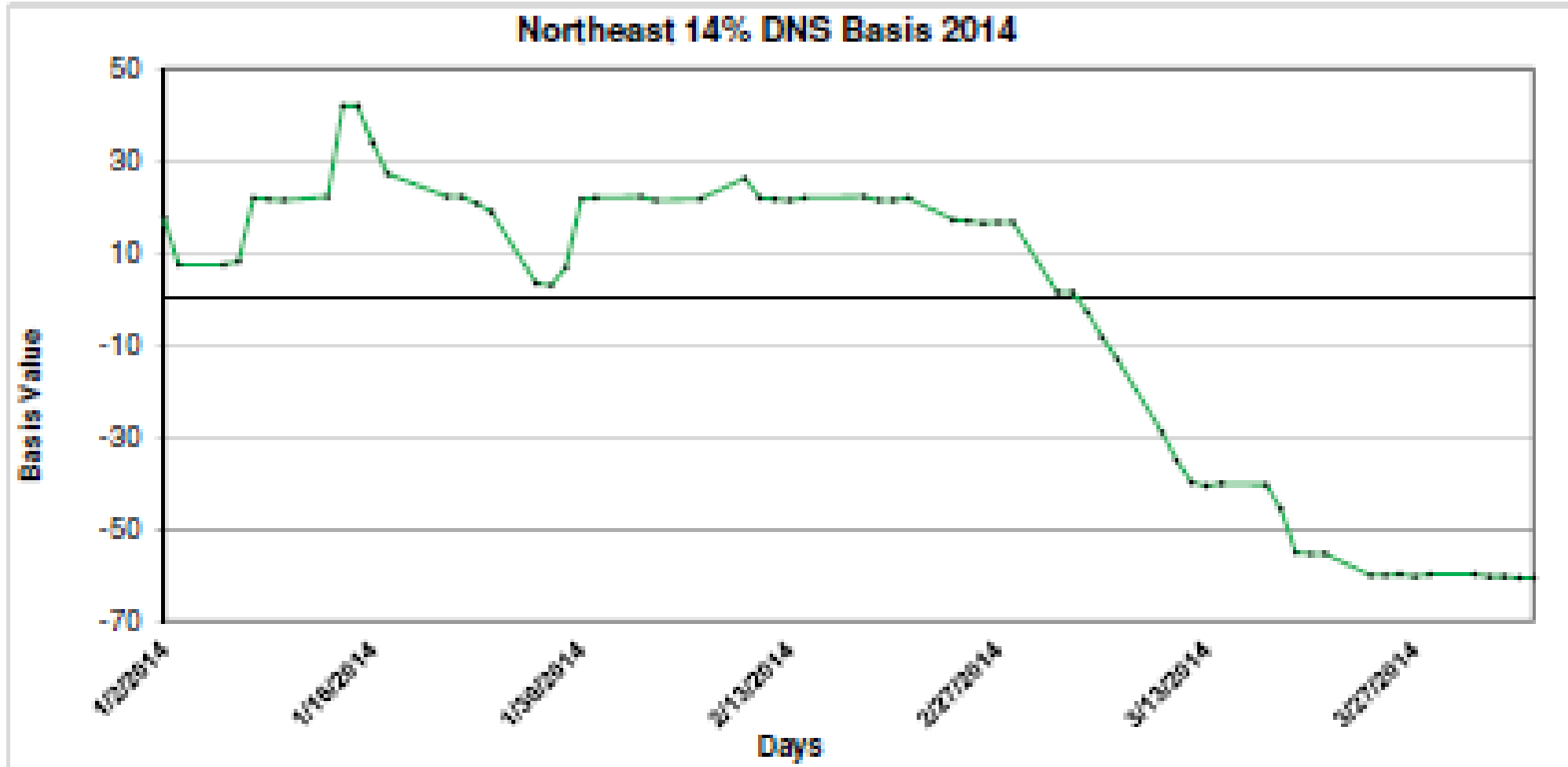


Great Falls to PNW Export BNSF Shuttle Base Rates + Fuel Surcharge 2006-2014 (286K)



BASIS ON WHEAT IN MONTANA HAS FALLEN

CONSISTENTLY DURING THIS SERVICE CRISIS



Source: Montana Wheat and Barley Committee



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644

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CSX Transportation Operational Update

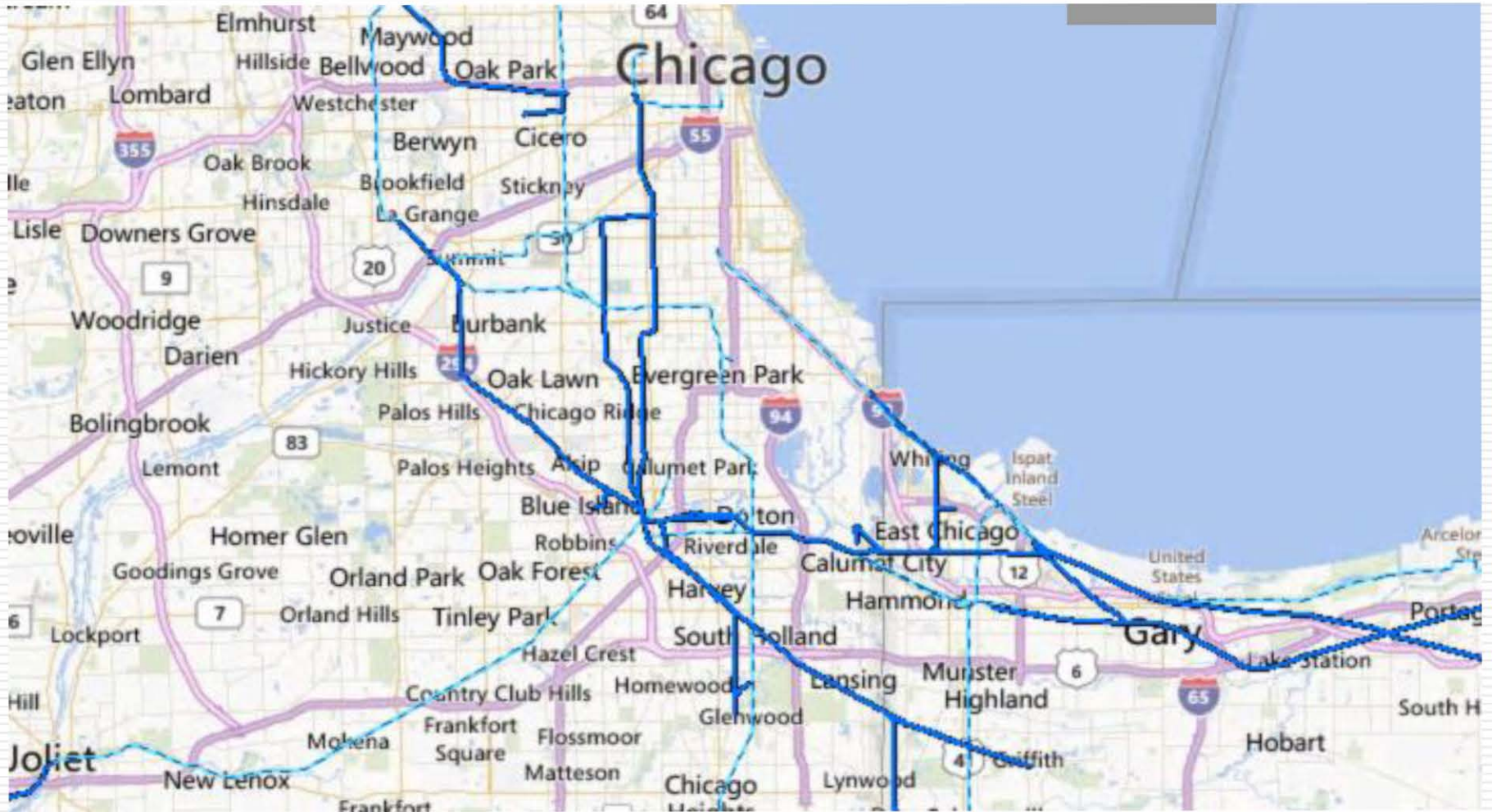
Cressie Brown, VP Service Design



Winter impacts were severe across CSX's network



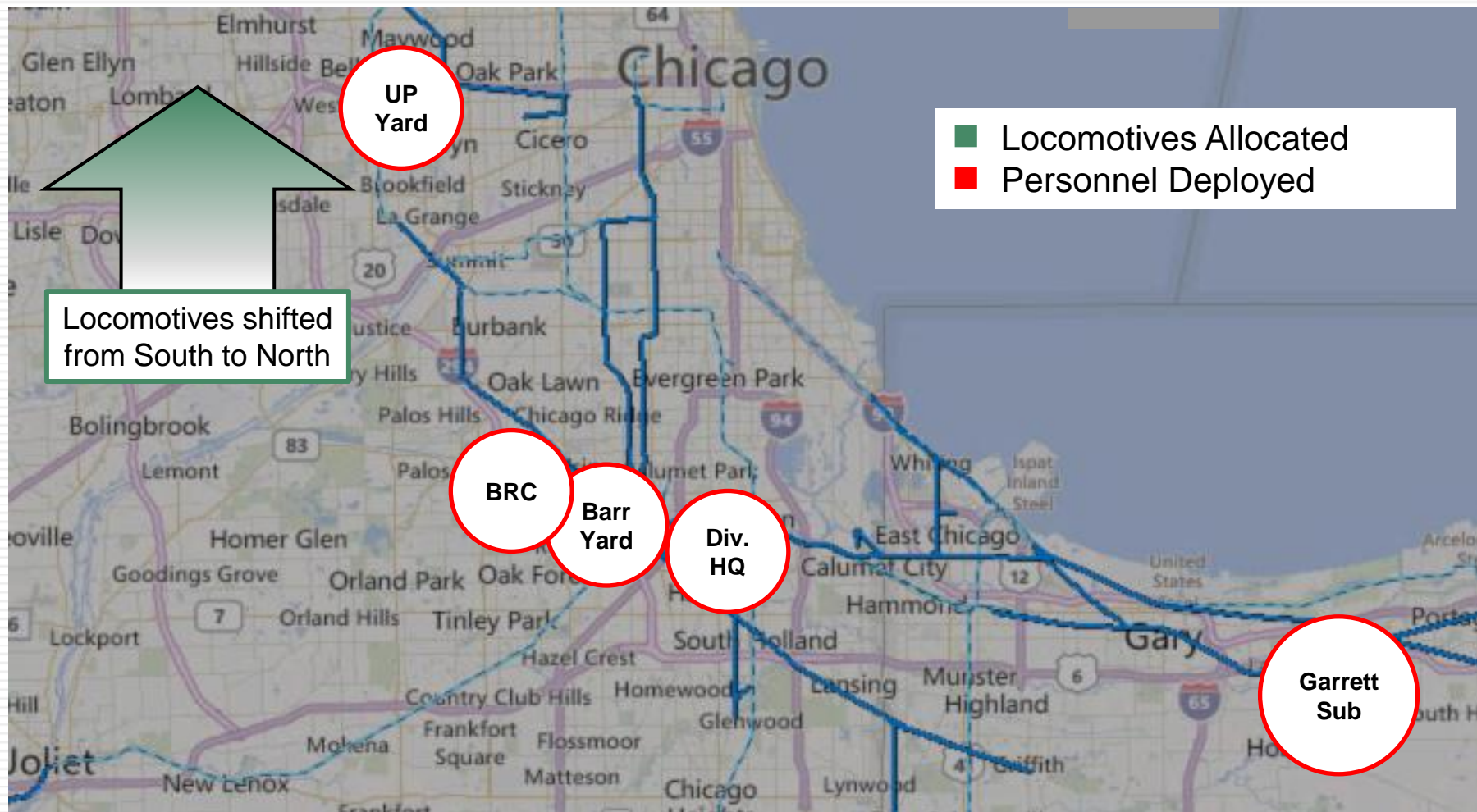
CSX took multiple actions to enhance operations



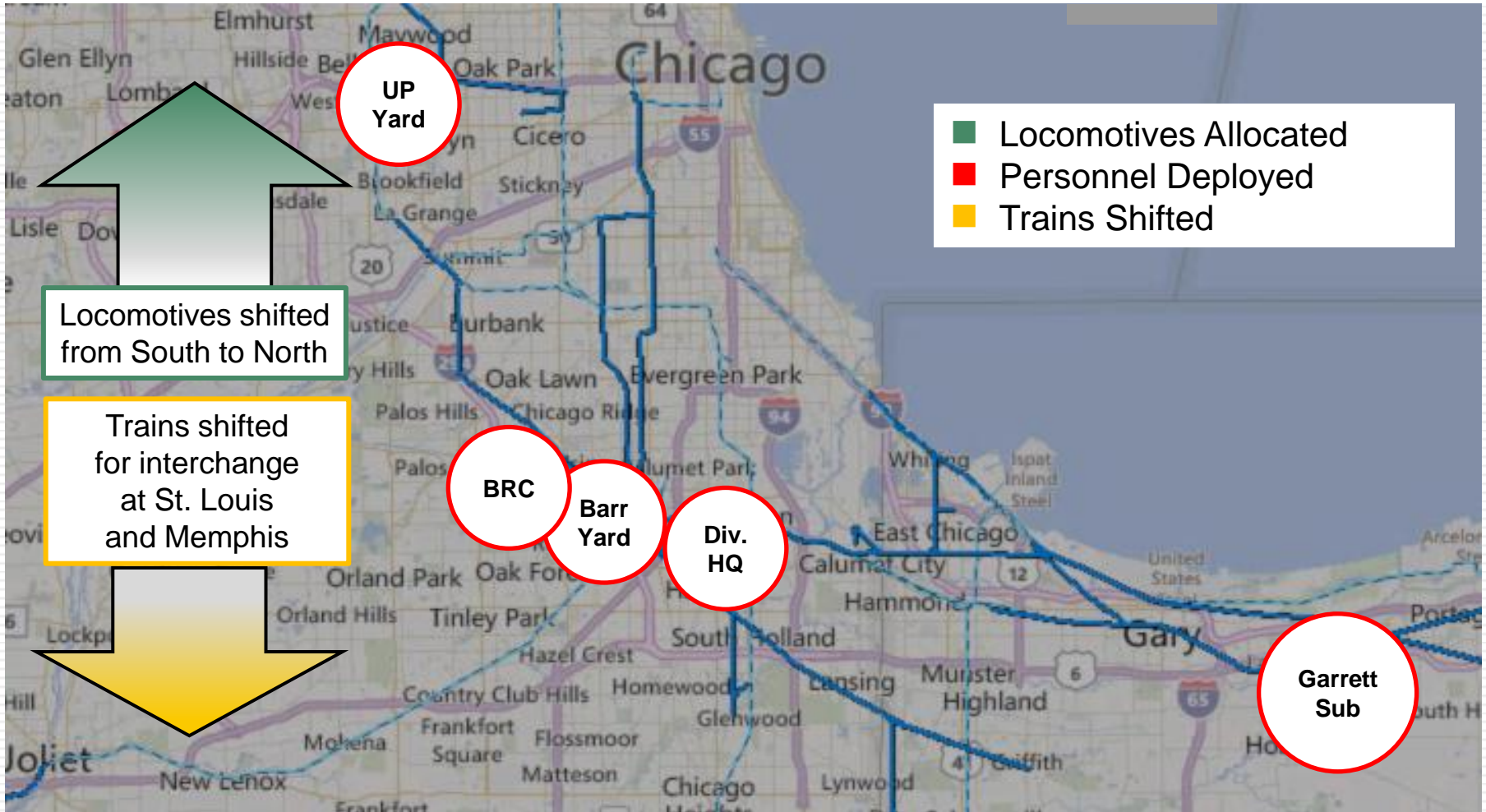
CSX took multiple actions to enhance operations



