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May 9, 2022  
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**SURFACE TRANSPORTATION BOARD**

**Ex Parte 711 (Sub-No. 1)**

**Summary of Ex Parte Meeting between Railco Repair of Illinois, LLC. and Surface Transportation Board**

**Member Patrick Fuchs**

**May 2, 2022**

Railco Repair of Illinois, LLC.:

- Jennifer Null, Business Development/Customer Relations Manager
- Larry McGlumphy, Operations Manager – Wisconsin

STB Attendees:

- Patrick Fuchs, Member
- Lisa Novins, Attorney Advisor

Summary:

Railco spoke with Member Fuchs to bring attention to our New Auburn, Wisconsin facility. Railco explained that it is serviced by Progressive Railroad (PGR) who is operates as Wisconsin Northern, over track that is leased from Union Pacific (UP). This line runs 37.3 miles from Norma, WI. to Cameron, WI. Railco is approximately 5 miles from Cameron. Wisconsin Northern has a 30-year lease agreement including an interchange commitment with financial incentives that only one Class 1 railroad is allowed to service Wisconsin Northern, which is Union Pacific. Railco explained that this has caused Railco operational issues from receiving inbound and outbound cars. Shippers on Wisconsin Northern only have one way in and one way out, this is on the South end in Norma, WI, connected to Union Pacific.

Railco brought to Member Fuchs' attention that 232ft of track has been pulled up and declared out of service just south of the CN interchange in Cameron, WI. Railco has reached out to PGR about restoring the interchange with no luck thus far. Railco brought to PGR's attention the commodities we are trying to bring in on CN and why we needed this interchange open. PGR stated it is not a conflicting commodity. Railco is assuming that PGR's concern is if they engage with us, it would jeopardize their lease with Union Pacific.

Member Fuchs pointed out two potentially challenging issues and emphasized the importance to the Board of hearing the issues Railco is facing. Member Fuchs discussed the existence of an interchange commitment and relationship between the operator and the line owner, and he mentioned Board precedent that examined existing interchange commitments. He also noted that it's not clear whether this location would be eligible for a switch, which is closely tied to issues being actively debated in the docket.

Concluding with Member Fuchs, Railco thanked him for taking the time to speak with us in regards to our situation. Member Fuchs appreciated us bringing this to his attention and is looking forward to bringing the challenge before the board.

# BEFORE THE SURFACE TRANSPORTATION BOARD

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## Docket No. EP 711 (Sub-No.1) RECIPROCAL SWITCHING

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### TESTIMONY OF RAILCO REPAIR OF ILLINOIS LLC

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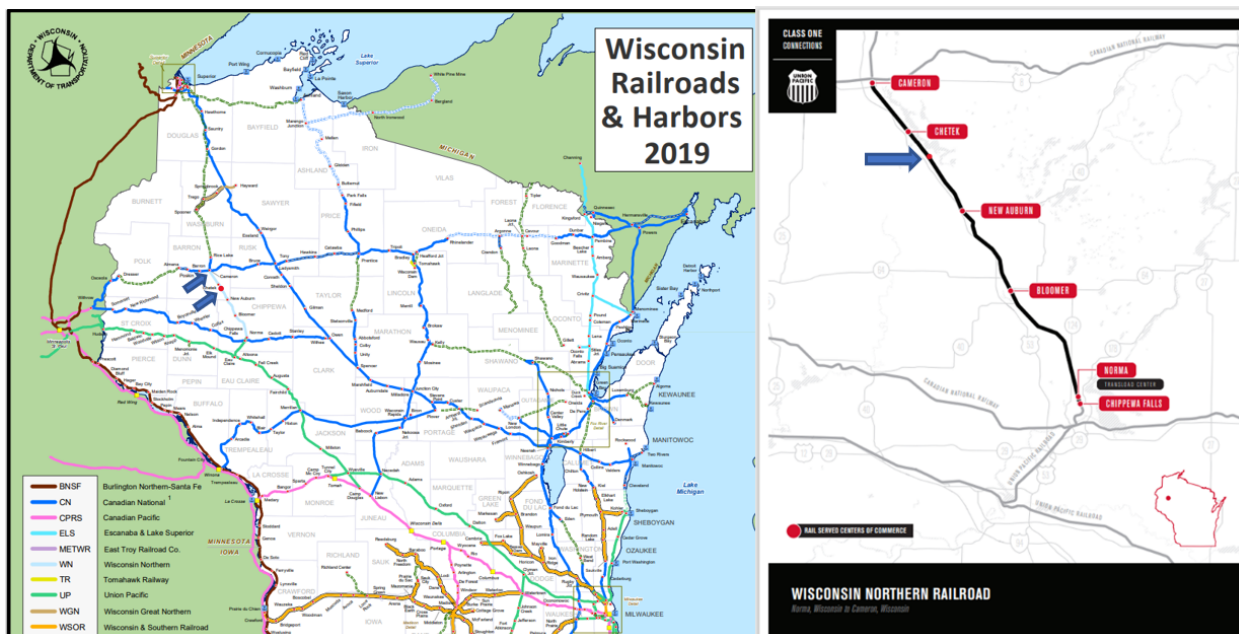
#### I. Introduction

