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SURFACE TRANSPORTATION BOARD
UNITED STATES DEPARTMENT OF TRANSPORTATION

Ex Parte No. 582

MAJOR RAIL CONSOLIDATIONS
PRESENT, FUTURE STRUCTURE OF NORTH AMERICAN RAIL INDUSTRY

WRITTEN COMMENTS SUBMITTED BY
THE STATE OF OREGON
THROUGH ITS
DEPARTMENT OF TRANSPORTATION

ENTERED
Office of the Secretary
FEB 29 2000
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INTRODUCTION

My name is Claudia L. Howells, Manager of the Oregon Department of Transportation's Rail Division. I am authorized to submit this Verified Statement on behalf of the State of Oregon (Oregon) and the Oregon Department of Transportation (ODOT). ODOT has been designated by John Kitzhaber, M.D., Governor of Oregon, and Oregon Statute, to represent shippers, port districts, local governments and the public generally in this proceeding.

I have been employed by ODOT since January 1, 1996. I was previously employed, with the similar responsibilities, by the Oregon Public Utility Commission for 11 years. I have participated in numerous proceedings before the Interstate Commerce Commission and the Surface Transportation Board.

The State of Oregon (Oregon) commends the Surface Transportation Board (STB) for bringing the issue of the future of the nation's railroad system to a hearing. We also appreciate the opportunity to submit comments in this very important proceeding. Railroads represent a necessary part of the U.S transportation system and we, as representatives of the public, have an obligation to ensure that their future is solid.

Recent Effects of Railroad Consolidations

It is difficult to speculate on the potential effects of yet another major railroad merger without reviewing the effects of recent railroad mergers. We find little in the way of true public benefit, at least to date, about any of the recent mergers. None have gone without some damage to railroad customers, and in some cases significant damage to railroad customers. Some have been less problematic, but it would be difficult for any of the Class I railroads to prove that promises made to states, to the public and to their customers have been kept. It maybe useful to review the promises that seem to be typical in all merger applications.

Single line service reduces transit time and opens new market opportunities.

Single line service seems to be a major selling point for all of the mergers, and is frequently considered to be the benefit that mitigates any loss of competition. If indeed this were actually true, it would make perfect sense to have one railroad. The fact is, transit times are influenced far more by the capacity and efficiency of the terminals than by the color of the locomotives. Transit times are not appreciably better now on any of the Class I railroads than before the mergers, suggesting that the creation of big, seamless systems does not dramatically change the actual operation of the railroad.

We have been able to find no evidence that single line service has opened new markets to Oregon producers. In fact, mergers have in some cases caused railroads to prefer certain gateways, thereby restricting markets for some shippers. Within the month, ODOT will begin the process of updating its Rail Freight Plan. Part of the scope of work includes an in-depth analysis of how the mergers have affected markets available to

Oregon producers. We will share that information with the Board at the study's conclusion.

Merger will take trucks off the road. This is a commitment used to persuade governors and directors of state transportation agencies, who are faced with highway congestion and infrastructure deficiencies. There is absolutely no evidence that a single truckload has moved to rail because of any recent merger. We believe that quite the opposite has occurred. Certainly, service problems experienced by the railroads have diverted business to trucks, but we also believe that the railroads are managing capacity by discouraging business.

All of the railroads continue to concentrate on the business that costs the least to handle. There is a strong preference for terminal-to-terminal moves of bulk commodities, such as coal and grain, that in many cases are captive to rail. Diverting traffic off the highway system will take a very different marketing effort than we now see from any of the Class I railroads.

Mergers will create cost-saving efficiencies. There may be some truth to this, but cost-savings have not translated into rate reductions for customers. Also, the "efficiencies" have, in our opinion, compromised service and safety. All of the mergers have resulted in the loss of middle managers, which we believe could well damage the industry for years to come. Experience and institutional memory seem to have no value. More and more, we are dealing with railroad managers who are stretched almost to the point of breaking. Railroading is not an industry that can sustain that kind of working environment without having dangerous consequences

Mergers will increase economic opportunity for states. This appears to be true only in locations served by two Class I carriers. For states like Oregon, with much of the state served by captive short lines, the lack of competitive rail service has become an obstacle to rural redevelopment. Neither railroad serving Oregon has demonstrated any interest in quoting rates that would help attract new industry.