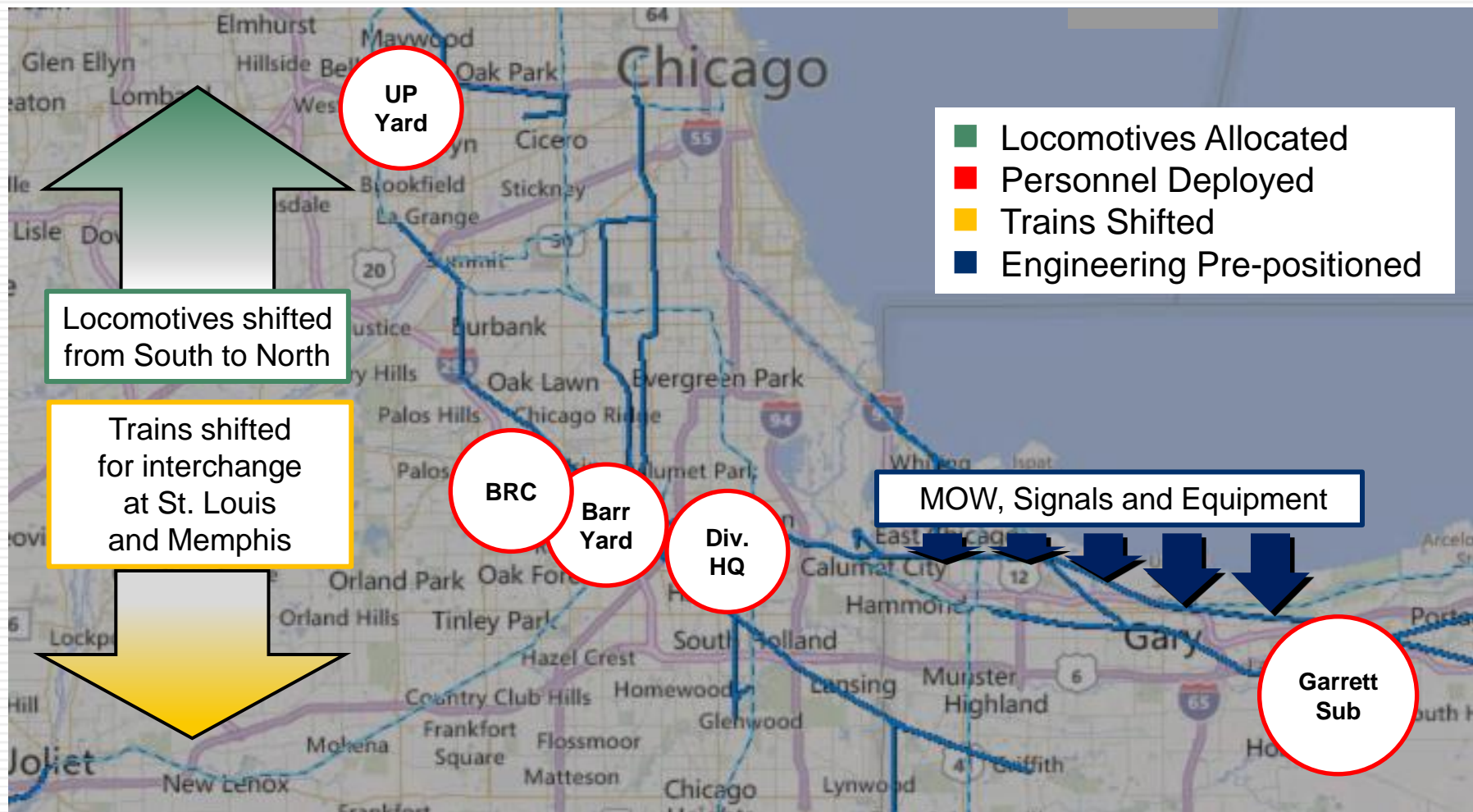
CSX took multiple actions to enhance operations



CSX took multiple actions to enhance operations



CSX took multiple actions to enhance operations



Proactive CSX customer communications

03-05-2014: Customer Service Advisory - CSX Continues to Battle Winter Weather, but Some Progress Made

Customer Service Advisory - CSX Continues to Battle Winter Weather, but Some Progress Made
 CSX continues to work through extreme winter weather, and efforts toward recovery are showing progress. Last weekend, another storm hit the mid-section of the CSX network, further impacting areas that have been under siege all winter. Most significantly affected were Indianapolis, Cincinnati, Columbus, Baltimore and Philadelphia where, in some areas, ice and up to 10 inches of snow occurred. The latest round of snow and ice did stay south of the Chicago-Syracuse New York corridor with the exception of lake effect snow between Cleveland and Syracuse. Extreme cold returned to the network's northern tier.

Despite the new weather challenges, CSX has made significant progress in reducing the traffic congestion, especially through the Chicago gateway and with carriers CSX interchanges with in that city. CSX is experiencing congestion at processing yards in Chicago, Indianapolis and Albany as a result of traffic surges from western railroads and CSX origins. Full recovery at these locations will be delayed as congestion continues to stress resources over the entire network.

CSX has kept all special actions in place and employees are committed to full recovery of operations as soon as possible and a return to more normal service levels for customers.

In the meantime, and as the winter weather persists, customers should continue to expect delays. Customers with questions about specific shipments can contact CSX Customer Service via www.shipcsx.com, or by calling 1-877-ShipCSX (1-877-744-7279) options 5, 6. Customers can contact their customer service representative or local point of contact. CSX thanks all of its customers for their patience and understanding, and extends its gratitude to all of the employees working the clock to restore normal service.



Customer Advisory, March 12, 2014: Progress Continuing Despite Expectations for Another Winter Storm

CSX has made significant progress during the past two weeks in improving network fluidity, but the latest winter storm is beginning to impact the northern region today. This latest storm is already bringing the Chicago area with forecast accumulations of 6 to 20 inches between Chicago and Syracuse. CSX expects another warming trend behind the storm so any further impact to operations should be limited in the short time.

Progress

-
-
-

CSX is continuing to work with remaining constraints and has been

As the weather improves, CSX and some of the other carriers are experiencing scattered issues with

Thank you for your patience and understanding.

Close



Customer Advisory, April 8, 2014: Service Continues to Gradually Improve

As the weather is slowly starting to feel like spring, CSX has made continuous progress toward improved service levels. The impact to CSX operations from the most recent storm was minimal as temperatures warmed and remained above freezing for most of last week. We are now working through residual effects of the weather, combined with a surge in traffic.

- As business picks up, I am pleased to report that network fluidity and equipment availability continue to improve, and CSX has filled more car orders in each of the last 3 weeks than in any week in the last 3 years.
- As the weather warms, CSX and some of the other carriers are experiencing scattered issues with minor flooding and washouts, which are expected after such a long, hard winter.

System Overview

As the weather continues to improve, we expect the rate of operational improvement to accelerate. The condition of our roads and yards continues to improve as we see a reduction in car dwell. Delays for locomotive



Fast Facts

March 03, 2014

To learn more about CSX Intermodal or for more information, please visit us at: www.intermodal.com

For further questions, please contact an Intermodal Customer Service Specialist.

Service Impacts due to Severe Weather

CSX Transportation (CSXT) continues to work through operating challenges resulting from severe weather, including significant ice and snow storms, across northern portions of the network.

Nashville
 Significant ice accumulation has restricted truck traffic from accessing the CSXT-served intermodal facility at Nashville, TN. Accordingly, the gate at the Nashville terminal is temporarily closed. The gate will be reopened when road conditions improve and truck traffic can access the facility.

Due to heavy ice and snow accumulation, operations at the CSXT-served intermodal facility in Louisville, KY, have been suspended. Terminal access is very limited and ramp operations will resume when conditions improve to allow for safe operation.

Service is provided as warranted.

For more information, please contact your Intermodal Customer Service Specialist. Thank you for choosing CSX as your preferred intermodal provider.

Individual Customer Communication Tools



1.877.SHIPCSX

Notice Number: ET282346001

Cars with ETA Changes

Rail Car: NAHX 896269
 New ETA: 04/30/2013 10:15
 Previous Reported ETA: 04/29/2013 10:15
 Original ETA: 04/30/2013 10:15
 ETA Type: PLANNED ARRIVAL AT SERVING YARD
 Load/Empty Status: LOAD
 Current Location of Equipment: AVON, IN
 Pick Up Party:
 Shipper:
 Shipment Origin: MANSFIELD, TX
 Care of Party: TRANSFLO TERMINAL SERV
 Consignee:
 Shipment Destination: COLUMBUS, OH
 Waybill: [216644](#)

ETA Change History for: NAHX 896269

| Location | Change Date | Updated ETA | Updated ETA Type |
|-----------|------------------|------------------|---------------------------------|
| SALEM, IL | 04/28/2013 12:32 | 05/01/2013 10:15 | PLANNED ARRIVAL AT SERVING YARD |
| SALEM, IL | 04/28/2013 13:47 | 04/29/2013 10:15 | PLANNED ARRIVAL AT SERVING YARD |

OBR5 v2.9.0 Train: A76509 WO: 651498 Origin: 5 679 Employee: 333333 IP: 10.86.88.245 21:05

[CSX] Start Depart Work Train AEI Switch Mail New Power: [Battery Icon] Duty: [Person Icon] Log Off Help

Departure

✓ Equipment
 ✓ Origin Pickup
 ✓ Customer ETA
 ✓ Depart

Estimated Arrival to Customer

| Customer | Estimated Arrival |
|-------------------|---------------------|
| ASG709 1701 | 05/09/2013 21:00:00 |
| ARB730 1711 | 05/09/2013 23:45:00 |
| ASG716 1631 | 05/10/2013 01:00:00 |

How tomorrow moves [CSX]

Work Order Exception Notice
 WE1721001

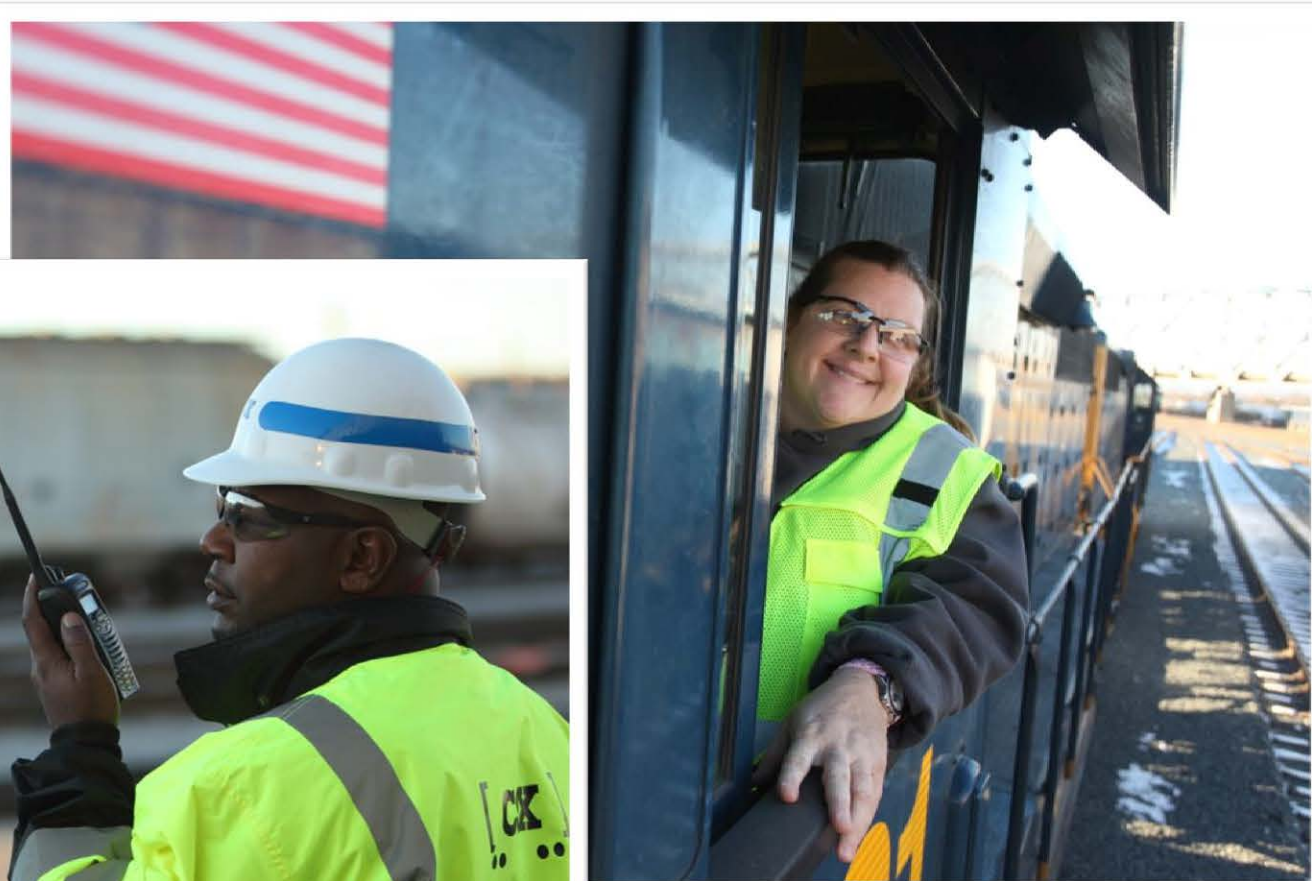
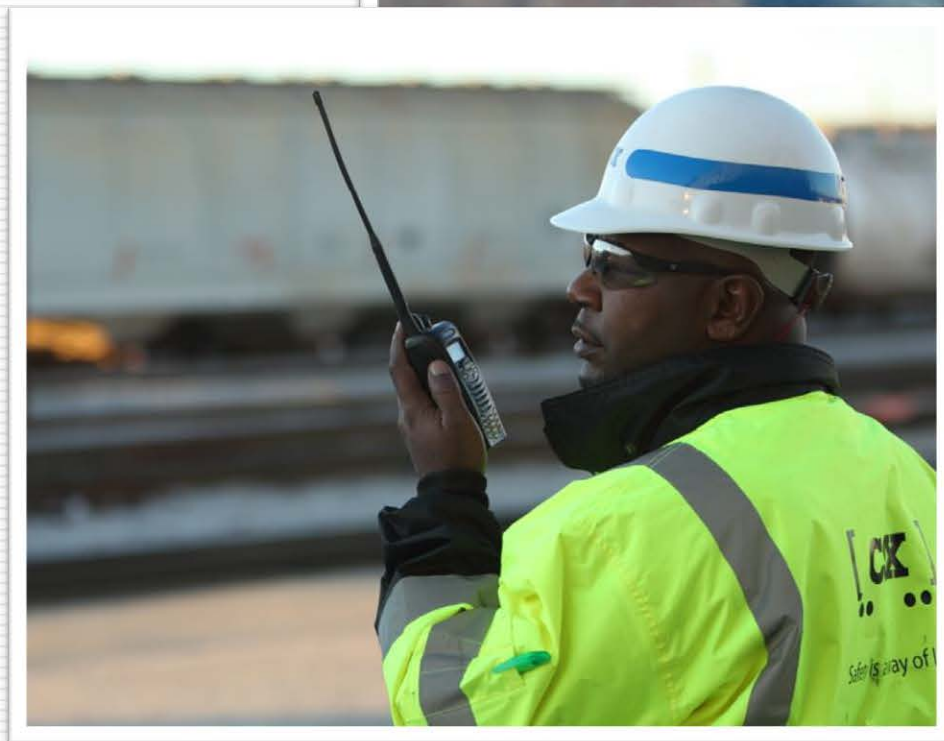
WO# 185851 Issued: 2011-06-17 10:07

NOTE: The following cars DO NOT require a new plant switch request to be submitted.

| Equipment | LE | STCC | PS Request | Instruction | Exception | Reason | Date / Time | Comment |
|-------------|----|---------|------------|--------------------|---------------------------|-----------------------------------|------------------|--|
| WLPX 258016 | E | 2821142 | PS556387 | Pull From Industry | Instruction Not Performed | Loading or Unloading Not Complete | 2011-06-17 20:59 | Our train crew reports they were unable to pull this car due to the loading or unloading not being completed. The release date on the car will be adjusted and the requested pull of this car will be rescheduled to your next service date. |

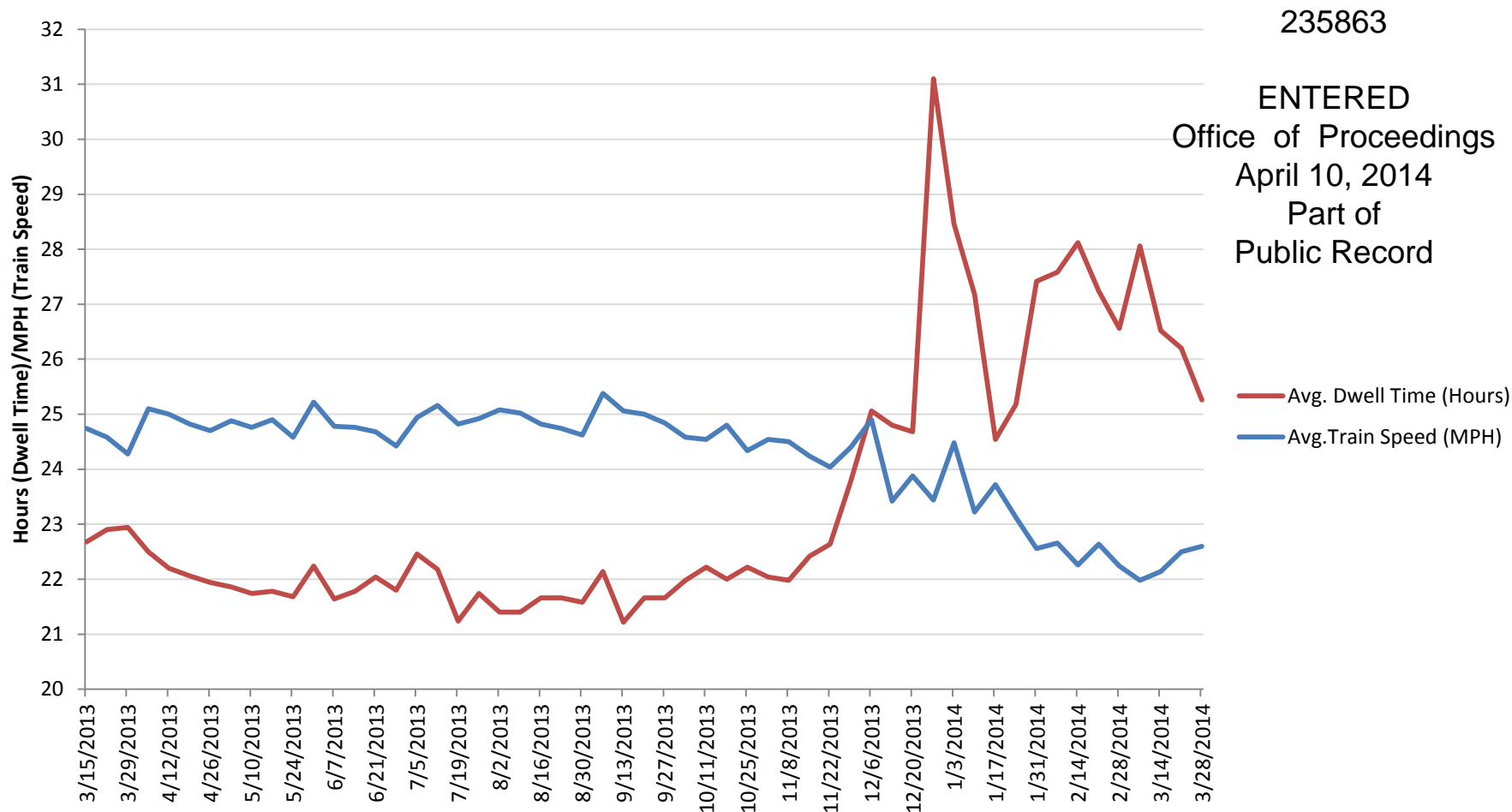
If you feel that this reporting was in error, please contact CSX Customer Service via the web by using our Shipment Problem Resolution tool located under the 'Resources' or 'Trace' tabs at www.ShipCSX.com or via phone at 1-877-ShipCSX, prompts 5,6.

