

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

EX PARTE No. 775

GROWTH IN THE FREIGHT RAIL INDUSTRY

ENTERED
Office of Proceedings
September 12, 2024
Part of
Public Record

**SUPPLEMENT TO COMMENTS OF THE BROTHERHOOD OF MAINTENANCE OF
WAY EMPLOYEES DIVISION/IBT; BROTHERHOOD OF RAILROAD SIGNALMEN;
INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS
DISTRICT #19; INTERNATIONAL ASSOCIATION OF SHEET METAL, AIR, RAIL
AND TRANSPORTATION WORKERS MECHANICAL DIVISION; INTERNATIONAL
BROTHERHOOD OF BOILERMAKERS, NATIONAL CONFERENCE OF FIREMEN
AND OILERS/32BJ SEIU AND TRANSPORT WORKERS UNION OF AMERICA**

The Brotherhood of Maintenance of Way Employees Division/IBT; Brotherhood of Railroad Signalmen; International Association of Machinists and Aerospace workers District #19; International Association of Sheet Metal, Air, Rail and Transportation Workers/Mechanical Division, International Brotherhood of Boilermakers; National Conference of Firemen and Oilers/32BJ SEIU and Transport Workers Union of America (“Unions”) respectfully submit the Second Statement of BMWED President Tony Cardwell as further support for their comments in this docket.

As is explained by President Cardwell, BNSF management has notified BMWED that BNSF has made a series of substantial reductions in the Carrier’s 2024 capital maintenance plan. BNSF has cut off two Track Lifter/Undercutter gangs and two Surface Crew/High Speed tamping gangs and given them 5 day notices of furloughs in connection with these eliminations and deferrals of capital work. These reductions constitute \$105.435 million of deferred/eliminated capital work. BNSF management has acknowledged that these cuts will likely result in increased slow orders and service disruptions. This short-term cost-cutting not

only raises significant concerns for the safety, reliability, and long-term viability of BNSF's rail network, it also undermines any plan to encourage increased traffic on the BNSF system.

Respectfully submitted,

/s/Richard S. Edelman

Richard S. Edelman

Mooney, Green, Saindon, Murphy and Welch PC

1920 L Street NW, Suite 400

Washington, D.C. 20036

Tel: (202) 783-0010

Fax: (202) 783-6088

Counsel for Brotherhood of Maintenance of Way
Employees Division/IBT, Brotherhood of Railroad
Signalmen, International Association of Machinists and
Aerospace Workers District #19; International Association
of Sheet Metal, Air, Rail and Transportation Workers
Mechanical Division; International Brotherhood of
Boilermakers; National Conference of Firemen and
Oilers/32BJ SEIU; and Transport Workers Union of
America

August 16, 2024

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

EX PARTE No. 775

GROWTH IN THE FREIGHT RAIL INDUSTRY

**SECOND STATEMENT OF TONY CARDWELL, PRESIDENT BROTHERHOOD OF
MAINTENANCE OF WAY EMPLOYES DIVISION/IBT**

I am the President of the Brotherhood of Maintenance of Way Employees Division/IBT. I previously submitted a statement in this proceeding. This second statement concerns BNSF Railway Company's recently made additional cuts to its track, right of way and bridge maintenance program. Those cuts have been made in order to satisfy Berkshire Hathaway's demands that the railroad further reduce its operating ratio.

We have received an email from BNSF management, which outlines a series of substantial reductions to BNSF's 2024 capital maintenance plan. BNSF has cut off two Track Lifter/Undercutter gangs and two Surface Crew/High Speed tamping gangs and given them 5-day notices of furloughs in connection with these eliminations and deferrals of capital work. These reductions, totaling \$105.435 million, raise significant concerns for the safety, reliability, and long-term viability of the rail network. They are also inconsistent with a strategy of encouraging increased traffic on the BNSF system.

A. BNSF's Recent Cutbacks in Capital work

An email from Justin Lopez, BNSF, General Director Montana Division, details several key areas where BNSF management plans to eliminate or postpone planned and necessary infrastructure work in order to cut costs. A copy of that email is attached to this statement. The email describes the work that is being eliminated or postponed; it also explains how close to the bone BNSF is cutting and how it may be necessary to cut through the bone to satisfy Berkshire Hathaway. The email also candidly describes the problems and risks to the railroad as a result of eliminating or postponing previously scheduled work. The email states (bold in original):

Subject: 2024 reductions

The two TLUs and SC22 and SC35 were given their 5-day notice last Friday. Again, the entirety of the remaining TLU plans will be cut and below is a summary of what is staying and what is coming out of the HSS program.