**Brief Introduction of who we are...**Chairman Martin Oberman, Vice Chair Michelle Schultz, and Members Patrick Fuchs, Karen Hedlund, and Robert Primus thank you for providing this opportunity to testify before you and regarding RAILCO Repair of Illinois LLC's Wisconsin located at 512 County Hwy SS, New Auburn, WI 54757.

Speakers are Mark Duke, who is its CEO/President, and Larry McGlumphy, who is its Operations Manager of the Wisconsin facility. Jennifer Null – Business Development Manager.

Larry will be presenting and answering the Board's questions.

#### II. Before we dive in, let us review where we are on the map...



### III. In the beginning...important background information

**October 2001**, Wisconsin West Rail Transit Authority (WWRTA) was created, Barron County Resolution No. 2001-53, after Canadian National (formerly Wisconsin Central) filed for abandonment of the line from Ladysmith to Almena, including the branch line from Cameron to Rice Lake, permitting the removal of tracks and disposition of right-of-way. No filings or decisions supporting this were found with STB; exception of February 2014 Environmental Assessment - abandonment exemption of Rice Lake area Milepost 55.2 to Milepost 56.0; Rails to Trails conversion of this area continues to be pursued, though not finalized.

WWRTA, supporting the rail interests of both Barron and Chippewa counties and residents, together with Barron County businesses still using the railways, joined forces to keep rail service to the area. Noted in Resolution No. 2001-53, the two specific sections of Cameron to Rice Lake, and Cameron to Almena should be "retained and refurbished, and the portion of rail from Bloomer to Cameron, not subject to abandonment, be refurbished." The Barron County Board of Supervisors, per Wisconsin Statutes 59.968, was granted authority "to acquire a transportation system and to operate and maintain it or lease it to any operator or contract for its use by any operator."

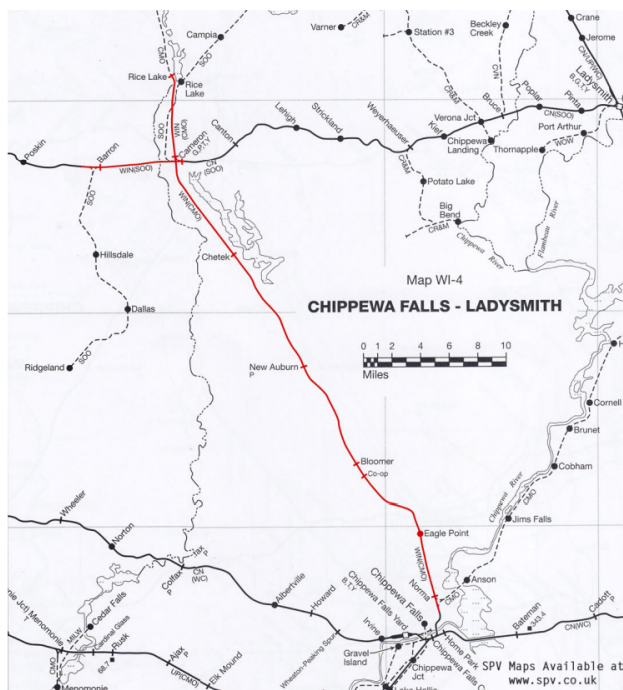
Over the next decade, WWRTA pursued the purchase of local rail lines from both Union Pacific (UP) and Canadian National (CN), hired Wisconsin Northern (WN/PGR), short line rail owned by Progressive Rail to operate the railway, secured funding for the purchase of and rehabilitation of rail lines in Barron and Chippewa Counties, and partnered with WisDOT in petitions to the Surface Transportation Board. All in effort to keep Barron County rail lines open while promoting business growth and future opportunities.