People make the difference



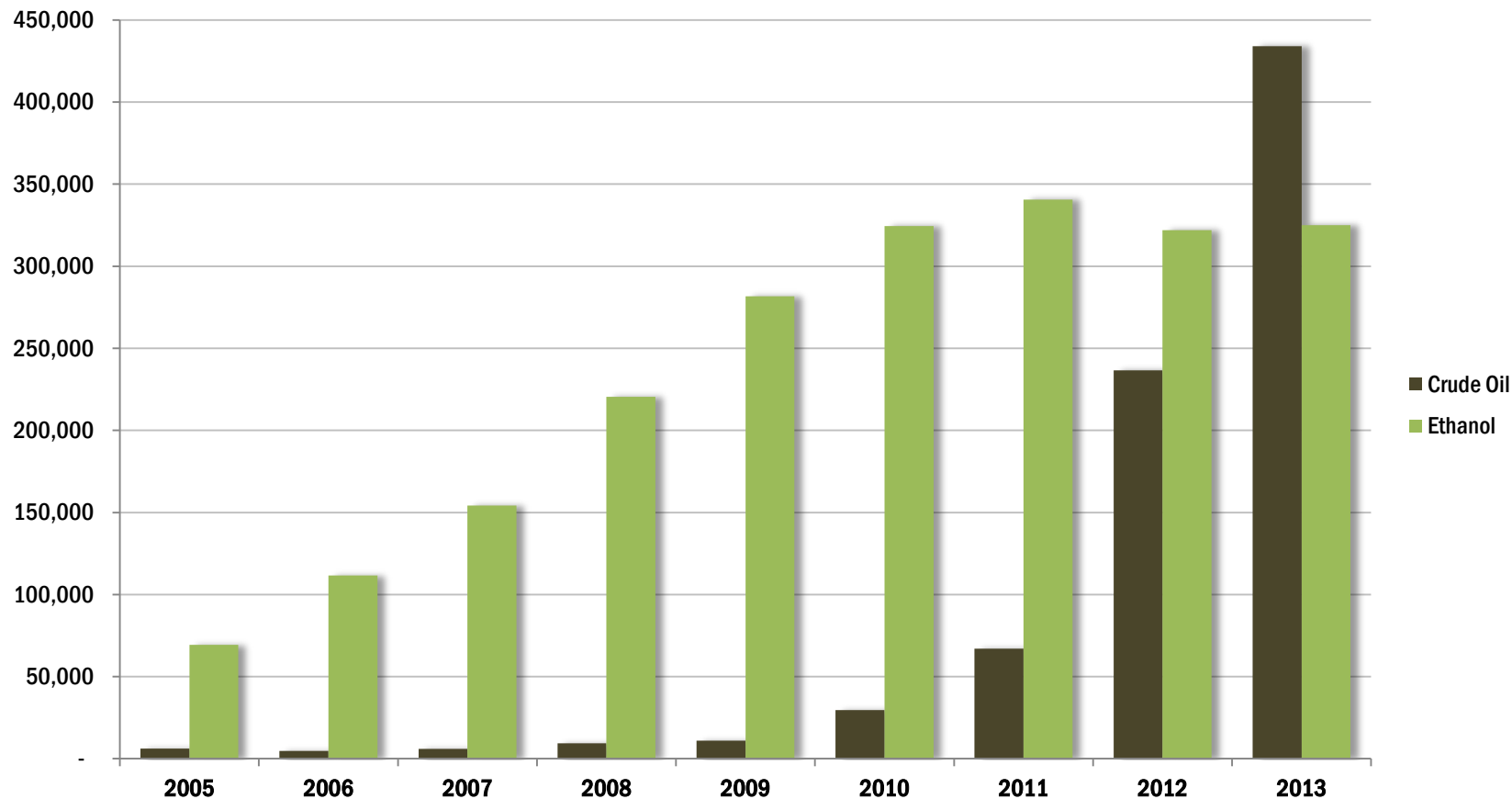
- Train speeds were ~12% slower than normal in late February
- Dwell times jumped 40% in late December and remained ~25% above normal through first quarter

Average Train Speed and Dwell Time, All Class I Railroads



- Rail shipments of ethanol have stabilized over past four years
- Shipments of crude oil have increased 1363% since 2010

U.S. Rail Carloads of Crude Oil vs. Ethanol

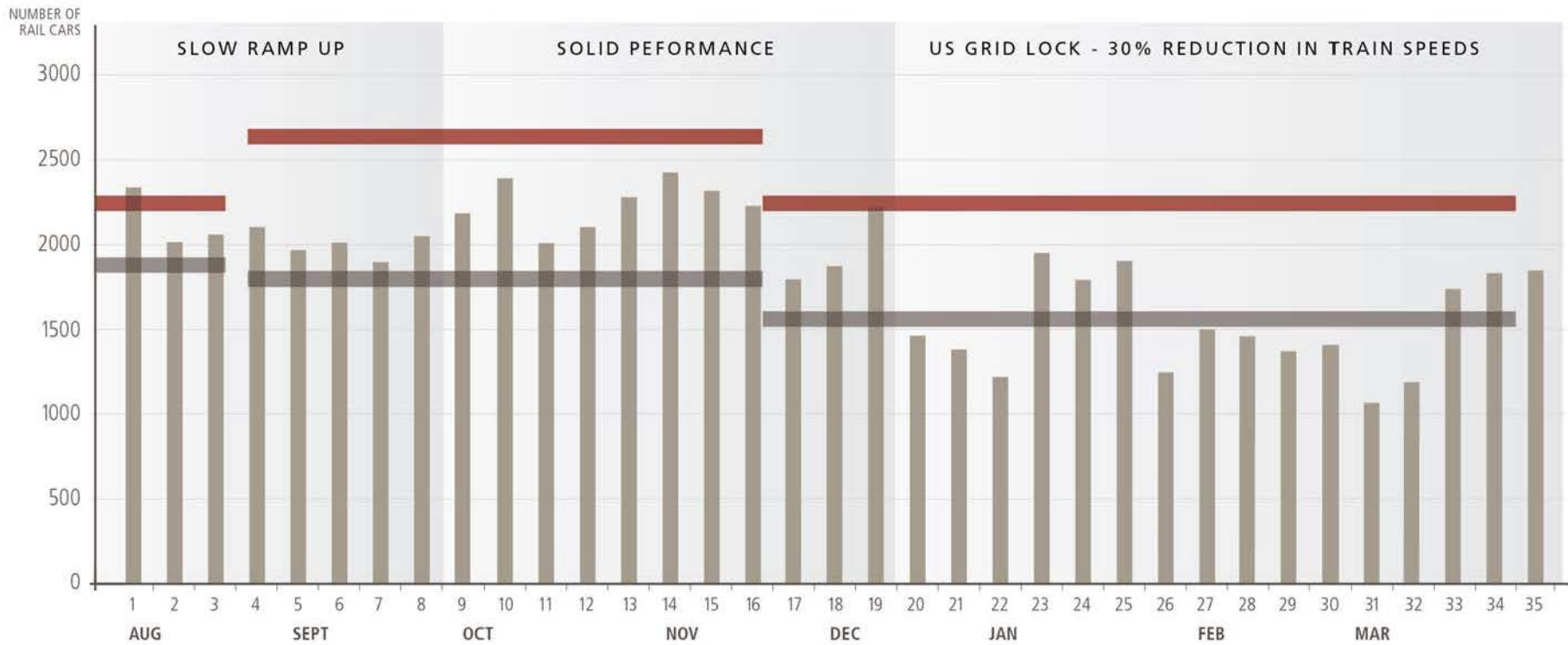


Source: AAR

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CP US GRAIN ORDER FULFILLMENT

ORDER FULFILLMENT (CP GRAIN CARS)
3 YEAR HISTORICAL HIGH
3 YEAR HISTORICAL LOW



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Food Processors served by United Sugars



Nestlé

HERSHEY'S
Milk Chocolate



PEPSICO



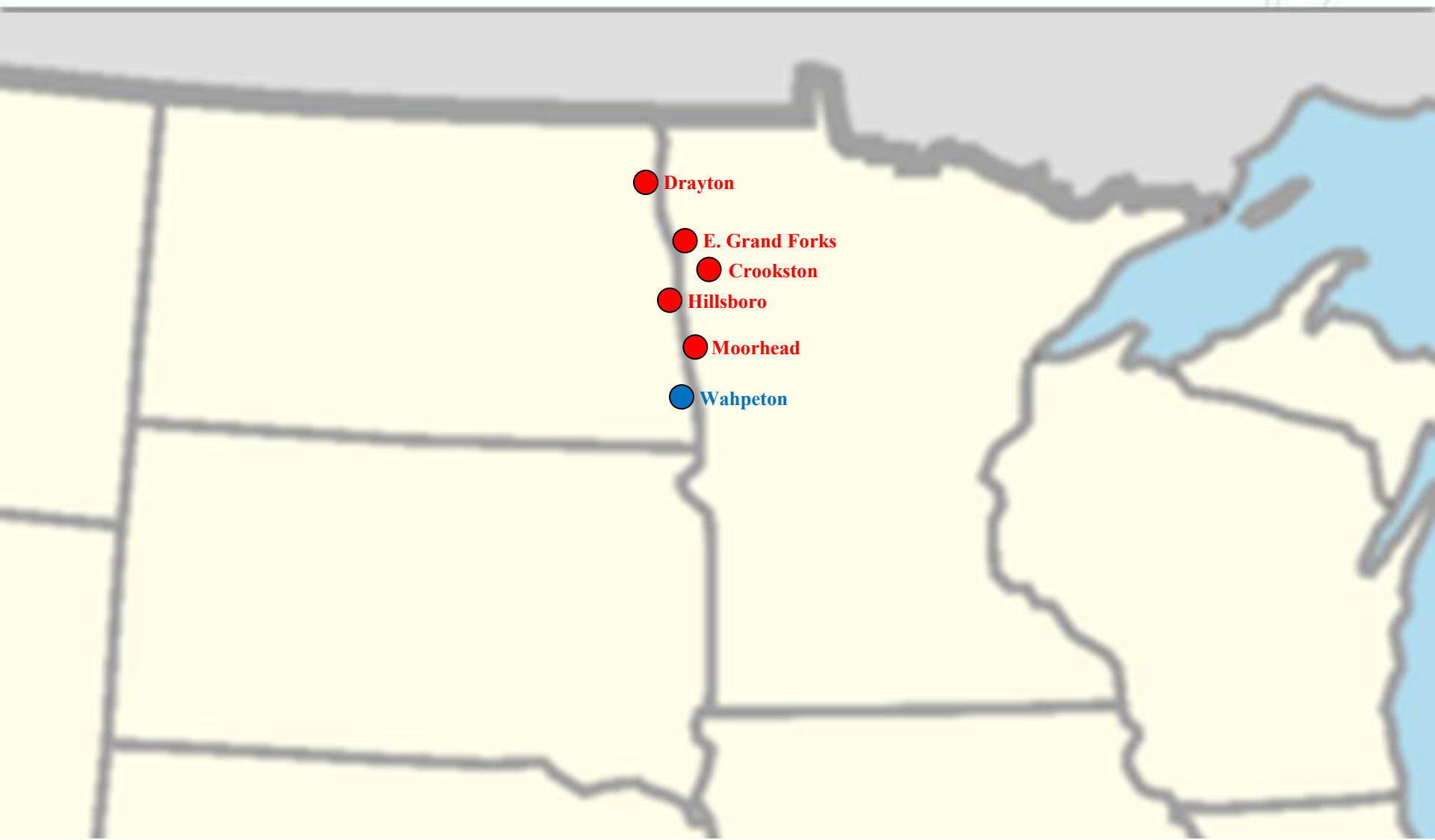
RICH'S



Kellogg's



Sugar plants in the Red River Valley served exclusively by the BNSF

- 
- A map of the Red River Valley region in the northern United States, showing the states of North Dakota, South Dakota, Minnesota, and Wisconsin. The Red River is highlighted in blue, flowing from the west to the east. Six locations are marked with colored dots and labeled:
- Drayton
 - E. Grand Forks
 - Crookston
 - Hillsboro
 - Moorhead
 - Wahpeton

Sugar beets



Piling of sugar beets prior to processing



Sugar beet factory





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Ex Parte No. 724

UNITED STATES RAIL SERVICE ISSUES

VERIFIED STATEMENT

of

Kei Rietz

April 10, 2014

Rietz VS - 4/10/2014

Ex Parte No. 724***UNITED STATES RAIL SERVICE ISSUES***

VERIFIED STATEMENT**of****Kei Rietz**

Verified Statement of Kei Rietz

I am Kei Rietz, Commercial Manager at Northern Tier Energy LP, an independent downstream energy company with refining, retail and pipeline operations that serve the PADD II region of the United States. Northern Tier Energy's refining business primarily consists of an mid-sized, oil refinery in Saint Paul Park, Minnesota

I am joined here today by Jason Akey, who has served as Commercial Operations Manager the last three years.

I am also joined by Charles H. Banks, President of R.L. Banks & Associates, Inc., an independent railroad consulting firm, headquartered in Arlington, Virginia

My testimony is organized into six parts:

- 1) Background on the St. Paul Park Refinery
- 2) How CP historically served the Refinery;
- 3) How the CP, the only rail carrier which enjoys access to the Refinery, has changed the conduct of its switching operations
- 4) How recent changes in CP's level of switching operations has affected the Refinery adversely;

Rietz VS - 4/10/2014

- 5) How recent changes in CP's level of switching operations impacts our local community adversely and
- 6) What Northern Tier Energy, seeks from the STB as a result from as a result of those impacts, caused by railroad management decisions outside of any rail customer's control but not beyond your authority.

Part One: Background on the St. Paul Park Refinery

The St. Paul Park Refinery is one of only two refineries in Minnesota and one of four refineries in the Upper Great Plains. The Refinery's strategic location allows it direct access to abundant supplies of North American crude oils, which we believe saves our customers money on the fuels, such as gasoline and diesel, that they buy.

In addition to various physical logistic assets, Northern Tier Energy also operates 163 convenience stores and supports 73 franchised stores. SPPR supplies most of the gasoline and diesel sold at these stations.

Part Two: How CP historically served the Saint Paul Park Refinery

CP is supposed to provide switching services, once a day, seven days a week from its St. Paul Yard facility, depicted as number 1 (one) on the map which accompanies my testimony, to the Refinery, depicted as number 2 (two) on that map. The distance between the CP yard and the Refinery is only eight miles down an industrial lead which directly accesses CP's yard without crossing any other rail line, so rail access has been convenient and efficient for both parties. *(If you'd like to know more about the geographic and logistical details of this map or regarding CP's St Paul operations please ask me at the end of my testimony)*

A recently instituted CP policy requires the CP crew to return to Saint Paul Yard after 8 hours regardless of what switching work remains to be done on the line, despite the fact that federal regulations allow crews to work up to twelve hours at a time.

The Refinery's ability to maintain stable production levels is dependent on steady, predictable deliveries from CP.

Part Three: How CP, the only rail carrier which enjoys access to the Saint Paul Park Refinery, has changed the conduct of its switching operations

Beginning in late 2013, CP's switching steadily declined from seven days a week to a sporadic and irregular event to an average of almost six failures a week over that ten week span.

The accompanying calendars provide a graphic demonstration of the extent of CP service failures in the last three months. A failure being defined as a missed switch or a failure to pick up & deliver specifically ordered cars. *A red "X" denotes a day on which CP's Saint Paul*

Rietz VS - 4/10/2014

Transfer failed to arrive at the Refinery at any time. A black "S" denotes an instance when an ordered car essential to maintaining planned production was not delivered to the Refinery on time. In March, only nine days transpired without service failure. It goes without saying that such wildly unpredictable and unreliable service greatly complicates operations, production and production cost at SPPR.

