

July 10, 2008

OUTLINE OF BNSF TESTIMONY
STB HEARING ON TRANSPORTATION OF HAZARDOUS MATERIALS

- I Description of relevant traffic handled by BNSF.
- II. Description of current BNSF insurance program.
- III. Description of aspects of BNSF operations relating to hazardous materials.
 - a. Rail industry safety record.
 - b. Additional activities and costs needed to address the transportation of these materials.
- IV. Policy issues.
 - a Rail carriers cannot determine or control the risks that we, as common carriers, are forced to assume. The risk is unquantifiable and uncontrollable while the reward is very limited.
 - b. No level of insurance will protect us against catastrophic loss.
 - c. There are limits on the availability of insurance, at ever-increasing cost. Our insurance costs increased substantially after 9/11.
 - d Our unbounded exposure on the small amount of hazardous materials, especially TIH, we are forced to handle imperils our ability to meet our common carrier obligations for all other shippers and to invest in infrastructure.
- V. Approaches.
 - a. BNSF believes BNSF shareholders should not be the ultimate insurers of PIH/TIH movements required in the public interests.
 - b. The Price Anderson model should be explored and supported if there is a public interest in requiring these commodities to move by rail.
 - c. Our common carrier obligation as it relates to the transportation of these materials should be deemed to be met when we condition the transportation of these materials on reasonable indemnity and insurance requirements
 - d. In the absence of a public policy solution to provide for indemnity for shipments of PIH/TIH, the Board should look favorably upon any private sector approach BNSF may formulate to insure itself against the risk exposure from carrying PIH/TIH shipments.