**In 2004**, local Barron County newspapers began reporting that WN/PGR would reopen the line from Chetek to Cameron, take over the line from Cameron to Rice Lake, and Cameron into Barron, with intentions of continuing service from Barron to Almena in the future. Tim Eklund, president of WN/PGR, said business arrangements were being finalized between them, Union Pacific, Canadian National and WWRTA. He said 'WN/PGR sees the Chippewa Falls to Rice Lake corridor as an outstanding business opportunity for his company. The tracks along the Barron and Chippewa county lines will need some updating and refurbishing. Trains have not run on the Chetek to Cameron line in about ten years. There are a number of communities with successful industries already located along the railway that will benefit from rail service.

#### **Rail service begins...**

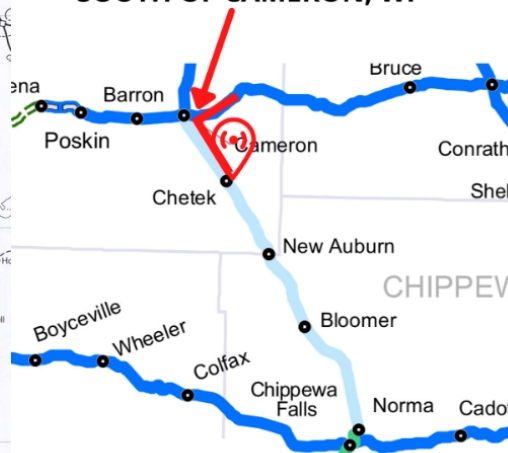
**November 23, 2004**, the WN/PGR. Operating on 50 miles of track in Barron and Chippewa Counties, the WN/PGR ran its first train. Running on leased trackage from the Canadian National Railroad and the Union Pacific Railroad, the WN primarily has inbound loads of turkey feed, fertilizer, lumber, plastic pellets, and poles.

**In 2010**, WisDOT received confirmation of Barron County's continued participation in the rehabilitation of the Rail Lines from Cameron to Barron, and Cameron to Rice Lake; also, a firm resolution of Barron County's financial commitment to provide matching funds as outlined the various grants and operating agreements. Total estimated project costs: \$5,133,700. Funding sources: WisDOT local match, \$2,683,700; Federal Rail Grant, \$2,450,000.



This is what the trackage of the WN looked like in 2010.

## REQUEST CN INTERCHANGE SOUTH OF CAMERON, WI



512 County Hwy SS,  
New Auburn, WI

**December 2011**, Years and years of effort, research, collaborations between Barron and Chippewa Counties and a dozen organizations and businesses, funding secured, permissions achieved, agreements completed; a virtual green light to go. And then, December 2011, Canadian National Railway told Barron County officials they were 'analyzing the business option of putting their rail lines back into service in Rusk and Barron counties. Not planning, just an analysis.' [Note: Frac sand boom]

**April 18, 2012**, Progressive Rail filed a verified notice of exemption to lease from Union Pacific Railroad Company (UP) and operate a 37.3-mile line of railroad between Milepost 49.0 at or near Cameron and Milepost 11.70 at or near Norma, in Barron and Chippewa Counties. Accord to PGR, PGR and UP have entered into a new Lease Agreement for PGR to lease the Line from UP; term of the new lease is 30 years.