Perhaps the most frustrating aspect of the recent degradation of CP's switching is breakdown in communications. Of the 57 service failures recorded by SPPR and reported to CP via email between January 28th and the 7th of this month, 27 elicited no response whatsoever. Eleven of those 27 failures were missed switch movements at the Refinery. What limited responses SPPR did receive were often vague or not factual in nature, blaming crew shortages or contradicted reports from CP's interchange partners. The simple fact is, we can no longer trust CP to deliver carloads on time, or to produce realistic solutions to past service failures. *(I've focused this on the changes to their level of service, but we have also experienced severe changes in some of the rates we pay to conduct our normal operations, if you'd like more details on this change please ask me following my statement)*

Part Four: How recent changes in CP's level of switching operations has affected the Refinery adversely

There are several by-products of the refining process which require ratable and regular rail service. Without reliable service the refinery is faced with a variety of uneconomical choices, all of which hurt the fuels supply to the local community and cost the refinery in lost revenues. In recent months, service failures have resulted in a total approximate loss in revenues of \$1.3 million dollars, approximately 110,000 barrels in lost fuel production or approx. 225,500 full tanks of gas in the MN area and forced the refinery to make further uneconomic operational changes to avoid a total shut down. *(For the sake of time, I've avoided going into technical detail regarding the specific products affected and their subsequent impact on revenues and operations, however if you'd like more detail please do ask me following my testimony)*

Part Five: How that change in CP's service levels impacts our local community adversely

Since the products I just mentioned may not be familiar to everyone, I would like to take a moment to highlight some of the ways in which our Refinery is tied to the local community and market within which it operates. SPPR's primary focus is taking crude oil and refining it into gasoline, used in our cars, and diesel fuel, which is used to fuel trucks, buses, locomotive engines (including CP's in the Twin Cities) and farming equipment. SPPR also produces jet fuel which supplies all the major carriers at the Minneapolis St Paul Airport. Some of the less obvious byproducts of the SPPR refinery are: 1) asphalt, which is used in road repairs and construction in not only throughout Minnesota and all over the country; 2) propane, used in heating your home, your outdoor grill and also its main use in the fall, drying the crops; 3) sulfur, used mainly in fertilizers market and 4) some liquid petroleum gases I mentioned, such as butane and propylene, which are sold into the chemicals market where they are used in a variety of things, especially including plastics. So not only does the Refinery provide fuels to the local market and

Rietz VS - 4/10/2014

support hundreds of retail gas stations but we are also tied closely to a number of other industries.

Part Six: What my employer, Northern Tier Energy, seeks from the STB

SPPR recognizes there are infrastructural challenges we will never overcome, our refinery is not changing locations nor has a new refinery has been built in the United States in at least four decades.

Because of the aforementioned recognition, SPPR has gone to great lengths to make rail a viable transport option:

- SPPR leases a larger tank car fleet than it needs to ensure that it has enough empty cars and loaded, inbound freight to protect against the risk of needing to reduce or shutdown production;
- SPPR leases 100 freight car lengths of space in two, different rail yards at some distance from the Refinery to provide additional “equipment insurance” against shutting down or reducing production levels;
- SPPR pays CP to move cars to and from those yards at rates which have more than doubled in all cases since January 2011 and
- SPPR pays a third party contactor to provide switching within the facility to compensate for the switching that CP used to provide.

SPPR has tried other initiatives, only to be rebuffed by CP and BNSF.

I also recognize that SPPR is not a large customer from a railroad perspective but neither is it a small one. I believe SPPR is the largest of several rail customers on the industrial lead from which it is served. The Refinery operates 24/7/365 and certainly generates enough inbound and outbound traffic to contribute somewhat, if not handsomely, to a serving railroad's bottom line, even one whose limited reach into the markets that supply and receive railcars to/from the Refinery confine it to collecting only switching revenues.

However, even if the Refinery does not contribute much to a railroad's bottom line, surely public convenience and necessity, not to mention energy independence and national security considerations, warrant, if not demand, improved rail service to a refinery that supplies gasoline to approximately 40 percent of the gasoline to drivers in the Twin Cities region and jet fuel to all of the airlines serving carriers the Minneapolis St. Paul International Airport

My employer is not asking the STB to force on an unwilling industry a revolutionary shift in the way CP operates the St. Paul Transfer Crew nor are we asking the Board to introduce competition where there is none today. Nor are we here to complain about our rates, while steadily increasing, there is no such thing as a reasonable rate at any price in the absence of regular service.

Rietz VS - 4/10/2014

Nor do I believe that the action the STB and CP take in the future or have taken in the recent past should serve to change the competitive environment within or across any the industries. But there can be no doubt that the meltdown of CP switching operations have harmed the competitive position of SPPR as compared with the only other refinery in Minnesota.

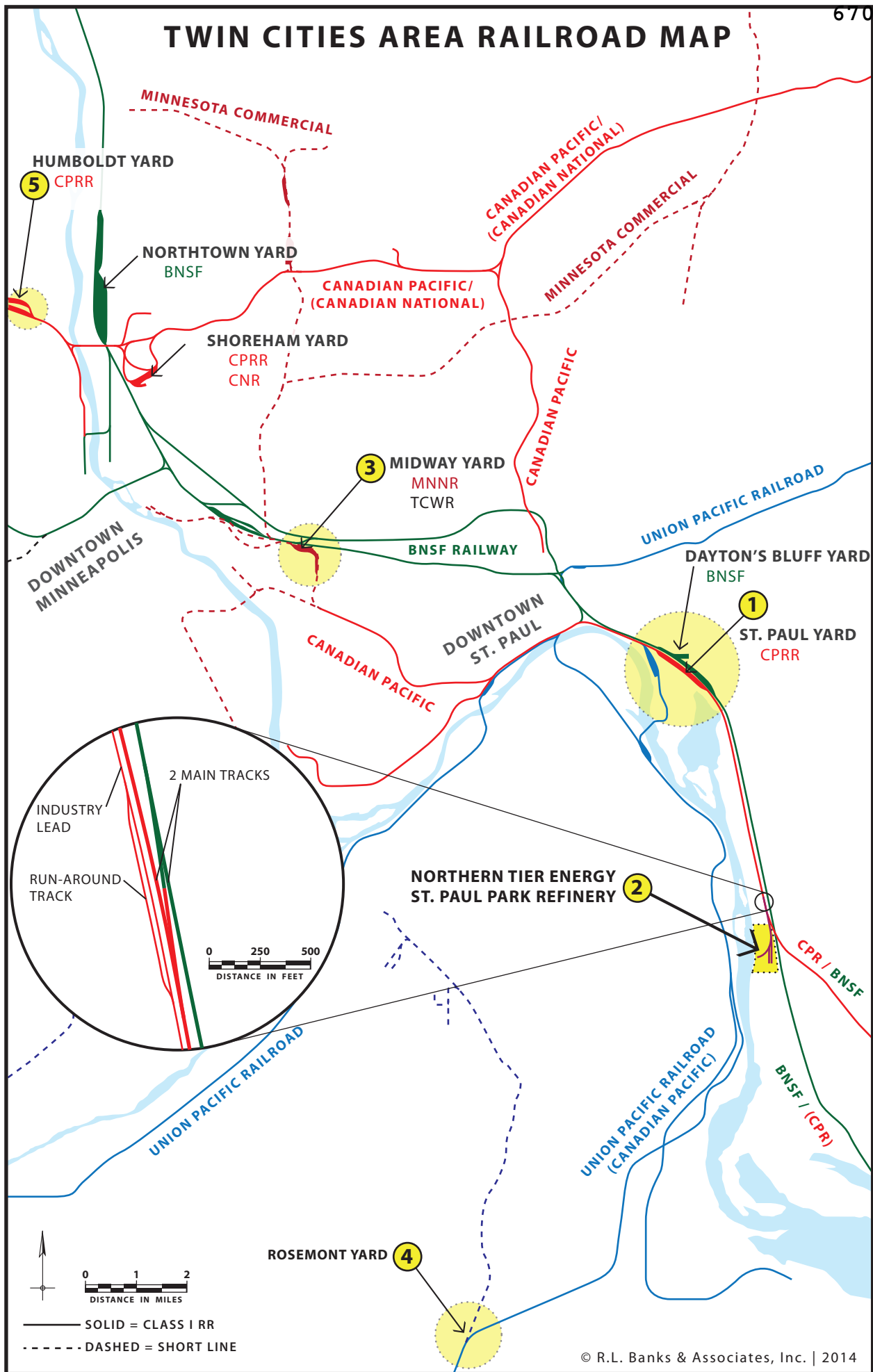
During the recent hearing on Ex Parte 711, Competitive Switching Proposal, the railroad industry and select carriers repeatedly made the claim that the STB should not play the role of picking “winners and losers”. Therefore, it is indeed ironic that CP should be able to change the delicate, competitive balance that has existed for many years between SPPR and its only competitor within Minnesota. The railroad industry, powerful as it clearly is, should not be able to choose “winners and losers” either, in the absence of adequate regulatory oversight.

What my employer is seeking specifically, at a minimum, is increased communication from CP. An increase, in both the quality and quantity, of communication, from both the local and corporate levels, hopefully, will resolve our fears that the complete absence of communication in the recent past was not indicative of the fact that CP had no plans or intentions to make operational changes which might restore service. We NEED transparency into what operational changes are being evaluated and implemented in the coming weeks and months so that we not only can interpret what we are experiencing but also give us a timeline and foundation on which to make our own future operational decisions. After all, we’ve got a business to run also.

Lastly, the most important action I am seeking is accountability. Whatever plans are discussed and communicated by CP need to be dependable and based on a service model which addresses the importance and reliance on consistent rail service that our company and all the industries represented here today have. We have little choice but to demand this action so that we can protect the interests of our employees, our management, our customers and suppliers, our business associates, our equity partners and shareholders, hundreds of thousands of Minnesota area consumers and in the vernacular of a railroad, **OUR** operating ratio.

Thank you again for the opportunity to have been provided a forum in which my employer could express its concerns and hopes.

TWIN CITIES AREA RAILROAD MAP



HUMBOLDT YARD

5 CPRR

NORTHTOWN YARD
BNSF

SHOREHAM YARD
CPRR
CNR

3 MIDWAY YARD
MNR
TCWR

DAYTON'S BLUFF YARD
BNSF

1 ST. PAUL YARD
CPRR

2 NORTHERN TIER ENERGY
ST. PAUL PARK REFINERY

4 ROSEMONT YARD

INDUSTRY LEAD

2 MAIN TRACKS

RUN-AROUND TRACK

0 250 500
DISTANCE IN FEET

0 1 2
DISTANCE IN MILES

— SOLID = CLASS I RR

- - - DASHED = SHORT LINE

March 2014 CP Service Failures

671

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|---------|-----------|---------|-----------|----------|---------|----------|
| | | | | | | 1 X |
| 2 X | 3 | 4 | 5 X S | 6 X S | 7 | 8 S |
| 9 X | 10 X | 11 X | 12 X | 13 | 14 | 15 X |
| 16 X | 17 X S | 18 S | 19 S | 20 | 21 X | 22 |
| 23 | 24 X | 25 X | 26 X S | 27 | 28 X | 29 X |
| 30 X | 31 X S | | | | | |

April 2014 CP Service Failures

672

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|--------|--------|---------|-----------|----------|--------|----------|
| | | 1 | 2 X | 3 X | 4 S | 5 |
| 6 | 7 X | | | | | |

X = Missed switch at SPPR

S = "Shut down" car past due

February 2014 CP Service Failures

673

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|---------|---------|---------|-----------|----------|---------|----------|
| | | | | | | 1 |
| 2 | 3 | 4 | 5 X | 6 | 7 | 8 S |
| 9 | 10 S | 11 | 12 | 13 S | 14 | 15 X |
| 16 X | 17 S | 18 | 19 X S | 20 S | 21 S | 22 |
| 23 | 24 S | 25 | 26 X | 27 | 28 S | |

X = Missed switch at SPPR

S = "Shut down" car past due

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April 10, 2014

Ms. Cynthia Brown
Chief, Section of Administration, Officer of Proceedings
Surface Transportation Board
Attn: Docket No. EP 724
395 E Street, SW
Washington, D.C. 20423-0111

Dear Ms. Brown:

On behalf of the Minnesota Grain and Feed Association grain elevator and feed mill members, we appreciate the opportunity to address the impacts of the recent service problems being experienced by many of our country elevator members. In Minnesota, there are approximately 140 grain elevators served by various railroads, with approximately 50 of those locations capable of loading unit trains. The major rail carriers primarily serving Minnesota are Union Pacific, Burlington Northern Santa Fe (BNSF) and Canadian Pacific (CP). The major problems being encountered by our members are related to service delays by the BNSF and CP. Here are a few examples of the delays being experienced by many of our BNSF and CP rail users.

At this first grain elevator unit train loading facility on the CP, placements are 60 days late. They would normally expect to ship 800 cars per month but are only getting 300 per month, receiving only 50 cars so far this April. When they do load cars, the train will dwell on site for as long as 10 days. They wonder if the recent Canadian Legislature's action on Canadian rail capacity has diverted the CP's capacity and attention to that market, leaving U.S. customers with even fewer cars, power and resources. The reduction in capacity, the penalties, contract discounts and interest have cost this company hundreds of thousands of dollars.

This same firm has access to the BNSF as well, which is very unusual in a state dominated by "captive" rail shippers. Placements are about ten days late, which is not good but certainly better than CP. However, the current exceptionally high cost of rail freight makes it impractical to order freight at this time, which only adds to the problem. Aftermarket cars are going for \$2,500 to \$4,000 each so they have been loading only those originally contracted. They would prefer to move grain from their CP location to their BNSF location but again, the high cost of freight even makes that plan unattainable. Obviously, if they can't ship grain, they can't receive much grain, which will end up backing up to farm stored grain. As a result of all this is a reduction in grain handling and grain drying revenue.

At another grain elevator located on the CP, which handles about 13 million bushels of grain per year and generally loads 3-5 unit trains per month, they are currently waiting on a January 20th order for a shuttle train (12 -13 weeks late). Because of the huge uncertainty and enormous discounts for being

even days late, which were ranging between 3 -10 cents a bushel per day from the export house, they could not enter into a binding contract with an export house to move product and capture any margin. They gave CP a two month notice on their needs for December order dates, allowing the CP to be almost 3 months out on car placements, so as to avoid contract discounts. The cars ended up being 12 days late, which ended up costing the elevator close to a quarter million dollars in late charges on a 100 car corn train. In contrast, the CP has no penalty for late car placements. This same firm also missed out on an opportunity to move soybeans into the Export channel because of the very limited car placements at a time when the export was in its peak period. This was a large loss of basis (40-70 cents per bushel) accrued to the elevator for not being able to load 2-3 shuttles of soybeans at this time. Cost of increased financing large inventories for a drawn-out period of time has also been a factor due to rail non-performance. This \$15 million dollar 110 car loading facility, which can load a train in less than 12 hours, has had loaded trains sitting loaded on their side track for up to 14 days before pickup. This location will generally load 3-4 unit trains/month but their service level is a 1/3 or less than what the CP marketing team gave them at the beginning of the marketing year.

Another 110 car shuttle loader on the BNSF, which handles corn, soybeans, and wheat, has encountered considerable problems with the performance of the BNSF. They have run into costly delays in the delivery of COT cars. They have also been unable to sell to-arrive wheat as they are not sure when they are getting the cars and can't sell for a specific window. Today, their COT cars are running 20 to 30 days late. The secondary market on shuttle cars has exploded due to the poor performance of the BNSF and elevators having sold grain for a specific window and the BNSF not delivering have to go to the secondary market to get return shuttles and help mitigate their penalties for late shipment. As was mentioned earlier, we have seen this market run as high as \$4,000.00 per car or \$1.00 per bushel for corn. At this additional cost, the total cost to get one bushel of corn to the PNW is \$2.50 per bushel or \$10,000.00 per car. Penalties that have been assessed for late shipments have run up to over \$1.00 per bushel. Typically the secondary market cars have run at about \$500.00 or less this time of year.

I was told that the BNSF has begun to offer shuttles for April/May. Usually the companies that take on these shuttles have to pay nothing to get one. However, I was further told that the BNSF auctioned off 21 shuttles and reaped over \$10 million, which has the appearance of rewarding the BNSF for their poor performance??

One of our biggest concerns looking forward is the likelihood of going into this fall's harvest with elevators close to full of grain and no freight to ship it. This will create some major problems, which will back onto farm storage and harvest delays.

There is a perception that the railroads are providing preferential treatment to the movement of oil out of the North Dakota Bakken Range. This perception is reinforced when an elevator, that has been waiting months for delivery of grain cars, sees an oil train-a-day, go rolling past his facility. The BNSF has, for example, taken the unprecedented move to purchase 5000 new double hull and safer oil tankers to address the lingering safety problem associated with moving the volatile Bakken crude oil. This move only reinforces this perception of a long term commitment to oil and a persistence of unprecedented congestion on the rail network. Up until now, all oil tankers were privately owned and not railroad owned. We have witnessed first-hand, the reported 1363% increase car loadings of oil since 2010, a trend that will continue to adversely affect efficiencies on the rail network.

The overall issue with rail service seems to be a problem of unprecedented congestion on the system and less a shortage of power, crews and rolling stock. It also appears that this congestion problem and

focus on the movement of oil will be with us for some time to come! Velocity and Cycle time of cars needs to obviously improve, which means that the railroads will need to put a lot of money into infrastructure improvements over the next few years. Communication between railroads and shippers has also been a problem and needs to be improved so shippers can make informed decisions on grain position, staffing for loading trains and for booking freight into the future. More insight and sharing of service metrics, i.e., weekly car loadings, average dwell time, real time data on cycle time, would also be useful in our planning activity. A fertilizer shortage is now on the horizon as well as a reoccurring problem with the movement and placement of propane for this falls' grain drying needs and home heating.

We want to encourage the Surface Transportation Board to hold additional informal "field" meetings with shippers into this next growing season, to ascertain if efficiencies have improved and if regulatory action should be considered by the STB. The final price tag on losses for rail users will easily be in the millions of dollars, with the railroads shouldering none of that loss in the apparent shirking of their common carrier obligation.