I cannot stress how important managing your Division Capital now becomes as well as unit costs on the remaining plans. There is no room for adding to our capital plan this year so if overruns need to be covered, it will be done though offsetting.

May 2024 Capital Maintenance Reductions – \$105.435M

- **Structures - Ballard Bridge Reduction – \$20,000,000**
 - Defer is a natural plan change due to FRA delays. Costs will move to 2026 effectively.
- **Structures – Scales – \$3,785,000**
 - Defer Tulsa Scale Replacement aligning with master retarder replacement.
- **Ballast Reduction - HSS/SBC – \$35,900,000**
 - Eliminate 1200 miles of HSS/SBC.
 - Risk: Deterioration of surface conditions could result in increased slow orders. Shortest life span of capital maintenance process.
- **Ballast Reduction – TLU – \$35,000,000**
 - Eliminate 220 miles of TLU.
 - Risk: Deterioration of surface conditions could result in increased slow orders. More of a long-term impact as locations are past the point for surfacing gang repairs.
- **Track Measurement Reductions – \$2,750,000**
 - Defer 12 of 24 planed ODIN units, Differ 1 of 2 unattended THOR units and various other non-critical geo car enhancements/upgrades.
 - Risk: Direct OPEX impact to transportation. Slower ability to reduce train crew starts as we pull unattended geo car systems offline.
- **Work Equipment Reductions – \$6,000,000**
 - Defer purchase of 1 HRE, 2 Backhoes, 2 Adzer/Cribbers, 1 Bridge Crane and a Plasser UC.
 - Risk: Direct OPEX impact to engineering. Leased equipment increase potential to fill need as replacement equipment is differed.
- **Signal Replacement – Alliance Yd NX Project – \$2,000,000**
 - Defer Alliance Yd NX Project - controller system enhancements.
 - Risk: Longer dependency on outdated systems could have longer service disruptions as a result.

B. The Consequences of BNSF's Reductions in Planned Capital Work:

1. Deferral of Critical Structural Projects:
 - Ballard Bridge Reduction: A \$20 million project has been shifted to 2026. The deferral of this critical maintenance project poses potential risks to infrastructure integrity in the long term.
2. Reduction in Ballast and Track Maintenance:
 - High-Speed Surfacing (HSS) and Shoulder Ballast Cleaning (SBC) Reductions: BNSF plans to eliminate 1,200 miles of High-Speed Surfacing and Shoulder Ballast Cleaning, resulting in a \$35.9 million reduction. Ballast maintenance is vital for maintaining the subgrade, which supports the entire track structure. Deferred ballast maintenance leads to deteriorating track conditions, increased slow orders, and higher derailment risks, all of which threaten the safety of railroad operations.

- Track Lifter/Undercutter (TLU) Reductions: The company also intends to cut 220 miles of Track Lifter/Undercutter work, saving \$35 million. However, these machines are essential for maintaining track stability by removing and replacing deteriorated ballast. Delaying these activities will likely result in further degradation of track quality, increased slow orders, and the potential for more frequent derailments over time.
- 3. Delays in Work Equipment Procurement:
 - Deferral of Equipment Purchases: The plan also involves a \$6 million reduction in purchasing critical work equipment, including Hy-Rail Excavators, backhoes, adzer/cribbers, a bridge crane, and Plasser undercutter units. This deferral may force the company to lease older, less reliable equipment, increasing operating expenses and potentially reducing maintenance effectiveness.
- 4. Delay in Signal System Upgrades:
 - Alliance Yard NX Project: A \$2 million project to upgrade the controller systems at Alliance Yard has been deferred, extending reliance on outdated technology that could lead to more frequent service disruptions.