Surface Transportation Board [Docket No. FD 35617] [FR Doc. 2012 – 10813 filed 5-3-12; 8:45 am] Billing Code 4915-01-P Jeffrey Herzig, Clearance Clerk.

**May 1, 2012**, decision: By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman. Vice Chairman Mulvey dissented with a separate expression. Vice Chairman Mulvey, dissenting:

I disagree with the Board's decision to allow a transaction containing a significant interchange commitment to be processed under the Board's class exemption procedures at 49 CFR part 1150. In general, the Board should be carefully scrutinizing transactions that include interchange commitments before deciding whether to permit them to go into effect.

The notice in this particular case does not allow me to conclude that the lease is consistent with the summarily—without any examination—that the lease is consistent with the public interest. 49 U.S.C. 100902(c). The notice asserts that there really are no competitive interchange options for PGR because the CN line that connects to the Line is not operational. Yet, disregarding this claimed reality, the lease nonetheless contains an interchange commitment with substantial economic rewards for PGR if it interchanges with UP. One has to wonder why such an economic incentive is necessary if there is little chance that PGR would interchange with CN in any event. The lease term is 30 years, which is far longer than

some other recent transactions involving paper barriers. Moreover, we do not know how many shippers will be affected what volume of traffic will be affected, or whether CN has plans to rehabilitate its connecting line. Nor do we know whether the 2004 lease that PGR and UP are currently operating under also included an interchange commitment and, if it did not, why such a provision became necessary eight years later. [Note: Between the years 2004 and 2012, the WN/PGR operated an interchange commitment at Cameron between the CN and UP connecting line.]

The Board needs to take a close look at long-term leases that have the potential to control the competitive environment for shippers—for years to come. At a time of far different economic circumstances in the railroad industry, our predecessor agency, the Interstate Commerce Commission, approved long-term leases and sales involving interchange commitments with little or no analysis. Years later, the Board is still grappling with the economic and competitive consequences of those transactions. [Note: Time to change...]

**August 2012**, CN released information on its \$35 million [a portion came from Federal Grant] project to restore 40 miles of track between Ladysmith and Barron. The Barron Subdivision connected to CN's North American rail network at Ladysmith. CN provides rail service to the new Superior Silica Sand plant in Poskin, and later to Source Energy Services Silica Sand plant located in Weyerhaeuser.

**August 1, 2014**, Now let us jump forward to the ground-breaking ceremony to build Northern Industrial Rail and Transload LLC. (Note: RAILCO purchased in 2020) Wisconsin State Senator Terry Moulton asked Mr. Larry McGlumphy if he thought that the railroad would support us (NIS). Mr. McGlumphy replied, "No." Mr. Lon Van Gemert, PGR Rep, seated with Mr. Jeremy Urlacher on the stairs, jumped up and proclaimed, "The answer is Yes!" Mr. McGlumphy responded by stating that was not his (28-years) experience from other locations across the country and his previous company converted several plants from rail to truck. Mr. McGlumphy pointed out to Mr. Lon Van Gemert's that his rail assurance, spoken in front of 15-witnesses, implied Progressive Rail would indeed support these sand plants. An assurance, Mr. McGlumphy said, "only time will tell..." [Note: As reported in local newspaper]

**June 7, 2019**, McFarland Cascade and Northern Industrial Sands ask Barron County Board of Supervisors for support to reconnect less than 300 feet of rail that was previously torn out.

**July 12, 2019**, prior to the Barron County Board of Supervisors meeting, a CN representee asked Barron County Chair and Administrator to drop the resolution for reconnecting the Chippewa to Cameron rail line.

**July 12, 2019**, Barron County Resolution No. 2019-19 unanimously approved on a vote of 8 – 0 to proceed. Whereas, the reconnection of this line has the support of other businesses and individuals, such as, Northern Industrial Sands, Shadow plastics, McFarland-Cascade, Synergy Cooperative, Chippewa Sand Company, Barron County Economic Development, Barron Electric, Town of Dovre, Rice Lake Weighting Systems, ABC Trust Company, to list a few. The Resolution was distributed to; US Senator Ron Johnson, US Senator Tammy Baldwin, US Representative Sean Duffy, the US Surface Transportation board, Governor Tony Evers, the State Commission of Rails, State Senator Janet Bewley, State Representative Romaine Quinn and Wisconsin Counties Association.