We thank you for holding the field hearing in Fargo on March 26 and for holding the formal hearing before the STB on this issue on April 10. Time will tell if the promises made by the BNSF and CP, in addressing this unprecedented and unacceptable corporate behavior, will actually lead to reliable, dependable and affordable service for grain shippers in the upper Midwest.

Sincerely,



Robert Zelenka
Executive Director

April 17, 2014

Chairman Daniel R. Elliott III
Vice Chairman Ann D. Begeman

235910



Surface Transportation Board
395 E Street SW
Washington, DC 20423-0001

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**Re: Supplement to April 10, 2014 Testimony of DJ Stadtler – Docket No. EP 724
United States Rail Service Issues**

To the Surface Transportation Board,

Amtrak appreciates having had the opportunity to testify at the STB hearing regarding rail service held on April 10, 2014, and the chance to call attention to poor performance experienced by Amtrak passengers on host railroads.

Amtrak offers the following comments to supplement my testimony during the hearing:

In response to the Board's questions during the April 10 testimony regarding delay measurements, we would like to clarify that Amtrak measures of performance, including on-time performance and minutes of delay per 10,000 train miles, have been in use by Amtrak and host railroads since before the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). Although the PRIIA Section 207 process made use of these existing measures, the measures pre-date PRIIA and are not dependent on PRIIA Section 207.

Amtrak would also like to clarify its request of the STB with respect to monitoring performance of Amtrak Services on host railroads. Amtrak's request is that the STB require each Class I host to report to the STB each month on the steps the host is taking to reduce its delays (see Page 1 of the attached) on any Amtrak Services(s) where on-time performance is less than 80% (see Page 2 of the attached).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "DJ Stadtler". The signature is written in a cursive, somewhat stylized font.

DJ Stadtler
Vice President-Operations
Amtrak

MINUTES OF DELAY BY HOST
Per 10K Train Miles
(Red numbers indicate not meeting standard)

678

| Host | Amtrak Service | Total Host Responsible Delays | | Largest Two Delay Categories - Quarter to Date | | | | Route Miles |
|-------------|---------------------------------|-------------------------------|-----------------------|--|-------|-----------------------|-----|-------------|
| | | Current Month | Quarter to Date | #1 | | #2 | | |
| | | March 2014 | Jan. 2014 - Mar. 2014 | Jan. 2014 - Mar. 2014 | | Jan. 2014 - Mar. 2014 | | |
| Goal | | 900 | 900 | | | | | |
| Amtrak | Adirondack | 744 | 843 | PTI | 354 | DCS | 226 | 104 |
| | Blue Water | 369 | 705 | PTI | 327 | DCS | 255 | 99 |
| | Ethan Allen Express | 854 | 1,078 | PTI | 535 | DCS | 209 | 104 |
| | Maple Leaf | 849 | 943 | PTI | 451 | DCS | 263 | 109 |
| | New York - Albany** | 329 | 495 | DCS | 153 | PTI | 132 | 81 |
| | New York - Niagara Falls | 785 | 884 | PTI | 422 | DCS | 209 | 109 |
| | Wolverine | 587 | 822 | PTI | 401 | DCS | 224 | 99 |
| BBrRR | Cardinal | 1,807 | 1,792 | FTI | 732 | PTI | 519 | 125 |
| BNSF | California Zephyr | 1,101 | 1,203 | DSR | 450 | FTI | 390 | 1,027 |
| | Carl Sandburg / Illinois Zephyr | 1,291 | 1,503 | FTI | 462 | DSR | 431 | 257 |
| | Cascades | 1,496 | 1,691 | FTI | 612 | DSR | 291 | 343 |
| | Coast Starlight | 952 | 1,105 | FTI | 414 | PTI | 205 | 186 |
| | Empire Builder | 1,859 | 1,790 | FTI | 1,013 | DSR | 417 | 2,147 |
| | Heartland Flyer | 1,818 | 1,328 | DSR | 572 | FTI | 486 | 238 |
| | Pacific Surfliner | 1,204 | 1,334 | DSR | 448 | DCS | 287 | 22 |
| | San Joaquin | 807 | 850 | PTI | 350 | FTI | 271 | 284 |
| | Southwest Chief | 597 | 602 | DSR | 160 | FTI | 159 | 2,198 |
| | Sunset Limited | 398 | 601 | DSR | 460 | DCS | 88 | 190 |
| | Texas Eagle | 1,523 | 1,552 | DSR | 1,035 | FTI | 230 | 126 |
| CFRC | Auto Train | 1,553 | 1,467 | DSR | 496 | DCS | 443 | 16 |
| | Silver Meteor | 3,077 | 3,190 | DCS | 1,100 | PTI | 750 | 61 |
| | Silver Star | 1,454 | 1,565 | DCS | 800 | DMW | 277 | 61 |
| CN | Adirondack | 1,414 | 1,907 | FTI | 795 | DSR | 375 | 49 |
| | Blue Water | 1,232 | 1,213 | FTI | 908 | DCS | 136 | 159 |
| | City of New Orleans | 1,386 | 1,329 | FTI | 831 | PTI | 165 | 930 |
| | Illini / Saluki | 1,418 | 1,459 | FTI | 977 | PTI | 219 | 306 |
| | Lincoln Service | 1,324 | 1,858 | FTI | 1,001 | DCS | 400 | 37 |
| | Texas Eagle | 2,410 | 2,731 | FTI | 1,696 | PTI | 367 | 37 |
| | Wolverine | 1,479 | 2,251 | FTI | 828 | DCS | 697 | 27 |
| CP | Adirondack | 2,979 | 2,611 | FTI | 1,062 | PTI | 653 | 178 |
| | Empire Builder | 2,583 | 2,217 | FTI | 1,557 | DSR | 252 | 384 |
| | Ethan Allen Express | 1,825 | 1,666 | FTI | 650 | PTI | 478 | 60 |
| | Hiawatha | 475 | 438 | FTI | 148 | DCS | 138 | 53 |
| CSX | Auto Train | 1,507 | 1,560 | FTI | 602 | DSR | 341 | 698 |
| | Capitol Limited | 1,798 | 1,297 | FTI | 779 | DCS | 191 | 307 |
| | Cardinal | 1,000 | 1,479 | FTI | 619 | DCS | 435 | 698 |
| | Carolinian | 1,838 | 1,560 | FTI | 680 | PTI | 336 | 295 |
| | Hoosier State | 1,448 | 2,385 | DCS | 1,127 | FTI | 856 | 169 |
| | Lake Shore Ltd | 1,747 | 1,813 | FTI | 843 | RTE | 290 | 633 |
| | Maple Leaf | 2,648 | 2,138 | FTI | 929 | DSR | 402 | 298 |
| | New York - Niagara Falls | 2,221 | 1,969 | FTI | 851 | RTE | 369 | 296 |
| | Palmetto | 1,226 | 971 | FTI | 356 | PTI | 188 | 659 |
| | Pere Marquette | 627 | 1,149 | FTI | 326 | RTE | 275 | 135 |
| | Richmond/Newport News/Norfolk | 2,192 | 1,790 | FTI | 465 | DSR | 420 | 189 |
| | Silver Meteor | 1,004 | 1,144 | FTI | 421 | DSR | 229 | 1,091 |
| | Silver Star | 1,157 | 1,098 | FTI | 332 | DSR | 245 | 1,148 |
| | Fla DOT | Silver Meteor | 674 | 916 | CTI | 331 | DSR | 156 |
| Silver Star | | 842 | 1,026 | CTI | 641 | DCS | 200 | 68 |
| MBTA | Downeaster | 1,291 | 1,370 | DSR | 590 | CTI | 506 | 38 |
| Metra | Empire Builder | 1,526 | 1,522 | CTI | 1,084 | DSR | 160 | 29 |
| | Hiawatha | 1,735 | 1,908 | DSR | 572 | FTI | 486 | 29 |
| | Blue Water | 814 | 912 | DCS | 395 | DSR | 292 | 22 |
| MIDOT | Wolverine | 609 | 1,034 | PTI | 449 | DCS | 362 | 134 |
| | Acela Express | 661 | 843 | DSR | 367 | CTI | 296 | 56 |
| MNRR | Adirondack | 1,266 | 1,652 | CTI | 752 | DSR | 344 | 64 |
| | All Other NE Regional | 812 | 791 | CTI | 348 | DSR | 338 | 56 |
| | Ethan Allen Express | 919 | 1,072 | CTI | 630 | DSR | 204 | 64 |
| | Lake Shore Ltd | 1,780 | 1,891 | CTI | 904 | RTE | 499 | 64 |
| | Lynchburg | 1,710 | 1,340 | RTE | 469 | CTI | 439 | 56 |
| | Maple Leaf | 1,307 | 1,617 | CTI | 721 | DCS | 293 | 64 |
| | New York - Albany** | 961 | 994 | CTI | 496 | DSR | 221 | 64 |
| | New York - Niagara Falls | 1,279 | 1,389 | CTI | 697 | RTE | 302 | 64 |
| | Richmond/Newport News/Norfolk | 707 | 619 | DSR | 214 | DCS | 162 | 56 |
| | Vermont | 867 | 1,221 | DSR | 502 | CTI | 449 | 56 |
| | NECR | Vermont | 850 | 721 | DSR | 539 | FTI | 132 |
| NMDOT | Southwest Chief | 1,589 | 1,280 | DSR | 729 | CTI | 251 | 80 |
| NS | Blue Water | 4,573 | 4,148 | FTI | 1,275 | DSR | 857 | 39 |
| | Capitol Limited | 1,794 | 2,018 | FTI | 1,083 | RTE | 323 | 481 |
| | Cardinal | 503 | 793 | PTI | 242 | FTI | 163 | 79 |
| | Carolinian | 347 | 334 | DSR | 112 | PTI | 107 | 202 |
| | Crescent | 1,031 | 1,019 | FTI | 538 | DSR | 178 | 1,141 |
| | Lake Shore Ltd | 2,105 | 2,403 | FTI | 1,344 | RTE | 327 | 339 |
| | Lynchburg | 272 | 247 | FTI | 81 | DCS | 76 | 166 |
| | Pennsylvanian | 501 | 378 | FTI | 193 | RTE | 76 | 249 |
| | Pere Marquette | 4,105 | 4,717 | FTI | 1,496 | DSR | 942 | 39 |
| | Piedmont | 579 | 661 | DSR | 184 | FTI | 159 | 173 |
| | Richmond/Newport News/Norfolk | 428 | 490 | DSR | 214 | DCS | 162 | 81 |
| | Silver Star | 348 | 424 | PTI | 133 | DCS | 118 | 28 |
| | Wolverine | 4,556 | 4,567 | FTI | 1,814 | DCS | 790 | 39 |
| | PanAm | Downeaster | 652 | 628 | PTI | 269 | FTI | 136 |
| SCRRA | Coast Starlight | 1,976 | 2,047 | PTI | 1,222 | CTI | 586 | 48 |
| | Pacific Surfliner | 1,036 | 959 | PTI | 449 | CTI | 292 | 95 |
| SDNRR | Pacific Surfliner | 1,390 | 1,420 | CTI | 559 | PTI | 506 | 60 |
| UP | California Zephyr | 827 | 988 | FTI | 367 | DCS | 252 | 1,431 |
| | Capitol Corridor | 481 | 676 | PTI | 189 | DSR | 164 | 168 |
| | Cascades | 1,222 | 1,481 | FTI | 603 | PTI | 503 | 125 |
| | Coast Starlight | 1,038 | 1,107 | PTI | 386 | FTI | 275 | 1,159 |
| | Lincoln Service | 1,213 | 1,589 | PTI | 559 | DCS | 432 | 231 |
| | Missouri River Runner | 576 | 509 | FTI | 302 | DCS | 80 | 271 |
| | Pacific Surfliner | 958 | 852 | PTI | 589 | DCS | 117 | 174 |
| | San Joaquin | 973 | 1,346 | PTI | 357 | DSR | 265 | 88 |
| | Sunset Limited | 1,242 | 1,456 | FTI | 699 | DSR | 270 | 1,784 |
| | Texas Eagle | 2,195 | 1,886 | FTI | 881 | DCS | 356 | 1,104 |
| VTR | Ethan Allen Express | 135 | 249 | FTI | 195 | DCS | 54 | 24 |

** Includes only trains that operate solely between New York and Albany

Excludes hosts with fewer than 15 route miles.

Delays on the Amtrak-owned portion of the Northeast Corridor are shown in a separate report, with tighter delay standards.

Northeast Regional: Lynchburg includes all trains between Lynchburg and points on the NEC; Richmond / Newport News includes all trains between Richmond or Newport news and points on the NEC.

ON-TIME PERFORMANCE
(Red numbers indicate not meeting standard)

| | All-Stations OTP | | Endpoint OTP | | Change in Effective Speed Last Twelve Months Ending Mar. 2014 vs. FY08 |
|--|------------------|-----------------------|---------------|-----------------------|--|
| | Current Month | Quarter to Date | Current Month | Quarter to Date | |
| | March 2014 | Jan. 2014 - Mar. 2014 | March 2014 | Jan. 2014 - Mar. 2014 | |

Acela Express

| PRIIA Section 213 Standard | 80.0% | 80.0% | 80.0% | 80.0% | |
|-----------------------------------|--------------|--------------|--------------|--------------|------|
| Acela Express | 82.6% | 77.2% | 77.1% | 69.5% | -1.1 |

All Other NEC Corridor Services

| PRIIA Section 213 Standard | 80.0% | 80.0% | 80.0% | 80.0% | |
|-----------------------------------|--------------|--------------|--------------|--------------|------|
| Keystone | 95.5% | 88.6% | 87.2% | 73.3% | -0.8 |
| Northeast Regional | 81.4% | 77.5% | 77.0% | 71.2% | -0.4 |
| Richmond/Newport News/Norfolk | 74.8% | 73.9% | 77.9% | 74.6% | -0.1 |
| Lynchburg | 75.1% | 69.8% | 85.5% | 77.2% | NA |
| All Other Northeast Regional | 85.5% | 80.2% | 76.2% | 69.9% | -0.3 |

Non-NEC Corridor Services

| PRIIA Section 213 Standard | 80.0% | 80.0% | 80.0% | 80.0% | |
|-----------------------------------|--------------|--------------|--------------|--------------|------|
| Capitol Corridor | 96.6% | 95.1% | 95.4% | 94.9% | 2.3 |
| Carolinian | 64.9% | 68.8% | 66.1% | 72.0% | 0.9 |
| Cascades | 70.0% | 66.9% | 73.1% | 67.9% | -0.6 |
| Downeaster | 92.0% | 90.1% | 81.3% | 77.0% | -1.7 |
| Empire Corridor | 71.1% | 67.5% | 74.6% | 69.8% | 0.5 |
| Adirondack | 62.0% | 54.0% | 53.2% | 48.3% | 0.8 |
| Ethan Allen Express | 86.5% | 79.4% | 82.3% | 73.9% | 2.2 |
| Maple Leaf | 51.0% | 47.8% | 62.9% | 56.1% | -0.1 |
| New York - Albany** | 94.0% | 90.0% | 88.2% | 81.7% | 1.3 |
| New York - Niagara Falls | 52.3% | 53.6% | 43.5% | 47.8% | -0.9 |
| Heartland Flyer | 78.3% | 87.3% | 54.8% | 75.0% | 0.0 |
| Hiawatha | 94.7% | 87.3% | 86.3% | 76.7% | -1.2 |
| Hoosier State | 60.8% | 50.9% | 48.6% | 39.6% | 0.8 |
| Illinois | 63.9% | 54.3% | 63.5% | 50.7% | 1.5 |
| Carl Sandburg / Illinois Zephyr | 71.3% | 64.0% | 74.2% | 61.2% | -1.4 |
| Illini / Satuki | 47.5% | 42.1% | 49.2% | 41.6% | 1.7 |
| Lincoln Service | 69.1% | 56.2% | 65.3% | 50.0% | 2.3 |
| Michigan | 63.9% | 47.7% | 51.9% | 31.6% | 1.4 |
| Blue Water | 52.9% | 49.0% | 41.9% | 35.4% | 5.0 |
| Pere Marquette | 80.3% | 58.2% | 53.2% | 30.7% | 1.4 |
| Wolverine | 64.8% | 46.0% | 54.8% | 30.7% | 0.1 |
| Missouri River Runner | 87.8% | 87.5% | 87.9% | 86.9% | 8.5 |
| Pacific Surfliner | 87.2% | 89.1% | 76.8% | 78.2% | -0.2 |
| Pennsylvanian | 87.8% | 82.4% | 91.9% | 86.7% | 1.1 |
| Piedmont | 90.3% | 89.2% | 69.5% | 71.3% | 1.7 |
| San Joaquin | 81.3% | 80.1% | 81.5% | 80.9% | -0.3 |
| Vermont | 75.9% | 67.1% | 80.6% | 73.3% | 3.5 |

Long-Distance Services

| PRIIA Section 213 Standard | 80.0% | 80.0% | 80.0% | 80.0% | |
|-----------------------------------|--------------|--------------|--------------|--------------|------|
| Auto Train | 75.0% | 66.4% | 71.0% | 60.9% | -0.7 |
| California Zephyr | 46.5% | 37.1% | 64.5% | 48.3% | 2.9 |
| Capitol Limited | 34.7% | 40.0% | 43.5% | 42.7% | 1.5 |
| Cardinal | 54.5% | 41.3% | 76.9% | 45.5% | 0.5 |
| City of New Orleans | 39.0% | 41.4% | 58.1% | 55.6% | 1.0 |
| Coast Starlight | 64.1% | 58.1% | 88.7% | 77.2% | 1.0 |
| Crescent | 54.9% | 56.5% | 50.0% | 52.8% | -0.1 |
| Empire Builder | 17.1% | 16.0% | 17.4% | 20.4% | -2.3 |
| Lake Shore Ltd | 29.2% | 24.5% | 37.1% | 32.7% | -1.1 |
| Palmetto | 66.3% | 64.5% | 68.4% | 72.7% | 0.5 |
| Silver Meteor | 41.3% | 38.0% | 56.5% | 48.6% | -0.6 |
| Silver Star | 48.3% | 50.3% | 54.8% | 59.4% | 0.7 |
| Southwest Chief | 51.6% | 53.3% | 77.4% | 70.0% | -0.2 |
| Sunset Limited | 49.6% | 48.5% | 73.1% | 63.6% | 3.1 |
| Texas Eagle | 29.5% | 36.5% | 32.3% | 45.5% | 2.3 |

** Includes only trains that operate solely between New York and Albany.

Northeast Regional: Lynchburg includes all trains between Lynchburg and points on the NEC; Richmond/Newport News includes all trains between Richmond or Newport news and points on the NEC.

