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April 8, 2021

VIA E-FILING

Martin J. Oberman, Chairman
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

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Public Record

Re: Status of December 2020 Appeal of Director's Decision to Deny Request by
Trinity Industries, Inc. for Access to Select Data from the 2019 Confidential
Carload Waybill Sample and for Renewed Access to Prior Years'
Data (WB20-50)

Dear Chairman Oberman,

On December 11, 2020, nearly four months ago, on behalf of Trinity Industries, Inc. ("Trinity"), a railcar manufacturer and provider of railcar-related services, we filed an appeal with the Surface Transportation Board (the "Board") of a decision by the Director of the Board's Office of Economics (the "Director").¹ While the Board is not obligated to act on such an appeal within a specific timeframe, in light of the unique circumstances at issue in Trinity's appeal, as summarized below, we write today to inquire as to the status of this appeal.

The subject of the appeal was the Director's denial of Trinity's October 2020 request for (1) permission to access selected data fields from the confidential Carload Waybill Sample ("CCWS") for 2019, and (2) permission to maintain continued access to comparable data from the CCWS for 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017 and 2018, which the current Director and prior Directors had granted to Trinity on sixteen occasions over the past several years.²

¹ Letter from John B. Totaro, Jr. to Ann D. Begeman, Chairman, re *Appeal of Director's Decision to Deny Request by Trinity Industries, Inc. for Access to Select Data from the 2019 Confidential Carload Waybill Sample and for Renewed Access to Prior Years' Data (WB20-50)* (December 11, 2020).

² Letter from William Brenner to John B. Totaro, Jr. (December 4, 2020) (Waybill Request WB20-50). See Letter from John B. Totaro, Jr. to William Brennan (October 13, 2020) *and* Waybill Agreements WB605, WB605-1, WB605-2, WB605-3, WB605-5, WB605-6, WB605-7, WB605-8, WB605-9, WB605-10, WB605-11, WB605-12, WB17-04, WB17-51, WB18-33 and WB19-58.

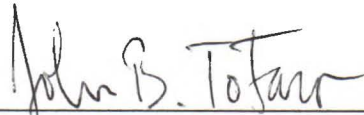
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We believe that the substantive arguments presented in Trinity's appeal support an affirmative decision by the Board. Moreover, in the event that the Board were to view particular CCWS data fields included in Attachment A of Trinity's October 2020 request as potentially problematic, the appeal asked the Board to provide an opportunity for Trinity to submit an amended version of its request that excludes those fields.

However, since filing its appeal late last year, Trinity has been in limbo, not knowing whether it will be able to continue the important and legitimate research that it has conducted for many years using data from the CCWS, research which it cannot conduct using data from the public use file. As Trinity explained in its appeal, the commodity and geographical information in the CCWS significantly increases Trinity's ability to adapt its railcar manufacturing, management and other related operations to more effectively respond to, and in some instances anticipate, carrier and shipper needs in the North American rail industry.

We urge the Board to issue a decision in response to Trinity's appeal. If such action is not imminent, we respectfully request that the Board advise Trinity, via the undersigned, as to when it expects to issue a decision.

Sincerely,



John B. Totaro, Jr.
Counsel to Trinity Industries, Inc.

cc: William Brennan, Director
(via Email to: alexander.dusenberry@stb.gov)