**July 16, 2019**, Northern Industrial Sands LLC's Special Project and General Manager requested a face-to-face meeting with President of Progressive Railroad. Prior to this written request PGR refused to speak to us and has been telling NIS COO to tell us to stop pursuing reconnection. After receiving this request, PGR telephoned Northern Industrial Sands COO and relayed the message the PGR could not speak to us.

**August 5, 2019**, another e-mail requesting that we talk about a significant amount of new organic business that would be gained by reconnecting lines. The Office of Railroads and a UP representative who does not want to be identified had telephoned PGR and suggested they speak to us.

**August 8, 2019**, the only conversation we were able to have with PGR. The conversation lasted 13 minutes. The following are excerpts taken from the telephone conversation:

@PGR...cannot have this conversation. It's not right, it's not appropriate

@PGR...Let's be crystal clear on that. I cannot be a voice for you – I cannot be part of press release. I cannot be a signature on whatever you're doing. I cannot and will not do that.

“@PGR: (Hesitation and pause) Uh, sure, I know the answer, but go ahead. Yeah, I know their stance on this. So, it's not good. I've been telling you that, I don't know, I guess do what you want, but it's – you're gonna really – it's not good what's going to come out of this for you guys – if, you know, it's just not good. You're asking them to open up a facility that was closed and was always meant to be closed.” [Note: not was filed with the STB in 2012]

**August 21, 2019**, meeting with Cheryl Schow UP Short-line Development Manager at Union Pacific Corporate Office, Omaha, Nebraska. Here we met with Cheryl Schow, and another UP rep. This meeting was to clear up rumors and to informally seek out truth about PGR/UP lease agreement since the President of Progressive Rail Line would not discuss how we could connect to the CN and reach designations which are not served by the UP. We asked them to help us understand why PGR would not discuss the possibilities of new business. We were told by PGR that he could not have a discussion with us, or he would lose his lease. PGR said could not even be in the same room with us. We repeated PGR's statements, “It's not right, it's not appropriate...I cannot be in the same meeting, or I would be breaking my lease.” I have been telling you to stop!” Cheryl Schow asked who we were talking to in PGR. We told her she seems genuinely surprised for who it was. Cheryl stated the lease agreement was confidential and that there were some sticky points within the agreement. NIS asked for an example for what would be a sticky point, but Cheryl said she could not answer and again due to confidentiality. We agreed. We asked Cheryl to speculate for a reason the CN would ask Barron County to drop the resolution for reconnecting the Chippewa to Cameron rail line. Cheryl said maybe out of fear.

Cheryl said the UP would not tell PGR that he could not talk to us. She said there are sticky points in the agreement. She said that NIS and others chose to build on this line and accepted the risk for market changes, she can't wait to see business plan. The plan had to be a win for all three parties. They can say no even if there is one small negative. PGR is a great innovative partner and brings business to them. PGR could have misinterpreted their agreement. We said we would be submitting a written plan and cc Energy Sales (we would also cc Cheryl). They said he had checked with legal, and it is up to PGR to run his business...Cheryl added that there are sticky points that PGR must adhere to. Cheryl said regarding rumors, somethings there may be a little truth in rumor but over time it may have become distorted. Prior there could have been UP and CN butting heads over this connection. Cheryl asked how we would feel if another sand company built in our backyard. NIS said, it would not be a problem because we need other sand producers to satisfy know demand. It is just like Lowes building across the street for a Home Depot. NIS said, if UP wanted it connected if would be connected. There are businesses closing their doors and business coming off this line and some in the railroads are not willing to consider adding new and replacement business.

Cheryl and UP rep asked if we had offered to pay for reconnecting the line. We explained that others would have to approve, but we believed it would not be a deal breaker.