Change in Effective Speed is calculated as Last Twelve Months Effective Speed (ending March) minus FY08 Effective Speed



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April 17, 2014

Surface Transportation Board
Attn.: Docket No. EP 724
395 E St., S.W.
Washington, DC 20423-0001

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Dear Members of the Board:

The National Grain and Feed Association (NGFA) appreciates the opportunity to submit this statement to amplify the oral comments made on its behalf by NGFA Rail Shipper/Receiver Committee Chairman Kevin Thompson, assistant vice president and transportation lead for the Grain and Oilseed Businesses at Cargill Incorporated, Minneapolis, Minnesota, during the Board's April 10, 2014 public hearing on U.S. rail service issues.

The NGFA consists of more than 1,000 grain, feed, processing and grain-related companies that operate approximately 7,000 facilities that handle about 70 percent of all U.S. grains and oilseeds. NGFA's membership includes grain elevators; feed and feed ingredient manufacturers; biofuels companies; grain and oilseed processors and millers; exporters; livestock and poultry integrators; and associated firms that provide goods and services to the nation's grain, feed and processing industry. Also affiliated with the NGFA are 26 state and regional grain and feed associations. NGFA works to foster an efficient free-market environment that produces an abundant, safe and high-quality supply of grain, feed and feed ingredients for domestic and world consumers.

The NGFA commends the Board for initiating the public hearing, and appreciated the opportunity to speak on behalf of shippers and receivers of grain, oilseeds and grain products concerning the serious rail service disruptions that plagued our industry since last fall.

This statement is supported by six other national agribusiness organizations: Agricultural Retailers Association, Corn Refiners Association, National Chicken Council, National Council of Farmer Cooperatives, National Oilseed Processors Association and North American Millers Association.¹

¹ **Agricultural Retailers Association** is a national non-profit trade organization for agricultural retailers and distributors of agronomic crop inputs with members covering virtually all of the 50 states and representing over 70 percent of all crop input materials sold to America's farmers. These inputs are used to nourish and protect a wide variety of crops, from major row crop commodities to specialty crops. Members not only sell agronomic crop inputs but actually apply with their own equipment basic crop nutrients and crop protection products; over half of ARA's

This statement first provides several real-world examples of the impact – in terms of market impacts and costs – that rail service disruptions have had on NGFA-member companies and the producer-customers they serve. Second, it provides some observations resulting from the ongoing dialogue the NGFA has been having with several affected Class I rail carriers. Finally, this statement concludes with several specific NGFA recommendations on the types of actions we believe the Board can and should take to improve the relevance, timeliness and transparency of service-related metrics and information that would be useful to rail customers to assist in planning logistics during the anticipated long, slow restoration of service – particularly in the Western United States – that the NGFA has been told could stretch well into 2015.

Rail-served agricultural markets today generally are characterized by long-haul movements between varying origin-and-destination pairs separated by distances of 500 to 1,500 miles or more. For these agricultural markets, there is no good substitute for reasonably available, reliable and competitively priced rail service.

But that has been the exception, rather than the rule, since last fall – long before the onset of harsh winter weather. Rail service disruptions have been widespread and severe, involving Class I rail carriers operating in both the West and East, as well as in Canada. In the West, shippers served by the BNSF Railway and Canadian Pacific have

members custom-apply fertilizer for their customers on about 45% of their total acres served. ARA membership is diverse, from small family-run businesses of 10 employees to farmer cooperatives with one thousand or more employees and large corporations with thousands of employees and multiple branches. Suppliers of the products sold by retailers are also members of the association.

Corn Refiners Association (CRA) is the national trade association representing the corn refining industry of the United States. CRA and its predecessors have served this important segment of American agribusiness since 1913. Corn refiners manufacture sweeteners, ethanol, starch, bioproducts, corn oil and feed products from corn components such as starch, oil, protein and fiber.

National Chicken Council represents companies that produce and process more than 95 percent of the chicken in the United States. Chicken processors are among the largest users of rail services to transport grain, oilseed, and other commodity feed ingredients.

National Council of Farmer Cooperatives (NCFC), established in 1929, is comprised of regional and national farmer-owned cooperatives, which in turn are comprised of nearly 3,000 local farmer cooperatives across the country. The majority of America's 2 million farmers and ranchers belong to one or more farmer cooperatives. NCFC members also include 26 state and regional councils of cooperatives. Farmer cooperatives handle, process and market almost every type of agricultural commodity; furnish farm supplies; and provide credit and related financial services, including export financing. Earnings from these activities are returned to their farmer members on a patronage basis, helping improve their income from the marketplace. Farmer cooperatives also provide over 250,000 jobs, with a total payroll in excess of \$8 billion, and contribute significantly to the economic well-being of rural America.

National Oilseed Processors Association, established in 1929, has as its mission assisting the U.S. soybean, canola, flaxseed, sunflower seed and safflower seed processing industries to be the most competitive and efficient in the world by utilizing the combined expertise, knowledge and resources of its members to foster market- and science-based policies. NOPA represents 13 member companies that process over 1.6 billion bushels of oilseeds annually at 63 plants in 19 states, including 15 plants that process soybeans.

North American Millers' Association is the trade association of the wheat, corn, oat and rye milling industries in the United States and Canada. Its member companies operate mills in 38 states and Canada, representing more than 90 percent total industry production capacity.

been particularly hard hit – especially in areas like North and South Dakota, Montana and parts of Minnesota, where few, if any, viable alternatives to rail exist for moving grain, grain products and fertilizer. Meanwhile, in the Eastern United States, NGFA-member companies served by the Norfolk Southern and the CSX also have reported significant service disruptions. Further, in the case of the NS, they also have expressed concerns over the lack of adequate, consistent and current information on which to make logistics plans and adjustments, where possible, hamstringing business operations.

The NGFA's strong preference is to have individual rail customers that confront service-related issues seek to resolve them in one-on-one discussions with their respective carriers in a commercial business setting. But since early January when the impacts of rail service disruptions began being felt industry-wide, the NGFA has taken on a greater role in addressing service-related issues directly with rail carriers on behalf of its member companies. We will continue to do so until this crisis abates.

The sheer gravity, magnitude and scope of rail service disruptions now being experienced are unprecedented, and have rippled through all sectors of grain-based agriculture. As a result:

- Country elevators and other originators of grain and grain products are extremely hesitant to price and book forward sales from farmers or commercial elevators because they cannot count on predictable rail service or reflect the current level of freight costs in their price bids.
- Many country elevators, as a result of the heavy 2013 harvest and lack of rail service, have found it necessary to store greater-than-normal quantities of grain in emergency space – outside in ground piles. Those facilities that are federally licensed by the U.S. Department of Agriculture under the U.S. Warehouse Act face a March 31 deadline for relocating such outside-stored grain to permanent storage. Similar restrictions are imposed by many states under state-licensing systems.
- Grain processors and export elevators have idled or significantly reduced operating capacity because of an inability to predictably source sufficient quantities of grains and oilseeds.
- Millers in the upper and central Midwest are confronting facility shut-downs as they run out of raw commodities to process, including oats and certain classes of wheat.
- Still other grain processing and animal feeding operations, particularly in the Eastern United States, are shifting to comparatively inefficient and much more costly long-haul truck movements in an attempt to obtain sufficient quantities of grains and oilseeds. Still others are switching rail origination to other carriers in the limited instances where that is possible.

- And for the first time in a long time, the United States' hard-earned reputation as the world's most reliable supplier of grains, oilseeds and grain products to export markets has been put at risk.

Some specific examples of economic harm caused by rail service disruptions have been provided to NGFA by member companies in response to our request.

One pressing immediate need voiced by NGFA member companies concerns the inability of carriers to deliver fertilizer in time for planting season in the upper Midwest, which is costing millions of dollars in additional shipping costs because of the need to divert to truck transportation. The advent of larger planters and other farm equipment has shortened the time window for applying fertilizer, and there is an urgent need from farmers to obtain bulk, liquid and anhydrous fertilizers. Without these essential farm supplies, the productive capacity of U.S. farmers will be undermined.

In the West, the Canadian Pacific has been 60 days late or later in providing 100-car unit trains, and up to four months late on non-shuttles. Meanwhile, the BNSF only now is providing certificate of transportation – or COT – trains that shippers had paid to have delivered in late January and early February. The NGFA also has received repeated reports of locomotives being de-linked from trains and cars sitting loaded – but idled – at grain facilities for weeks on end.

In the East, there have been sharply reduced turn times on unit trains for both domestic and export service, increasing car costs, reducing capacity and causing repeated functional shut-downs of feed mills dependent upon rail deliveries. Likewise, single-car shipments of ingredients for feed in both the East and West have been delayed.

In addition, freight delays have caused grain, feed and grain processing firms to breach commitments to farmers and commercial customers alike. Grain and feed ingredient contracts have needed to be renegotiated and re-priced – often at a significant penalty – as they were under-filled or rolled forward to future delivery dates because they could not be executed within the contractual time commitment.

Another fallout is illustrated by the values paid in the secondary rail car freight market, which traded at levels of as great as \$6,000 per car on one carrier. That translates to a \$1.65-per-bushel just to access equipment, and is a stark reflection in monetary terms of the extent to which service disruptions have affected agricultural shippers. The majority of secondary freight has traded at values of approximately \$4,000 per car, equating to \$1 per bushel.

One NGFA-member company provided the following actual case involving a unit train shipment of soybeans from North Dakota to the Pacific Northwest in March, in which the tariff rate was approximately \$5,000 per car and the expense to secure the necessary rail freight from the secondary market amounted to another \$4,000 per car. After adding the fuel surcharge, the actual cost translated to \$2.60 per bushel, with transportation alone representing 40 percent of the total cost.

For a time, our industry absorbed most of these additional expenses. But over the last 30 days, such escalating costs attributable to service disruptions have been reflected in lower price bids to farmers in several regions of the country.

For instance, in Montana, the per-bushel price for wheat offered to producers in March declined by up to \$1 per bushel. Were such a depreciated price to last through the remainder of the 2013/14 marketing year, that would translate into a \$203 million loss for Montana wheat farmers based upon the state's wheat crop size. Attached to this statement are charts that also illustrate the precipitous decline in price bids offered to farmers in North and South Dakota for corn, soybeans and wheat.

Additional costs also have been incurred by shippers and receivers that operate privately owned hopper car fleets. For instance, one NGFA-member company in the Eastern United States reported that the number of "turns" it got in its private-hopper car fleet declined from an average of 2.5 turns per month to 1.5 turns between October 2013 and March 2014, effectively increasing its fleet cost and decreasing its carrying capacity by 60 percent.

Cost impacts on individual grain, feed, grain processing and export facilities obviously vary. But several NGFA-member companies have reported that the costs to their individual firms have ranged from \$10 million to \$20 million during the October to March period.

Over the past 15 years, the U.S. grain handling, processing and export industry, as well as its producer-customers, have made extensive private capital investments – including greatly expanded grain handling and loading capacity, private car fleets and additional track capacity – to further enhance efficiency. Some of that investment was made at the behest of rail carriers seeking improved economies-of-scale. But despite these investments, our industry has found itself being unable to serve customers efficiently or reliably during the most recent harvest season because of the precipitous decline and unpredictability in service from several Class I carriers.

Even during periods not characterized by the type of severe service disruptions being experienced currently, ag rail users often find that when rail capacity is in tight supply, rail service appears to suffer more for our sector than for other sectors that may be viewed as "higher-priority" by railroads, such as coal, energy and intermodal.

This raises a core question that NGFA believes the Board needs to assess carefully. Namely, to what extent do Class I rail carriers in this highly concentrated rail market have a common-carrier obligation to provide reasonable service on reasonable request? For example, at what point is a railroad's decision to skew its allocation of resources and service toward certain products that maximize its profits become inconsistent with its statutory common-carrier obligation? What are rail carriers' obligations to balance their business desire for greater volumes and greater profitability with the traditional, statutory obligation to provide reasonable service across all customer segments?

Concerning current service disruptions, the NGFA and its member companies have been in active discussions with several affected rail carriers on the root causes, as well as each carrier's recovery plans for restoring service. It is clear that while the harsh winter weather has been a contributing factor, these service disruptions began occurring last fall, well before the onset of winter.

There also clearly were other root causes, such as a misreading of the volume of business that would be generated by agriculture, coal, energy and other sectors; inadequate locomotive power and crews; and operations-related issues, such as the continuation of maintenance-of-way projects during the peak harvest period.

The NGFA has encouraged affected carriers to provide more information on when measurable improvements in rail service realistically can be expected, and to ramp up their ongoing communications with customers to provide timely and frequent information if their service commitments cannot be attained. This information is critical for our industry to be able to adjust business plans and attempt to minimize the economic harm to operations and revenues, and to serve customers. We're pleased that the BNSF, in particular, has responded with increased, ongoing communications with our Association and its member companies, as well as agricultural producers and other customers. We believe this positive dialogue with the BNSF will continue.

However, the NGFA believes the current situation warrants increased monitoring and collection of data on rail service metrics by the Board. Our industry and our farmer-customers need sufficient information about the operations and service levels that realistically can be expected from their rail carriers if they are to have a chance to manage market risk and meet customer requirements.

Recommendations for STB Collection and Dissemination of Service Metrics

For these reasons, the NGFA believes strongly that the Board immediately should begin requiring affected Class I rail carriers to report – and subsequently should make publicly available to rail customers – the following types of specific service-related metrics. Access to this information would assist rail users in making logistics plans and enhance the Board's ability to monitor service.

1. Real-time information on train velocity and cycle times, as well as realistic projections restoring service.
2. Weekly car loadings by product and state.
3. Weekly average dwell times for trains hauling grain and grain products, coal and crude oil from January 2012 onward.

4. Weekly averages for miles-per-day transited for grain, coal and crude oil since January 2012 going forward.
5. The level of capacity utilization by rail corridors, particularly in the heavy grain corridors of the Pacific Northwest and Texas Gulf. For example, if a Class I carrier's capacity is 40 trains per day within the Pacific Northwest corridor, what percentage of that capacity currently is being utilized and what is the product mix?
6. Real-time data on the number of grain/oilseed, coal and crude oil sets transported by quarter starting in January 2012 and into the future.
7. Breakouts of capital spending by Class I carriers. The NGFA commends rail carriers for investing in their infrastructure, particularly investments that add to capacity to serve growing demand. But we believe it would be advisable for carriers to report the share of capital spending being directed to new infrastructure capacity, such as new track, versus replacement of existing infrastructure. The NGFA also recommends that the STB require carriers to report on a quarterly basis net crew and locomotive changes so rail users better can assess these barometers of potential service improvement.

Frankly, some carriers have been more forthcoming than others in reporting specifics on how their infrastructure investment is being allocated – and what portion actually represents new capacity versus replacement of existing infrastructure, locomotives and cars. But as the NGFA suggested to the STB in its 2006 statement in Ex Parte No. 665 – Rail Transportation of Grain – we believe the STB could perform a valuable role by collecting and standardizing such information across all Class I carriers, and reporting publicly how those investments in infrastructure and personnel are being allocated across various business sectors served by the carriers in what appears to be continuing robust demand for rail services across various industry sectors. Such reporting also would provide the Board with information to determine whether any sectors are being demarketed or disadvantaged at the expense of others.

In addition, the NGFA recommends that the Board obtain and make available publicly the following information for each Class I carrier:

1. What plans, if any, do each of the Class I carriers now experiencing service disruptions have to take on additional business before current service issues are resolved? For instance, will carriers award power and crews on a first-come, first-served basis during this period of severe service disruption? Further, what, if any, resources have been transferred from the Canadian Pacific's U.S. operations to Canada?
2. What plans do Class I carriers have for reducing operations-related service disruptions that occurred last fall – including maintenance-of-way restrictions.

Specifically, we believe the Board should require Class I carriers to provide rail customers with advance information on the precise location and duration of specific service disruptions caused by infrastructure projects.

Finally, we believe that during this period of service disruption, the Board should require affected Class I rail carriers to provide consistent, web-based communications and e-blasts to all of their rail customers on the status of their service and train orders. Some Class I railroads are doing a commendable job in in this regard – the BNSF and CSX, in particular. But others clearly are not, relying more on word-of-mouth or calls to specific, but not all, customers. Rail users need more consistency in communications across-the-board, particularly in this service-disrupted environment.