C. Risks Associated with These Reductions:

The planned reductions by BNSF pose significant risks to both the immediate and long-term safety and efficiency of the rail network. Deferring critical ballast and subgrade maintenance could lead to deteriorating track conditions, resulting in increased slow orders, derailments, and reduced operational efficiency. Ballast is not merely a track component; it is the foundation upon which safe railroad operations rest. Without a properly maintained ballast line, the entire track structure suffers, leading to faster degradation of ties and rails, more frequent repairs, and higher long-term costs. An example of the consequences of deferring ballast and subgrade work is what happened on UP's Winnemucca subdivision that serves Foster Poultry Farms; the fouled ballast prevented proper functioning of the signal system and resulted in numerous and continuing slow orders.

Furthermore, deferring the purchase of essential maintenance equipment will limit the railway's ability to perform necessary repairs in a timely and cost-effective manner. This could lead to greater reliance on leased equipment and outsourcing, increasing operational costs and impacting service quality.

D. The Broader Implications of BNSF's Strategy:

BNSF's decision to defer critical maintenance and infrastructure projects in pursuit of a lower operating ratio reflects a disturbing trend in the railroad industry. While short-term financial results may appear improved, the long-term consequences of such decisions are detrimental to the rail network's safety, reliability, operational efficiency, and capacity for increased traffic. Maintenance of way work is not discretionary; it is an ongoing requirement that should not be compromised for short-term financial gains.

The proposed cuts demonstrate that BNSF is prioritizing immediate cost savings over the necessary and continuing maintenance program that is fundamental to safe and effective railroad operations as well as the railroad's capacity for growth.

E. Conclusion:

I urge the Surface Transportation Board to consider the potential long-term consequences of BNSF's planned reductions in capital maintenance. The deferral of critical maintenance and investments threatens not only the future of the railroad but also public safety. And the elimination and postponement of this infrastructure work belies BNSF's contentions that it seeks to increase traffic on its lines. It is essential to address these concerns to ensure that our nation's rail infrastructure remains safe, reliable, and capable of supporting the needs of our economy.

A handwritten signature in black ink, appearing to read "Tony Cardwell". The signature is fluid and cursive, with a large initial "T" and a stylized "C".

Tony Cardwell, BMWED President

From: "Lopez, Justin E" <Justin.Lopez@bnsf.com>

Date: May 14, 2024 at 6:17:37 AM MDT

To: OPR DL Montana Engr Mgrs <OPRDLMontanaEngrMgrs@bnsf.com>

Subject: 2024 reductions

The two TLUs and SC22 and SC35 were given their 5 day notice last Friday. Again the entirety of the remaining TLU plans will be cut and below is a summary of what is staying and what is coming out of the HSS program.

I cannot stress how important managing your Division Capital now becomes as well as unit costs on the remaining plans. There is no room for adding to our capital plan this year so if overruns need to be covered, it will be done though offsetting.



May 2024 Capital Maintenance Reductions – \$105.435M

- **Structures - Ballard Bridge Reduction – \$20,000,000**
 - Defer is a natural plan change due to FRA delays. Costs will move to 2026 effectively.
- **Structures – Scales – \$3,785,000**
 - Defer Tulsa Scale Replacement aligning with master retarder replacement
- **Ballast Reduction - HSS/SBC – \$35,900,000**
 - Eliminate 1200 miles of HSS/SBC.
 - Risk: Deterioration of surface conditions could result in increased slow orders. Shortest life span of capital maintenance process
- **Ballast Reduction – TLU – \$35,000,000**
 - Eliminate 220 miles of TLU.
 - Risk: Deterioration of surface conditions could result in increased slow orders . More of a long term impact as locations are past the point for surfacing gang repairs.
- **Track Measurement Reductions – \$2,750,000**
 - Defer 12 of 24 planed ODIN units, Differ 1 of 2 unattended THOR units and various other non-critical geo car enhancements/upgrades
 - Risk: Direct OPEX impact to transportation. Slower ability to reduce train crew starts as we pull unattended geo car systems offline.
- **Work Equipment Reductions – \$6,000,000**
 - Defer purchase of 1 HRE, 2 Backhoes, 2 Adzer/Cribbers, 1 Bridge Crane and a Plasser UC.
 - Risk: Direct OPEX impact to engineering. Leased equipment increase potential to fill need as replacement equipment is differed.
- **Signal Replacement – Alliance Yd NX Project – \$2,000,000**
 - Defer Alliance Yd NX Project - controller system enhancements
 - Risk: Longer dependency on outdated systems could have longer service disruptions as a result.



Justin Lopez

Cell 940-447-2490