Cheryl said, their legal team said PGR lease agreement is for the track and can run it as he sees fit. UP compared it to leasing a house; you can move the furniture around as you see fit, the only requirement is you must maintain the house in good order. AKA maintain the rail track.

**October 9, 2019**, information, and request letter sent to UP President and Chief Executive Officer Lance M. Fritz; PGR President WN/PGR David Fellon; and CN Chief Executive Officer JJ Ruest.

**October 18, 2019**, received response letters from Union Pacific Michael Fernen and Canadian National Railroad Kelly Levis. It is a *remarkable concurrence* that the UP and CN response letters were both written/dated on the same day.

UP's letter denied access based on the lack of demonstrated necessity for the connection and there are protocols already in place to interchange traffic to areas we need to get to and that these routing protocols are established based on the most efficient interchange of sizeable flows of manifest traffic between respective Class I railroad networks. [Note: these protocols cannot be used because of Commodity restrictions and are too expensive. Precision Railroading is not working for customers...]

CN's letter key denial stated, "Interchange is a matter negotiated between railroads. In this case, CN has received no inquiries from PGR regarding a Cameron interchange, and its ability to feasibly participate with CN in a joint-line movement of unit frac trains off the Norma Line appears economically questionable. In any event, any realistic discussion and consideration of a Cameron interchange would need to be initiated by PGR."

**October 25, 2019**, NIS sent a response to Michael Fernen – UP Senior Director – Short Line & Interline.

Here are the key points of the response: While we appreciate "UP shares (our) desire to grow business," your written response provided no indication or invitation for further discussion. Discussions have been, and remain, one of our highest objectives.

"Finding and validating new opportunities unable to use existing routing protocols," was the core of our original letter. Per our meeting in Omaha with Ms. Cheryl Schow, volumes and numbers were requested of new/expanding business on the lines, which we provided. If a more formal business plan is desired, please supply the template UP prefers customers to follow.

Additionally, we provided the "commercial interest that would justify reestablishing the connection," though perhaps the redacted names were displeasing – again, further conversation would have resolved this.

The UP's "position is based on the lack of demonstrated necessity for the connection," the paradigm of necessity was created when in-basin sand evolved as a solution to avoid escalating freight cost, and its serious effects on the national interest to revitalize the nation's oil and gas supply.

The "connection and the practicality of operating the connection" must align with the responsibility that comes as part of the national rail system, per U.S. Department of Transportation's mission: Serve the United States by ensuring a fast, safe, efficient, accessible, and convenient transportation system that meets our vital national interests and enhances the quality of life of the American people, today and into the future.

"The established routing protocols already in place to interchange traffic for movement between the areas" we are interested in reaching are \$2000 more per car than our competition pays. Revisiting route protocols for rail traffic from New Auburn to Superior via Ladysmith would provide additional access and thusly reduce rates to the desired and expanded destinations. Increased accessibility fosters railroads and shippers to provide competitive rates leading to higher volumes of traffic as customer bases grow.

“The practicality of operating the connection and given operational changes on this line, there are also concerns about how WN/PGR would operate to and from the connection and whether that operation would be practical”. To these points we remind UP that WN/PGR leased and operated both branch rails within the area of our request from 2004-2012. Unless the statement of ‘operational changes on this line’ is an ominous foreshadowing of WN/PGR’s intention to reduce or eliminate service on this line, it would seem that now, more than ever, this mutually beneficial effort to increase traffic and business on this line should be taken seriously and collaboratively studied in detail.

It is reasonable to expect we would take new and expanding business plans directly to and through our originating short line. PGR, however, refuses to speak directly to us. PGR has told us and others that his refusal to meet with us is based on the premise that UP would end his lease.

In summary, current routing protocols are not cost effective nor efficient, restricts competitive access to the marketplace, restrains growth, and requires support from our rail partners in this reconnection.

**November 13, 2019**, meeting with Michael Fernen, Sr. Director of UP Short Line & Interline – Marketing & Sales, and UP Sales Manager – Sales Energy.