Conclusion

Rail users need sufficient logistical information from their carriers to manage market risk and serve customers. Simply put, there needs to be significantly more predictability in the level of rail service, and mechanisms need to be put in place to reduce service variability that our industry has experienced over the last six months or longer.

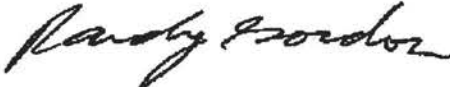
At this stage, the NGFA does not believe it is advisable for the Board to take actions in the United States similar to those implemented by the Canadian government. We fear such measures could exacerbate and further slow the recovery and restoration of predictable, reliable U.S. freight rail service. Thus, we are not at this time asking the Board to issue directed-service orders that would create preferences for agricultural shipments. But the NGFA is asking the Board to exercise very vigilant oversight during this period of service disruption to prevent rail carriers from allocating limited available capacity to serve new business from non-agricultural sectors, such as coal and energy, to the detriment of agricultural customers.

We also believe the current rail environment points to the importance of the Board's proceeding on competitive switching rules under Ex Parte No. 711. The rail service disruptions experienced by agricultural shippers are tangible examples of why captive rail shippers and receivers need enhanced access to the lines of other carriers wherever possible to keep facilities open and operating, and markets served. Competitive switching also is integral to maintaining a national rail freight network and to preserving the competitive fabric of U.S. agriculture and the nation's economy.

The NGFA also believes strongly that these rail service disruptions point to the urgency of the United States adopting a comprehensive, "all-of-the-above" transportation infrastructure policy that supports all modes – including inland waterways, harbors and ports, and trucks. We need all transportation modes if we're going to move this nation.

The NGFA appreciates the opportunity to express its views and recommendations concerning U.S. rail service issues, and would be pleased to respond to any questions the Board may have.

Sincerely,

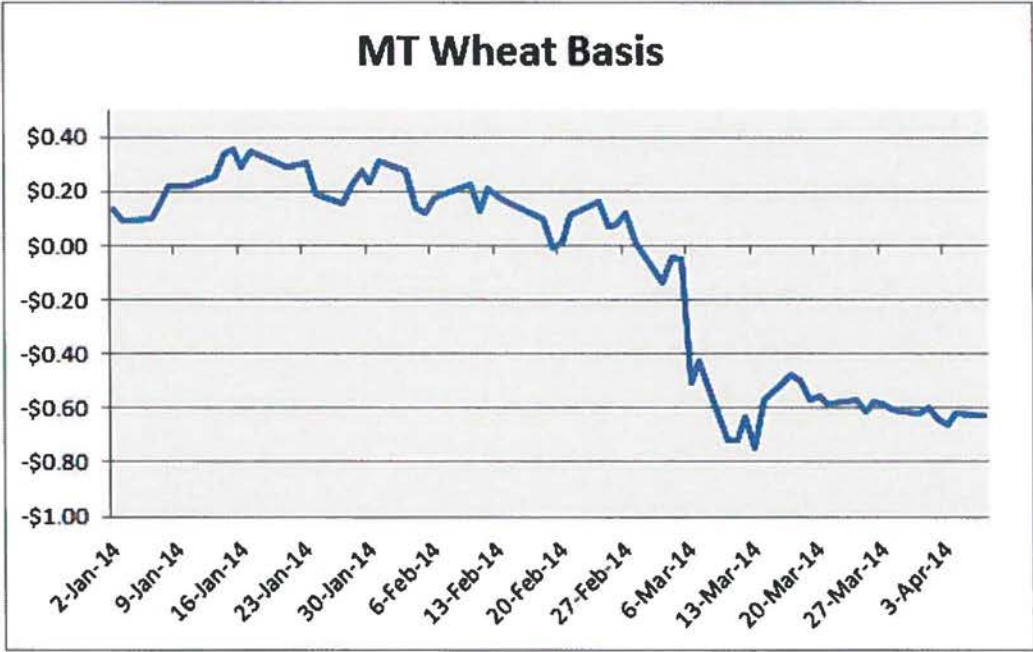


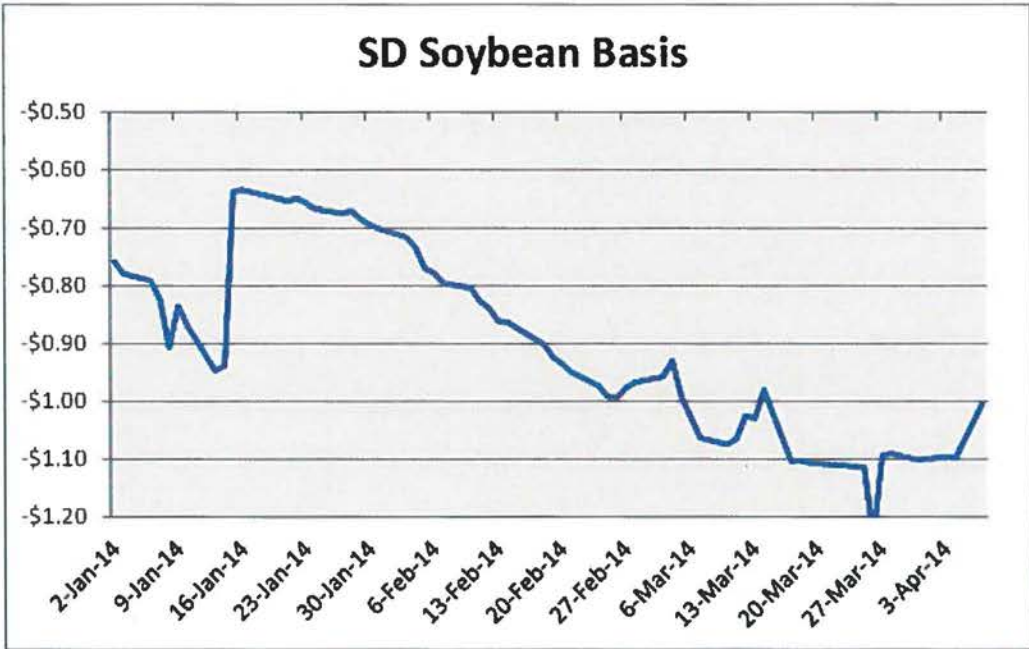
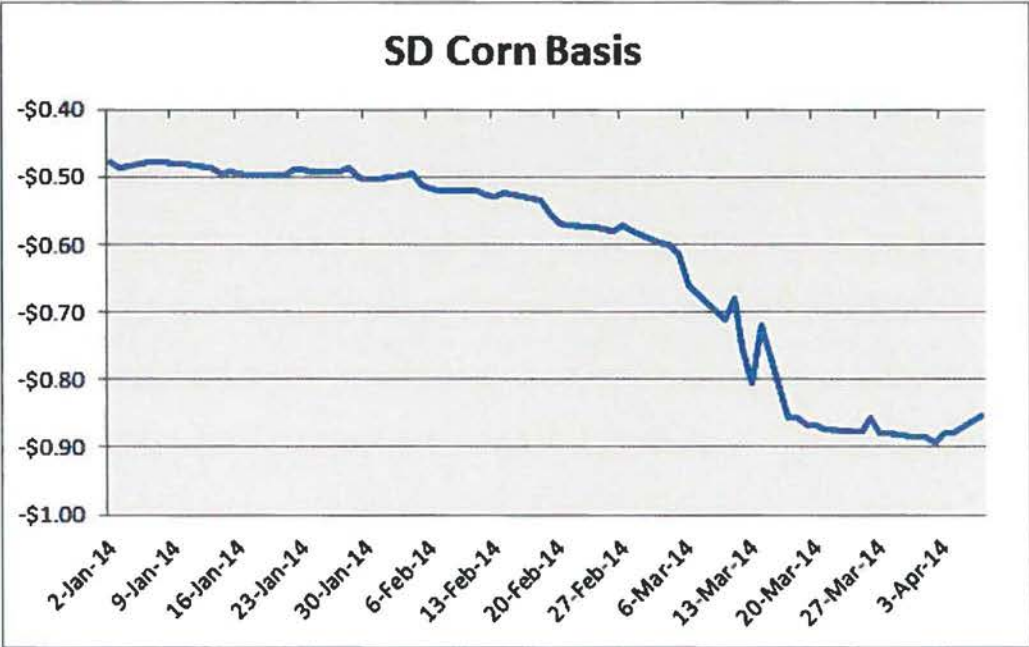
Kevin Thompson
Chairman
Rail Shipper/Receiver Committee
National Grain and Feed Association

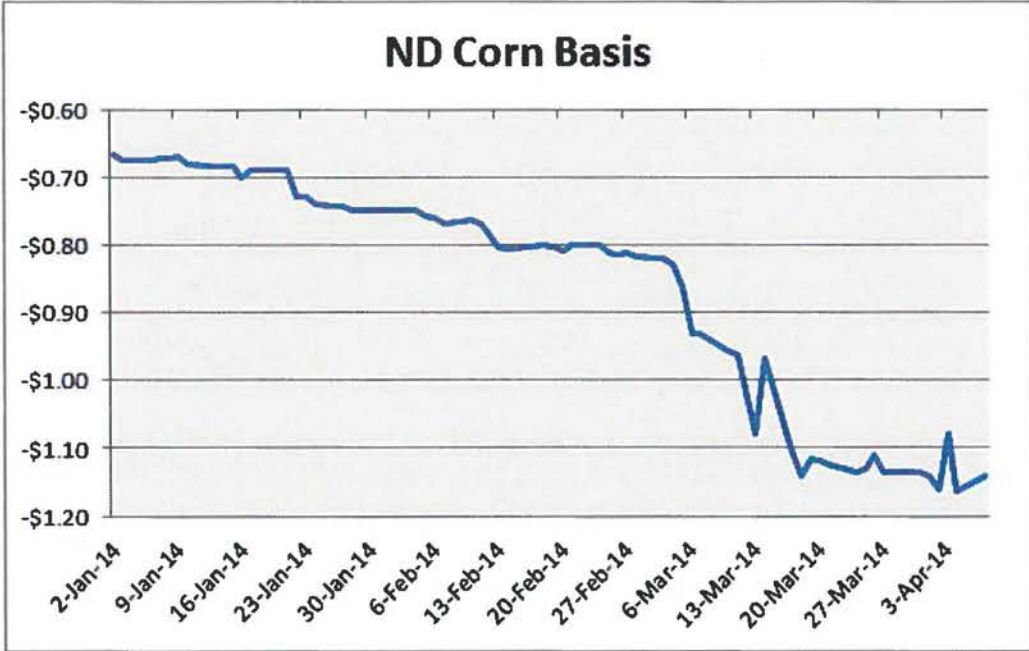
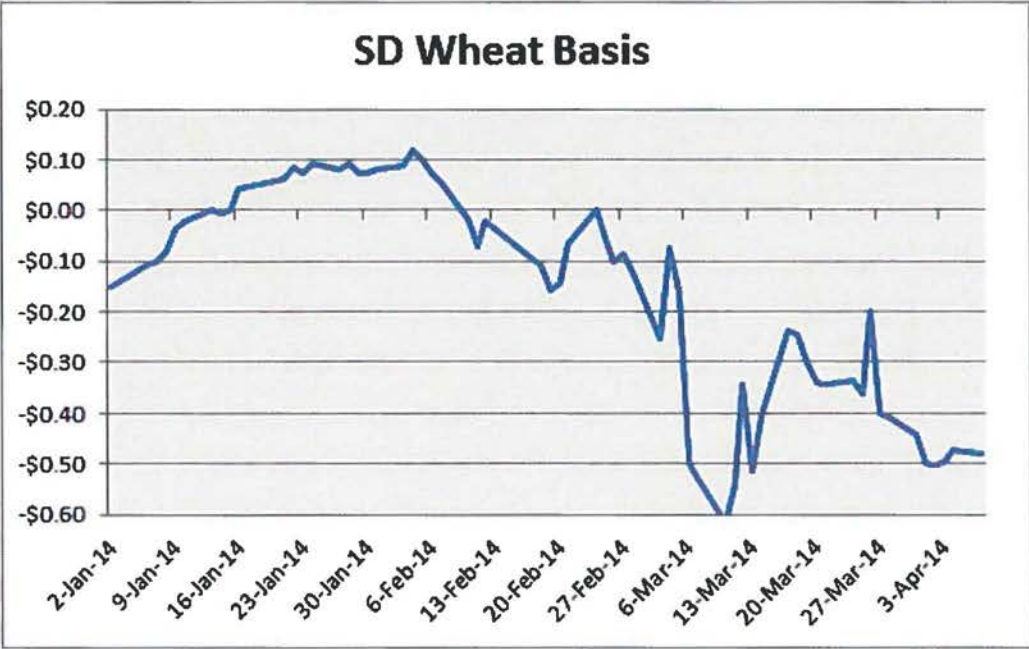
Randall C. Gordon
President
National Grain and Feed Association

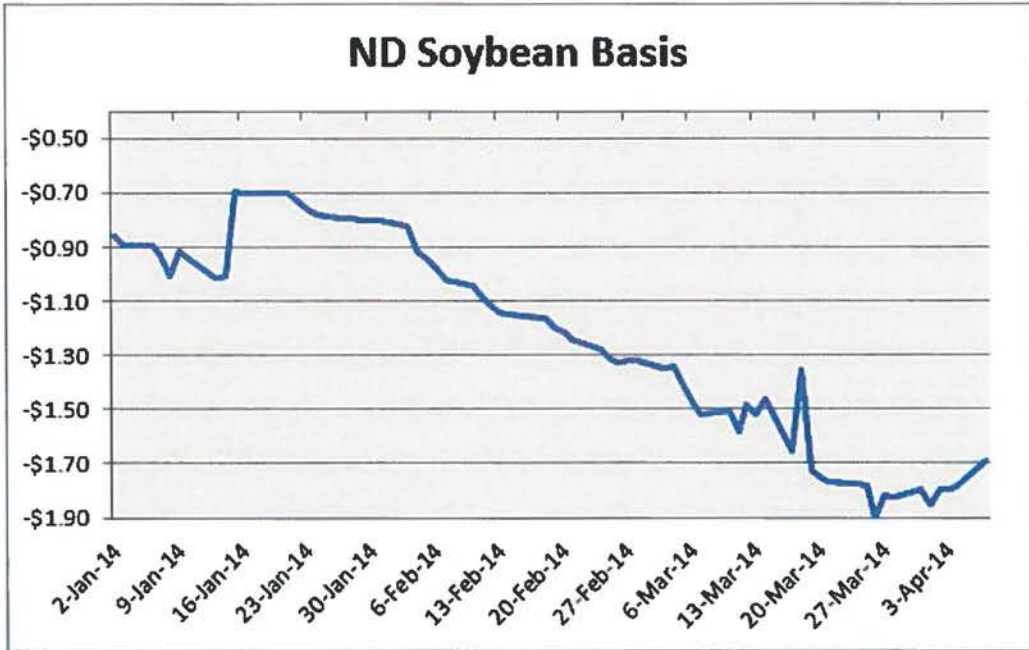
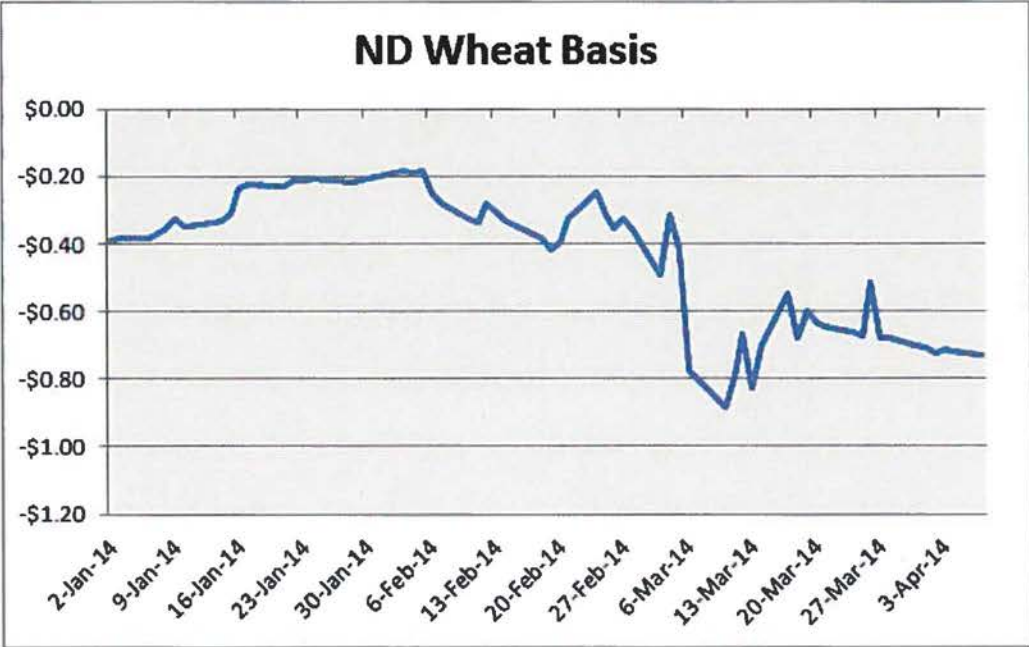
Appendix