Concerns About Future Restructuring

We, along with many Oregon shippers and Oregon ports, are as concerned as the Class I railroads not involved in the most recent merger proposal. It is with enormous trepidation that we face the possibility of another service trauma. We also know that even while the other railroads are expressing concern, they have been in quiet discussions to do exactly the same thing. The BNSF and the CN are in a better position, at the moment, to make the next move. Do not be fooled into thinking that the other railroads believe we have reached the optimal number of railroads

What is the perfect number? Someone suggested to us recently that the perfect number of Class I railroads is ONE. Solves all of the problems: no need to worry about competitive access; single line service everywhere in North America; tremendous cost-savings on locomotive paint. The real question, though, is how can the Board stop this next merger, or the next, or the next, given the current law? It is no longer, "How do these mergers benefit the public?" It is, "How do we, the Board, mitigate the damage done to the public?"

This is a particularly critical time for the nation's transportation system. The public, and Congress, appears to have a renewed and exciting interest in both passenger and freight rail. The needs of the public highway system are spiraling upward. There is everything to indicate that the railroads have a tremendous opportunity to genuinely grow business. But what we see is an industry that appears to fear success, resist change, and now, become as remote as possible from its government and its customers.

We see nothing in future mergers that will help the short line railroads. In Oregon, we are seeing the first of what we predicted would be post-merger casualties. The combination of the service problems and the benign neglect by the Class I partners are forcing short lines to embargo or abandon lines. We fear the great success stories of the short line railroad industry may soon end, not for lack of business, but because of

huge infrastructure needs. We will add that we have seen no genuine effort on the part of the Class I railroads to fulfill the agreement between them and the short lines.

We see nothing in future mergers that will contribute to the nation's passenger rail system. Mergers tend to do two things: substantially increase traffic in some corridors and, at the same time, substantially decrease traffic in others. Existing passenger trains take the brunt of congestion, and new trains are difficult to add. Corridors with less traffic will tend to see less capital investment and a lower level of maintenance, which means that new passenger service in those corridors becomes very costly.

Government's Responsibility Towards Railroads

Underlying the discussion before you is the essential question that ultimately must be decided by the Congress. What is government's responsibility in the future of the railroad industry? How does government best protect the public interest? It is a difficult and complex problem.

Railroads are, for the most part, private concerns. They pay taxes, they employ thousands of American workers, and they are as regulated as any American industry. Unlike other American businesses, they can not move their work, or their workers, offshore. As a form of transportation, railroading is the least environmentally invasive of any transportation mode. They receive almost nothing in the way of public subsidy or assistance. Yet, they represent a vital national resource, critical to the nation's economy, defense and quality of life. It is that fact that argues for a strong and supportive role for government.

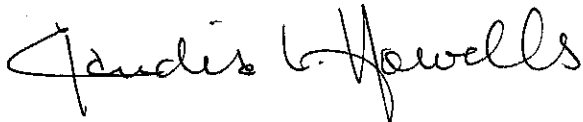
Government, both federal and state, must provide stewardship over this most important resource. Today, one federal agency regulates for economic purposes, the other for safety. Neither has a clear mission to protect the system for the long- and short-term benefit of the public. The railroad system needs a buffer to protect it from Wall Street's pressure to turn an easy profit. Wall Street's recent criticism of the BNSF for

investing in capital improvements is clearly contrary to sound public policy and sound financial management. Railroads need a level playing field in a very competitive transportation marketplace. Having said that, though, railroads need to be reminded that they coexist with communities, affecting our air quality, watersheds and our quality of life.

CONCLUSION

Again, the State of Oregon and the Oregon Department of Transportation thanks the Board for this opportunity to discuss the future of the railroad industry. We also extend our invitation to continue this discussion in a hearing located in the western United States. We submit that this should not be the end of the discussion, but rather the beginning.

Respectfully submitted by,

A handwritten signature in black ink, reading "Claudia L. Howells". The signature is written in a cursive style with a large, stylized initial 'C'.

Claudia L. Howells
Manager
February 28, 2000