Prior to the start of this meeting, Michael, and UP Sales Rep gained permission from McFarland Cascade to gain access and examine the <300 feet of track that was removed and that connects the UP with the CN (Project: Cameron Reconnection). Michael said McFarland Cascade has built on both sides of the mainline, it may take \$4-million dollars to ensure safety from a passing through mainline train.

We reframed Michael’s \$4-million dollar estimate by telling him that we had a rail engineering contractor to



review and supply a proposal at a significant fraction of the expense. We also said that we are discussing how McFarland Cascade could expand their operation at our transloading site.

We introduced our project to build-out Northern Rail and Transload facility and become a Northern Wisconsin and Upper Peninsula of Michigan’s transload ramp to the UP railroad. Michael’s response was if we become the ramp (if they help) would we still pursue the interchange access to the CN. Our reply was that becoming a ramp to the timber and agriculture industry would have top priority, and the Cameron Interchange would take a slightly lesser priority, but it would be strategically important for future growth; also, other business(es) needs should be considered. Diversifying and reducing volume volatility is paramount for all of us. ‘It’s not just about the volume and consistency of cars and products we ship today, but what is

shipped five years from now and beyond'. We also discussed how Northern Wisconsin companies and government such as Congressman Tom Tiffany, Senator Tammy Baldwin, Senator Ron Johnson, Wisconsin State Senator Bewley and other are supporting our efforts. We showed how our transload is strategically located and introduced our customer base and known WN/PGR volumes. We talked about other area transloads and their associated deficiencies that lack the ability to support such a large customer base. Michael stated it appears that *we have the volume and location*. We included how the CN's Brian Buchanan – Business Development area manager sent e-mails to the customers who attended the Great Lakes Timber Professionals Association (GLTPA) to discourage others from using our transloading facility and access to the UP. Michael asked what the cost would be to begin transloading. We said, for us it would only take obtaining a piece of mobile equipment to unload and load containers. We described a part of the preparedness work that has already taken place. We told him we had customers that want to load now!

Michael was going to take this new business initiative to the intermodal team.

**November 15, 2019**, PGR, left a voice mail and email for a new business opportunity which would ship railcar loads of water to western drought locations. Water train idea received stiff head wind from WDNR and others and never took hold. PGR sent other possibilities but now were actionable.

## IV. Current Refusal to Deal; Denied Access; Abuse of Market Power

**May 2, 2022**, due to an overpowering refusal to deal, we have to ask is there an agreement entered between CN and UP? Reference PGR statement, "You're asking them to open up a facility that was closed and was always meant to be closed." [Note: That is not was in the 2012 filing with the Surface Transportation Board, PGR specifically noted the new 30-year lease agreement between PGR/UP, does not impose an outright barrier to interchange between PGR and a carrier other than UP railroad. The interchange commitment requires a greater amount of rental payable depending on the extent of such interchange." The filing established, "that any disincentive to interchange traffic with carries other than UP resulting from such this interchange commitment is not absolute nor perpetual and would be more that counterbalanced by public benefits."].

We believe that any such agreement is suspect under the Interstate Commerce Act and might be considered an antitrust violation. Such an agreement may be even more clearly a violation of STB's order in Docket 34000 which adopted the CN/NIT League Agreement as a condition of CN's control of **Wisconsin Central Ltd** rail lines (WCL).

Note that Section 3(a) of the CN/NIT League Agreement applies "at shipper request". STB offers informal complaint procedures to facilitate resolution of the type of potential dispute with a Railroad or Railroads arising from denial of a request for service over the Cameron interchange. One approach we might take is requesting CN and/or UP provide a copy of any agreement regarding the Cameron interchange. This might better come in the context of a request to the STB for formal dispute resolution.

We are disappointed in how some industries are supporting limited rail access when it is self-serving. For example, Source Energy Services a Canadian company that is located on the Barron Subdivision connected to

CN's North American rail network at Ladysmith would not support the reconnection effort. Superior Silica Sand an American company located on this line also opposed the reopening to block competition.

It is our belief that limiting access only kills competitive, healthy, and sustainable business.