Rail Service Disruptions – Impact on Prices Bid to Farmers











235915

NewPage Corporation

STB Docket No. EP 724

ENTERED
Office of Proceedings
April 17, 2014
Part of
Public Record

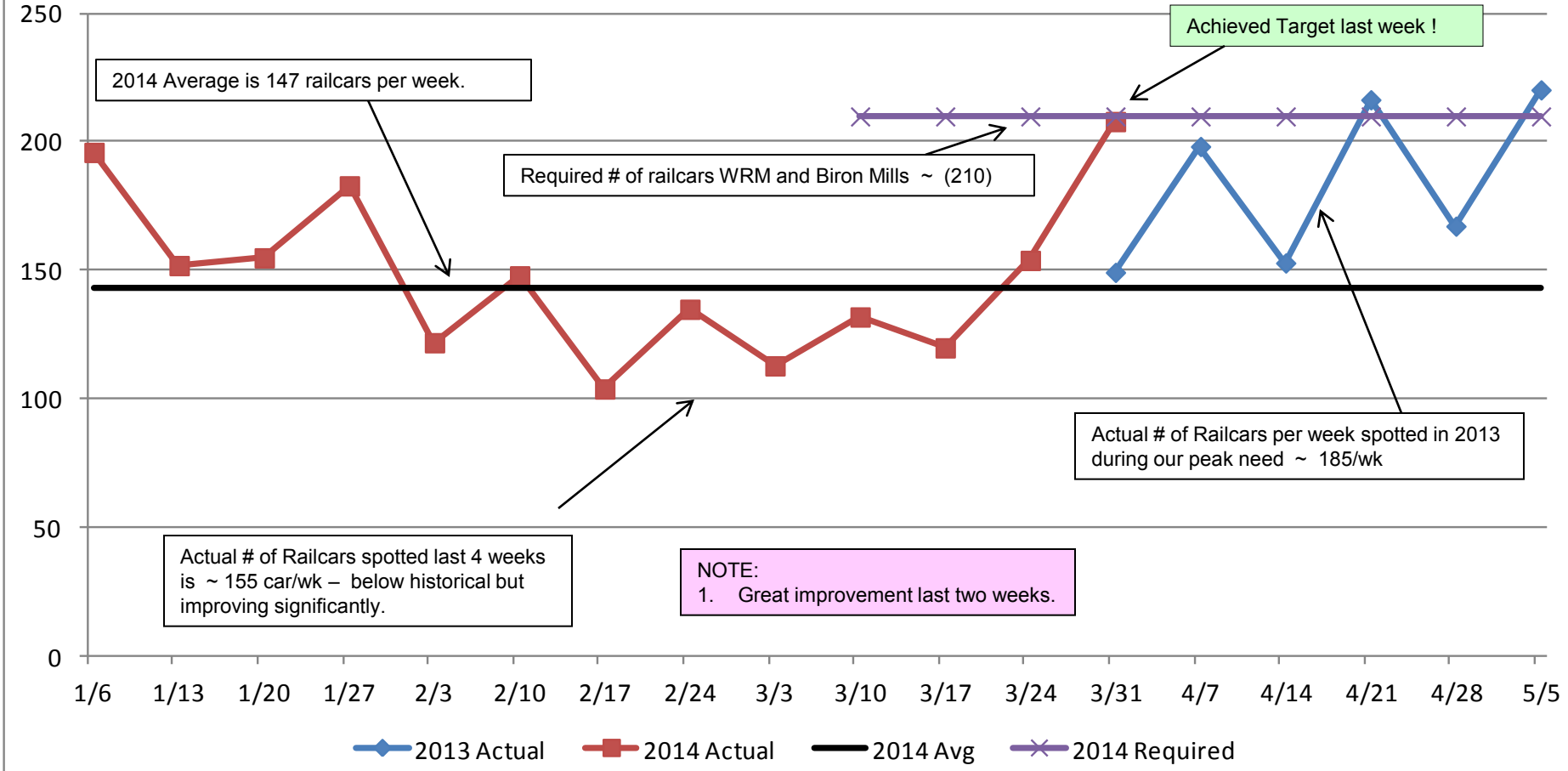


Locations

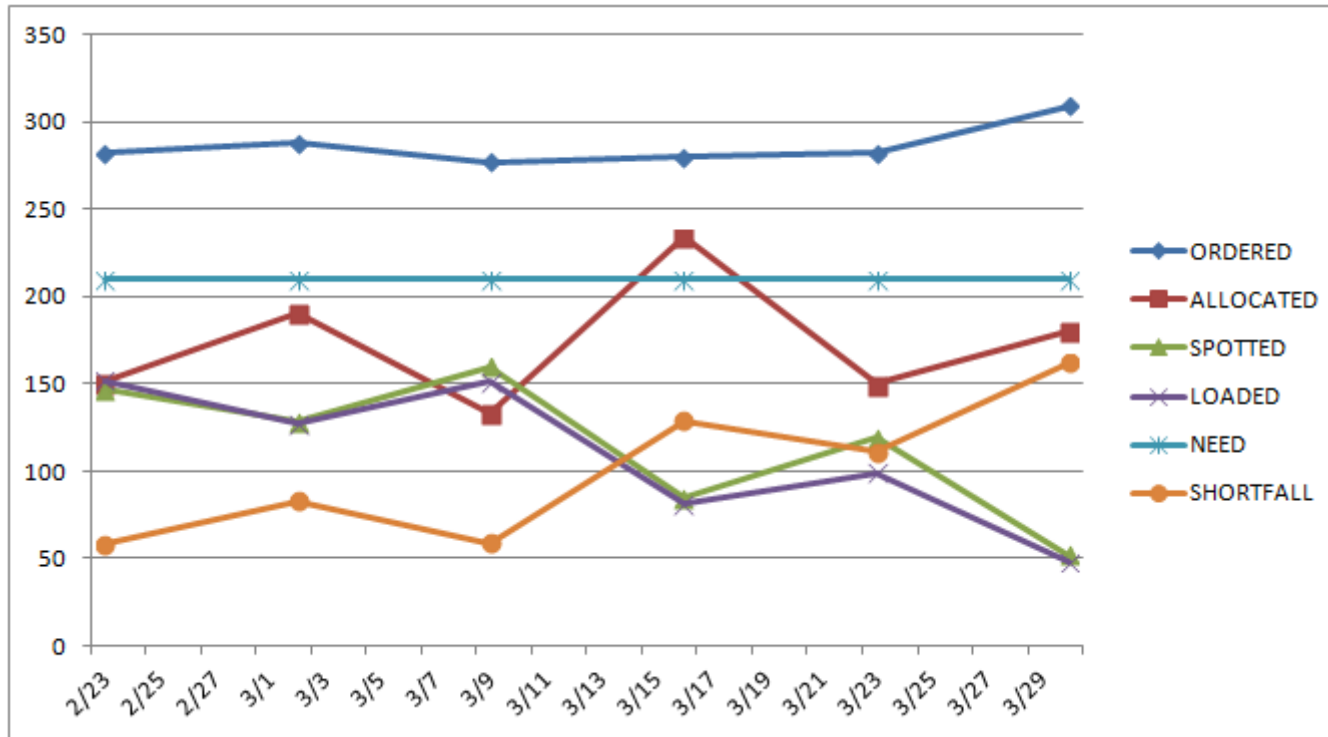
- CN – Escanaba, MI
- CN – Wisconsin Rapids, WI
- CN – Biron, WI
- CN – Stevens Point, WI
- CN – Wickliffe, KY
- CN – Chicago Heights, IL
- BNSF – Duluth, MN
- CSXT – Luke, MD
- ST – Rumford, ME



Railcars Delivered per Week - Central WI Mills



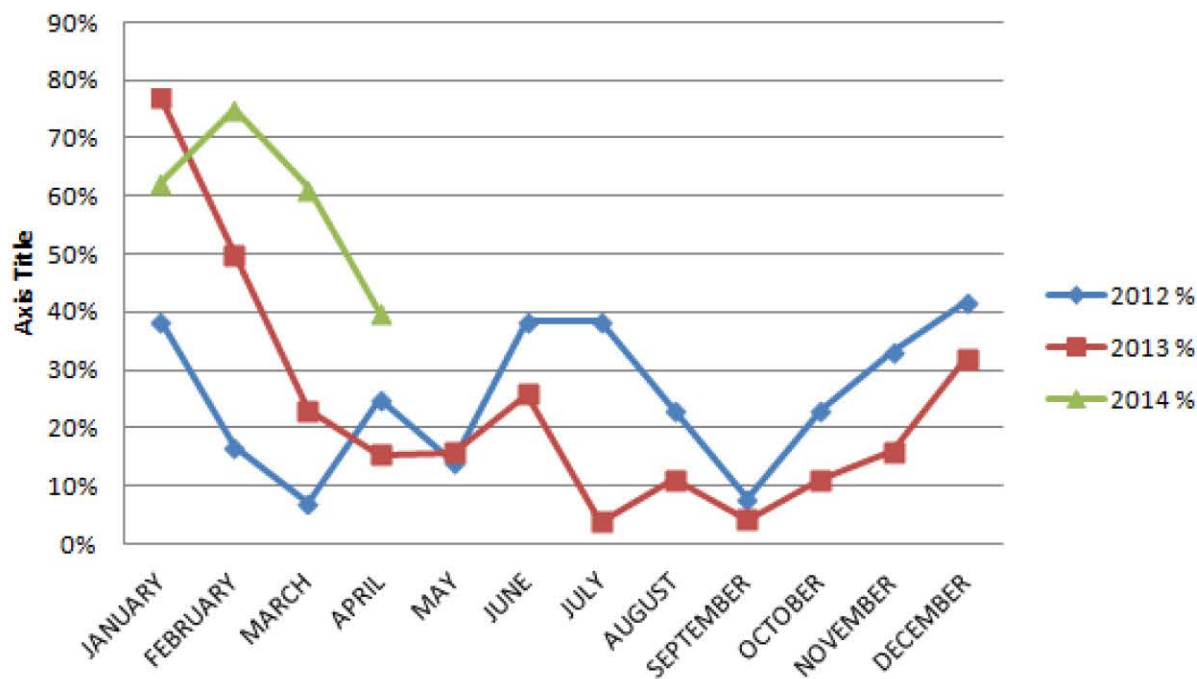
Log Landings Car Order/Placement



Gave official shutdown notice to CN on Feb. 25, 2014, for all Wisconsin mills on April 27th. Due to decreased service since notice, the date has moved up to April 17th.

| | ORDERED | ALLOCATED | SPOTTED | LOADED | NEED | SHORTFALL |
|------|---------|-----------|---------|--------|------|-----------|
| 2/23 | 282 | 151 | 147 | 152 | 210 | 58 |
| 3/2 | 288 | 191 | 128 | 127 | 210 | 83 |
| 3/9 | 277 | 133 | 160 | 151 | 210 | 59 |
| 3/16 | 280 | 234 | 85 | 81 | 210 | 129 |
| 3/23 | 282 | 150 | 119 | 99 | 210 | 111 |
| 3/30 | 309 | 180 | 52 | 48 | 210 | 162 |

**Chicago Heights, IL
Missed Switch Percentage**



| Missed Switches | | | |
|-----------------|------|------|------|
| | 2012 | 2013 | 2014 |
| JANUARY | 38% | 77% | 63% |
| FEBRUARY | 17% | 50% | 75% |
| MARCH | 7% | 23% | 62% |
| APRIL | 25% | 15% | 40% |
| MAY | 14% | 16% | |
| JUNE | 38% | 26% | |
| JULY | 38% | 4% | |
| AUGUST | 23% | 11% | |
| SEPTEMBER | 8% | 4% | |
| OCTOBER | 23% | 11% | |
| NOVEMBER | 33% | 16% | |
| DECEMBER | 42% | 32% | |

NewPage Duluth, MN

- Car Supply
 - 50' box car
 - Lack of car supply; nearly cut in half compared to our need
 - Issue with high percentage of rejects in the fleet
- Mill has decreased outbound rail shipments by 40% due to lack of car supply
 - Traditionally a 90% rail mill
 - Currently a 50% rail mill

Appendix

Car Order/Placement Wisconsin for “Loggers”

| 23-Feb | | | | | | | |
|--------------|------------|------------|------------|------------|-------------|------------|-----------------------------------|
| LOCATION | ORDERED | ALLOCATED | SPOTTED | LOADED | DELTA | NEED | SHORTFALL FROM SHUTDOWN AVOIDANCE |
| Ashland | 30 | 6 | 5 | 5 | -25 | | |
| Fifield | 65 | 25 | 44 | 44 | -21 | | |
| South Itasca | 75 | 75 | 47 | 47 | -28 | | |
| Gulliver | 30 | 15 | 8 | 8 | -22 | | |
| Ladysmith | 45 | 15 | 17 | 17 | -28 | | |
| Stanbery | 12 | 3 | 14 | 14 | 2 | | |
| Somerset | 0 | 0 | 0 | 0 | 0 | | |
| Spur D-15 | 25 | 12 | 12 | 17 | -8 | | |
| TOTAL | 282 | 151 | 147 | 152 | -130 | 210 | 58 |
| 2-Mar | | | | | | | |
| LOCATION | ORDERED | ALLOCATED | SPOTTED | LOADED | DELTA | NEED | SHORTFALL FROM SHUTDOWN AVOIDANCE |
| Ashland | 30 | 15 | 18 | 18 | -12 | | |
| Fifield | 60 | 40 | 31 | 31 | -29 | | |
| South Itasca | 75 | 75 | 19 | 19 | -56 | | |
| Gulliver | 30 | 15 | 18 | 18 | -12 | | |
| Ladysmith | 45 | 21 | 22 | 14 | -31 | | |
| Stanbery | 23 | 12 | 5 | 5 | -18 | | |
| Somerset | 0 | 0 | 0 | 0 | 0 | | |
| Spur D-15 | 25 | 13 | 15 | 22 | -3 | | |
| TOTAL | 288 | 191 | 128 | 127 | -161 | 210 | 83 |

Car Order/Placement Wisconsin for “Loggers”

| 9-Mar | | | | | | | |
|--------------|------------|------------|------------|------------|-------------|------------|-----------------------------------|
| LOCATION | ORDERED | ALLOCATED | SPOTTED | LOADED | DELTA | NEED | SHORTFALL FROM SHUTDOWN AVOIDANCE |
| Ashland | 30 | 15 | 17 | 17 | -13 | | |
| Fifield | 60 | 30 | 42 | 28 | -32 | | |
| South Itasca | 75 | 37 | 36 | 20 | -55 | | |
| Gulliver | 30 | 20 | 19 | 32 | 2 | | |
| Ladysmith | 45 | 15 | 14 | 22 | -23 | | |
| Stanbery | 12 | 5 | 6 | 6 | -6 | | |
| Somerset | 0 | 0 | 0 | 0 | 0 | | |
| Spur D-15 | 25 | 11 | 26 | 26 | 1 | | |
| TOTAL | 277 | 133 | 160 | 151 | -126 | 210 | 59 |
| 16-Mar | | | | | | | |
| LOCATION | ORDERED | ALLOCATED | SPOTTED | LOADED | DELTA | NEED | SHORTFALL FROM SHUTDOWN AVOIDANCE |
| Ashland | 30 | 16 | 7 | 7 | -23 | | |
| Fifield | 65 | 65 | 15 | 15 | -50 | | |
| South Itasca | 75 | 75 | 34 | 18 | -57 | | |
| Gulliver | 30 | 25 | 8 | 17 | -13 | | |
| Ladysmith | 45 | 21 | 0 | 0 | -45 | | |
| Stanbery | 10 | 7 | 6 | 11 | 1 | | |
| Somerset | 0 | 0 | 0 | 0 | 0 | | |
| Spur D-15 | 25 | 25 | 15 | 13 | -12 | | |
| TOTAL | 280 | 234 | 85 | 81 | -199 | 210 | 129 |

Car Order/Placement Wisconsin for “Loggers”

| 23-Mar | | | | | | | |
|--------------|------------|------------|------------|-----------|-------------|------------|-----------------------------------|
| LOCATION | ORDERED | ALLOCATED | SPOTTED | LOADED | DELTA | NEED | SHORTFALL FROM SHUTDOWN AVOIDANCE |
| Ashland | 30 | 14 | 18 | 18 | -12 | | |
| Fifield | 65 | 30 | 47 | 31 | -34 | | |
| South Itasca | 75 | 30 | 19 | 19 | -56 | | |
| Gulliver | 30 | 24 | 20 | 26 | -4 | | |
| Ladysmith | 45 | 21 | 0 | 0 | -45 | | |
| Stanbery | 12 | 6 | 5 | 5 | -7 | | |
| Somerset | 0 | 0 | 0 | 0 | 0 | | |
| Spur D-15 | 25 | 25 | 10 | 0 | -25 | | |
| TOTAL | 282 | 150 | 119 | 99 | -183 | 210 | 111 |
| 30-Mar | | | | | | | |
| LOCATION | ORDERED | ALLOCATED | SPOTTED | LOADED | DELTA | NEED | SHORTFALL FROM SHUTDOWN AVOIDANCE |
| Ashland | 30 | 24 | 10 | 0 | -30 | | |
| Fifield | 65 | 34 | 0 | 0 | -65 | | |
| South Itasca | 75 | 38 | 22 | 11 | -64 | | |
| Gulliver | 50 | 36 | 15 | 12 | -38 | | |
| Ladysmith | 45 | 17 | 0 | 10 | -35 | | |
| Stanbery | 19 | 6 | 0 | 0 | -19 | | |
| Somerset | 0 | 0 | 0 | 0 | 0 | | |
| Spur D-15 | 25 | 25 | 5 | 15 | -10 | | |
| TOTAL | 309 | 180 | 52 | 48 | -261 | 210 | 162 |