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SERVICE DATE – APRIL 20, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 770

URGENT ISSUES IN FREIGHT RAIL SERVICE

Decided: April 20, 2022

By notice served on April 7, 2022, the Board announced that it will hold a public hearing on April 26 and 27, 2022, on recent rail service problems and recovery efforts involving BNSF Railway Company, CSX Transportation, Inc., Norfolk Southern Railway Company, and Union Pacific Railroad Company.¹ The hearing will be held in the hearing room of the Board's headquarters, located at 395 E Street, S.W., Washington, DC 20423-0001, and will begin each day at 9:30 a.m.

The schedule of appearances and the time provided for each speaker are set forth in the Appendix to this decision. On April 26, the Board will hear comment from the speakers on Panels I through VI. On April 27, the Board will hear comment from the speakers on Panels VII through XI. The hearing will be available for public viewing on YouTube.

Instructions for Attendance at Hearing

All persons attending the hearing must use the main entrance to the Board's headquarters, located at 395 E Street, S.W. There will be no reserved seating. The building will be open to the public at 8:00 a.m. There is public parking in the building. The two closest Metro stops are Federal Center S.W. (3rd and D Streets, S.W., serving the Blue, Orange, and Silver Lines) and L'Enfant Plaza (6th and D Streets, S.W., serving the Yellow, Green, Blue, Orange, and Silver Lines).

The Centers for Disease Control and Prevention (CDC) recommends using county COVID-19 community levels to help determine which COVID-19 prevention measures should be utilized and when.² As of April 14, 2022, the community level in the District of Columbia

¹ Notices of intent to participate were due on April 14, 2022. Written testimony by hearing participants (which is optional) and written comments from any other interested persons may be filed by April 22, 2022.

² COVID-19 Community Levels, <https://www.cdc.gov/coronavirus/2019-ncov/science/community-levels.html>.

(where the STB is located) is medium. In accordance with CDC and other federal guidance,³ the Chairman has determined that, when the COVID-19 community level is medium or high in the District of Columbia, visitors should complete a Certification of Vaccination form⁴ when entering the STB facility. Given this recent change in COVID-19 community level, the Chairman has determined that visitors should complete the Certification of Vaccination form found on the Board's website and, consistent with federal guidance, bring it on the day of the hearing. Visitors may be asked to show the form upon entering the agency; however, the form will not be recorded or collected. The Chairman has further determined that persons who are not fully vaccinated or who decline to answer, must also be prepared to produce, in addition to the Certificate of Vaccination form, a proof of a negative COVID-19 test result from within the previous three days. Please consult the Board's website at www.stb.gov under the "STB Procedures Concerning COVID-19" banner for information on the latest COVID-19 requirements for visitors, including the Certificate of Vaccination form.

Upon arrival, check in at the security desk in the main lobby. Be prepared to produce valid photographic identification (driver's license or local, state, or federal government identification); sign in at the security desk; submit to an inspection of all briefcases, handbags, etc.; and pass through a metal detector. Persons who exit the building during the hearing will be subject to these security procedures again if they choose to re-enter the building. Speakers must check in with the clerk at the front of the hearing room.

To allow the Board sufficient time to engage with each panel, the Board cannot provide specific times for when each panel will be called. Accordingly, panelists will be responsible for monitoring the progress of the hearing and ensuring they are available when it is time for their panel.

Any panelist who wishes to make a visual presentation at the hearing should email a copy of the presentation to the Board at **Hearings@stb.gov** no later than April 22, 2022. The presentations will be loaded onto a Board laptop for use at the hearing.

Laptops and recorders may be used in the hearing room, and Wi-Fi will be available.⁵ Cell phones may be used quietly in the corridor outside the hearing room or in the building's main lobby.

Members of the media should contact Michael Booth in the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-1760 if they plan to attend the hearing.

³ The Safer Federal Workforce Task Force was established by Executive Order 13991, (Jan. 20, 2021), to provide federal agency heads ongoing guidance to keep federal employees safe and federal agencies operating during the COVID-19 pandemic. See generally, Safer Federal Workforce, <https://www.saferfederalworkforce.gov/>.