Shippers on WN/PGR only have one way in and one way out, this is on the South end in Norma, WI, connected to Union Pacific. Canadian National runs West (Barron, WI) to East (Tony, WI) with a north to south interchange in Ladysmith, WI. The rail located just south of the interchange with CN in Cameron, WI, 232 ft has been pulled up and declared out of service. Shippers are calling upon WN/PGR to interchange traffic with CN in Cameron. In 2019, Northern Industrial Sands, located in New Auburn, WI reached out to Canadian National regarding the interchange in Cameron. Kelly Levis of CN stated that "Any realistic discussion and consideration of a Cameron interchange would need to be initiated by PGR." (Levis) WN/PGR has disclosed they have an "interchange commitment in the form of an adjustment in the amount of rent payable each year, depending on the percentage of total traffic transported over the line that is interchanged with UP in that year" (Herzig, 26604). After shippers on the WN/PGR, voiced their opinion of not having the CN interchange to WN/PGR's PGR, in 2019, commented, "they would lose their lease by even talking to us for opening the line north to Cameron." Union Pacific has made it noticeably clear that is inaccurate information. The economic rewards Wisconsin Northern/Progressive Railroad gains from only interchanging with UP is profoundly affecting shippers on this line. Especially with taking into consideration the extremely long 30-year lease.

Rail rates have increased tremendously over the years. This has led multiple industries to stop rail service and depend solely on trucking; others have filed bankruptcy or closed their facilities. The fact of the matter is, if shippers use the rail on this line, there are zero competitive rates available. For RAILCO, trucking is not an option, we are rail dependent.

Shipping volumes will increase through this cross-directional growth. We know this because we have customers willing to sign contracts for new organic business on the line if it was open to bi-directions traffic. Traffic will balance between both Class 1 railroads as customers diversify their markets to capitalize on these new access points.

We understand these hearings are not an airing of grievances but a search for solutions, so allow me to provide some of our suggestions. In summary, reciprocal switching would be introducing desperately needed competition into the National Rail Network. Implementing reciprocal switching will be making the rail network more efficient by allowing captive shippers within a reasonable distance of a competing railroad to obtain better routes or better service. To quote Rob Benedict - Vice President, Petrochemicals and Midstream American Fuel & Petrochemical Manufacturers, "With well-thought-out reciprocal provisions in place, railroads would be faced with a simple decision, provide better service to rail shippers or risk losing business to a competitor. There never has been a time since the passage of Staggers Act that this remedy has been more needed." RAILCO strongly urges the STB to finalize the reciprocal switching proposal it is considering.

We believe that a free rail market cannot continue as it is now. Railroad consolidation has created a situation in which a handful of railroads dominate the market and railroads understand Wall Street needs to maximize profits has come into conflict with railroads' common carrier obligations. Shippers, are closing their doors because of access restriction, raising rates without justification, take it or leave it service issues, embargos, and fear of reprisal—we are reliving the era of robber barons of the 19<sup>th</sup> century. Rob Benedict could not have stated it better, "The Staggers Act was not intended to make

the railroads attractive investment targets on Wall Street; rather it was designed to “meet the demands of interstate commerce and the national defense.”

In closing, we need your *help*, consolidated railroads have a lot of mechanisms to prevent competitors to enter, and they use a variety of tactics to keep customers out—predatory pricing, paper barriers/contracts are restricting access, refusal to deal that we and others need to grow or close the doors. Several, business have closed.

We are losing obtainable business opportunities. Geographic location is paramount and unrestricted access to the ‘National Rail Network’. You can naturally move a business, but you cannot move natural resources or change the distance to customers.

Out of dire necessity, we need WN/PGR, UP, CN and STB to collaborate with new routing protocols to efficiently interchange traffic for customers, of this decade and moving forward. Utilizing the Cameron Interchange is a win for each railroad, customers (new and current!), and for the good of everyone.

We believe that as in deregulating the telecommunication networks by opening the first mile and last mile to customers could be applied to railroads.

Thank you for your time working to solve this very, critically important National interest.