⁴ The Chairman has approved use by the STB of the Certification of Vaccination form, which was prepared by the Office of Management and Budget.

⁵ The password will be available in the hearing room.

The hearing room complies with the Americans with Disabilities Act, and persons needing such accommodations should call (202) 245-0245 by the close of business on April 22, 2022.

The hearing will be available for public viewing at <https://www.youtube.com/channel/UCgd2FPpKSpQZ57p771aafNg/live>. A link to the hearing can also be accessed through the Board's website at www.stb.gov, under "Quick Links" on the homepage, by clicking on "WATCH LIVE HEARINGS HERE." The hearing will be recorded, and the link to the recording will be available on the Board's website at www.stb.gov, under the tab "News & Communications," by clicking on "Meetings & Hearings." Additionally, a transcript will be created and will be made available as soon as possible on the Board's website, under the tab "News & Communications," by clicking on "Transcripts & Statements."

For further information regarding the hearing, contact Nathaniel Bawcombe at (202) 245-0376. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

It is ordered:

1. A hearing will be held in the hearing room of the Board's headquarters, located at 395 E Street, S.W., Washington, DC 20423-0001, on April 26 and 27, 2022, beginning each day at 9:30 a.m. (Eastern Daylight Time).
2. Visual presentations should be emailed to **Hearings@stb.gov** no later than April 22, 2022.
3. Time for presenting at the hearing is allotted as reflected in the Appendix to this decision.
4. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

APPENDIX
SCHEDULE OF APPEARANCES

<u>Party</u>	<u>Time Allotted</u>
<u>Day 1 – April 26, 2022</u>	
Panel I	
Deputy Secretary of Agriculture Dr. Jewel H. Bronaugh, U.S. Department of Agriculture	
Commissioner Carl W. Bentzel, Federal Maritime Commission	
Panel II	
National Grain and Feed Association and American Farm Bureau Federation	20 minutes
<ul style="list-style-type: none"> • Michael Seyfert, President and Chief Executive Officer, National Grain and Feed Association • Andrew Walmsley, Senior Director of Congressional Relations for the American Farm Bureau Federation • Thomas W. Wilcox, Esq., of The Law Office of Thomas W. Wilcox, LLC 	
American Chemistry Council	10 minutes
<ul style="list-style-type: none"> • Chris Jahn, President and Chief Executive Officer • Jeffrey Sloan, Senior Director of Regulatory and Scientific Affairs 	
The Fertilizer Institute	10 minutes
<ul style="list-style-type: none"> • Justin Louchheim, Senior Director, Government Affairs 	
Cargill	10 minutes
<ul style="list-style-type: none"> • Brock Lautenschlager, North America Rail Leader 	
Growth Energy	5 minutes
<ul style="list-style-type: none"> • Chris Bliley, Senior Vice President of Regulatory Affairs 	
Panel III	
Transportation Trades Department, AFL-CIO	5 minutes
<ul style="list-style-type: none"> • Greg Regan, President 	
SMART Transportation Division	20 minutes
<ul style="list-style-type: none"> • Jeremy Ferguson, President 	

SMART Transportation Division Members 30 minutes

- Matthew Brukart
- Steven Groat
- Chris Bond

Brotherhood of Locomotive Engineers and Trainmen 15 minutes

- Mark L. Wallace, Vice President

Panel IV

Loop Capital Markets 25 minutes

- Rick Patterson, Railroad Analyst

Panel V

Private Railcar Food and Beverage Association 30 minutes

- Herman Haksteen, President
- David Burchett, Procurement Director, Supply Chain Indirects, Molson Coors Beverage Company
- Robert McRae, Vice President of Transportation, Univar Solutions
- Daniel Elliott, Esq., of Daniel Elliot PLLC

American Fuel and Petrochemical Manufacturers 5 minutes

- Rob Benedict, Vice President, Petrochemicals and Midstream

Delek Companies 15 minutes

- Todd O’Malley, Chief Operating Officer, and/or
- Michael Ralsky, Vice President, Public Affairs & ESG

Panel VI

Norfolk Southern Railway Company 30 minutes

- Cindy Sanborn, Executive Vice President and Chief Operating Officer
- Ed Elkins, Executive Vice President and Chief Marketing Officer
- Annie Adams, Executive Vice President and Chief Transportation Officer
- Raymond A. Atkins, Esq., of Sidley Austin LLP

CSX Transportation, Inc. 30 minutes

- Jamie Boychuk, Executive Vice President of Operations
- Diana Sorfleet, Executive Vice President and Chief Administrative Officer
- Raymond A. Atkins, Esq., of Sidley Austin LLP

Day 2 – April 27, 2022**Panel VII**

National Industrial Transportation League	10 minutes
<ul style="list-style-type: none"> Ross Corthell, Chair of National Industrial Transportation League’s Rail Committee, and Vice President, Transportation at Packaging Corporation of America 	
American Forest and Paper Association	10 minutes
<ul style="list-style-type: none"> Julie Landry, Director of Government Affairs 	
Packaging Corporation of America	10 minutes
<ul style="list-style-type: none"> Doug Grewe, Transportation Manager 	
National Association of Chemical Distributors	10 minutes
<ul style="list-style-type: none"> Jennifer Gibson, Vice President of Regulatory Affairs Jackie Wood, Hawkins, Inc. 	
Occidental Chemical Corporation	10 minutes
<ul style="list-style-type: none"> Karenanne Stegmann, Vice President of Supply Chain 	
International Liquid Terminals Association	15 minutes
<ul style="list-style-type: none"> Kathryn Clay, President, or Michael Stroud 	

Panel VIII

Arizona Electric Power Cooperative, Inc., Freight Rail Customer Alliance, and National Coal Transportation Association	15 minutes
<ul style="list-style-type: none"> Emily F. Regis, Arizona Electric Power Cooperative, Inc., Freight Rail Customer Alliance, and National Coal Transportation Association Ann Warner, Freight Rail Customer Alliance John Ward, National Coal Transportation Association Robert D. Rosenberg, Arizona Electric Power Cooperative, Inc., Freight Rail Customer Alliance, and National Coal Transportation Association 	
National Mining Association	5 minutes
<ul style="list-style-type: none"> Katie Mills, Esq., Associate General Counsel 	
Portland Cement Association	15 minutes
<ul style="list-style-type: none"> Steve Ambrose, GCC of America 	
Institute of Scrap Recycling Industries, Inc.	10 minutes
<ul style="list-style-type: none"> Billy Johnson, Chief Lobbyist 	

Corn Refiners Association 10 minutes

- Eamon Monahan, Vice President, Environmental Affairs and Workplace Safety

TransDistribution Brookfield Railroad and Sweetener Supply Company 15 minutes

- David C. Dillon, Esq., of Dillon & Nash, Ltd.

Panel IX

BNSF Railway Company 30 minutes

- Stevan Bobb, Executive Vice President and Chief Marketing Officer
- Judy Carter, Vice President and Chief Human Resources Officer
- Matthew Garland, Vice President, Transportation
- Jill K. Mulligan, Esq., Vice President and General Counsel, Regulatory

Union Pacific Railroad Company 15 minutes

- Eric Gehringer, Executive Vice President, Operations
- Elizabeth Whited, Executive Vice President, Sustainability and Strategy
- Michael Rosenthal, Esq., of Covington & Burling LLP

Panel X

Transport Workers Union of America, 20 minutes
 Brotherhood of Maintenance of Way Employees Division/IBT,
 Brotherhood of Railroad Signalmen, and International Association
 of Sheet Metal, Air, Rail and Transportation Workers/Mechanical Division

- Richard S. Edelman, Esq., of Mooney, Green, Saindon, Murphy and Welch, P.C.

Transportation Communications Union/IAM 15 minutes

- Matthew Hollis, National Vice President and Special Assistant to the President

Panel XI

Canadian National Railway Company, U.S. Rail Operating Subsidiaries 15 minutes

- Representatives that will be specified upon confirmation of witness availability.
- Kathryn J. Gainey, Esq., Deputy General Counsel
- Matthew J. Warren, Esq., of Sidley Austin LLP

Canadian Pacific Railway Limited 15 minutes

- James Clements, Senior Vice-President Strategic Planning and Technology Transformation,
- David L. Meyer, Esq., of the Law Office of David L. Meyer